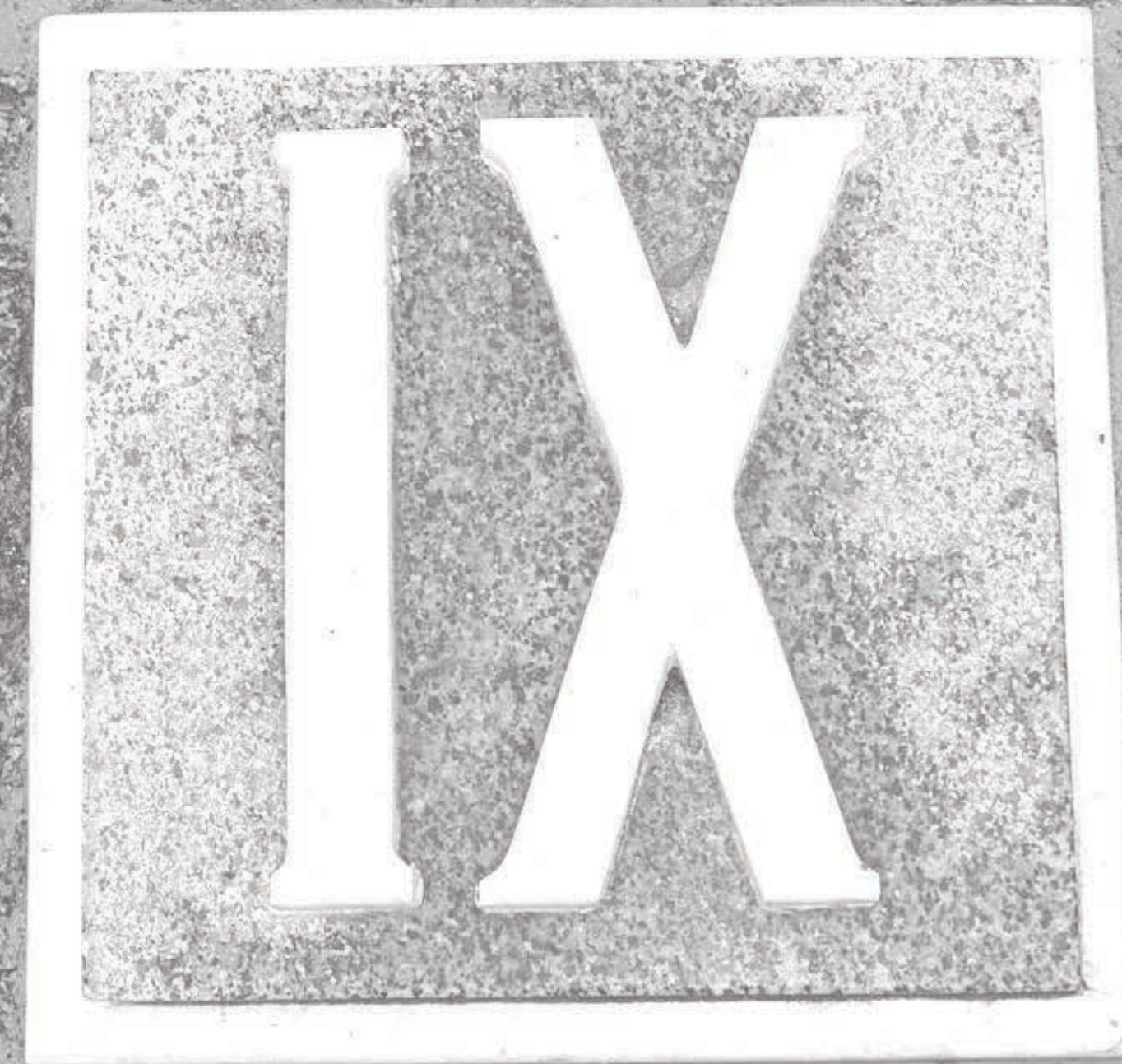




2020 TITLE IX REGULATIONS OVERVIEW

A Refresher Course



IN THIS COURSE



AN INTRODUCTION
TO TITLE IX



OVERVIEW OF THE
2020 TITLE IX
REGULATIONS

LESSON COMPLETION

Title IX Solutions, LLC

[Go to Dashboard](#)

Level I: Navigating the 2024 Title IX Regulations with Confidence

3% complete

Search by lesson title

Pre-Training Materials0/3

Decoding the 2024 Title IX Regulations: A Roadmap for Educational Institutions1/6

Chapter & Speaker IntroductionVIDEO • < 1 MIN • PREREQUISITE • DRAFT

Defining Sex Discrimination & Sex-Based HarassmentVIDEO • < 1 MIN • PREREQUISITE • DRAFT

Revised Scope & Jurisdiction

Revised Scope & Jurisdiction

106.31 – EDUCATION PROGRAM

“In the limited circumstances in which Title IX or this part permits different treatment or separation on the basis of sex, a recipient must not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a person to more than de minimis harm.”

Up next
Policy, Training & Reporting Requirements

CONTINUE →

Noted Changes

- 106.31(a)(2) was added addressing gender identity

Comments

- There is pending litigation regarding gender identity protection that may impact this part of the regulations.

MARK INCOMPLETE

CONTINUE →



STEPPING AWAY



Courses

Curriculum

Free Resources

FAQs

My Dashboard

Cara K 



See Overview



Coming Soon



June 27-28, 2024: In-Person Title IX Training (Atlanta, GA)



See Overview



Start Course



See Overview



Start Course



An Introduction to the 2024 Title IX Regulations



See Overview



Start Course



See Overview



Start Course



July 23-24, 2024: Virtual Title IX Training



See Overview



Start Course



POSTING REQUIREMENTS

In accordance with the 2020 Title IX Regulations, institutions must post “all materials used to train Title IX Coordinators, Investigators, Decision-Makers, and any person who facilitates an informal resolution process.”
34 C.F.R. 106.45(b)(10)(i)(D).

Such training materials must also be kept for seven years.

POSTING REQUIREMENTS

Facilitating Informal Resolution Processes

0/4

▼

Informal Resolution Agreements and Outcomes

0/2

▼

Potential Challenges in Facilitating Informal Resolution Processes

0/2

▼

Understanding Trauma

0/6

▼

Course Wrap-up

0/3

▼

Title IX Posting Requirements

0/2

▲

Instructions for Posting Title IX Solutions Training Materials on Institutional Websites

INSTRUCTIONS · PREREQUISITE

Final Combined Course Materials

DOWNLOAD

Instructions for Posting Title IX Solutions Training Materials on Institutional Websites

Thank you for participating in a Title IX Solutions Certification Training!

Please follow these instructions as you post the training materials to your school's website to comply with Title IX Regulation 106.45(b)(10)(i)(d).

Contact adrienne@titleixsolutions.com or tawny@titleixsolutions.com with any questions regarding the posting of Title IX Solutions' training materials.

Program materials available for download:

If you haven't done so already, you can find and download the program materials for this course by clicking on the next lesson named "Final Combined Course Materials".

Instructions for posting the above training program materials are outlined below:

Step 1: Publish Authorization & Disclaimer

COMPLETE & CONTINUE →

TITLE IX SOLUTIONS, LLC

COURSE SUPPORT



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Courses

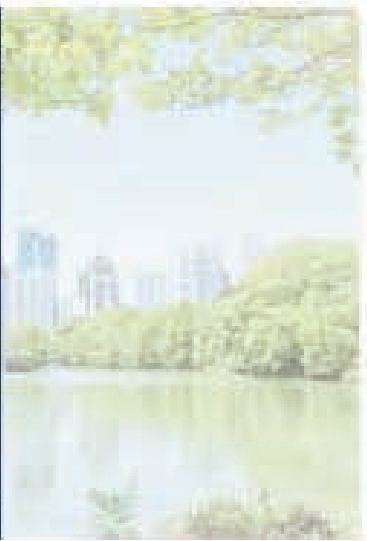
[2022 IX Institute Free Content](#) [2023 IX Institute Free Content](#) [2024 Title IX Training](#) [All Courses](#) [Level II Training](#) [Level I Training](#)



JUNE 27 & 28, 2024
ATLANTA, GA

**NAVIGATING THE 2024
TITLE IX REGULATIONS
WITH CONFIDENCE**

Training for Higher Education Administrators



June 27-28, 2024: In-Person Title IX Training (Atlanta, GA)

**AN INTRODUCTION TO
THE 2024 TITLE IX RULE**



APRIL 25, 2024

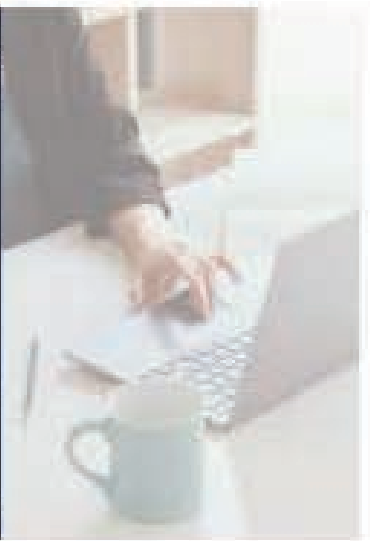
An Introduction to the 2024 Title IX Regulations



JULY 23 & 24, 2024
LIVE VIRTUAL TRAINING

**NAVIGATING THE 2024
TITLE IX REGULATIONS
WITH CONFIDENCE**

Intensive for Higher Education Administrators



July 23-24, 2024: Virtual Title IX Training
Use code INTRO24REG to save \$100

THANK YOU!



