SAMPLE EXCERPT / KEYNOTE AND WORKSHOP

Conducting defensible investigations

An investigation is how an institution keeps its word to the people who trusted it. This is how to do it well.



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YOUR SPEAKER

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Founder and chief executive officer of Fractional Coordinator, Inc., a civil rights compliance firm serving higher education, PK-12, and public and private employers.

Practice	Has led civil rights compliance and investigation functions inside higher education institutions
Frameworks	Title IX, Title VI, Title VII, ADA and Section 504, and the Clery Act
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CONTENTS

What this session covers

One standard, three commitments, and the decisions that keep an institution's word.

01	The standard	04
02	Three commitments of a defensible investigation	05
03	Leadership as stewardship of the process	06
04	Findings anyone can follow	07
05	Six errors that cost institutions their credibility	08
06	Defensible is not the same as cautious	09

THE STANDARD

Would this finding hold up in front of someone who was not in the room?

The finding rarely turns on what the institution decided. It turns on what the institution can show it did.

The reviewer is an appeal panel, OCR, the EEOC, a court, or a reporter. None of them saw the interviews. All of them will read the record.

THREE COMMITMENTS

What every defensible investigation promises

Impartial

Actual and apparent. Screen for six grounds of recusal: personal, professional, prior involvement, financial, pre-formed view, and optics.

> Switch the parties. On the same facts, would you reach the same result?

Thorough

A written scope memo, an interview plan with witness sequencing, and an evidence log. Inculpatory and exculpatory evidence alike.

> Get the whole thread, not the screenshot. Probe every account equally.

Reasoned

Credibility weighed on six factors: consistency, plausibility, corroboration, detail, motive and bias, and knowledge base.

> Credibility is explained on the record, not asserted.

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FOR LEADERS AND BOARDS

Leadership is stewardship of the process

Before

Designate, publish, resolve, document

A qualified, unconflicted person in the seat, procedures that match practice, and escalation paths set before the pressure hits.

During

Protect the process

Prompt is measured against your own published timeline. Pause and consult when a conflict, a gap in the evidence, or new information appears.

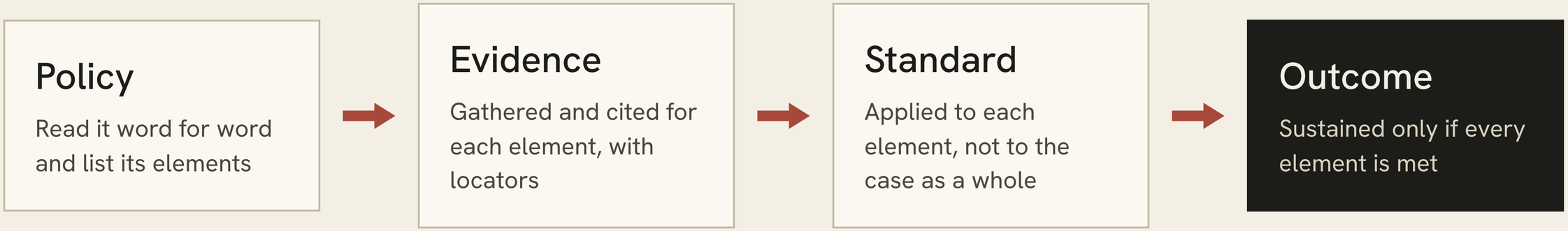
After

Act on the record

Decide on the findings and document why. Watch for retaliation: a schedule change or reassignment is enough to plead it.

When procedures do not match practice, the gap is the case. An employer can prevail on the merits and still lose on retaliation.

A finding should be a chain anyone can follow



Preponderance means more likely than not. A slight tip of the scales is enough.

A tie on preponderance is a finding of not responsible.

Write it plainly. Say what the record shows. Never "I believe."

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WHERE FINDINGS FAIL ON REVIEW

Six errors that cost institutions their credibility

Higher standard creep

Requiring more than preponderance to feel sure.

Global reasoning

"Generally responsible," without separating the allegations.

Credibility shortcut

Crediting a whole account without element-by-element analysis.

Silent counterevidence

Ignoring evidence that cuts against the finding.

