

2026 Title IX Summer Summit

Jodie Crosby Ferise, JD, EdD
James Nussbaum, JD

Presented by **Church Church Hittle + Antrim**
Grace College | July 2026



MEET THE TEAM

Jodie Ferise, JD, EdD



20+ YEARS IN HIGHER EDUCATION

- Faculty member, senate president
- Associate provost
- Chief international officer
- General counsel
- Government relations, lobbyist



TITLE IX EXPERIENCE

- Training
- Policy development
- Adjudicator/panel chair
- Investigator
- Advisor
- Informal resolution facilitator



FEATURED IN

NPR | Bloomberg Law | CNN | Wall Street Journal | Washington Post
Inside Higher Ed | Chronicle of Higher Education



MEET THE TEAM

James Nussbaum, JD



10+ AS HIGHER EDUCATION COUNSEL

- In-house counsel responsible for athletics, employment, student affairs
- Outside counsel for schools in Indiana and across the country
- Presents for national associations on issues facing higher education



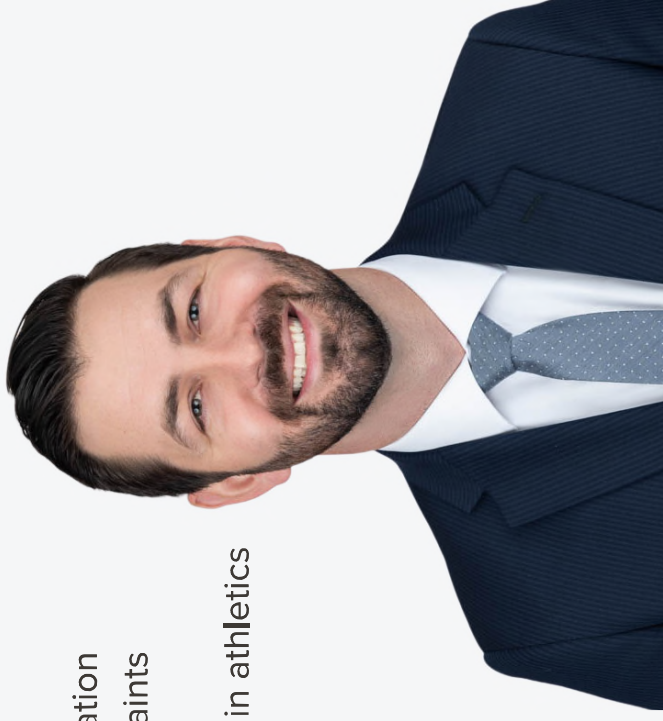
TITLE IX EXPERIENCE

- Investigator
- Adjudicator
- Managing litigation
- Agency complaints
- Training
- Gender equity in athletics

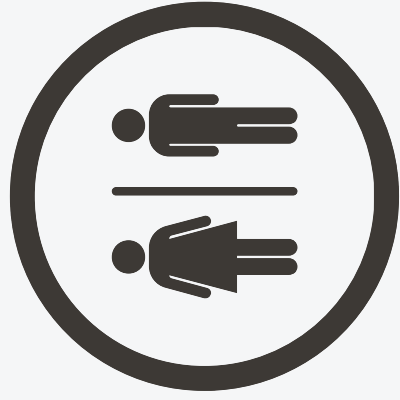


FEATURED IN

Forbes | The Hill | Inside Higher Ed | Bloomberg Law
Chronicle of Higher Education | CBS Sports | Higher Ed Dive



Housekeeping



Disclaimer on language.

**Sexual harassment could happen to
anyone in any relationship.**

Throughout this training, we make every effort to use inclusive language that reflects the diversity of people's experiences and identities. Our goal is to ensure that everyone sees themselves represented and respected in these discussions.

**What if I have a
question during
these sessions?**



Why am I here?



Roadmap

- 📍 Starting Points
 - Finding our True North + Basic Terms
- 📍 Title IX Basics
- 📍 The Grievance Process
 - The Report and Intake
 - The Investigation
 - The Hearing
 - Appeals
- 📍 Recent Federal Developments

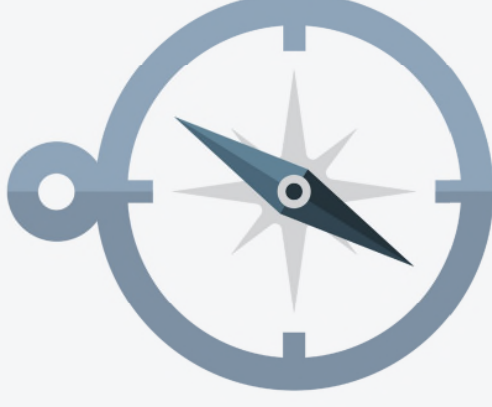
Section One:

Starting Points

Finding our True North

Every participant, every reporter, every witness, is a member of your campus community. Each is inherently valuable as a human being and worthy of being respected and believed.

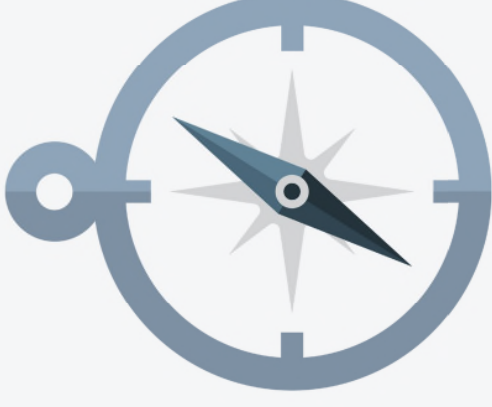
Discrimination, harassment, and sexual violence cause extreme damage to individuals and to the campus culture you are trying to develop and maintain.



True North

Every person deserves access to education and employment that are free from discrimination and harassment.

Fair and equitable adjudication of discrimination and harassment complaints builds campus trust.



Building Campus Trust

- Take every allegation seriously.
- Treat parties and witnesses respectfully and equitably.
- Engage the entire campus community through training + events.
- Be present and involved in the campus community.
- Make yourself accessible to students.