TITLE IX SOLUTIONS, LLC



AN INTRODUCTION TO TITLE IX





SPEAKER

CARA KUHN

TRAINING COORDINATOR

TITLE IX SOLUTIONS

IN THIS CHAPTER



HISTORY OF
TITLE IX



TITLE IX
DEFINITIONS



PARTICIPANTS IN THE
TITLE IX PROCESS



OVERVIEW OF THE
TITLE IX PROCESS

HISTORY OF TITLE IX



Title IX of the Education Amendments of 1972

“

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance[.]”

20 U.S.C. §1681(a)

”

CREATION OF TITLE IX

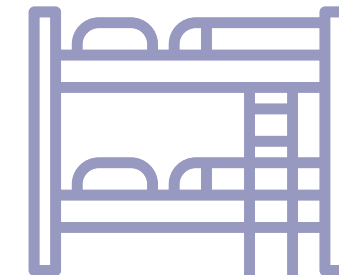
Followed the Civil Rights Act of 1964 to address discrimination on the basis of sex

Created and enacted for educational institutions (K to Postsecondary)

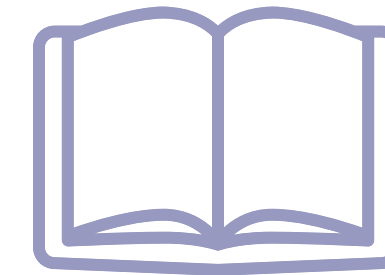
Designed initially to address inequities in:



Admissions



Residence
Life



Academic
Opportunities



Extracurricular
Activities

WHO IS PROTECTED?

All students regardless of:

- Sexual Orientation
- Gender Identity
- Nationality
- Immigration Status
- Race
- Ability

All genders are included

Employees - faculty, staff, administrators

Applies to:

- State and local educational agencies that receive federal funding
 - Vocational, professional, and higher education institutions

BRIEF HISTORY OF TITLE IX



JUNE 23, 1972

Title IX becomes
law and addresses
sex-based
discrimination

BRIEF HISTORY OF TITLE IX



APRIL 4, 2011



Guidance expands
Title IX to include
sexual harassment,
dating and domestic
violence, sexual
assault, and stalking

BRIEF HISTORY OF TITLE IX



AUGUST 14, 2020

New regulations go into effect, requiring all educational institutions to follow specific procedures in response to sexual harassment

NOTE ON THE 2024 REGULATIONS

IN APRIL OF 2024, THE DEPARTMENT OF EDUCATION RELEASED NEW REGULATIONS EXPANDING THE SCOPE OF TITLE IX.

- Many states have challenged these new regulations through injunctions which has led to different school and states following different Title IX guidance.
- Title IX is a continually evolving landscape which makes training that much more important!

TITLE IX DEFINITIONS



ACTUAL KNOWLEDGE

- "[N]otice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient" (Postsecondary)
- Notice of sexual harassment or allegations by ANY employee of an elementary or secondary school
- Includes reports sent to the Title IX Coordinator in person, by mail, by telephone, by email, or by any other means that results in the Title IX Coordinator receiving a person's written or oral report

REPORT VS. COMPLAINT

REPORT

- May allege sexual harassment, sex discrimination, or sexual misconduct
- May be written or oral
- May be submitted by any person, not just the alleged victim
- May be anonymous
- May be made at any time
- May be made in person or by mail, phone, email or any other means

FORMAL COMPLAINT

- Required for initiation of the Title IX grievance process
- Can be oral or written
- Cannot be filed anonymously or by a third-party
- Request to the school that **objectively can be understood as a request for the school to investigate** and make a determination

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REMINDER:



**MAKING A REPORT OR A COMPLAINT
TO YOUR INSTITUTION OR
CONFIDENTIAL RESOURCE IS NOT
EQUIVALENT TO FILING CHARGES
WITH LAW ENFORCEMENT.**

SUPPORTIVE MEASURES

WHAT?

- Non-disciplinary, non-punitive services offered to the Complainant & Respondent
- Includes measures designed to protect the safety of all Parties or the school's educational environment, or to deter sex discrimination and sexual harassment

WHEN?

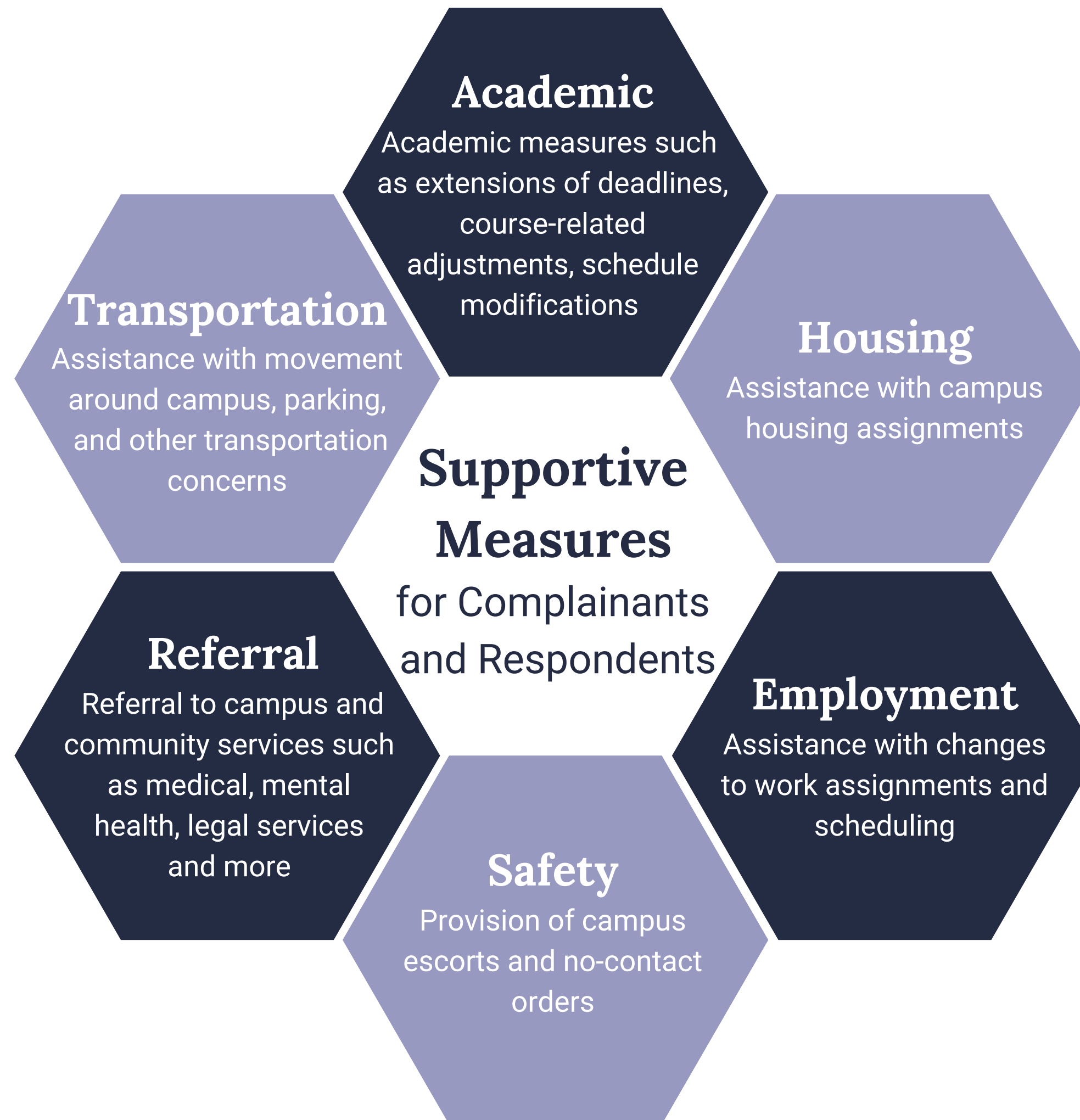
- Available before or after filing a complaint or where no complaint has been filed

WHY?

