



TITLE IX SYMPOSIUM – SEPTEMBER 30, 2021

THE JEFF & JEFF **WRITING WORKSHOP**

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Roadmap

Part 1: Overview of Investigative Documents

- A. The Investigative Report
- B. Notices & Other Correspondence
- C. The Written Determination

Part 2: Fundamentals

- A. Purpose
- B. Audience
- C. Format
- D. Content

Part 3: Writing Tips

- A. Plain Language
- B. Grammar
- C. Mechanics
- D. Proofreading and Editing

Part 1: Overview of Investigative Documents

A. The Investigative Report - 106.45(b)(5)(vii)

Create an ***investigative report*** that fairly summarizes relevant evidence

Part 1: Overview of Investigative Documents

A. The Investigative Report

Review Breakouts

Part 1: Overview of Investigative Documents

A. The Investigative Report

Templates, samples, and alternative formats

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

1. Notice of Grievance Process - 106.45(b)(2)(i)(A)

Upon receipt of a formal complaint, you must provide the following written notices to the parties who are known:

- (A) Notice of your **grievance process**
- (B) Notice of the allegations

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

2. Notice of Grievance Process - 106.45(b)(2)(i)(B)

Upon receipt of a formal complaint, [you] must provide the following written notices to the parties who are known:

- (A) Notice of [your] grievance process...
- (B) Notice of the **allegations of sexual harassment**

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

2. Notice of Grievance Process - 106.45(b)(2)(i)(B)

Notice of Allegations must include

- Identities of parties
- Conduct alleged
- Date and location of incident
- Statement that respondent is presumed not responsible
- Statement that determination is made at conclusion of investigation
- Statement that parties may have an advisor
- Statement that they may inspect and review evidence
- Statement prohibiting false statements

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

3. Notice of Dismissal - 106.45(b)(3)(iii)

Upon a dismissal required or permitted pursuant to paragraph (b)(3)(i) or (b)(3)(ii) of this section, you must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

4. Notice of Consolidation of Complaints - 106.45(b)(4)

The Regs allow you to consolidate formal complaints. No written notice is required, but we recommend it.

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

5. Notice of Meeting - 106.45(b)(5)(v)

When investigating a formal complaint and throughout the grievance process, you must provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

6. Notice of Informal Resolution Process - 106.45(b)(9)

You may facilitate an informal resolution process, such as mediation, as long as you

- (i) Provide to the parties a written notice disclosing:
- The allegations
 - The requirements of the informal resolution process
 - Any consequences resulting from participating in the informal resolution process

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

7. Notice of Emergency Removal - 106.44(c)

You may initiate an emergency removal of a respondent based on a safety analysis. If you do, you must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

8. Notice of Appeal - 106.45(b)(8)(iii)(A)

As to all appeals, you must:

(A) Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

9. Notice of Decision of Appeal - 106.45(b)(8)(iii)(E)-(F)

As to all appeals, you must:

(E) Issue a written decision describing the result of the appeal and the rationale for the result; and

(F) Provide the written decision simultaneously to both parties.

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

10. Notice of Delay or Extension - 106.45(b)(1)(v)

Your grievance process must include reasonably prompt time frames and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action.

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

11. Responding to Party or Witness Questions

Throughout the process it is common for parties and witnesses to have questions for coordinators, investigators, and decision-makers. The Regs do not address how a district should respond to questions. You can decide whether to respond verbally or in writing. If you respond in writing, follow the tips in this presentation.

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

12. Requests for Information

An investigator will likely have follow-up questions after an interview or after receiving evidence. You may decide to ask these questions verbally; however, you likely need to give written notice and sufficient time to prepare (see Notice of Meeting above). You may also decide to ask these follow-up questions via email or other written correspondence. If you do, follow the writing tips in this presentation.

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

13. Notice of Transition from Investigator to Decision-Maker

The Regs do not require this, but at some point in the process the investigator finishes the investigative report, and the decision-maker takes over to give the parties a chance to ask their questions. This process and transition should be communicated clearly to the parties.