Terms to Know

Complainant, Respondent, and Reporter

Complainant:

An individual within the recipient's community who may have experienced discrimination or harassment (even if they have not submitted a Formal Complaint).

Terms to Know

Complainant, Respondent, and Reporter

Respondent:

A member of the recipient's community alleged to have engaged in conduct that could constitute discrimination, harassment, or retaliation under this policy.

Terms to Know

Complainant, Respondent, and Reporter

Reporter:

A person who makes a report of discrimination, harassment, or retaliation that potentially violates an institution's policy.

Terms to Know

Use “Complainant”

rather than:

~~Victim~~

~~Survivor~~

~~Reporting party~~

~~Accuser~~

~~Plaintiff~~

Terms to Know

Use “Respondent”
rather than:

~~Perpetrator~~

~~Offender~~

~~Responding party~~

~~Accused~~

~~Suspect~~

~~Defendant~~

Terms to Know

Title IX Coordinator

Must appoint a Title IX
Coordinator who is responsible
for:

- Coordinating and monitoring institutional TIX compliance
- Navigating reports of policy violations as they arise
- Overseeing grievance procedures
- Presenting education and training opportunities
- Monitoring policies and procedures and updating as appropriate

Terms to Know

Decisional and Appellate Officials

*Decisional Official, Hearing
Panel, Decision-Maker,
Adjudicator:*

The recipient employee(s)
appointed to make a
determination regarding a
finding of responsibility.

Terms to Know

Decisional and Appellate Officials

Appellate Official:

The recipient employee
appointed to hear appeals
under this policy.

Terms to Know

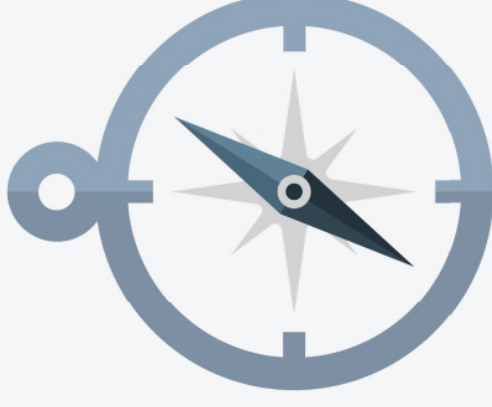
Title IX Advisors

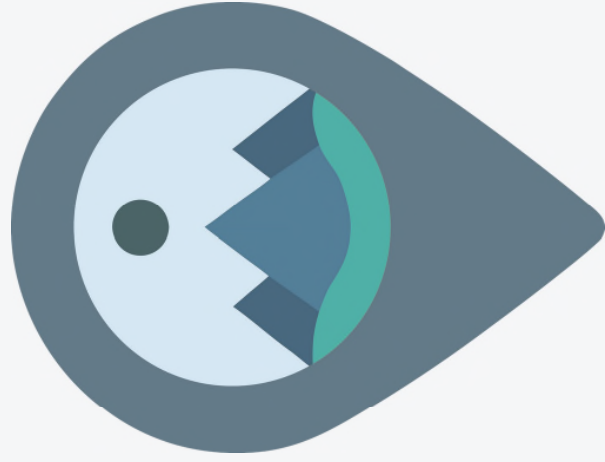


In the context of Title IX, Advisors are those who support Complainant and Respondent throughout the grievance process.

Starting with the Why: What's at Stake

- Campus culture, safety, enrollment, retention, and reputation can all be affected.
- The 2020 Title IX regulations require any Title IX Coordinator, Investigator, Adjudicator, and those who facilitate Informal Resolution to be trained.
- It is a frequent source of litigation against institutions of higher education.
- The federal government may revoke federal funding if an institution fails to comply.





Section TWO:

Title IX Basics

Title IX Triva

1. Scan QR code.
2. Join on Slide 25.



How much do you know about Title IX?

Absolutely nothing

A little

Some

A great deal

I went to CCHA Summer Summit
last year.

Your Canva profile name won't be shared

How many words are in
the Title IX statute?

37

112

587

2,128

Your Canva profile name won't be shared

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.

This is Title IX.

Title IX would apply to which of the following

A) Massage school that receives
Title IV funds

B) Large public university system

C) Catholic school that receives
no federal funds

D) All of the above

E) A & B only

F) B & C only

Your Canva profile name won't be shared

**Title IX began as a way to
remedy long-standing
inequities in women's
sports.**

True

False

Your Canva profile name won't be shared

Title IX Trivia

Who originally
introduced Title IX
legislation in the
Senate?



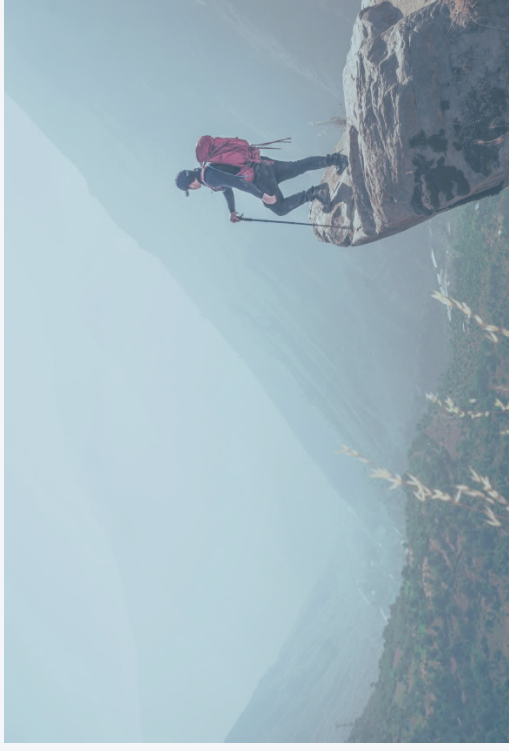
Title IX Trivia

Trailblazing women's rights advocate, Representative Patsy Mink is recognized as it's major author.