- Offered without fee or charge to the Complainant or Respondent; as appropriate and reasonably available

HOW?

- Designed to restore or preserve equal access to the school's education program or activity without unreasonably burdening the other party



AMNESTY PROVISION

- Not required under Title IX but often included in the policy to encourage reporting
- Individuals may not be subject to disciplinary action for a minor violation of other school policies (e.g., Code of Conduct) when participating in a Title IX investigation

SCENARIO

Sam is a college freshman and was sexually assaulted at a house party. Sam had been drinking heavily and is scared to report the assault as they are underage.

CONFIDENTIALITY

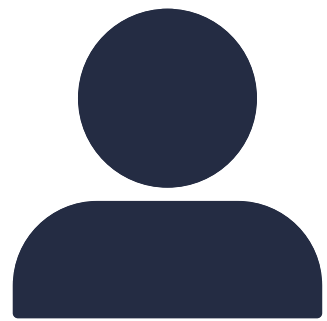
- Explicitly stated in Title IX
- Identities of the reporting parties, Complainants, Respondents, and Witnesses are to remain confidential
 - Identities of these individuals will be known to the individuals conducting the Title IX process

RETALIATION

- Intimidation, threats, coercion, or discrimination against any individual for either of the following reasons:
 - Interfering with any right or privilege under Title IX
 - Because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX

RETALIATION

All persons are prohibited from retaliating against reporting parties, Complainants, Respondents, Witnesses, and others who participate in the Title IX process.



EXAMPLE ONE:

Friends of the Complainant intimidating the Respondent, or vice versa.



EXAMPLE TWO:

School personnel discriminating against an individual for refusing to participate in the Title IX process.

REMEDIES AND SANCTIONS

REMEDIES

- Offered to Complainants
- Designed to restore or preserve equal access to the school's education program or activity
- May be the same as supportive measures
- DO NOT need to be "non-punitive" or avoid burdening the respondent

SANCTIONS

- Issued to Respondents found responsible for violating the school's sexual harassment policy, following the conclusion of the Title IX grievance process

- Available after the grievance process is complete
- List or range of remedies and sanctions should be listed in policy

EDUCATION PROGRAM OR ACTIVITY

THE EDUCATIONAL PROGRAM OR ACTIVITY INCLUDES ALL OPERATIONS OF THE SCHOOL, BOTH ON OR OFF CAMPUS.

- Includes locations, events, or circumstances over which the school exercises substantial control over both:
 - The Respondent, and
 - The context in which an incident of sexual harassment occurs
- Includes any building owned or controlled by student organizations which are officially recognized by the school (including fraternity & sorority houses)
- Includes computer and internet networks, digital platforms and computer hardware or software owned or operated by, or used in the operations of the school

STANDARD OF PROOF

STANDARD USED TO DETERMINE WHETHER OR NOT A SEXUAL HARASSMENT POLICY VIOLATION OCCURRED.

Preponderance of the Evidence

- Evidence demonstrates it is “more likely than not” the alleged conduct or policy violation occurred
- Greater than 50% chance a policy violation occurred

Clear and Convincing

- Evidence is highly and substantially more likely to be true than untrue
- A higher standard of evidence to meet when compared to the “preponderance of the evidence” standard

STANDARD OF PROOF

Preponderance of the Evidence

Anything that tips the scale to more than 50/50

Clear and Convincing

More likely to be true than untrue, substantial evidence to support

Beyond a Reasonable Doubt

Criminal court standard, overwhelming amount of evidence to support

Not enough evidence to support a finding of responsibility, doesn't necessarily mean the claim is false

Where does your needle point?

PARTICIPANTS IN THE TITLE IX PROCESS



OVERVIEW

TITLE IX PERSONNEL VARY, DEPENDING UPON SEVERAL FACTORS:

- Institution size
- Institution type
 - K-12
 - Community/two-year colleges
 - Four year colleges and universities
 - Public/private
- Institution structure and resources
 - Organizational charts and reporting
 - Full-time/part-time
 - Budget



TITLE IX PERSONNEL

EXCEPT FOR THE TITLE IX COORDINATOR, TITLE IX PERSONNEL MAY BE INTERNAL OR EXTERNAL.



Title IX
Coordinator



Deputy
Coordinators



Title IX
Investigator



Decision-
Maker



Informal Resolution
Facilitator



Advisor



Appellate
Decision-Maker

TITLE IX COORDINATOR

EVERY SCHOOL MUST HAVE A DESIGNATED TITLE IX COORDINATOR.

CAN

- Serve as the Title IX Investigator
- Serve as the Informal Resolution Facilitator
- Have other roles on campus
 - Dean of Students, Director of Human Resources, etc.

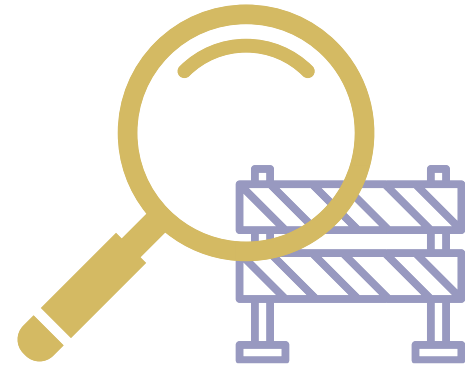
CANNOT

- Serve as the Title IX Decision-Maker
- Serve as the Appeals Decision-Maker

TITLE IX COORDINATOR



Ensure Compliance



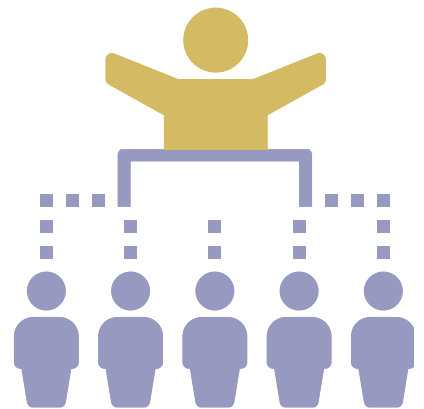
Monitors barriers
to reporting



Receive reports



Training



Oversees grievance
procedures



Offers supportive
measures

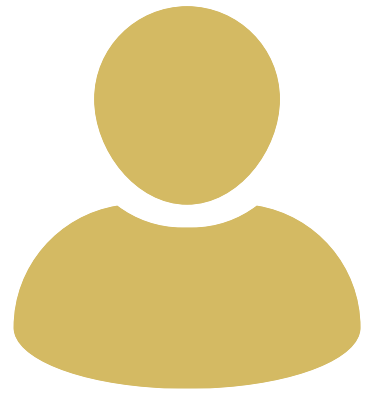


Creates policy and
procedures



Determine initiation
of complaint

TITLE IX INVESTIGATOR

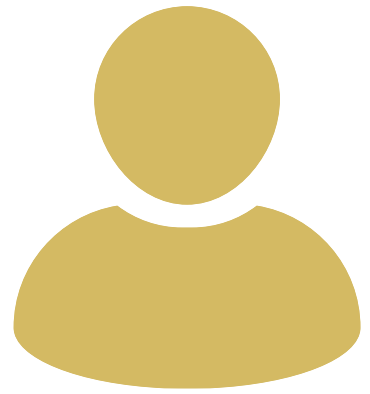


MAY BE THE TITLE IX COORDINATOR, OTHER SCHOOL EMPLOYEE, OR INDEPENDENT CONTRACTOR.

RESPONSIBILITIES:

- Collects evidence and interviews the Parties and Witnesses
- Provides all evidence to the Parties and their Advisors for inspection and review
- Creates an investigative report that fairly summarizes relevant evidence
- Sends the investigative report to the Complainant, Respondent, Advisors, and Decision-Maker

TITLE IX DECISION-MAKER

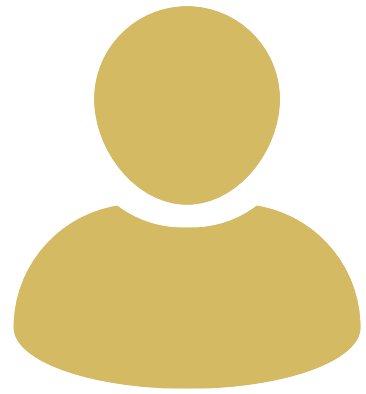


**MAY BE A SINGLE DECISION-MAKER OR A HEARING PANEL,
SCHOOL EMPLOYEE(S), OR INDEPENDENT CONTRACTOR(S).**

RESPONSIBILITIES:

- Oversees and facilitates the Title IX adjudication process, including a hearing if the school has one
- Supervises the conduct of the involved Parties and their Advisors
- Determines the relevance of evidence and questions presented during the credibility assessment process
- Drafts and issues the written determination regarding responsibility
- Issues sanctions when appropriate

APPELLATE DECISION-MAKER



MAY BE A SINGLE APPELLATE DECISION-MAKER OR APPELLATE PANEL, SCHOOL EMPLOYEE(S), OR INDEPENDENT CONTRACTOR(S).