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

14. Exclusion of Questions – 106.45(b)(6)(ii)

The decision-maker “must explain to the party proposing the questions any decision to exclude a question as not relevant.” The Regs don’t require that this explanation be in writing, but we recommend it.

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

15. Record of Actions – 106.45(b)(10)(ii)

For each response required by the Regs, you must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.

Part 1: Overview of Investigative Documents

B. Notices & Correspondence

16. Cover Letters or Emails

The Regs require that certain documents be given to each party. The Regs do not require any kind of explanation or cover letter to be sent with the required documents, but an effective investigation will provide some explanation.

Part 1: Overview of Investigative Documents

C. Written Determination - 106.45(b)(7)(i)

The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility.

Part 1: Overview of Investigative Documents

C. Written Determination - 106.45(b)(7)(ii)

The written determination must include

- Identification of the allegations
- A description of the procedural steps
- Findings of fact
- Conclusions
- A statement of, and rationale for, the result
- Your procedures for appeal

Part 1: Overview of Investigative Documents

C. Written Determination - 106.45(b)(7)

Review Breakouts

Roadmap

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Part 3: Writing Tips

- A. Plain Language
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- C. Mechanics
- D. Proofreading and Editing

Part 2: Fundamentals

A. Purpose

What is the purpose of each of these?

- Investigative Report
- Notices
- Correspondence
- Written Determination

Part 2: Fundamentals

A. Purpose

- Ask yourself, “What am I trying to accomplish?”
 - provide notice
 - summarize the evidence
 - inform parties as to the facts
 - analyze policy to facts
 - respond to questions from the parties
 - document the Title IX process
- To accomplish a specific purpose, you must effectively convey your points in writing to the intended audience.

Part 2: Fundamentals

A. Purpose

Examples & Exercises

Part 2: Fundamentals

A. Purpose

On Thursday, November 19, 2020, [REDACTED] and [REDACTED], Special Education Technicians at [REDACTED] School, contacted [REDACTED], the school Principal, and requested a meeting to discuss some concerns of theirs. [REDACTED] scheduled a Zoom meeting for Friday, November 20, 2020, at 3:00 p.m. Due to a Covid 19 exposure in the class, students and staff were required to quarantine on November 19, 2020 and not return to class until November 30, 2020. [REDACTED] reported to [REDACTED] that they saw [REDACTED], the [REDACTED] Teacher, touch [REDACTED] penis, and that inappropriate touching had occurred on more than one occasion.

B. Audience

Generally

- Who is this for?
- What do you know about them?
- What do they already know/not know?
- What will they do with it?
- Who else will read it?

Part 2: Fundamentals

B. Audience

- The audience is the initial reader of the document, the person or people it was written to.
 - For example, the audience of the investigative report includes the complainant, the respondent, the decision-maker(s), party advisors, and attorneys.
- The Regs require that records be maintained for seven years. Over those years, who else may be included in your audience?
 - Parents/legal guardians; district and school personnel (administrators; human resources); decision-maker(s); the court; law enforcement.
 - As you develop written records, it is important to review issues of confidentiality and to consider to whom the written document may be distributed.

Part 2: Fundamentals

C. Format

- Select a writing format/template for use. If you have several templates available, find one that effectively meets your purpose and audience.
- Evaluate the templates and study effective examples.

Part 2: Fundamentals

C. Format

Review samples of the following.

- Investigative Report
- Notices
- Correspondence
- Written Determination

Part 2: Fundamentals

D. Content

- This is the *what* of your document.
- The content will depend upon applicable statutes and rules and the purpose of the document.
- Content is based on the intended message for your audience and comes from interviews, facts, other evidence, your own analysis, etc.
- Particular tips or considerations for content include:
 - Verify and adhere to governing law, including statutes and rules;
 - Avoid misstating the law or facts;
- In the end, did you say what you wanted to say?

Part 2: Fundamentals

D. Content

Where do you get the content for each of these?

- Investigative Report
- Notices
- Correspondence
- Written Determination

Roadmap

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Part 2: Fundamentals

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Part 3: Writing Tips

- A. Plain Language
- B. Grammar
- C. Mechanics
- D. Proofreading and Editing

Part 3: Writing Tips

A. Plain Language

- Words should be simple and easily understood by your audience. Avoid stuffy, overly formal, unnatural words.
- Sentences should be concise.
- Paragraphs should contain one, and only one, main idea.

