

ATIXA Guide to Best Practice Tips for Virtual Interviews and Hearings

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Whether you are using Zoom, FaceTime, Skype, Microsoft Teams, Google Hangouts, etc., there are a number of best practice tips for interviewing parties and witnesses in sexual misconduct investigations that we have compiled for your review. This will be a living list, updated and republished periodically. Some of the tips are platform-specific, and others apply regardless of platform.

1. Before you choose a platform, vet its security with your IT and general counsel offices. Does it collect and/or resell user data? Can users opt out of that? Would any data shared compromise the confidentiality of your investigation, run contrary to FERPA, or reveal the substance of a call to a third party?
2. Choose which version of Zoom (etc.) that you want. If a 256-bit encrypted version is preferred by you or your general counsel or IT, upgrade to that version.
3. Notices to parties and all witnesses should describe the remote nature of the interview. When you send the call invitation, make the subject of the invitation generic or circumspect, without personally identifiable information. “Video Call Interview Related to Misconduct Allegations Noticed on 10/11/2020” or “Meeting with (name of interviewer),” rather than “Interview of Jeremy Musky regarding allegations of sexual assault by Sabrina Sommers.”
4. Take appropriate precautions to prevent “Zoombombing” or similar interruptions. Avoidance techniques are provided [here](#).
5. Develop policies and handouts related to online interviewing that may address:
 - a. Presence and role of advisors
 - b. Recording and access to recording (in a two-party state you need to obtain consent to record)
 - c. Breaks and disruptions
 - d. Sharing of information/materials
 - e. Applicable conduct/honor code policies, including what is considered abuse of process
6. Prep the interviewee with suggestions to optimize the interview:
 - a. Choose a private space that won’t be interrupted, experience disruptive noises from nearby, or allow the interview to be overheard by third-parties.

- b. Ensure that the space is well-lit, especially from the front. Allow for extra time to adjust lighting/back-lighting if recording.
- c. Test all devices just before the interview if possible to be sure that it is functioning correctly.
- d. Make sure that your device and the interviewee's are fully charged, have spare batteries, and/or can be plugged in.
- e. Consider the need to ask the interviewee to turn their camera device 360° around their space to show you who else is present. Require them to inform you if anyone else enters the space later in the interview, and inform them you will do the same.

8. Provide a second recording device like a digital recorder, not just the internal recording function of the platform. Use both to record simultaneously. That way, you will have a backup, and a way to reference prior testimony during the interview if needed (which is harder to do with the platform's native recording device, as you typically don't receive a link to the recording until after the event).

- a. Inform the interviewee that you will also be using a backup recording device.

9. Establish privacy policies and expectations for the interview and communicate them clearly.

10. Establish a clear protocol for taking breaks during the interview. We suggest taking a break every hour or so, at least.

11. Establish whether screen sharing will be used/permitted, and a protocol for sharing of materials prior to, during, and after the call.

12. If you will be asking an interviewee about a device in their possession, make sure to notify them of the need to bring it to the interview.

13. Consider using third-party IT providers to image devices, as you may not be able to do so in person yourself, and may not be able to access your IT department to do so, either.

14. If you intend to show parts of prior online interviews to a witness or party during your interview, have the recordings queued up to the segments that you want to share, and know how to screen-share accordingly. Be aware that doing so in this way will incorporate that content into your current recording.

15. Make sure that you have a backup remote technology in place, or a phone line, in case your scheduled video call experiences technical difficulties or signal-strength interruptions.

- a. Ask the interviewee to provide you with a telephone number where they can be reached at the time in case you experience technical difficulties or interruptions.

16. When you create your invitation to the call, determine specifically which permissions you want turned on/off, and who will control what.
17. Make provisions to separately invite your interviewee's advisor with their own invitation, as they likely will not be physically present with their advisee while social distancing is still a necessity.
18. The best practice of meeting with an advisor in advance of an interview to establish ground rules and clarify procedures is still applicable. In this time, it may also be helpful to meet with the interviewee in advance to review the ground rules and procedures for the remote interview. This can also help you to facilitate any needed ADA accommodations.
19. Walk through the mute functionality, and ways to disable camera and sound with your interviewees in case they wish to confer privately with their advisor.
20. Establish a secondary communication means (or encourage the party and their advisor to establish a secondary means) for the advisor and interviewee to communicate with each other during the interview, as necessary, if they are not at the same location during the call.
21. Some platforms require a software download prior to the start of a videoconference, particularly if the interviewee has never used the software before. Send a test link for the interviewee to use ahead of time to set up their camera, audio, etc., and download any needed software.
22. Test your camera and audio prior to the interview. Pay attention to what's visible in your space and arrange in order to avoid distractions. You should also check your lighting to be sure you are clearly visible. Remove anything especially personal from your background or download a virtual background to install and use in the platform if needed.
23. Prepare your computer and screen so that you can still visually engage with the interviewee, as well as view their nonverbal behaviors. Particularly for interviewers with multiple screens, ensure the screen that you are looking at most often is also in direct line with the camera so that you appear to be paying attention. Ask the interviewee to reposition themselves if necessary to allow observation of non-verbals.
24. Take note of any other software on your computer that will use audio notifications and mute/disable accordingly. iMessage, Slack, Outlook, and other services will create video and audio notifications that can become distracting (particularly if you and your co-investigator are back-channel communicating using such a service).
25. If using co-investigators, be sure that they avoid talking over/interrupting one another. Use of the back-channel communication mechanism between them will be helpful here. Be mindful that the "chat" or "message" function in most platforms is saved as part of the recording. Best to disable.

26. Work with your ADA office to ensure that you are appropriately accommodating the disability needs of the student being interviewed, especially given the platform you are using. Consider, too, how to address any translation/interpreter needs, particularly for any witnesses who require a translator/interpreter to effectively participate in the process. In an online setting, it might be best to rely on a third-party translation service.
27. Be mindful of time zone differences when scheduling.
28. Recordings have the potential to become evidence in litigation. Be mindful of your attire and on-camera behavior. Remember that the camera and microphone are still recording when the parties shut theirs off to confer with their advisor.
29. Prepare a pre-interview checklist that has instructions, list supplies and other items you may need for the interview. Send this to the interviewee days in advance with instructions on how to address any issues they may be having.
30. If the party (or their advisor) does not have the technology necessary for the interview, consider providing it for them (e.g., mailing them a hotspot, laptop, chromebook, etc. with return mail packaging).