



# ADVANCED INVESTIGATOR WORKSHOP

A Practical and Experiential  
Approach to Navigating  
Investigations

Collin Baer & Pari Le  
Golchehreh  
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# MEET YOUR FACILITATORS



Collin Baer

Collin Baer is a Senior Solutions Specialist at Grand River Solutions. He brings 20 years of experience conducting workplace investigations and providing professional services in higher education, for state governments, and for private corporations.



Pari LeGolchehreh

Pari Le Golchehreh is a distinguished professional with a wealth of expertise in Title IX and Title VII investigations. She is a certified mediator and has skillfully facilitated alternative resolutions and mediated conversations. Pari has become a trusted authority in the field, renowned for her unwavering commitment to fairness and dedication to helping other practitioners navigate investigations efficiently and effectively.

# ABOUT US

## Vision

We exist to create safe and equitable work and educational environments.

## Mission

To bring systemic change to how school districts and institutions of higher education address their Clery Act & Title IX obligations.

## Core Values

- Responsive Partnership
- Innovation
- Accountability
- Transformation
- Integrity

# AGENDA

● **Evidence Assessment**  
Important factors to consider

● **Credibility and reliability of parties and witnesses**  
What they are and how to make an assessment

● **Investigation Hurdles**  
Prior bad acts and  
intoxication v. incapacitation

● **Q & A**



# GETTING TO KNOW YOU



1. Name and Pronouns
2. Institution
3. What do you like most about this work?
4. One word that friends and family would use to describe you.
5. One word that colleagues would use to describe you.

*Submit your responses in one message using the chat feature!*

# EVIDENCE ASSESSMENTS

Important factors to consider

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# EVALUATING EVIDENCE



Is it relevant?



Is it authentic?



Is it credible and/or  
reliable?



How much weight, if  
any, should it be given?



# ACTIVITY ONE: THE BREAKUP



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# ACTIVITY 1: IDENTIFY THE SCOPE

Review the Notice of Allegations and Investigation:

## Prohibited Conduct One

Intimate partner:  
assault or assault and battery committed by a person: (1) ...social relationship of a romantic or intimate nature with CP; and (2) existence of such a relationship determined on the basis of the following factors: (i) length. (ii) The type. (iii) frequency of interaction between the persons involved in the relationship.

## Prohibited Conduct Two

Stalking is defined as follows:

engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for their safety or the safety of others; or (2) suffer substantial emotional distress.

Next, what is alleged per the complaint?

# ACTIVITY 1: IDENTIFY THE ALLEGATIONS

## Intimate Partner Violence

Respondent physically harmed Complainant:

- February 15, 2022,
- March 18, 2022.

## Stalking

Tracked CP via social media applications and followed CP without consent on or around:

- January 30, 2022
- February 1, 2022
- February 15, 2022
- February 28, 2022

Now here comes the real work...