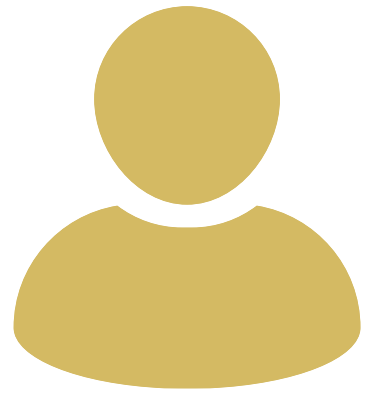
RESPONSIBILITIES:

- Reviews the appeal from the Party & the other Party's response (if any)
- Drafts and issues the final determination



Specific appellate procedures vary at every school, so refer to the school's policy for details.

INFORMAL RESOLUTION FACILITATOR

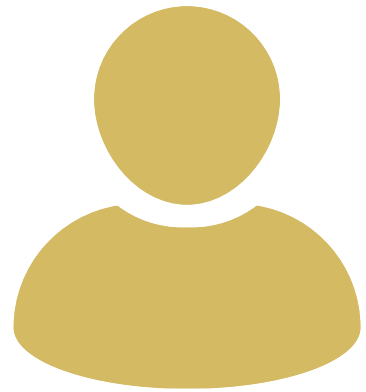


MAY BE A SCHOOL EMPLOYEE, OR INDEPENDENT CONTRACTOR. CANNOT BE THE TITLE IX COORDINATOR.

RESPONSIBILITIES:

- Provides information to the Parties and Advisors about the informal resolution process
- Various forms of informal resolution may be available
- Facilitates the informal resolution process
- Drafts informal resolution settlement agreements at the conclusion of the process (if the complaint is resolved)

ADVISOR



COMPLAINANT AND RESPONDENT HAVE THE RIGHT TO AN ADVISOR OF THEIR CHOICE.



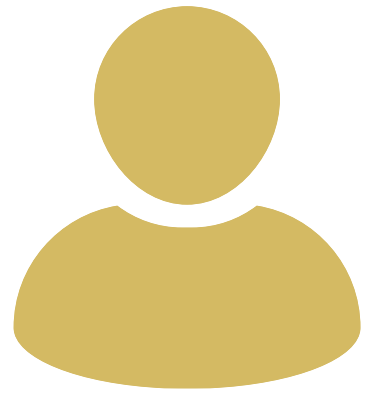
An Advisor may be, but is not required to be, an attorney.



A party's Advisor may be a friend, teacher, parent, professor, etc.

- School must provide an Advisor for the live hearing if a Party does not have one present
- School cannot limit the choice or presence of the Advisor for either Party in any meeting
- Parties have the option to include the Advisor in any meeting or investigative interview
- Schools may set specific expectations or provide guidelines for Advisors to follow during meetings, investigative interviews, and the hearing

ADVISOR



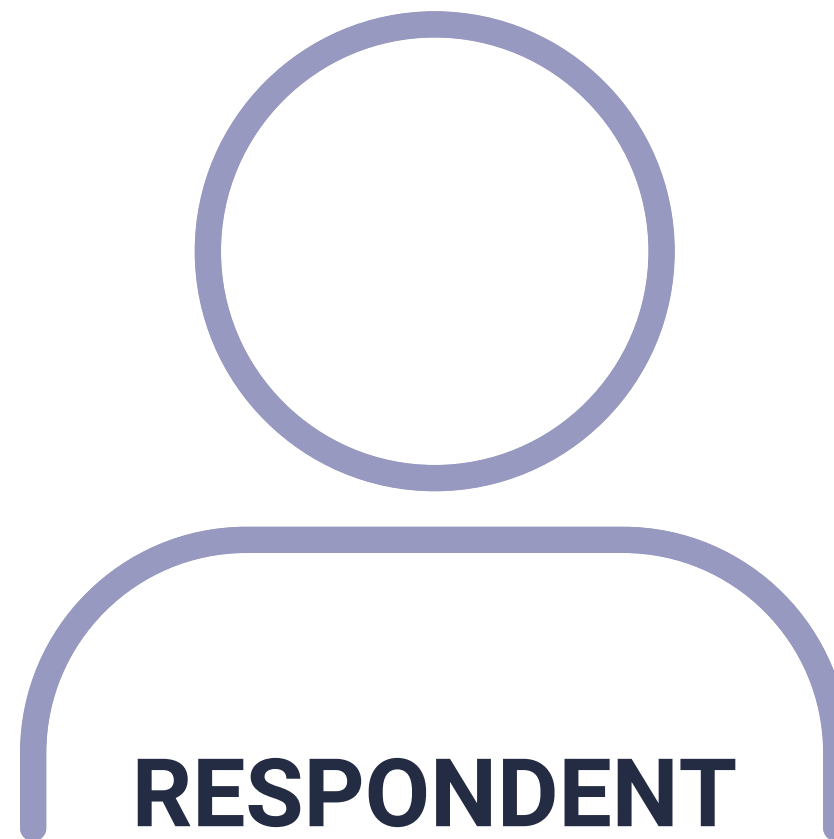
COMPLAINANT AND RESPONDENT HAVE THE RIGHT TO AN ADVISOR OF THEIR CHOICE.

RESPONSIBILITIES:

- Supports their Party by accompanying them during interviews, meetings, and the credibility assessment process
- Provides information regarding the Title IX process and resources available
- Reviews the investigative report and all evidence, as well as help craft a response
- Participates in the hearing and conducts cross-examination

PARTIES IN THE PROCESS

ASIDE FROM THE TITLE IX PERSONNEL WHO TAKE PART IN THE FACILITATION OF THE GRIEVANCE PROCESS, WE WILL ALSO SEE THESE INDIVIDUALS INVOLVED:



COMPLAINANT

ALLEGED TO BE THE **VICTIM** OF CONDUCT THAT COULD
CONSTITUTE SEXUAL HARASSMENT



- May be a student, employee, or other community member
- Must be participating in or attempting to participate in the school's education program or activity with which the complaint is filed
- There may be more than one Complainant in a case

COMPLAINANT



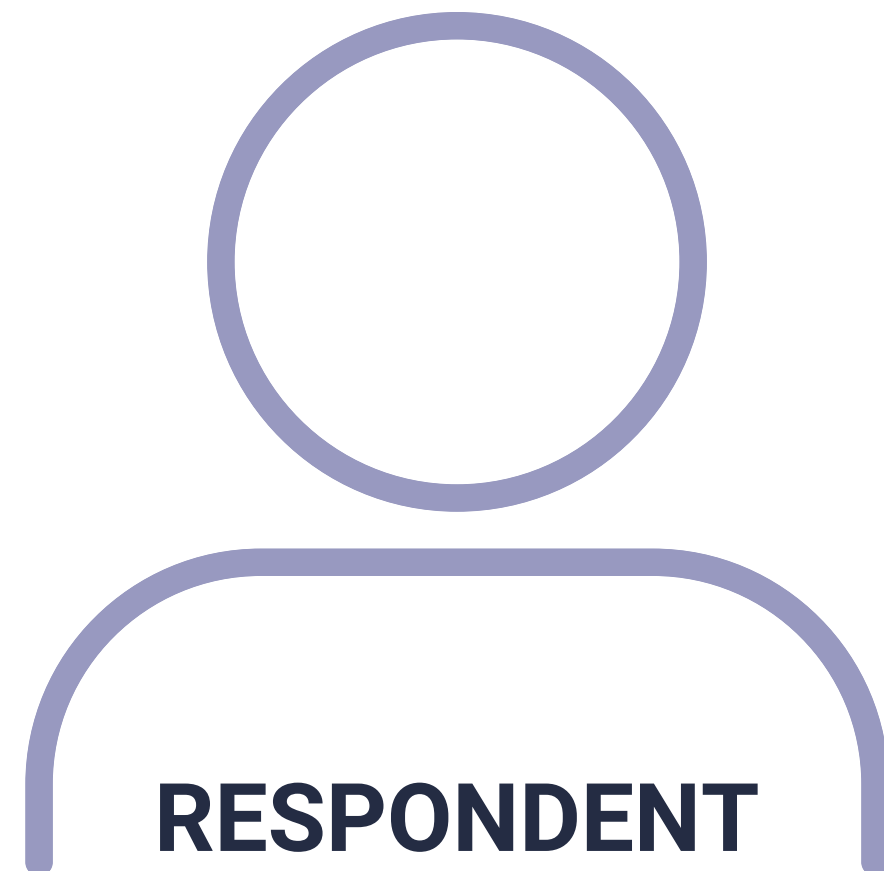
ALLEGED TO BE THE **VICTIM** OF CONDUCT THAT COULD
CONSTITUTE SEXUAL HARASSMENT



- May be a student, employee, or other community member
- Must be participating in or attempting to participate in the school's education program or activity with which the complaint is filed
- There may be more than one Complainant in a case

RESPONDENT

REPORTED TO BE THE ALLEGED **PERPETRATOR** OF CONDUCT THAT COULD CONSTITUTE SEXUAL HARASSMENT.



