

ALTERNATIVE SAMPLE REPORT TEMPLATE FOR USE IN COMPLETING INVESTIGATIVE REPORTS

This is another example that may be useful – you should consult with a licensed attorney in your own jurisdiction before adopting this template.

**NOTE: This template tracks text used by the University of Virginia (UVA) in its investigative reports. At UVA, investigators do not make findings of responsibility; instead, they determine whether there is a reasonable basis for a hearing. This template will be most helpful to schools with a similar model. The text below tracks the text contained in UVA's Student Sexual Misconduct Policy. You will not want to adopt the text verbatim; you will want to track the text in your school's policy.*

[DATE]

CONFIDENTIAL FINAL REPORT OF UNIVERSITY INVESTIGATION OF SEXUAL MISCONDUCT COMPLAINT

Delivery Method

[At UVA, this is "By Hand Delivery"]

Name of University Official Who Receives Report

Title

Address

[At UVA, this is the Dean of Students, who also serves as a Deputy Title IX Coordinator]

RE: [Insert Case Title and/or number]

Dear [University Official],

INTRODUCTORY PARAGRAPH:

I write to inform you that [INSERT NAME OF ANY CO-INVESTIGATORS] and I have concluded our investigation of the complaint [INSERT NAME OR INITIALS OF COMPLAINANT] (e.g., "Jane Doe") filed with you on [DATE], alleging sexual misconduct by [INSERT NAME OF RESPONDENT] (e.g., "John Doe") at [LOCATION/ADDRESS WHERE ALLEGED MISCONDUCT OCCURRED] during the late evening/early morning hours of [INSERT DATE(S)].¹ This correspondence serves as the final report and contains our determination as to whether there is good cause for a hearing of the complaint.

PARAGRAPH RE: SCOPE OF INVESTIGATION & EVIDENCE COLLECTED:

Our investigation consisted of [INSERT NUMBER, e.g., "18"] witness interviews and a site visit to the location of the alleged misconduct. We interviewed the Complainant [IDENTIFY BY NAME OR INITIALS] in person on [DATE(S)], and the Respondent [IDENTIFY BY NAME OR INITIALS] in person on

¹ A copy of the complaint is attached as Exhibit 1.

[DATE(S)]. We identified numerous potential fact witnesses and conducted separate interviews of each of these individuals: James Smith (September 25, 2013); Sally Jones (September 24, 2013); [LIST ALL WITNESSES INDIVIDUALLY BY NAME AND DATE].² We prepared written summaries of the majority of these interviews.³ The summaries were signed by the witnesses and are enclosed as Exhibits 2-XX. Our photographs of the sites of the alleged misconduct are enclosed as Exhibit XX. [Reference any other evidence attached to the report as separate exhibits, e.g., police or medical records, printouts of digital evidence, etc.]

I. The Parties.

[INSERT BRIEF BIOGRAPHICAL INFORMATION OF COMPLAINANT AND RESPONDENT (E.G., YEAR IN SCHOOL, MAJORS). COVER WHY YOU HAVE JURISDICTION OVER THE RESPONDENT (CITE & APPLY SPECIFIC JURISDICTIONAL FACTORS FROM YOUR POLICY)].

II. Reported Facts.

[CONSIDER ORGANIZING THIS SECTION IN ACCORDANCE WITH THE CASE TIMELINE. USE HEADERS TO SEPARATE IMPORTANT BLOCKS OF TIME. CITE SPECIFIC WITNESS SUMMARIES AND EVIDENCE TO SUPPORT REPORTED FACTS. CLEARLY IDENTIFY FACTS THAT ARE NOT CONTESTED VS. FACTS THAT REMAIN IN DISPUTE.]

III. Application of University Policy.

*NOTE: THIS SECTION TRACKS THE TEXT IN UVA'S POLICY.