# ACTIVITY 1: CATEGORIZE THE EVIDENCE

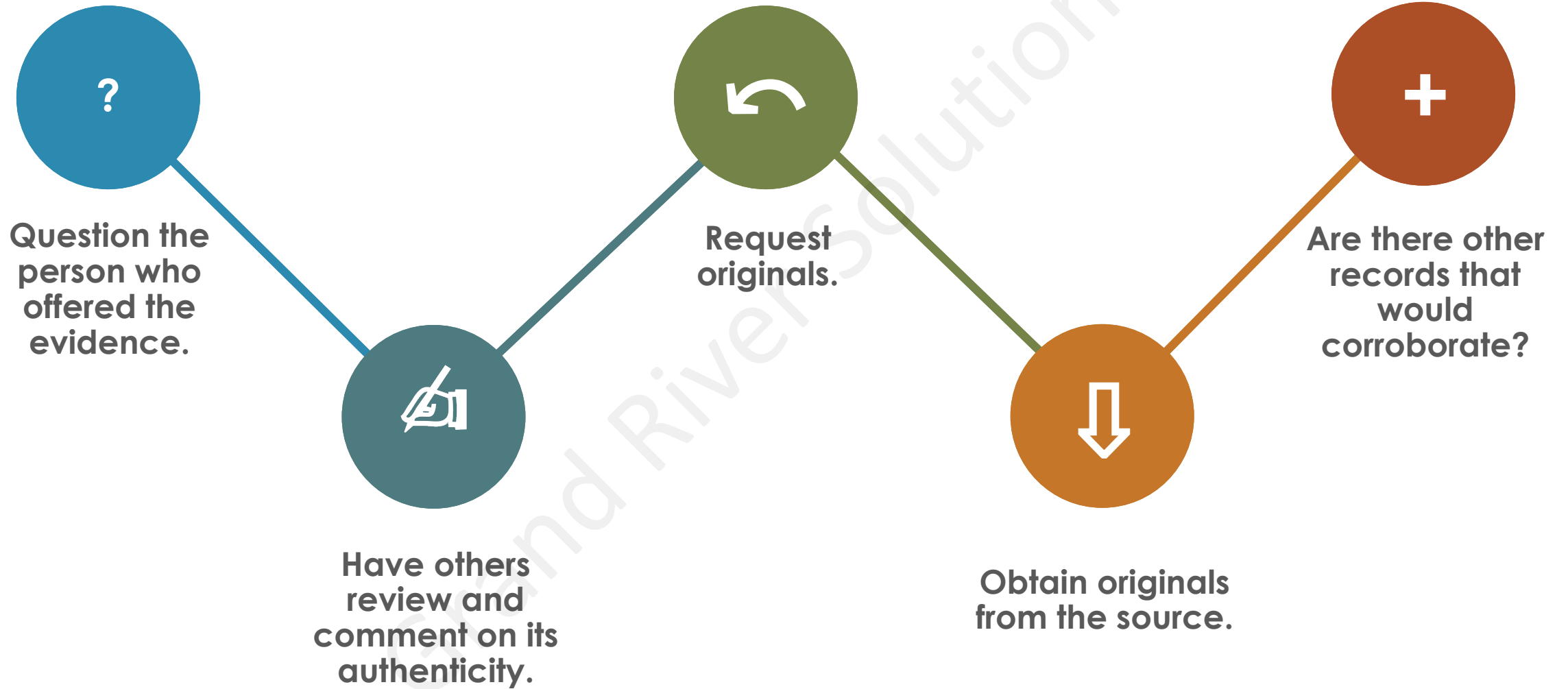
## Relevant

- a) Does the evidence make a fact more or less probable than it would be without the evidence?
- b) Can the Decision-Maker rely on the evidence in reaching a determination?

## Impermissible

- (a) Does the evidence refer to Complainant's sexual history or predisposition? Do any exceptions apply?
- (b) Does the evidence reference a legally recognized and unwaived privilege?

# IS IT AUTHENTIC?





# ACTIVITY 2: AUTHENTICITY ASSESSMENT

## WHO PROVIDED IT?

To be objective, we must keep an open mind and remain aware of ALL possibilities.

## IS IT CORROBORATED?

Is there other evidence that supports or strengthens the authenticity?

## WHAT ARE THE ALTERNATIVES FOR AUTHENTICATION?

What are some other ways you may authenticate the evidence?

# CREDIBILITY AND RELIABILITY OF PARTIES AND WITNESSES

Maintaining objectivity when making assessments on credibility and reliability

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# CREDIBILITY AND RELIABILITY CONSIDERATIONS

- Sufficiency of details and specificity
- Internal consistencies / consistency over time
- Consistency with evidence or testimony
- Corroboration

- Inherent plausibility
- Material omission
- Motive to falsify
- Past record
- Ability to recollect events

## **GROUP ACTIVITY 2: MATCHING GAME**





# ACTIVITY 2: SCENARIOS

## ONE

Respondent provided screenshots of text communications exchanged with Complainant's roommate, Dale. Dale said they no longer have the text communications.

## TWO

Witness Robbie said they were at the event hosted by their sorority. Witness Robbie said, "I saw [Complainant] at the beginning of the party when we were doing keg stands. [Complainant] was shit-faced."