- May be a student, employee, community member, or non-community member
 - The school's ability to respond to incidents perpetrated by non-community member Respondents may be limited
- School may dismiss the complaint if the Respondent is no longer enrolled or employed by the school
- There may be more than one Respondent in a case

WITNESS

**INDIVIDUALS THAT ARE IDENTIFIED IN THE GRIEVANCE PROCESS AS
HAVING INFORMATION THAT MAY SUPPORT OR REFUTE ALLEGATIONS OF
SEXUAL HARASSMENT.**



- May be identified by the Complainant, Respondent, or institution
- Could have first-hand knowledge regarding allegations or may have other information that could be helpful in an investigation
- There may be multiple witnesses in a case

OVERVIEW OF THE TITLE IX PROCESS



DURING THE TITLE IX GRIEVANCE PROCESS:

A SCHOOL MUST:

- Treat Complainants and Respondents equitably
- Require objective review of all relevant evidence
- Train Coordinators, Investigators, Decision-Makers, and Informal Resolution Facilitators and ensure they are free of conflicts of interest and bias
- Include a presumption that Respondent is not responsible for allegations until determination is reached at conclusion of grievance process

DURING THE TITLE IX GRIEVANCE PROCESS:

A SCHOOL MUST:

- Include reasonably prompt time frames for the conclusion of the grievance process
- Describe the range of possible disciplinary sanctions and remedies
- State the standard of proof
- Describe the range of supportive measures available to Complainants and Respondents
- Not require or seek the disclosure of information protected under a legally recognized privilege

GOAL OF TITLE

ULTIMATELY, THE GOAL OF TITLE IX IS TO:



Stop the harassment or discrimination



Prevent future recurrence of harassment or discrimination



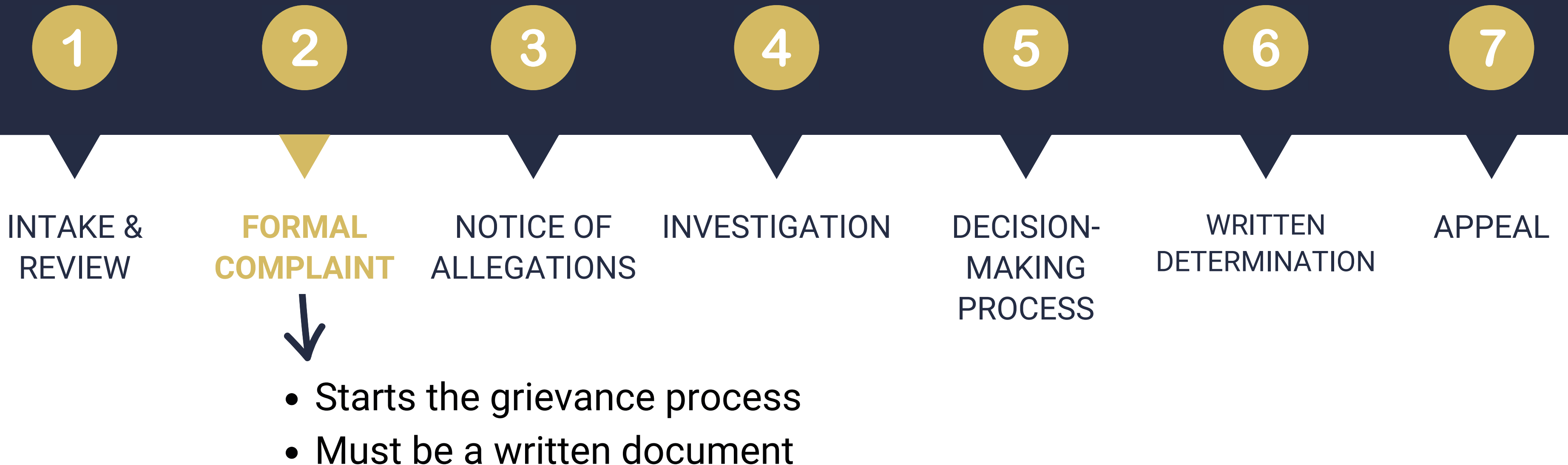
Remedy the effects of harassment or discrimination

GRIEVANCE PROCESS



- Title IX Coordinator must respond in a way that's not deliberately indifferent
- Meet with the Complainant to discuss supportive measures and process for a formal complaint

GRIEVANCE PROCESS

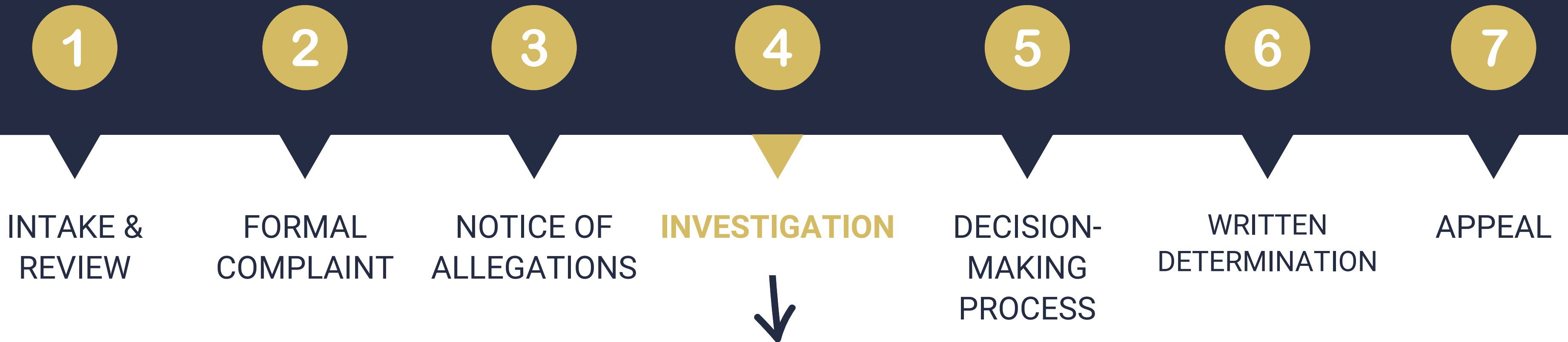


GRIEVANCE PROCESS



- Provided to both parties outlining the grievance procedures, information about the allegations, prohibition of retaliation, and the parties' rights

GRIEVANCE PROCESS



- Parties have the opportunity present witnesses and evidence
- Parties also have the right to access, review and respond to evidence gathered during the investigation

GRIEVANCE PROCESS



- Decision-maker has opportunity to question parties and witnesses to evaluate allegations and assess credibility

*Some conduct does not require a live hearing. The Title IX Coordinator will be able to help identify cases when a live hearing is required and cases when it is not.

GRIEVANCE PROCESS



- Standard of evidence is used to determine whether a policy violation occurred
- Notification is issued to the parties in writing

GRIEVANCE PROCESS



- Parties have the right to appeal the process on the following bases:
 - Procedural irregularity that would change the outcome
 - New evidence that would change the outcome and that was not reasonably available when the determination was made
 - The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias that would change the outcome

INFORMAL RESOLUTION

AT ANY TIME PRIOR TO DETERMINING WHETHER SEXUAL HARASSMENT OCCURRED, A SCHOOL MAY OFFER TO A COMPLAINANT AND RESPONDENT AN INFORMAL RESOLUTION PROCESS.