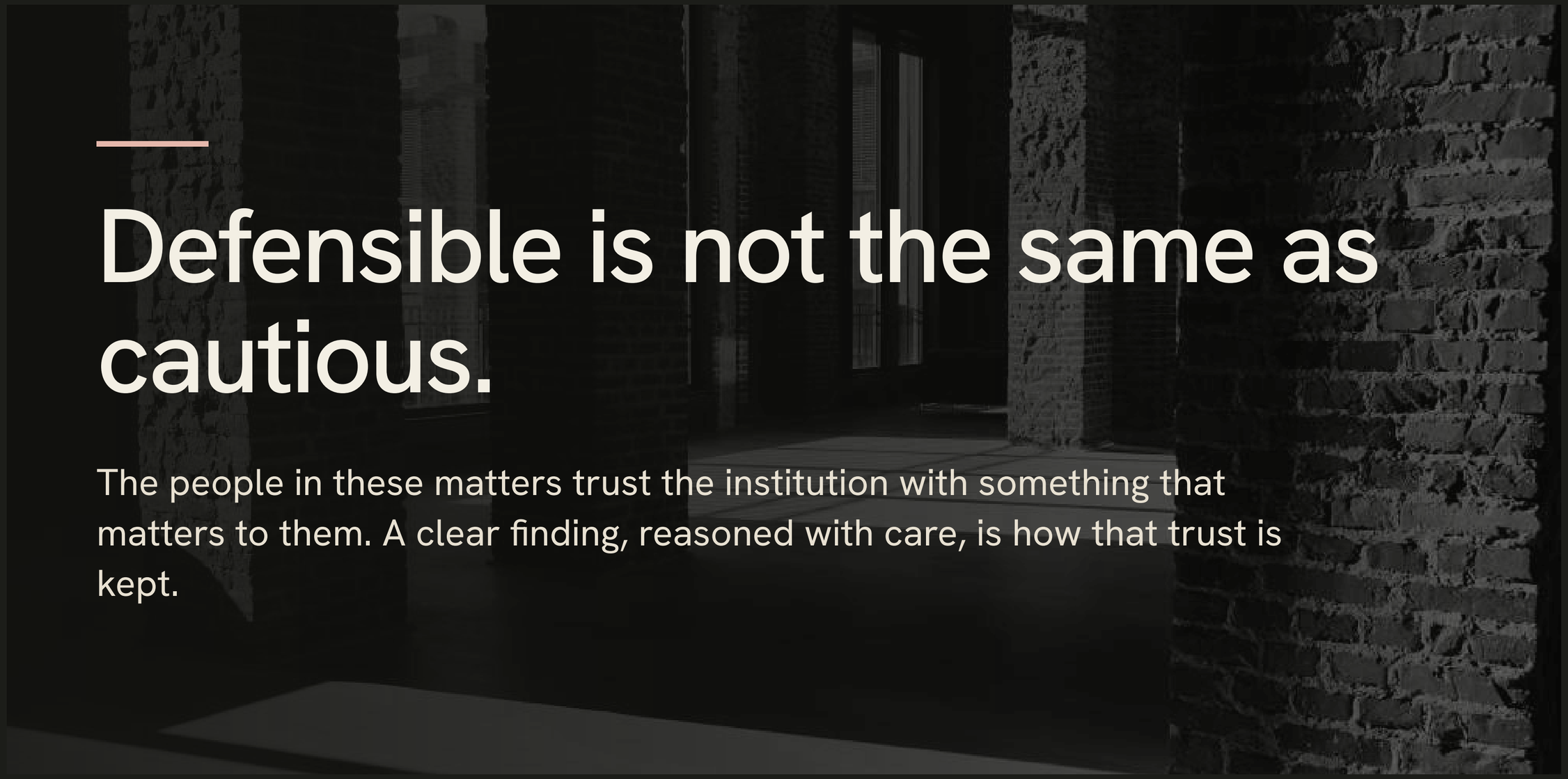
Identity-based inference

Sex, gender, or role assumptions used to judge credibility.

Process shortcut

Skipping required steps because the outcome seems obvious.

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Defensible is not the same as cautious.

The people in these matters trust the institution with something that matters to them. A clear finding, reasoned with care, is how that trust is kept.

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