Part 3: Writing Tips

A. Plain Language



Part 3: Writing Tips

A. Plain Language

Exercise

How would you rewrite this paragraph?

Allegation #6, physically abusing [REDACTED]. It is alleged by [REDACTED] and [REDACTED] that [REDACTED] physically abused [REDACTED] when she aggressively grabbed his arm one day in [REDACTED], which resulted in [REDACTED] being scratched by one of [REDACTED] fingernails. The exact date and time of this incident cannot be determined. It is thought [REDACTED] have happened early in the school year, toward the end of the school day. The bigger allegation or insinuation is that when [REDACTED] was frustrated, she responds to the students in a more aggressive/physical way.

Part 3: Writing Tips

B. Grammar and Usage

- Find and refer to a grammar and usage book regularly.
- Be careful with pronouns.
- Use complete sentences.
- Be careful with words with a distinct legal meaning, a “term of art” (e.g. retaliate).
- Maintain a consistent point of view

Part 3: Writing Tips

B. Grammar and Usage

What pronoun problems do you see here?

Allegation #6, physically abusing [REDACTED] On Friday August 28, 2020, [REDACTED] was engaging in avoidance behaviors during "Independent Work Center" time which is regularly scheduled from 12:30pm - 1:00pm. [REDACTED] was sitting at his assigned table for the Independent Center time. [REDACTED] did not want to participate in the work requested of him and, in an effort to avoid what he did not want to do, threw himself out of his chair and onto the floor while screaming/whining. [REDACTED] used "precision commands" to address this conduct. I believe we have described precision commands previously. Precision commands are a technique used to address undesirable behaviors. They involve a firm and direct tone of voice to put a stop to disruptive behavior. [REDACTED] employed

Part 3: Writing Tips

B. Grammar and Usage

What does retaliation mean?

I explained [REDACTED] claim of retaliation and that evidence refutes special treatment, that DCFS dropped their physical abuse investigation, there was no finding from the district investigation related to physical abuse, and that there was obvious dislike of [REDACTED]. All of which can create the impression that maybe there is a misunderstanding on the part of the techs or that maybe there is retaliation. [REDACTED] response was, "I don't lie." "All I know is what I saw." "That is the truth. I would never make it up. I know the allegation. I know how severe it is." "I didn't hate her. She is just a strange duck. She is just a different person." "I would never say anything that I don't personally witness, because you can't go back on that, you can't have evidence, or you can't keep your story straight, right, if your trying to lie about something else." "I don't lie...I would get caught in it."

[REDACTED] say that they believe [REDACTED]. All four techs deny that there is retaliation.

Part 3: Writing Tips

C. Mechanics

1. Quotations
2. Commas
3. Ellipses
4. Brackets
5. Periods
6. Apostrophes
7. Bullets
8. Capitalization
9. Italics, Bold, and Underlining
10. Numbers
11. Plurals and Possessives

Part 3: Writing Tips

C. Mechanics

1. Quotations

Make it obvious

- Quotation marks for quotes under 50 words or 5 lines
- Block quotes for everything else

Allegation #6, physically abusing [REDACTED] On Friday August 28, 2020, [REDACTED] was engaging in avoidance behaviors during "Independent Work Center" time which is regularly scheduled from 12:30pm - 1:00pm. [REDACTED] was sitting at his assigned table for the Independent Center time. [REDACTED] did not want to participate in the work requested of him and, in an effort to avoid what he did not want to do, threw himself out of his chair and onto the floor while screaming/whining. [REDACTED] used "precision commands" to address this conduct. I believe we have described precision commands previously. Precision commands are a technique used to address undesirable behaviors. They involve a firm and direct tone of voice to put a stop to disruptive behavior. [REDACTED] employed

Part 3: Writing Tips

C. Mechanics

1. Quotations

Allegation #1, touching [REDACTED] penis in the classroom. This absolutely did not happen. Let me specifically state: I have [REDACTED] and never would, inappropriately touch a child. I never went over to [REDACTED]