- Cannot offer informal resolution if the complaint includes allegations that:
 - An employee engaged in sexual harassment of an elementary school or secondary school student
 - Process would conflict with Federal, State or local law
- Schools cannot require or pressure the parties to participate in an informal resolution process.
- The school must obtain the parties' voluntary consent to the informal resolution process

TITLE IX SOLUTIONS, LLC

OVERVIEW OF THE TITLE IX REGULATIONS

TITLE IX SOLUTIONS, LLC

IN THIS CHAPTER



INTRODUCTION TO
THE TITLE IX
REGULATIONS



SEXUAL HARASSMENT
AND RECIPIENT
RESPONSE



TITLE IX GRIEVANCE
PROCESS FOR
FORMAL COMPLAINTS

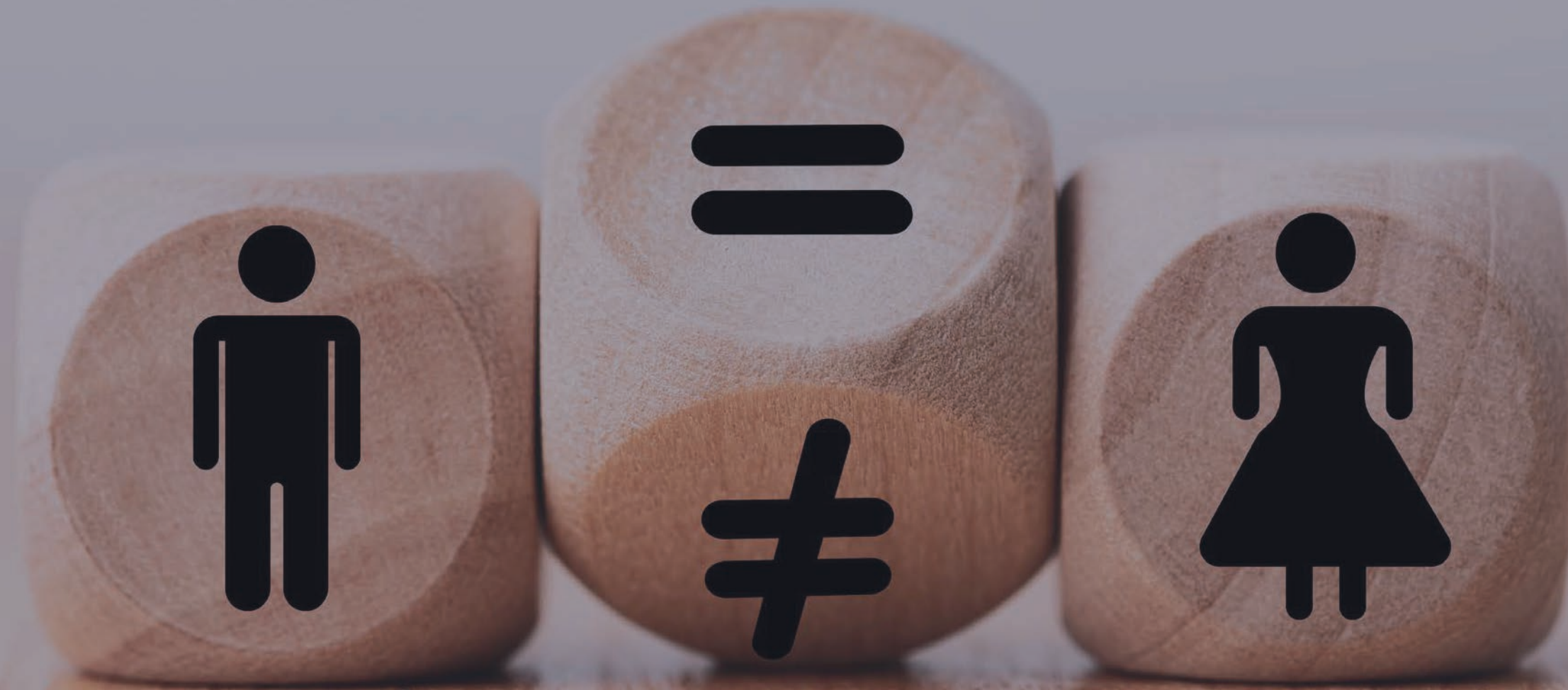


SPEAKER

PATRICK MATHIS, J.D.

CO-FOUNDER & MANAGING MEMBER
TITLE IX SOLUTIONS

INTRODUCTION TO THE TITLE IX REGULATIONS



TITLE IX COVERAGE

POSTSECONDARY INSTITUTIONS

Includes:

- Undergraduate schools
- Graduate schools
- Vocational schools
- Professional schools/programs

ELEMENTARY & SECONDARY SCHOOLS

Includes:

- Preschools and Pre-K programs
- Private elementary and secondary schools
- Charter schools

WHAT IS A RECIPIENT?

§106.2

Definitions

"Any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives such assistance, including any subunit, successor, assignee, or transferee thereof."

COMPLIANCE WITH THE REGULATIONS

RECIPIENTS MUST COMPLY WITH THE REQUIREMENTS OF TITLE IX AS OUTLINED UNDER THE REGULATIONS.

Recipients may:

- Provide guidelines, policies or protocols through their codes of conduct beyond the scope of the regulations;

and/or

- Provide details regarding policies or procedures which are not addressed in the regulations

SCHOOL'S REQUIRED RESPONSE

**PROMPT AND
EQUITABLE
GRIEVANCE
PROCEDURES**



Sex Discrimination



Sexual Harassment

(§106.45)

ALWAYS REFER TO YOUR SCHOOL'S TITLE IX POLICY!

WHEN IS SEX- BASED HARASSMENT ACTIONABLE?



When it denies a
person equal
access to education

TITLE IX'S APPLICATION

REGULATIONS APPLY EQUALLY TO ALL PERSONS,
REGARDLESS OF:



Gender Identity or Expression

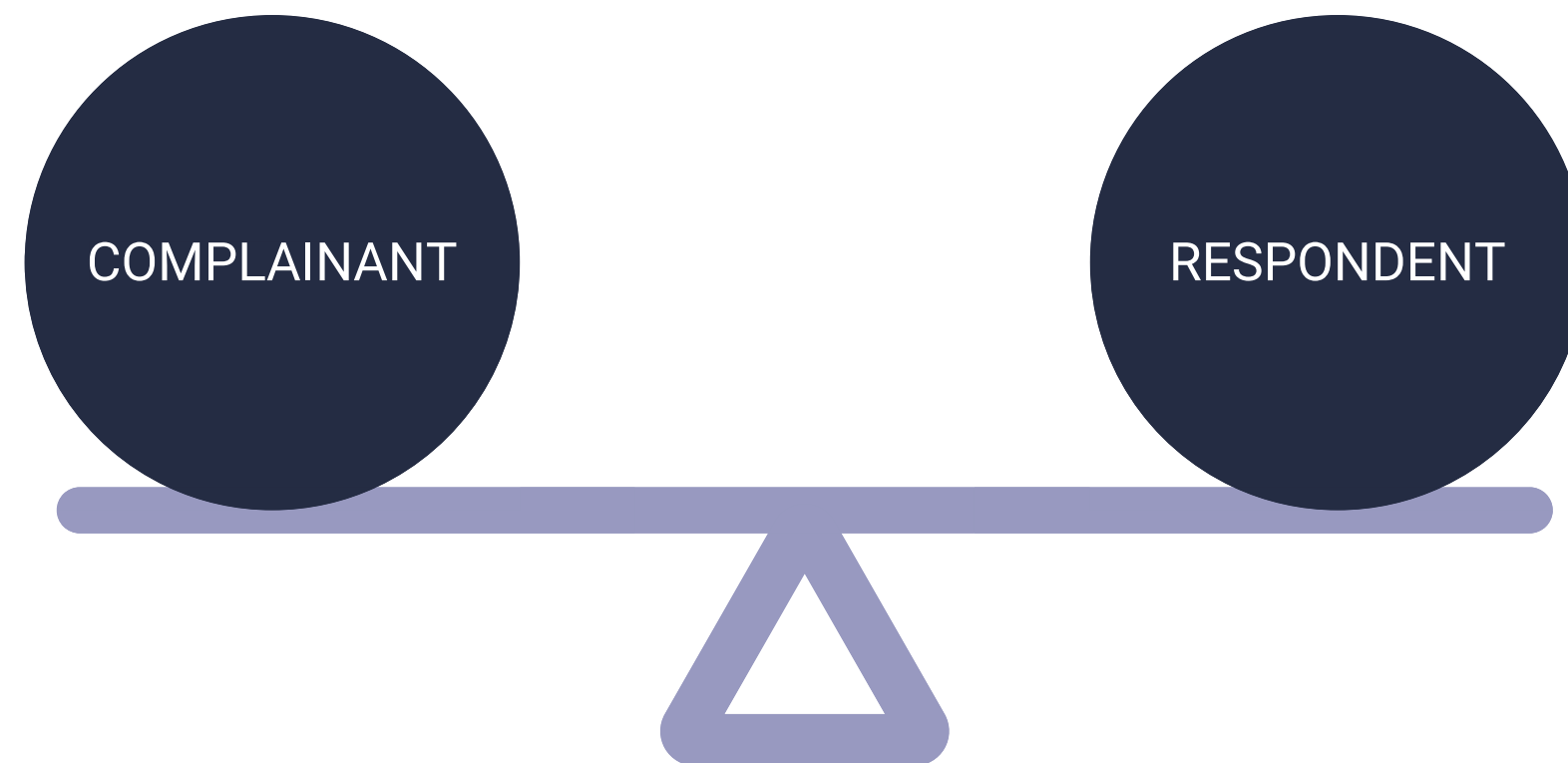


Sexual Orientation

TREATMENT OF THE PARTIES

A SCHOOL MUST TREAT BOTH PARTIES EQUITABLY AND EQUALLY THROUGHOUT THE PROCESS.