Title IX Trivia

What (or *who*) was Bayh's catalyst for sponsoring the bill?



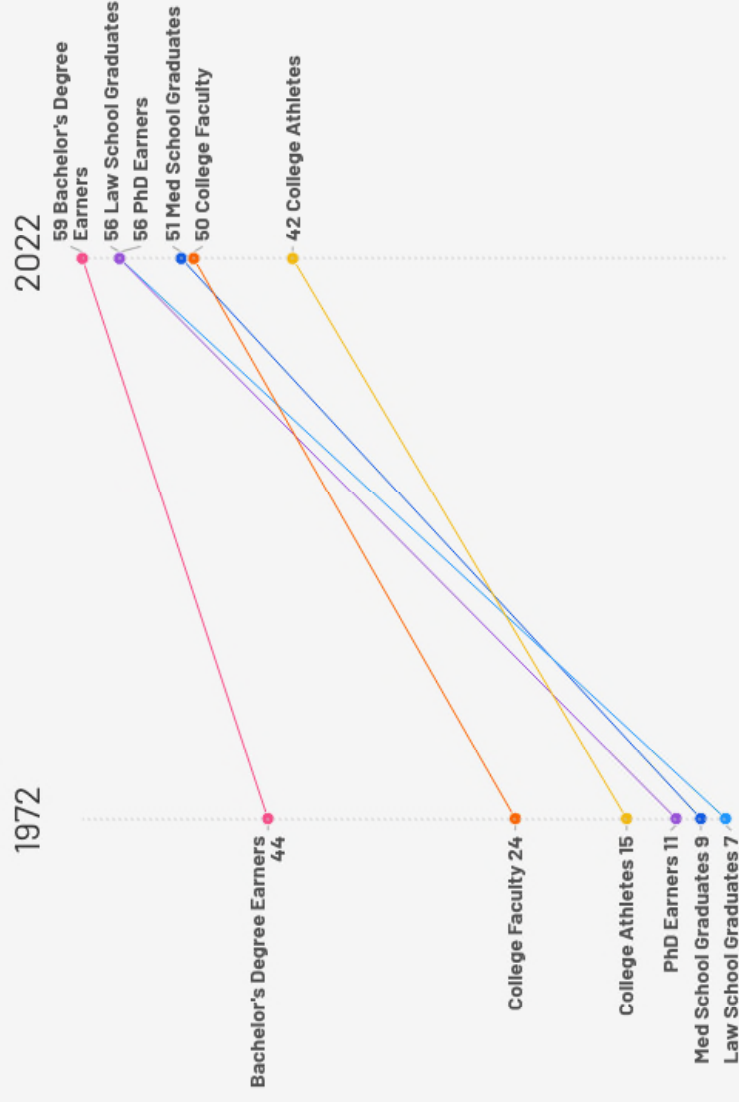
Title IX Trivia

“I was in a position of not only wanting to but it being necessary to support equality for women, because I married a 19-year-old **wheat farmer’s daughter** who had done everything you could possibly imagine to **qualify her** to go to any school in the United States. Her **dream** was to go to the **University of Virginia** and her application was returned, *Women need not apply.*”

-**Birch Bayh**, 2009

The Difference 50 Years Has Made

	1972	2022
Med School Graduates	9%	51%
Law School Graduates	7%	56%
PhD Earners	11%	56%
Bachelor's Earners	44%	59%
College Faculty	24%	50%
College Athletes	15%	42%



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.

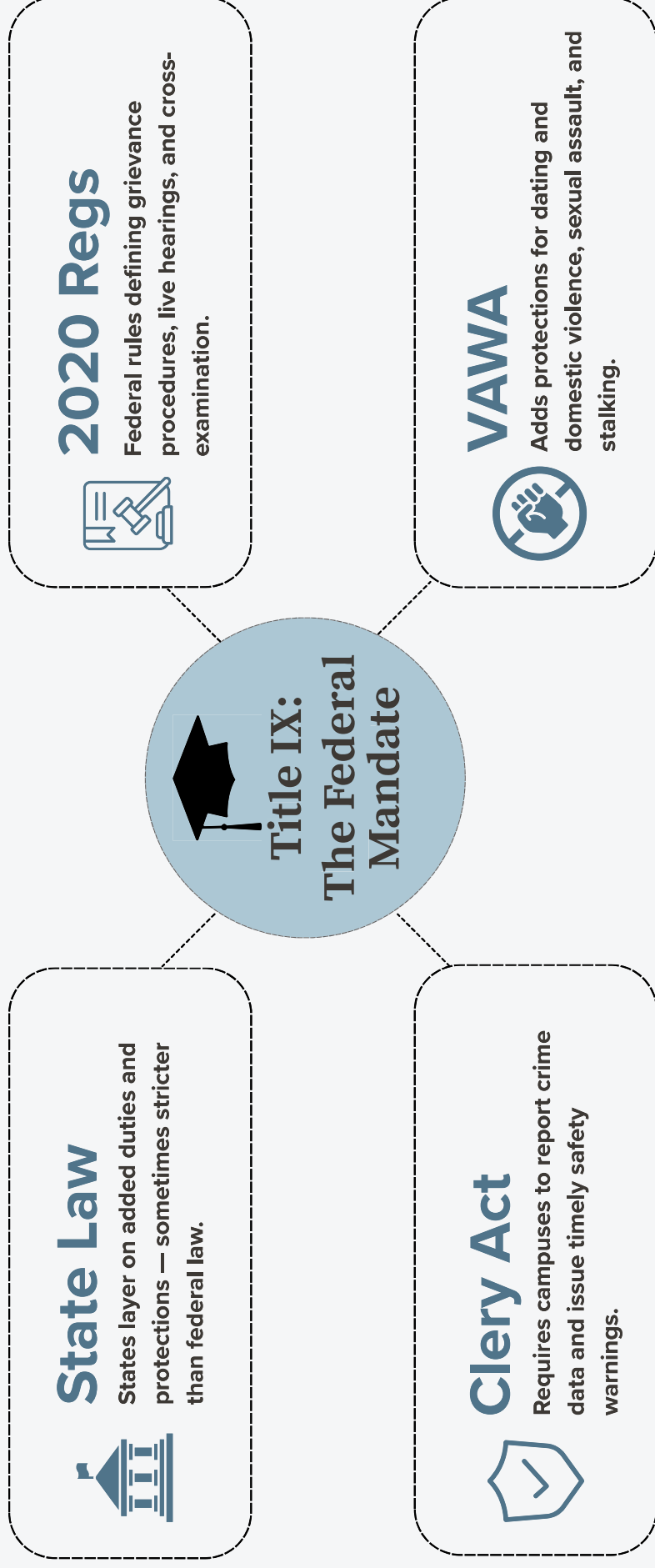
This is Title IX.

