



Disciplinary Meetings and Bias Complaint Investigations

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LAW

Disciplinary Meetings and Bias Complaint Investigations

Should I bring a lawyer or advisor into the meeting?

It is the student's choice whether to have an advisor appear with them at meetings with university investigators and administrators; in high schools, it will be the student or parent's choice. We highly recommend bringing in an advisor, such as a member of the StandWithUs Saidoff Law; *we highly suggest you do not attend these meetings alone.*

We have found that having an advisor in these meetings significantly impacts the outcome. Apart from the substantive help an advisor provides, just being there makes the institution take note that someone from the outside is watching and paying attention, which can act as a deterrent for administrators who might otherwise play fast and loose with the rules. It can also make a student feel more comfortable and confident as they navigate this process.

Strategizing Before the Meeting

Each school has its own rules for investigations, which are often spelled out on the website or in its code of conduct. Though the school's interviewer typically explains the procedures to the student at the outset of the interview, ask for the rules and review them ahead of time. Knowing your rights helps you formulate a strategy, identify what stage of the process you are in, and what you are being accused of, if anything.

It can be helpful for the student and advisor to gather and review any documentation (e.g., emails, photos, videos) ahead of the meeting, both to refresh the student's memory and to prepare relevant evidence in support of the student's narrative.

If you notice due process violations (e.g., double standards, unequal application of policies, failure or refusal by the administration to identify policies or follow them) at any point in the process, make sure to document them. Create a paper trail by email and raise your concerns about the due process violations.

What is an advisor's role?

An advisor typically is not allowed to speak directly to the interviewer/investigator but may confer with the student or step in to pause the proceedings if necessary. *Note that an advisor is different from a lawyer, and many schools prohibit lawyers from participating in this process altogether.*



CASE STUDY

Obtaining Clarity

StandWithUs joined a student for a meeting he was invited to attend by campus administrators. He thought the meeting was to discuss allegations he had made against an SJP student. He did not realize until midway through the meeting that he was facing serious charges SJP had made against *him* in a “guilty until proven innocent” investigation. StandWithUs helped clear him of all the charges falsely made against him. When the rules and procedures are not clear, an advisor can help a student obtain clarity before or even during a meeting.

Behavior, Appearance, and Other Tips

Dress appropriately for the investigative meeting, even if it is on Zoom. Do not show up in pajamas or gym clothes.

Be respectful to the administrator conducting the meeting. Begin and end by thanking them. Remember that you are allowed to take breaks and when doing so, politely ask for permission, e.g., “Can we please take a break so that I can speak with my advisor/go to the bathroom?”

Do not assume that the investigator is on your side. The investigator is not likely to be adversarial, but you should not let your guard down just because of a friendly tone. If the investigator is being hostile, let your advisor step in to address it.

If the interview is being recorded or transcribed, ensure that it is paused for any break. Do not consult with your advisor when the camera or microphone is on, and err on the side of caution, e.g., step into another room before asking anything you do not want the investigator to hear.

Make sure that you and your advisor have each other’s phone numbers and that you’ve sent a test text message before the meeting. At the meeting itself, have your phone on your lap or accessible so that you can send and receive texts from your advisor if it is on Zoom.



During the Meeting/Investigation

Answer questions honestly. While providing additional details and information can sometimes be helpful, it can also backfire or open you up to new lines of questioning. “Yes,” “No,” “I don’t know” and “I don’t remember” can each be perfectly truthful and acceptable answers. Do not feel the need to elaborate with speculation or guesses. Do not go off on a tangent that does not help the case or your credibility.

Don’t be afraid of an “awkward pause.” You do not need to keep going just because the interviewer went silent. If they have a follow-up question, they will ask it.

Remember that if you mention an interaction with someone else who is not part of the case, this can lead to questions about that person and that interaction. Try to stay on topic.

Know ahead of time what your goals are and prepare your narrative to align with those goals.