# ACTIVITY 2: SCENARIOS CONTINUED

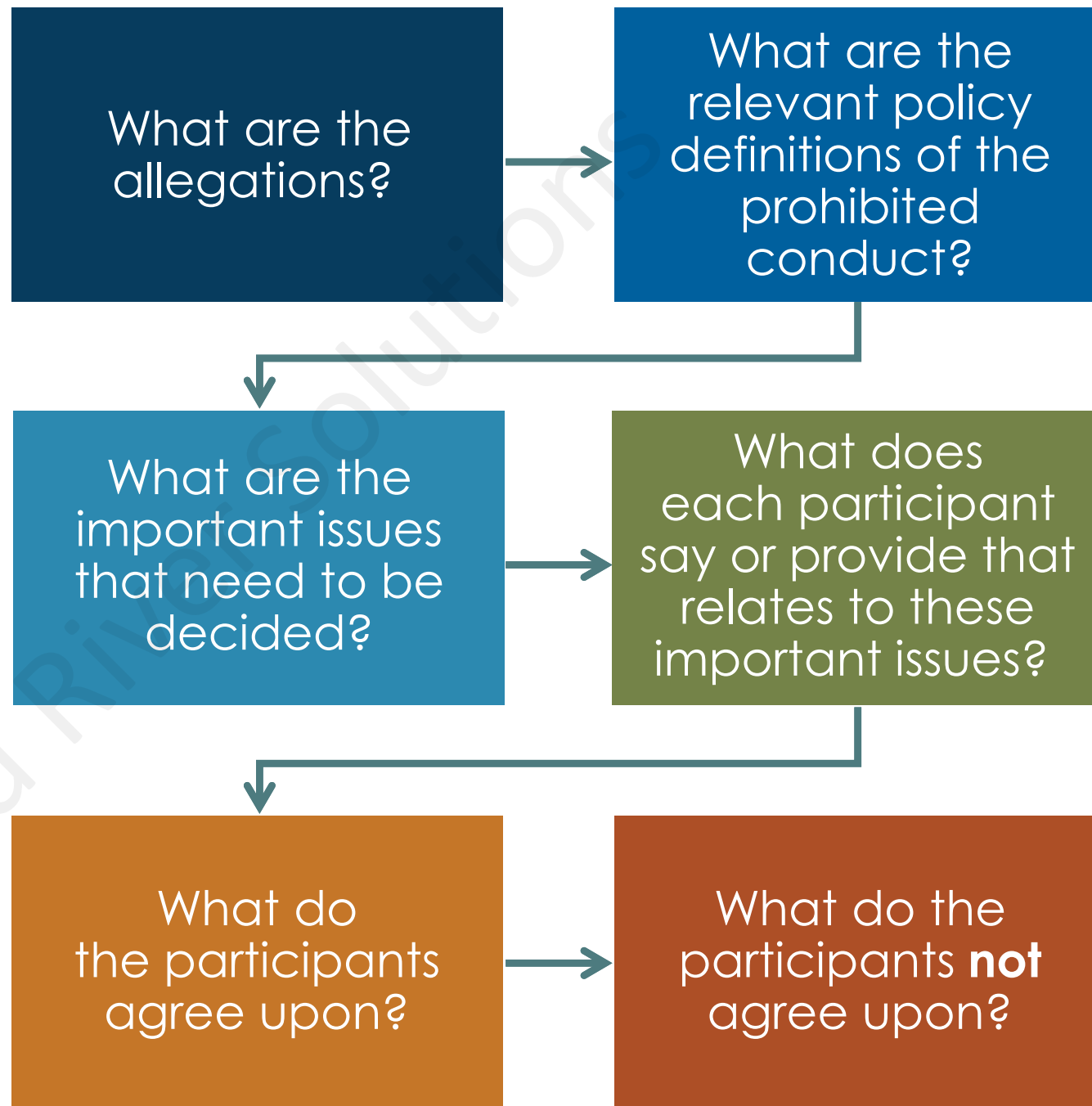
## THREE

Witness Jay was offered by Complainant as an eyewitness to the events leading up to the reported incident. While interviewing the Respondent, you learn that Witness Jay and Respondent have been secretly dating.

## FOUR

During Complainant's interview, they state that they have no recollection of how they got to their campus residence after the bar. Respondent and other witnesses submitted screenshots of communications with Complainant wherein Complainant said their Uber ride was successful and they are home safe.

# UNDISPUTED/ DISPUTED FACTS



## ACTIVITY 3:

Review the Fact Pattern for the stalking allegation, taking note of the undisputed and disputed facts.

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## UNDISPUTED FACTS:

- Parties were in a dating relationship
- Relationship recently ended, albeit the exact date is in dispute
- Respondent was outside Complainant's classroom
- Respondent sent Complainant some SnapChat messages
- Respondent called Complainant after SnapChat messages
- Complainant blocked Respondent
- Respondent was in Complainant's dormitory building on the day of the final alleged incident

# DISPUTED FACTS:

- Who ended the relationship
- Whether Complainant told Respondent to cease contact
- Whether Respondent walked toward Complainant and called her name in front of the classroom
- How many SnapChat messages the Parties exchanged
- The language of one specific message
- Whether Complainant responded
- Whether Complainant asked Respondent to call her after SnapChat messages
- Whether Respondent entered Complainant's room and took items

# UNLOCKING THE UNDISPUTED AND DISPUTED

The key to the undisputed/disputed section of the investigation report:

- Refer to the allegations and the relevant policy definition of the prohibited conduct.
- Focus on the relevant and material information that is related to the allegations and prohibited conduct definition.
- Not every statement in the summary of evidence will be referred to in the undisputed/disputed section **BUT** every statement in the undisputed/disputed section, must have been referred to in the summary.