The Journey to Where We Are



- Higher Education Act of 1972
 - 2011 Dear Colleague Letter
 - 2020 Regulations
 - 2024 Regulations
 - 2024 Injunction
 - 2025 Vacatur
- Clery Act
 - Requires timely reporting
 - Policies and procedures for sexual assault
- Violence Against Women Act
 - Expands to dating violence, domestic violence, and stalking

Title IX: A Patchwork of Authority



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.

But what does that include?

Title IX § 106.30 *Sexual harassment*

means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct (quid pro quo)

Title IX § 106.30 *Sexual harassment*

means conduct on the basis of sex that satisfies one or more of the following:

(2) 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

Title IX § 106.30 *Sexual harassment*

means conduct on the basis of sex that satisfies one or more of the following:

- (3) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v),
- “dating violence” as defined in 34 U.S.C. 12291(a)(10),
- “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or
- “stalking” as defined in 34 U.S.C. 12291(a)(30)

Hypothetical

Aaron and Stacy meet as undergraduate students at your institution. Both are now graduate students in your institution's English department. They had a romantic relationship for a couple of years that ended in a nasty breakup.



Hypothetical (cont'd)

Following the breakup, Stacy posted a flurry of messages on social media including:

- Aaron is a rapist!
- Warning: DO NOT date Aaron without talking to his exes!
- Aaron should be sterilized so he will stop raping people!



Hypothetical (cont'd)

Aaron now wants to file a Title IX complaint against Stacy.



Title IX Sexual Assault

An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Title IX Sexual Assault

**Criminal Justice Information
Services Division
Uniform Crime Reporting Program**



**2025.0 National Incident-Based
Reporting System
User Manual**

Document Date: 06/23/2025

Prepared by:

Criminal Justice Information Services Division
Law Enforcement Engagement and Data Sharing Section
Crime and Law Enforcement Statistics Unit

Title IX Sexual Assault

Sex Offenses

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

Title IX Sexual Assault

Rape

Penetration, no matter how slight, **of the vagina or anus** with any **body part or object**, or **oral penetration** by a sex organ of another person, **without the consent** of the Complainant.

Title IX Sexual Assault

Rape

Subsumes old definitions for **forcible sodomy** and **sexual assault** with an **object**.

Title IX Sexual Assault

Criminal Sexual Contact

The **intentional touching** of clothed or unclothed **body parts without the consent of the Complainant for the purposes of sexual degradation, sexual gratification, or sexual humiliation.**

Title IX Sexual Assault

Criminal Sexual Contact (cont'd)

The **forced touching** by the
Complainant of the Respondent's
clothed or unclothed **body parts**
without the consent of the
Complainant for the purposes of
sexual degradation, sexual
gratification, or sexual humiliation.

Title IX Sexual Assault

Incest and Statutory Rape



Incest -- Nonforcible sexual intercourse ***between persons who are related to each other*** within the degrees wherein marriage is prohibited by Indiana law.

Statutory Rape -- Nonforcible ***sexual intercourse with a person who is under the statutory age of consent*** according to Indiana law IC 35-42-4-9.

Consent

“The Assistant Secretary will not require recipients to adopt a particular definition of consent with respect to sexual assault, as referenced in this section.”

Knowing, voluntary, and clear mutual agreement to engage in specific sexual activity.

Consent

Consent must be freely and actively given and communicated by clearly and mutually understandable words or actions to participate in each form of sexual activity.

Consent may be withdrawn at any time.

Consent to some sexual contact cannot be presumed to be consent for other sexual activity.

Consent cannot be compelled by force, threat, deception, or intimidation.

Consent

Hypothetical, (cont'd)

Stacy comes into your office and reports that Aaron committed sexual assault.

Stacy reports that she and Aaron previously shared an apartment and had consensual sexual intercourse many times, both before and after the specific incident she's reporting.



Hypothetical, (cont'd)

However, Stacy states that on one occasion in the middle of her relationship, she woke up to Aaron trying to penetrate her vagina with his penis. She says she immediately told Aaron to stop, and he did.



Consent cannot be given by someone who is ***incapacitated***.

Consent does not exist when the individual initiating the sexual activity knew or should have known of the other individual's ***incapacitation***.

Consent cannot be given if the person is ***not legally old enough*** to give consent.

Consent

Incapacitation

Consent

Incapacitation

Incapacitation, defined: When an individual is unable to understand the facts, nature, extent, or implications of the situation due to drugs, alcohol, a mental disability, or being asleep or unconscious. With respect to alcohol and drugs, intoxication or impairment is not equivalent to incapacitation.

Hypothetical (cont'd)

Aaron and Stacy originally met at a bar. Aaron had several drinks while they were together, but Stacy didn't drink. She told Aaron that she was on prescription pain medication that didn't interact well with alcohol.

Aaron didn't think he should drive, so he called an Uber to take them back to his on-campus apartment. He convinced Stacy to do one shot with him before they left the bar.

Aaron and Stacy have sexual intercourse later that night.



Consent may be withdrawn at any time.

Consent to some sexual contact cannot be presumed to be consent for other sexual activity.

Consent cannot be compelled by force, threat, deception, or intimidation.

Consent

Force

Consent

Force

Force: The use of physical violence or the threat of physical violence that causes the fear of death or serious personal injury.