The University prohibits acts of Sexual Misconduct. Sexual Misconduct is a broad term that includes "Non-Consensual Sexual Contact," "Non-Consensual Sexual Intercourse," "Sexual Exploitation," and "Sexual Harassment," as defined by University policy. Jane's allegations against John implicate each of these acts of Sexual Misconduct.

A. Non-Consensual Sexual Contact.

The University defines "Non-Consensual Sexual Contact" as "Sexual Contact that occurs without Effective Consent." The University further defines the terms "Sexual Contact" and "Effective Consent." Sexual Contact is the "deliberate touching of a person's intimate parts (including genitalia, groin, breast or buttocks, or clothing covering any of those areas), or using Force to cause a person to touch his or her own or another person's intimate parts." Effective Consent means "words or actions that show a knowing and voluntary agreement to engage in mutually agreed-upon sexual activity." Effective

² The date of each interview is noted in parentheses.

³ Name the witnesses for whom you did not draft a witness summary and give the reason why no summary was completed, e.g., "We did not prepare written summaries for [NAME WITNESSES] because they lacked personal knowledge of the events relevant to the complaint."

Consent cannot be gained by Force, by ignoring or acting in spite of the objections of another, or by taking advantage of the Incapacitation of another, where the accused student knows or reasonably should have known of such Incapacitation. The University defines "Incapacitation" as "the physical and/or the mental inability to make informed, rational judgments." States of Incapacitation include, without limitation, sleep, blackouts, and flashbacks. Where alcohol [or other drug] is involved, one does not have to be intoxicated or drunk to be considered Incapacitated. Rather, Incapacitation is determined by how the alcohol consumed impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgments.

[APPLY REPORTED FACTS TO THIS DEFINITION. IDENTIFY ANY ELEMENTS THAT ARE CONCEDED SO HEARING PANEL CAN LIMIT THEIR FOCUS TO ELEMENTS IN DISPUTE. See sample below.]

Jane reports one instance of Non-Consensual Sexual Contact. She states John touched her covered breast in a public place [SPECIFY LOCATION] without her consent. [CITE TO JANE'S WITNESS SUMMARY AND INCLUDE ANY TEXT IN HER OWN WORDS THAT REFLECTS THIS CONTACT]. John acknowledges he touched Jane's covered breast. [CITE TO JOHN'S WITNESS SUMMARY AND INCLUDE ANY TEXT IN HIS OWN WORDS THAT REFLECTS THIS CONTACT]. It is therefore conceded that Sexual Contact occurred in [SPECIFY LOCATION]. There remains an open question as to whether John had Effective Consent to touch Jane's covered breast. [CITE TO WITNESS SUMMARIES AND/OR ANY OTHER EVIDENCE THAT SPEAKS TO THIS QUESTION SO IT IS CLEAR TO THE HEARING PANELISTS WHICH TESTIMONY/EVIDENCE THEY NEED TO WEIGH IN RESPONSE TO THIS OPEN QUESTION.]

B. Non-Consensual Sexual Intercourse.

The University defines "Non-Consensual Sexual Intercourse" as "Sexual Intercourse that occurs without Effective Consent." The University further defines the terms "Sexual Intercourse" and "Effective Consent." Sexual Intercourse means "penetration (anal, oral or vaginal) by a penis, tongue, finger, or an inanimate object." Effective Consent is defined above in Non-Consensual Sexual Contact.

[APPLY REPORTED FACTS TO THIS DEFINITION. IDENTIFY ANY ELEMENTS THAT ARE CONCEDED SO HEARING PANEL CAN LIMIT THEIR FOCUS TO ELEMENTS IN DISPUTE. See sample above.]

C. Sexual Exploitation.

The University defines "Sexual Exploitation" as "taking sexual advantage of another person without Effective Consent." The aspect of this definition potentially applicable to this case relates to "causing or attempting to cause the Incapacitation of another person in order to gain a sexual advantage over such other person." Effective Consent and Incapacitation are defined above in Non-Consensual Sexual Contact.