Part 3: Writing Tips

C. Mechanics

2. Commas

*Oxford Comma Dispute Is Settled as
Maine Drivers Get \$5 Million*

- Pairs
- Lists
- With conjunctions
- Dependent clauses

Part 3: Writing Tips

C. Mechanics

3. Ellipses

the class. Says that as [REDACTED] was explaining things, she kept saying things like, “I’m their boss. “I went to school...I know what I’m doing.” [REDACTED] suggested that [REDACTED] “listen to what her tech had to says without judgement..even if she disagreed with it..[and to] tell her you appreciate the information.” Says that [REDACTED] came back later and told her “everything was fine...they had cleared the air.”

- Use three dots to indicate omission of one or more words in a quotation
- Use four dots to indicate omission of end of a sentence
- Do not use ellipses at beginning of quotation or where quoted matter is worked into the sentence.
- Use spaces between words and ellipsis dots
- Use hard spaces between dots (ctrl+shift+space in MS Word)

Part 3: Writing Tips

C. Mechanics

4. Brackets

the class. Says that as [REDACTED] was explaining things, she kept saying things like, “I’m their boss. “I went to school...I know what I’m doing.” [REDACTED] suggested that [REDACTED] “listen to what her tech had to says without judgement..even if she disagreed with it..[and to] tell her you appreciate the information.” Says that [REDACTED] came back later and told her “everything was fine...they had cleared the air.”

- Use brackets to insert a clarification in quoted material
- Use brackets to show the original quotation has been modified
- Use empty brackets to show part of a quoted word has been omitted
 - For example, if the text you’re quoting used “related” but the syntax of your document needs “relate,” show the modification as “relate[.]”

Part 3: Writing Tips

C. Mechanics

5. Periods

- End most sentences with periods
- You will probably never need an exclamation point unless quoting
- Use a period after a heading if the heading is a complete sentence
- Use periods after letters or numbers in an outline or list

Part 3: Writing Tips

C. Mechanics

5. Periods

Allegations:

Allegation #1, touching [REDACTED] penis in the classroom. It is alleged around 11:20 a.m., while they were lining up students in preparation and rubbing his penis and acting like something was wrong. In response, [REDACTED] laid him down on the floor, pulled down his pants and underwear, and [REDACTED] moved her hand in a circular motion for a few seconds, and then [REDACTED] said, "you're hard and can't finish."

Part 3: Writing Tips

C. Mechanics

5. Periods

2.2.1.4 "Creating a...threatening...or ab
power differential between the bully and
2.2.1.5 "Substantially interfering with a s
educational performance, opportunities,
JDC – Student Discrimination and Harass
5.5. "Aggressive conduct towards a stude

Part 3: Writing Tips

C. Mechanics

5. Periods

Investigation

1. November 24, 2020: [REDACTED] came [REDACTED] asked some clarifying questions. [REDACTED]
 - a. Allegation #1, touching [REDACTED] recess and [REDACTED] was throwing

2. November 25, 2020. [REDACTED] mother [REDACTED] phone interview because [REDACTED] was [REDACTED] questions. [REDACTED] seemed sincere and [REDACTED]
 - a. Allegation #1, touching [REDACTED]

Part 3: Writing Tips

C. Mechanics

6. Apostrophes

- Forms the possessive case
- Stands for missing letters in contractions
- Very very very very rarely forms the plural of certain expressions
 - Smiths
 - She received Bs and Cs on her report card
 - She received A's on her report card (used here to avoid miscue)
 - He owns hundreds of CDs

Part 3: Writing Tips

C. Mechanics

6. Apostrophes



Part 3: Writing Tips

C. Mechanics

6. Apostrophes



Part 3: Writing Tips

C. Mechanics

6. Apostrophes



Part 3: Writing Tips

C. Mechanics

6. Apostrophes



Part 3: Writing Tips

C. Mechanics

7. Bullets

- May highlight important lists
- May comprise single words, phrases, clauses, or sentences
- Must be parallel in form
- Must be punctuated (or not) consistently
- Must be capitalized if items end in period