Dating Violence

Violence committed by an individual who is or has been ***in a social relationship of a romantic or intimate nature*** with the Complainant. Factors to consider in determining whether such a relationship exists include the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence

*Violence that would constitute a
felony or misdemeanor crime of
violence committed by an individual
who:*

- is a ***current or former spouse or intimate partner*** of Complainant under the family or domestic violence laws of Indiana
- ***shares a common child*** with Complainant
- is ***cohabitating*** with, or has cohabitated with, Complainant as a spouse or intimate partner or
- ***commits acts against an adult or youth victim*** who is protected from that person's acts under the domestic or family violence laws of the state of Indiana.

Hypothetical (cont'd)

One night near the end of their relationship, Aaron gets drunk and tells Stacy that he doesn't know what he would do without her.

Aaron says that he will kill himself if Stacy ever breaks up with him.

Stacy slaps Aaron hard across the face and tells him to never talk like that.



Engaging in a **course of conduct** directed at a specific person that would cause a **reasonable person** to fear for the person's safety, the safety of others or **suffer substantial emotional distress**.

Stalking can occur in person or using technology, and the duration, frequency, and intensity of the conduct should be considered.

Stalking tactics can include, but are not limited to watching, following, using tracking devices, monitoring online activity, unwanted contact, property invasion or damage, hacking accounts, threats, violence, sabotage, and attacks. Merely annoying conduct, even if repeated, is a nuisance, but is not typically chargeable as stalking.

Stalking

Stalking, continued

For purposes of the stalking definition, a **course of conduct** requires that there be more than one incident, and the conduct must be directed at a specific person.

Reasonable person is an objective standard meaning a person in the Complainant's situation and circumstances (having similar characteristics/demographics to the Complainant).

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Hypothetical

Chandler is a student in Dr. Brown's calculus course. Chandler could not afford the textbook and has never really been very good at math. As a result, Chandler is currently failing the course.

On October 3rd, Chandler walks out of her English Literature class and finds Dr. Brown waiting by the door. He approaches her and says, "Hi, I looked up your course schedule to see where I could find you. I've bought you a textbook and I thought we could go into this empty classroom and I could help you prepare for next week's exam."



Hypothetical

Chandler initially goes into the vacant classroom with Dr. Brown but soon finds an excuse to need to head home. Dr. Brown says “I will walk with you. I’m heading out too.” Dr. Brown walks down the sidewalk beside Chandler all the way to the front door of her home which is just on the south edge of campus.

Three days later, Chandler files a TIX complaint alleging Dr. Brown has engaged in stalking for his conduct on October 3rd.



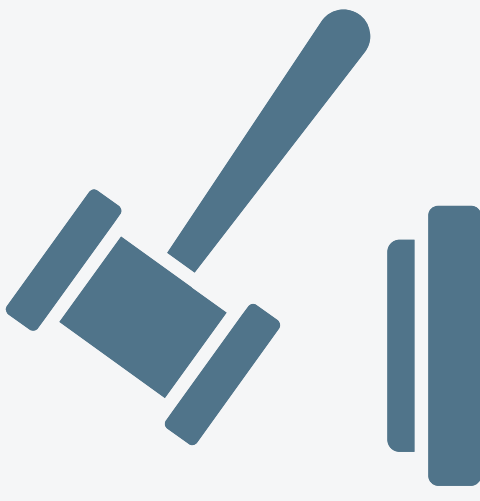
Title IX

Jurisdictional Limits

Institution must have **actual knowledge** of violation.

Institution must have **substantial control** over **Respondent** and **context** or **building**.

Must have occurred within the **United States**.





**Does this mean
the institution is
not responsible
for things that
happen off
campus?**

Education Program or Activity

34 CFR § 106.44 (a)

Education program or activity includes *locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context* in which the sexual harassment occurs, and also includes *any building owned or controlled by a student organization* that is officially recognized by a postsecondary institution.

Hypothetical (cont'd)

The summer after they graduated undergrad, Stacy and Aaron both enrolled in a program to teach English at a school in North Dakota.

The program was run by a faculty member at your school who has set up her own non-profit company that organizes and raises money for the trips.

Aaron reported that Stacy touched him inappropriately on the trip.





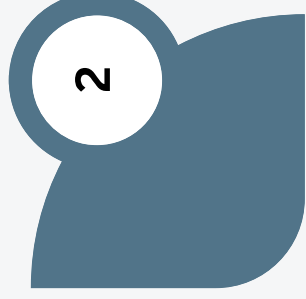
**What if the
respondent becomes
no longer enrolled at
or employed by the
school after the
alleged conduct is
reported?**

Non-Title IX Sexual Harassment?

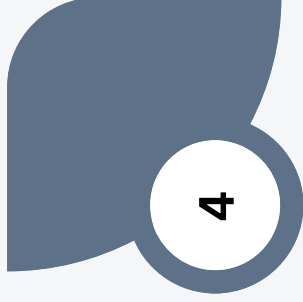
Employee
Handbook?



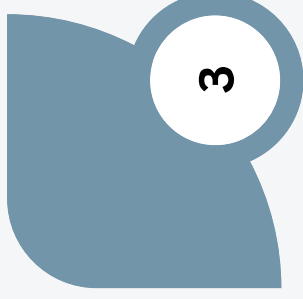
Student
Code?



Sexual
Misconduct?



Non-
discrimination
Policy?



Title VII

“It shall be an unlawful employment practice for an employer...to fail or refuse to hire or to discharge any individual, or otherwise ***to discriminate against any individual*** with respect to his compensation, terms, conditions, or privileges of employment, ***because of such individual’s*** race, color, religion, **sex**, or national origin...”