[APPLY REPORTED FACTS TO THIS DEFINITION. IDENTIFY ANY ELEMENTS THAT ARE CONCEDED SO HEARING PANEL CAN LIMIT THEIR FOCUS TO ELEMENTS IN DISPUTE. See sample above.]

D. Sexual Harassment.

The University defines "Sexual Harassment" as "unwelcome conduct, based on sex or gender stereotypes, which is so severe or pervasive that it unreasonably interferes with a person's University employment, academic performance or participation in University programs or activities and creates a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive." Sexual Harassment may include, for example, unwelcome sexual advances, requests for sexual favors, and acts of sexual violence.

[APPLY REPORTED FACTS TO THIS DEFINITION. IDENTIFY ANY ELEMENTS THAT ARE CONCEDED SO HEARING PANEL CAN LIMIT THEIR FOCUS TO ELEMENTS IN DISPUTE. See sample above.]

[NOTE: "Sexual Harassment" is a broad term. It often includes acts that also meet the other three policy definitions outlined above. If so, see text below.]

The allegations outlined above in reference to Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, and Sexual Exploitation, if proven, could also form the basis for a finding of Sexual Harassment in this case. Jane certainly regards the conduct alleged in her complaint to be unwelcome and based on her sex. She has stated a case that the conduct was severe and/or pervasive and has put forward significant evidence that these acts, if proven, interfered with her University life in a way that a reasonable person would find intimidating, hostile or offensive.

IV. Conclusion.

[IMPORTANT THAT YOU STATE A CONCLUSION CONSISTENT WITH THE ROLE YOU HAVE AS AN INVESTIGATOR UNDER YOUR SCHOOL'S POLICY. ALSO HELPFUL TO INFORM THE READERS OF ANY NEXT STEPS IN YOUR SCHOOL'S PROCESS. *NOTE: THE TEXT BELOW TRACKS UVA'S POLICY AND PROCEDURES.]

Based upon the foregoing analysis, [NAME OF ANY CO-INVESTIGATORS] and I have concluded there is good cause for a hearing. We are forwarding this case to the University's Sexual Misconduct Board on charges of Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, Sexual Exploitation, and Sexual Harassment. These terms are defined above and in the University's Procedures, which we provided Jane and John during our investigation of this case, and which are also enclosed with this report. We encourage Jane and John to review these definitions and the Procedures carefully as they prepare for the Sexual Misconduct Board hearing.

The Sexual Misconduct Board's decision will be based upon a preponderance of the evidence standard, and not the lower good cause standard that controls our determination. The "preponderance of the evidence" standard, together with the rules governing the hearing of the Sexual Misconduct Board, are described in detail in the University's Procedures. We have outlined above where we believe the facts are currently in dispute based upon the evidence gathered during our investigation. Additional facts may be developed prior to and/or during the hearing of this case. Our decision to grant a hearing

does not compel a particular finding by the Board nor does it suggest that the evidentiary burden will be met as to any of the acts charged.

As required by the University's Procedures, I am submitting this confidential final report concurrently to you, Jane, John, and Associate Dean of Students [NAME], Chair of the University's Sexual Misconduct Board. Dean [NAME] will review this report and contact Jane and John to schedule a pre-hearing meeting. Dean [NAME] will deliver this report and the enclosed exhibits to the panelists for their review prior to the pre-hearing meeting. If Jane or John has objections to the panelists' receipt of all or specific portions of this report, they should raise those objections with Dean [NAME] prior to the pre-hearing meeting.

We wish to thank Jane and John for their cooperation throughout this investigation.

Sincerely,

[INSERT NAME]

Sexual Assault Case Investigator

Enclosures (Exhibits 1-XX)

cc: Dean [NAME], Chair, Sexual Misconduct Board (w/encls.)

Complainant (w/encls.)

Respondent (w/encls.)