# WRITING THE UNDISPUTED/DISPUTED FACTS SECTION

1. Determine the material facts – focus only on material facts.
2. Determine which material facts are:
  - a. Undisputed – consistent, detailed and plausible, and/or agreed upon by the parties
  - b. Disputed – unsupported by documentary or other evidence, or are facts about which an element of doubt remains
3. State clearly which facts are accepted, and which are rejected, and state the reasons why.



# **ACTIVITY 3:** UNDISPUTED/DISPUTED FACTS DANCE



# INVESTIGATION HURDLES

Prior bad acts, and  
intoxication v. incapacitation

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# PRIOR BAD ACTS

## Regulations and the Preamble

- Regulatory language does not explicitly address the admissibility of prior bad acts
- Prior bad act evidence is mentioned in the preamble and is not prohibited.
- Institutions may adopt rules related to the weight or credibility of prior bad act evidence that must be applied equally to both parties.



# IMPROPER V. PROPER



Prior bad acts are not relevant to prove a propensity.



Prior bad acts can be relevant to assessing credibility and reliability.

# POLL ACTIVITY: INCLUDE OR EXCLUDE IT

1

In a prior investigation, it was determined that the party submitted manufactured evidence.

2

In an earlier investigation involving a different Respondent, Complainant alleged that they were likely drugged and that they have no recollection of the events leading up to and including the reported incident.

3

Respondent stated that they were unaware that a person who is unable to communicate due to intoxication is incapable of giving consent. In a prior investigation, Respondent was found responsible for engaging sexual misconduct when they knowingly fondled a Complainant who was asleep.

# INTOXICATION V. INCAPACITATION



# ASSESSING INCAPACITATION

Did Complainant consume alcohol/drugs?

Did Complainant exhibit signs of incapacitation?

Did Respondent know of Complainant's incapacity?

Should Respondent have known of Complainant's incapacity?

# SCENARIOS: INTOXICATION V. INCAPACITATION

## Fact Pattern A: “But they seemed fine”

Complainant reported that they blacked out on the night of the incident. Complainant estimated that they had approximately five “shots” of tequila before they “blacked out.” Several witnesses attested that Complainant did ingest an unknown amount of hard liquor but was able to hold conversations throughout the entire evening and was not slurring or stumbling. According to an online BAC Calculator, Complainant likely had a BAC of .21%.

# SCENARIOS: INTOXICATION V. INCAPACITATION

## Fact Pattern B: “How was I supposed to know?”

Respondent stated Complainant was already at the party when they arrived. Respondent said they do not know how much Complainant had to drink but did see Complainant holding a red solo cup, drinking an unknown liquid. Complainant stated they remembered Respondent trying to dance with them, but that Complainant tried to push Respondent away and stumbled to the ground, unable to stand up again. Complainant said Respondent assisted Complainant upstairs to a room. Complainant stated they tried to speak but were unable to put words together without feeling the need to vomit. Eyewitnesses recalled seeing Respondent carry Complainant upstairs.

# TRAINING SUMMARY



What are the key takeaways for you?







**QUESTIONS?**

## CONNECT WITH US

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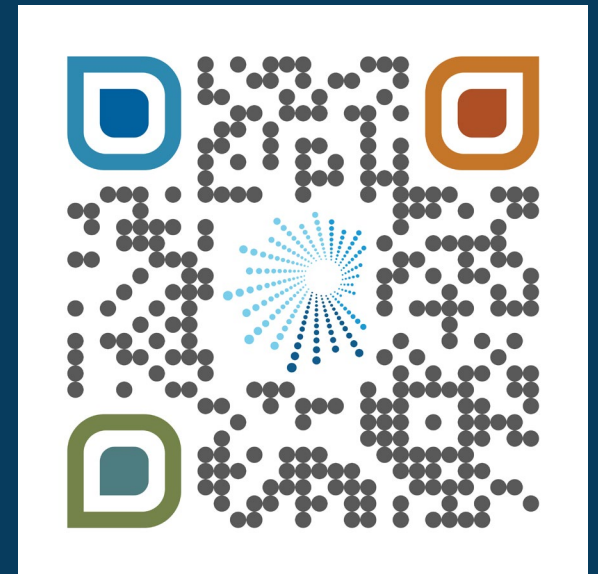


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