- Unwelcome harassment
- Based on a reason forbidden by Title VII (race, color, religion, sex or national origin)
- So severe OR pervasive that it altered the conditions of employment and created a hostile or abusive work environment

Title VII

Hostile Work Environment

- Harassment must be both **objectively** and **subjectively offensive**
- Severity and pervasiveness assessed considering the **totality of the circumstances** including the frequency, the severity, whether it is physically threatening or humiliating or merely offensive, and whether it unreasonably interferes with the employee's work performance

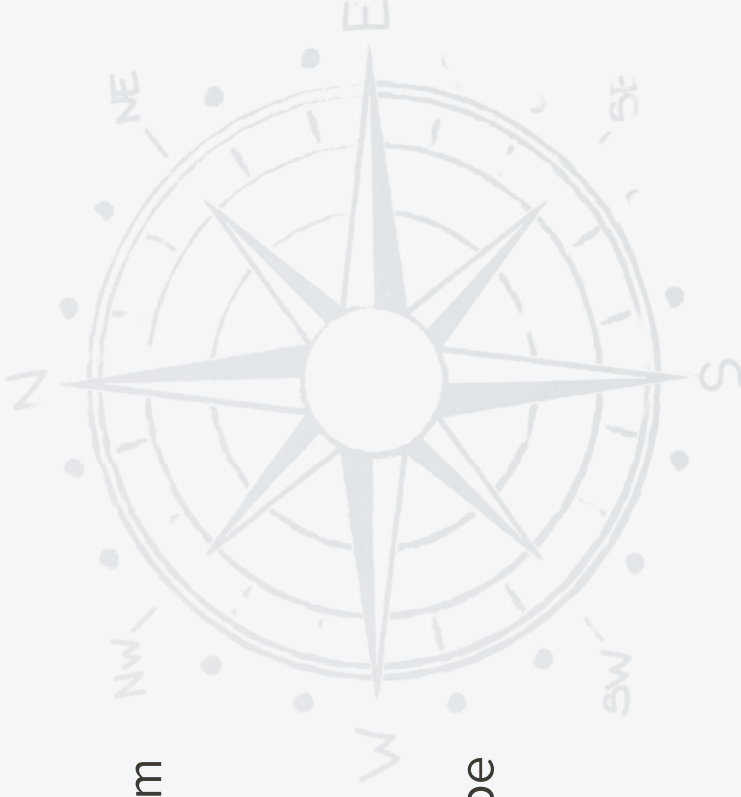
Title VII

Hostile Work Environment, *continued*

Hypothetical

Lena is the only woman employed in your campus print shop. Her coworkers know she is in a long-term relationship with a woman named Estelle; some of them met Estelle at the department holiday party.

Lena's coworker, Lou, tells her she is too pretty to be a lesbian and asks her to go for a drink after work.



Hypothetical (cont'd)

Over the next six months, Lou asks Lena out for drinks, dinner, to a baseball game, and to the movies at least eight more times. Each time Lena declines.

During their lunch hour one day, Lou asks Lena how lesbians even have sex since they “don’t have all the relevant and necessary parts.”



Title IX vs. Title VII

	Title IX	Title VII
Respondents	Employee and Student	Employee
Hostile Environment Sexual Harassment	Severe, Pervasive, AND Objectively Offensive	Severe OR Pervasive
Procedure	Title IX	?

Retaliation

Treating someone **negatively** because they exercised their rights under the policy is **retaliation**.

An institution's response to a Complainant or Respondent may, itself, constitute discrimination on the basis of sex.



Hypothetical (cont'd)

Aaron wants to add a retaliation complaint against Stacy.

He says that she would have never filed her sexual assault complaint if he wouldn't have reported her harassing social media posts.



Hypothetical (cont'd)

Stacy wants to file a retaliation complaint against Aaron. She reports that Aaron has been telling everyone about the social media posts and asking everyone if Stacy ever shared information with them about her and Aaron's sexual interactions.

She says it is inappropriate and embarrassing for Aaron to ask people about such intimate interactions.



Hypothetical (cont'd)

When he heard about the complaint, the English department Chair rearranged Aaron and Stacy's schedules so that they would no longer see each other.

Stacy likes not having to work with Aaron, but Aaron is unhappy with his new work hours.

Due Process Considerations

One accused of a policy violation is entitled to:

- Notice of the allegations
 - Identity of the Complainant
 - Identity of witnesses
 - Sufficient facts to form a response
- Opportunity to be heard
- Presumption of non-responsibility
- Process free from bias and conflict of interest
- Privacy, but **not confidentiality**
- Supportive measures

Conflicts of Interest, Bias, and Prejudgment

The grievance process must remain impartial at every level:

- The Coordinator, Investigator, Decision Maker, Appellate Officer must be free from conflict of interest and bias and must avoid prejudgment of the issues.
- Annual training for all roles must include material on avoiding conflict of interest and bias.
- Parties must be given an opportunity to object to Investigators and Decision Makers for perceived conflict of interest or bias.
- Conflict of interest or bias in the process is a basis for appeal of a Title IX determination.

Title IX investigation undone by hearing officer's social media

ROANOKE, Va. — A Virginia Tech student's Title IX sex discrimination lawsuit will proceed against the university because he presented sufficient evidence that his hearing officer over-seeing his alleged sexual assault of a classmate harbored a bias against men. The officer had tweeted, in reference to a documentary about sexual assault, that he would hold men in general accountable and had retweeted other generalizations about men failing to understand consent. His testimony about implicit bias and patriarchy "could reasonably give rise to concerns ... regarding his impartiality."

BRIEF / April 17, 2026



Conflicts of Interest

Conflict of interest exists when personal or private interests or loyalties (family, friendship, financial, social, or other) compromise (or could compromise) one's ability to be impartial in their judgment, decisions, or actions.

- Actual conflict (positional responsibilities conflict with personal interest)
- Perceived conflict (reasonable to perceive competing interests might influence outcome)
- Potential conflict (duties and interests might influence outcome)

Hypothetical (cont'd)

Malcolm is a faculty member who regularly volunteers to be on hearing panels for student sexual harassment cases. He also taught Aaron's intro to creative writing course.



Hypothetical (cont'd)

Taylor is the investigator assigned to Aaron and Stacy's case. When she reads the complaint, she recognizes Stacy's name. When she looks her up on Facebook, she discovers that she is Facebook friends with Stacy's mom, but she can't remember where they met.