This includes supportive measures, investigations, and the grievance process



BIAS AND CONFLICT OF INTEREST

§106.45 (b)(1)(3)

Grievance
process for
formal
complaints of
sexual
harassment

"...that any individual designated by a recipient as a Title IX Coordinator, Investigator, Decision-Maker, or any person designated by a recipient to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent."

TITLE IX PERSONNEL

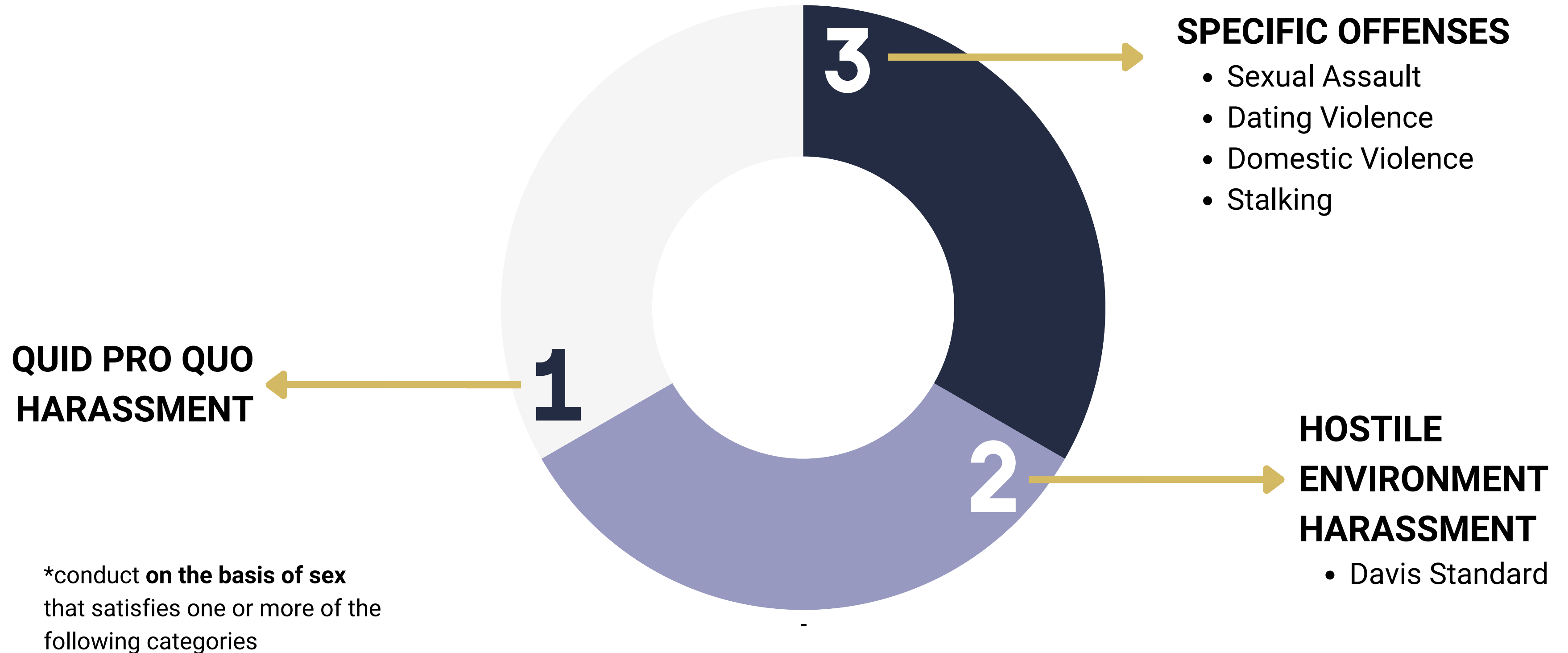


Recipients have the flexibility to use their own employees or external Title IX Investigators, Adjudicators, or Informal Resolution Facilitators

SEXUAL HARASSMENT AND RECIPIENT RESPONSE



SEXUAL HARASSMENT



SEXUAL HARASSMENT

1

QUID PRO QUO

DEFINITION:

An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient of an individual's participation in unwelcome sexual conduct.

- May be expressed or implied
- Need not be “severe” or “pervasive” as a single incident
- Considered inherently “offensive” and jeopardizes equal educational access

SEXUAL
HARASSMENT

2

HOSTILE
ENVIRONMENT

DEFINITION:

Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity.

SEXUAL
HARASSMENT

3

DEFINED
ACTS

SPECIFIC OFFENSES DEFINED UNDER THE FBI'S UNIFORM CRIME REPORTING (U.C.R) PROGRAM.

- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

SEXUAL ASSAULT

SEX OFFENSES, FORCIBLE:

Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.

Forcible Rape

Forcible Sodomy

Sexual Assault with an Object

Forcible Fondling

SEX OFFENSES, NONFORCIBLE:

Unlawful, nonforcible sexual intercourse (not including prostitution offenses).

Incest

Statutory Rape

20 U.S.C. 1092(f)(6)(A)(v)

DATING VIOLENCE

VIOLENCE COMMITTED BY A PERSON:

- a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i. The length of the relationship.
 - ii. The type of relationship.
 - iii. The frequency of interaction between the persons involved in the relationship.

34 U.S.C. 12291(a)(10)

DOMESTIC VIOLENCE

FELONY OR MISDEMEANOR CRIMES OF VIOLENCE COMMITTED BY A CURRENT OR FORMER SPOUSE OR INTIMATE PARTNER OF THE VICTIM:

- a. by a person with whom the victim shares a child in common,
- b. by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- c. by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies,
- d. or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

34 U.S.C. 12291(a)(8)

STALKING

ENGAGING IN A COURSE OF CONDUCT DIRECTED AT A SPECIFIC PERSON
THAT WOULD CAUSE A REASONABLE PERSON TO:

1

Fear for his or her safety or the safety
of others; or

2

Suffer substantial emotional distress

34 U.S.C. 12291(a)(30)

CONSENT

The Regulations do not include a definition of consent and do not require recipients to adopt a particular definition of consent, including “affirmative consent,” with respect to sexual assault.

RECIPIENT'S RESPONSE

THRESHOLD CRITERIA (ALL FOUR MUST BE MET):

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ACTUAL KNOWLEDGE DEFINED

§ 106.30 Definitions

"Notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient, or to any employee of an elementary and secondary school"

- Does not need to be a written statement or a formal complaint
- May be conveyed by any person, not just the Complainant
- May be "written or oral, by observation, via a newspaper article or other means"



Postsecondary Institutions - reporting to Title IX Coordinator always constitutes actual knowledge

Elementary and Secondary Institutions - reporting to ANY employee constitutes actual knowledge

EDUCATION PROGRAM OR ACTIVITY DEFINED

§ 106.11 Application

Recipient's education program or activity includes but is not limited to conduct that occurs in a building owned or controlled by a student organization that is officially recognized by a postsecondary institution, and conduct that is subject to the recipient's disciplinary authority.

- School may offer supportive measures if harassment occurred outside of the educational program or activity
- School's responsibility is limited under Title IX regulations, though conduct outside of this jurisdiction may be addressed by Code of Conduct or other policies
- Schools must make fact-specific determinations regarding substantial control over the respondent and the context

RECIPIENT'S RESPONSE

Schools must not act in a manner that is deliberately indifferent, meaning:

"...clearly unreasonable in light of the known circumstances."