Part 3: Writing Tips

C. Mechanics

7. Bullets

- November 24 and 25
- Between November
via email multiple tin
- November 30, 2020,
via email on Decemb
[REDACTED] on the phone
- December 03, 2020,
- December 09, 2020,
was included in the n
- December 28, 2020,
- Between December 0
someone that might
- January 07, 2021, I re

Part 3: Writing Tips

C. Mechanics

8. Capitalization

- Capitalize first word in a sentence (even if normally lower case, like iPad)
- Capitalize names (if person prefers it that way)
- Capitalize first word of a quotation if it is a full sentence
- Don't capitalize first word of a quotation if it is a partial sentence, is grammatically woven into the main sentence, or is introduced by "that"
- Use brackets to change capitalization of first word of a quote if it is changed from the original
- Capitalize proper nouns

Part 3: Writing Tips

C. Mechanics

8. Capitalization

- ii. Acknowledges that [REDACTED] sent her a text regarding [REDACTED], asking for advice. She voluntarily provided me with a string of messages. The string includes the following two messages from [REDACTED]:
 - 1. *“hahah me neither. i never thought i’d say i missed that class and [REDACTED] especially! i’ve been wanting to text you for aminute now but i just keep forgetting. but dude my teacher is a literal psycho, creepy, micromanager, inappropriate person like i have to tell you stories about her like she needs to get fired and me and her got in a mouthy fight today and i unleashed everything on her hahahaha i might get into trouble but like she’s CRAZY.”*

Part 3: Writing Tips

C. Mechanics

9. Italics, Bold, and Underlining

Only two possible reasons for making text stand out:
(1) to *emphasize* it; or (2) to comply with a style convention.

- Use italics to show emphasis, or signal a letter, word, or phrase is being used as a term.
- Use **bold** typeface for headings.
- Avoid underlining altogether.

Part 3: Writing Tips

C. Mechanics

9. Italics, Bold, and Underlining

When asked if she felt that [REDACTED] would make up or embellish something, she replied, “Yes, it wouldn’t surprise me if she did.” Has formed this opinion based on what she has observed. Says that if [REDACTED] was making [REDACTED] job harder and [REDACTED] didn’t like her, she **MIGHT** make something up, **but**, she goes on to say that she has never caught [REDACTED] in a lie and has never felt that [REDACTED] was dishonest.

Part 3: Writing Tips

C. Mechanics

10. Numbers

- Be Consistent - Numerals vs. spelling out numbers, it is a matter of setting a style
- Spell out numbers 1-10, but use numerals 11 and above.
- Use cardinals for most purposes (one, two three), but use ordinals to indicate position in a series (first, second, third)
- Never begin a sentence with a numeral
- Use numerals for statutes, sections, in tables, and money.
- Spell out a large number used for exaggeration (hundreds or millions).
- Use simplest forms for times, dates, and money.
 - The 911 call was placed at 3:47 p.m.
 - A \$10 bill was left on the counter.
 - The check was for exactly \$10.37.

Part 3: Writing Tips

C. Mechanics

1 1. Plurals and Possessives

- The plural of most regular nouns is formed by adding s or es
 - Words ending in s or other sibilant sound (z, x, sh, ch).
 - Boxes, benches, cases, justices
- Add an apostrophe followed by an s to the end of a word to form the possessive of (1) a singular noun or (2) a plural noun that does not end in s or z.
 - Boy's, girl's, child's, children's
- Add an apostrophe to the end of regular plural to form a plural possessive, even if it ends in s or z.
 - Boys' girls', boxes'

Part 3: Writing Tips

D. Proofreading and Editing

Orwell's Six Questions

- What am I trying to say?
- What words will express it?
- What image or idiom will make it clearer?
- Is this image fresh enough to have an effect?
- Could I put it more shortly?
- Have I said anything that is avoidably ugly?

Part 3: Writing Tips

D. Proofreading and Editing

- Edit in a phased approach, making several passes in the document.
 - Large structural edits
 - Sentence-level edits
 - Subtler sentence-level edits
 - Polish for clarity

The background is a light blue gradient. In the corners, there are decorative circuit-like patterns made of thin blue lines and small circles, resembling a stylized electronic board.

End