Hypothetical (cont'd)

After exploring a bit more, Taylor realizes that over the past few years, Stacy's mom has liked several of Taylor's posts and has posted some motivational quotes of her own on which she tagged multiple "friends," including Taylor.



Be Mindful of Implicit Bias

Impermissible **mental shortcuts, attitudes, and stereotypes** that affect understanding, actions, and decisions in an unconscious manner.

Some Examples of Implicit Bias

- **Assuming** an accused will always be a man
- **Making judgments** about racial or ethnic groups, or those for whom English is not a first language
- Applying **social stigma** or **inherent credibility** judgments to drug or alcohol use
- Associating **behavioral stereotypes** with particular activities or groups
- Assigning value to a narrative based on **your own lived experience**

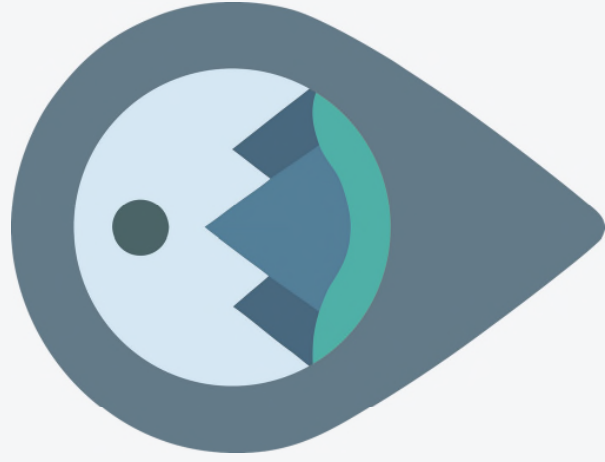
Prejudgment of the Facts

Prejudgment occurs when one forms an **opinion about what has occurred **before** having all the necessary information.**

- This is often based on deeply ingrained notions of what makes something more or less likely to be true.
- Often involves sex stereotypes and perceptions about drug and alcohol use.

Prejudgment of the Facts

- Drinking automatically damages credibility.
- Crying – or lack thereof – is determinative of truthfulness.
- Men cannot be victims of sexual assault.
- Parties involved in a relationship cannot also experience nonconsensual sex or sexual violence.



Section Three:

The Title IX Grievance Process



The Report and Intake

The Title IX Grievance Process



**Who can file a
report?**

**Are there times
when I am
required to file a
report?**

Who Must Report?

“Actual knowledge means notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX Coordinator or any official of the recipient who has the authority to institute corrective measures on behalf of the recipient...” § 106.30 (a).

School may designate **“mandatory reporters”** or **“responsible employees.”**

Hypothetical

A weight training coach makes repeated comments about the attributes of the women in his class such as “you have well defined hamstrings” and “your hips are extremely proportional.” His daily warm-ups include “bear crawls” and squats. During one class period he conducts a “most beautiful feet” competition in which the female students show their feet and he and the male students vote on the most beautiful feet.

One student shares this information with another faculty member and says the coach is being “super creepy.”



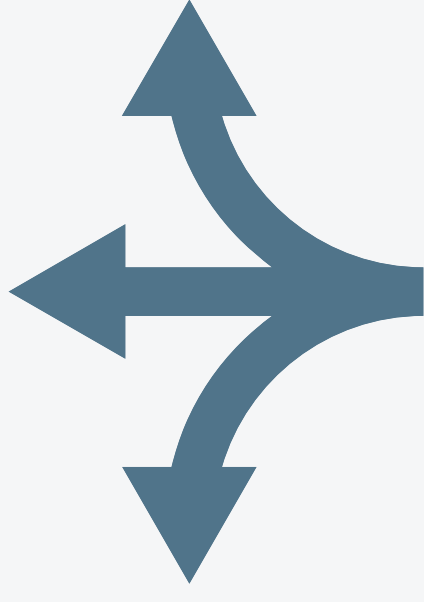


What if a Report is anonymous?

After a Report is Received

TIXC contacts Complainant for an “Initial Assessment”

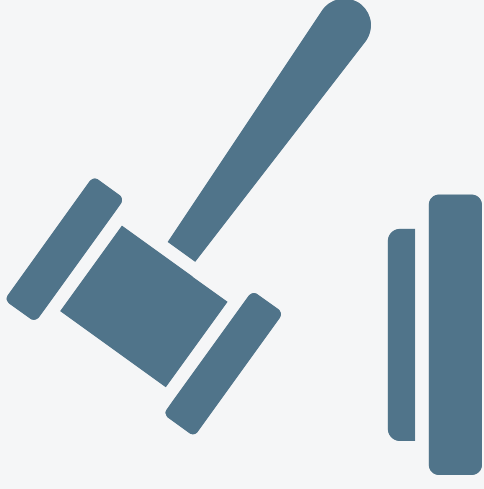
- Allow them to share details of incident
- Notify them of rights
- Provide options on how to proceed
- Discuss intentions regarding filing formal complaint
- Determine supportive measures needed
- Explore whether any immediate measures are necessary
 - No-contact directives
 - Emergency removal



How Must a School Respond?

*Davis v. Monroe County
Board of Education*

- Individual private right of action
- “Deliberate indifference standard”



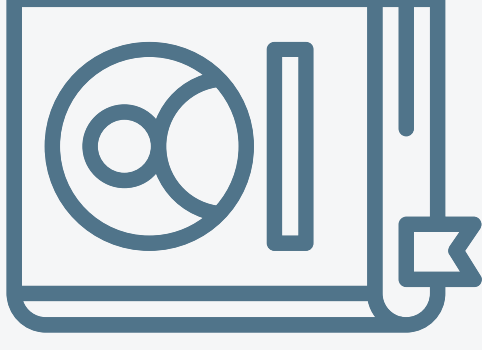
Emergency Removal

- Requires an individualized safety and risk assessment
- May only be implemented when there is an immediate threat to **physical** health or safety
- Respondent must be given an opportunity to challenge
- May in some instances trigger a timely warning obligation to the campus, if circumstances dictate



Administrative Leave

- Non-student employee may be placed on administrative leave during the grievance process
- Must consider ADA rights
- Follow your employee handbook
- Consider protection of evidence



Hypothetical (cont'd)

Aaron's alleged sexual assault of Stacy occurred in their shared on campus apartment.