RECIPIENT'S RESPONSE

QUALIFYING INCIDENTS OF SEXUAL HARASSMENT

- Treat Complainants and Respondents equitably by offering supportive measures



WHEN DO THEY APPLY?



WHAT DO THEY INCLUDE?

- Follow a grievance process that complies with §106.45 of the Title IX Regulations

RECIPIENT'S RESPONSE

QUALIFYING INCIDENTS OF SEXUAL HARASSMENT

The Title IX Coordinator must promptly contact the Complainant to:

1. Discuss the availability of supportive measures as defined in §106.30;
2. Consider the Complainant's wishes with respect to supportive measures;
3. Inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint;
4. Explain to the Complainant the process for filing a formal complaint.

RECIPIENT'S RESPONSE

SUPPORTIVE MEASURES

§ 106.30 Definitions.

"non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed"

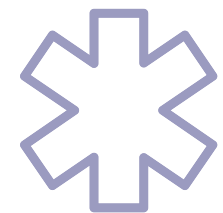
- Intended to restore Complainant's access to educational program or activity

RECIPIENT'S RESPONSE

EMERGENCY REMOVAL



Safety and risk analysis



Immediate threat to physical health or safety



Provide Respondent with notice and opportunity to challenge the decision

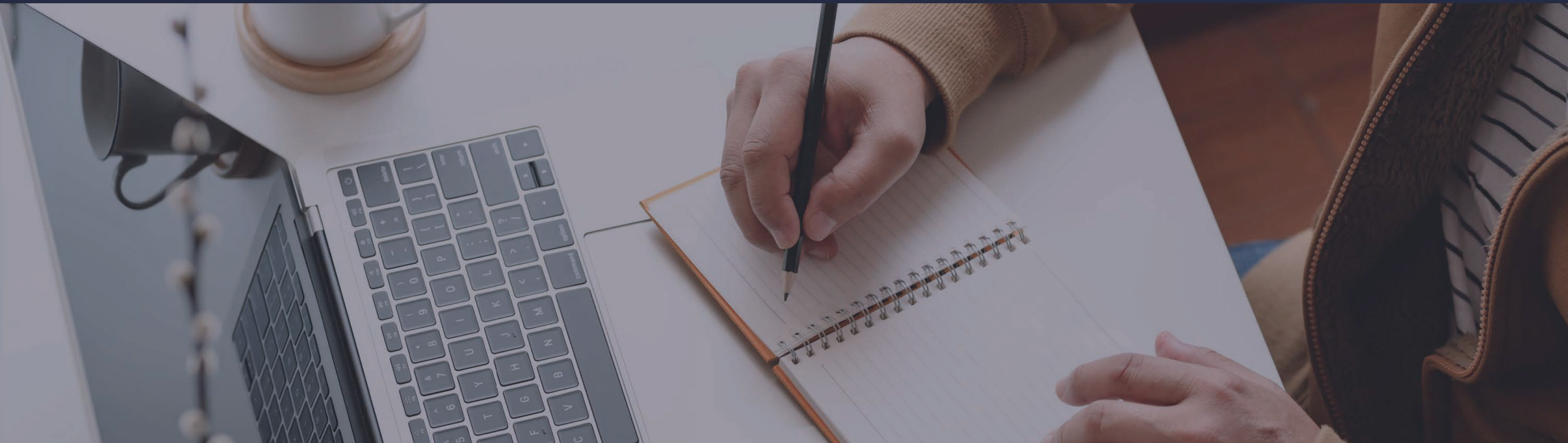
RECIPIENT'S RESPONSE

ADMINISTRATIVE LEAVE



- Applies to non-student employees

TITLE IX GRIEVANCE PROCESS FOR FORMAL COMPLAINTS



GRIEVANCE PROCESS

1

INTAKE &
REVIEW

2

FORMAL
COMPLAINT

3

NOTICE OF
ALLEGATIONS

4

INVESTIGATION

5

DECISION-
MAKING
PROCESS

6

WRITTEN
DETERMINATION

7

APPEAL

INFORMAL RESOLUTION
WINDOW

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:



**TREAT COMPLAINANTS AND
RESPONDENTS EQUALLY**

- Ensure processes do not differ based on status as a Complainant or Respondent
- Communicate rights of the parties

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:

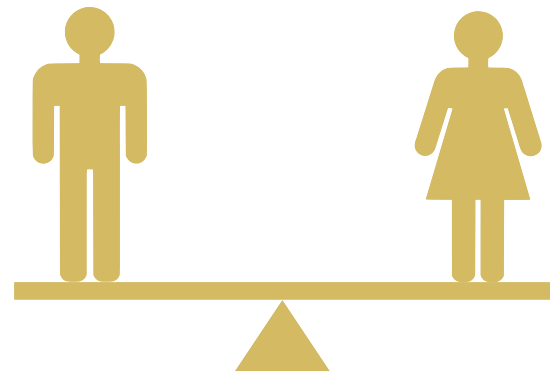


**REQUIRE OBJECTIVE
EVALUATION OF
RELEVANT EVIDENCE**

- Consider both inculpatory and exculpatory evidence
 - Inculpatory = Corroborating evidence
 - Exculpatory = Contradictory evidence
- Do not determine credibility based solely on a person's status as a Complainant, Respondent, or witness

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:



**REQUIRE TITLE IX
PERSONNEL NOT HAVE BIAS
AND CONFLICT OF INTEREST**

- Title IX personnel must be trained
- Title IX personnel must *“not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent”*
- Title IX personnel should consider recusing themselves if they are unable to serve impartially.

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:

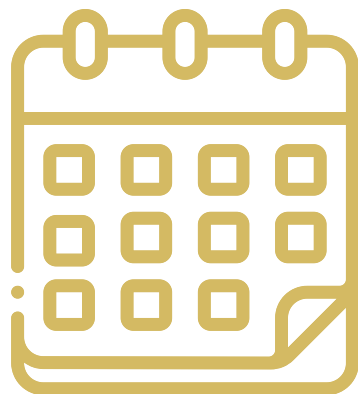


**INCLUDE A PRESUMPTION
THAT RESPONDENT IS NOT
RESPONSIBLE UNTIL A
DETERMINATION IS MADE**

- Punitive measures may not be put in place until a finding of responsibility has been issued
- Think "*innocent until proven guilty*" in the criminal justice system

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:

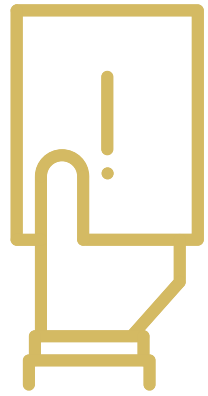


**INCLUDE REASONABLY
PROMPT TIME FRAMES**

- Title IX policies should include reasonably prompt time frames for filing and resolving appeals, informal resolution processes, and more
- The grievance process may be delayed for good cause, which could include:
 - Absence of a party or party's advisor
 - Request from law enforcement to pause for concurrent investigation
 - Acquiring accommodations such as language assistance, disabilities

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:



**DESCRIBE RANGE OF
POSSIBLE DISCIPLINARY
SANCTIONS AND REMEDIES**

- Ensure these ranges are communicated in policy and procedural documents

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:

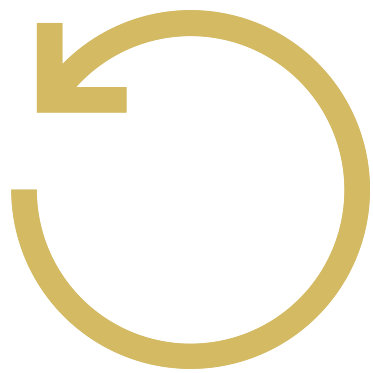


STATE THE STANDARD OF EVIDENCE

- A school may elect to apply either:
 - The preponderance of evidence (“more likely than not”) standard; or
 - The clear and convincing evidence (“highly probable”) standard
- The same standard of evidence must be used for:
 - Formal complaints against students as is used for formal complaints against employees, including faculty
 - All formal complaints of sexual harassment

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:



**INCLUDE THE PERMISSIBLE
BASES FOR APPEAL**

- Title IX allows for appeals of the final determination of responsibility

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:



**DESCRIBE THE RANGE OF
SUPPORTIVE MEASURES
AVAILABLE**

- Ensure these ranges are communicated in policy

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:



**NOT REQUIRE OR RELY ON
PRIVILEGED INFORMATION,
UNLESS WAIVED**

- This would include information such as:
 - Medical records
 - Academic records protected under FERPA
 - Conversations with privileged individuals such as counselors or clergy