Once the basic structure of the meeting is laid out, the investigator will typically ask you for your account of the incident in question. The basic points to cover are the “who, what, where, when, and why” of the incident. Tell the narrative chronologically (in order of when things occurred)



Examples of Questions During the Meeting/Investigation

Questions will vary based on the incident. Here are examples of the types of questions:

- » *Where did the incident happen?*
- » *What were you doing there?*
- » *Who else was there?*
- » *What did the other person say to you? Did they shout at you?*
- » *Did they do anything to threaten you, physically or verbally?*
- » *Did anyone else hear what they said?*
- » *Describe the layout of the space you were in when the incident happened.*
- » *Was an Israeli flag on display?*
- » *Describe where was the person who was harassing you.*
- » *Show what you mean when you said the other student gave you a "Nazi salute."*
- » *How did you react?*
- » *Did you recognize the harasser/had you previously interacted with them?*
- » *What did you mean when you wrote/said...?*
- » *To whom did you report the incident? When did you report it?*
- » *What is the outcome that you would like to see here?*
- » *Do you want us to set up a meeting between you and the other person so that you can talk it out together and resolve it informally?*
- » *Do you have any questions or anything to add that was not addressed?*

After the Meeting

Carefully review the transcript or summary report for mistakes or incomplete information. The investigator usually gives you an opportunity to review a transcript or summary of your interview and to correct anything before the investigator issues a final report. Be mindful of the deadline for these corrections and review promptly. It is important that you confirm that the transcript or summary accurately reflects your recollection. It is also important to review everything carefully, since the meaning of statements could be changed or even reversed by a simple typo.



CASE STUDIES

Reviewing the Transcript

- » A StandWithUs advisor asked a student to review the transcript of his interview to catch any errors. The student falsely claimed he had gone through it and hadn't found anything that needed to be corrected. The advisor required the student to review it and he found numerous errors that, if not corrected, would have significantly harmed his case.
- » Due to a student's Israeli accent in a meeting, when he referred to a baby being "burned in an oven" by terrorists on October 7, the transcript reflected the phrase as "born in an oven." Reviewing the transcript fixed this.

Submitting Evidence

The investigator may ask you to submit documents to support your narrative, or which you mentioned during the interview. Your advisor can help you determine which documents to submit and assist you in submitting them in a timely and organized fashion. It can be helpful to have the evidence ready before the meeting.

When offering evidence to an investigator, be careful not to accidentally incriminate yourself. For example, some states are “two-party consent” states where it is illegal to record audio of a private conversation unless everyone involved consents. You can convey the horrible things that someone said in your presence by simply quoting them, without volunteering information about a recording. If you’re going to volunteer information about an incident, make sure you’re not inadvertently exposing yourself to charges of student conduct violations.

Be careful about sharing medical records. A student wanted to submit medical records to an investigator to support a claim that the harassment he endured caused physical harm. That claim was plausible, but the records themselves did not actually support it and in one instance, might have undermined it. Once the advisor explained this, the student agreed he should not submit the medical records.

Best Practices for an Advisor

The interviewer will lay out the general agenda for the meeting and might also explain how this meeting plays into the overall disciplinary process. Make sure this is clear to both you and the student before proceeding.

Confidentiality is a common concern for students, so if the interviewer does not discuss this on their own initiative, ask about this up front.

Make sure the student knows when his participation is voluntary or not. If the student is a witness rather than a defendant, he may not be required to participate.

A student or parent might want “heads to roll” and get administrators and other teachers fired, or they might want financial compensation for the harm they have experienced. Explain to them what is realistic and what to expect, since they are likely to be asked what their desired outcome is by the investigator.

Pay close attention during the meeting and text the student when appropriate. For instance:

- » Remind them about a detail they missed or if something needs clarification.
- » Instruct them to take a break when necessary.
- » Remind them about something you discussed, e.g., do not speculate.
- » **Send encouragement.** Remember that this is a stressful experience for the students and a simple “you’re doing great!” text can help them get through it and feel more confident.

Some other questions to consider asking the investigator up front:

- » Will the investigator share any information about the investigation, such as who else they have talked to already, with the student? If so, when and in what format?
- » Is the meeting being recorded or transcribed? If so, will the student get an opportunity to review the final transcript or report? What will happen to the recording or transcript after the investigation is completed?
- » Will the student have an opportunity to submit evidence, and if so, how?
- » What is the anticipated timing for each step of the process?

Whether and to what extent an advisor is allowed to speak during a meeting will be up to the investigator. However, even if you are unable to ask questions directly, remember that you can instruct the student during the meeting to ask for the relevant information.