You learn that Stacy filed a police report accusing Aaron of rape.



What Happens When a Report is Received?



Title IX Coordinator
receives report
and conducts initial
assessment



Supportive
Measures

Supportive Measures



Supportive measures are non-punitive, individualized services offered to all parties involved in a Title IX process.

Supportive measures can be issued **before, during, or after** the filing of a formal complaint or even in the absence of a formal complaint.

Hypothetical

Grace and Blythe are both on the track team.

Grace filed a complaint with your Title IX office and asked for a No Contact Directive as well as supportive measures that would prevent her from encountering Blythe in any way.



Hypothetical

Henry has filed a Title IX complaint against another student whose 9am class is held in the classroom immediately beside Henry's 9am biology class.

He has asked for a supportive measure allowing him to arrive five minutes late for biology and leave five minutes early in an attempt to avoid the other student when coming or going.

The biology instructor refuses to allow this because it is a distraction to the entire class.



Common Supportive Measures



ACADEMIC + WELL-BEING

- Counseling
- Extensions of deadlines and course-related adjustments
- Modification of work or class schedules
- Leave of absence



SAFETY + SECURITY

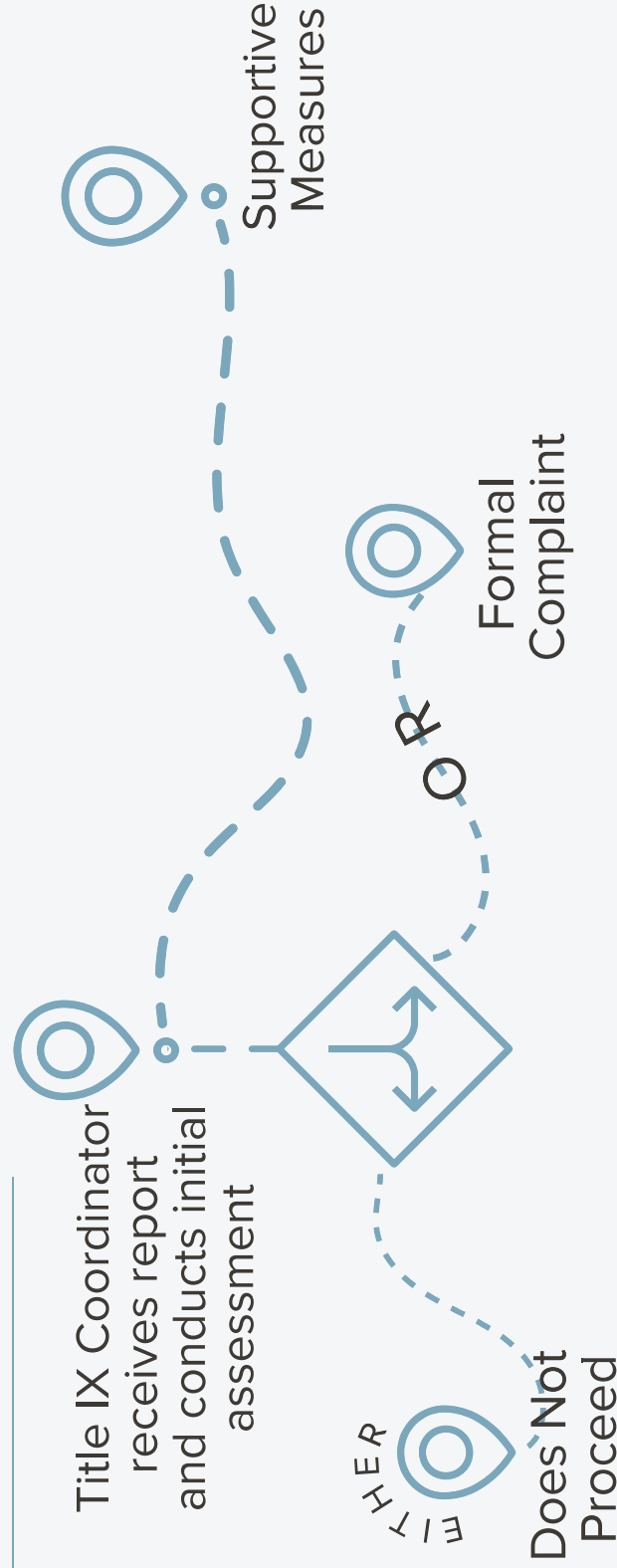
- Campus escort services
- Mutual restrictions on contact between parties
- Increased security monitoring of certain areas
- Changes in work or housing locations

Accommodations available to either party, with or without a formal complaint.



If Complainant and
Respondent live in
the same building,
shouldn't the
Respondent be
the one to move?

What Happens When a Report is Received?





**What if a report
comes in but the
would-be
Complainant does
not want to move
forward with the
process?**

Why Not Proceed Under Title IX?

Mandatory Dismissal § 106.45 (b)(3)(i)

The Title IX Coordinator *must* dismiss a formal complaint if:

- Conduct alleged would not constitute a Title IX violation under the policy even if proven.
- Conduct alleged did not occur in an educational program or activity controlled by recipient.
- Recipient does not have control of the Respondent.
- Conduct alleged did not occur within the United States.
- Complainant was not participating or attempting to participate in an recipient program or activity at the time of the alleged conduct.

Hypothetical (cont'd)

Stacy and Aaron knew each other in high school even before they came to your institution.

Stacy reports that she knows Aaron has “done this before” and says she has a friend who would like to make a complaint regarding her interactions with Aaron from high school.



Why Not Proceed Under Title IX?

Discretionary Dismissal § 106.45 (b)(3)(ii)

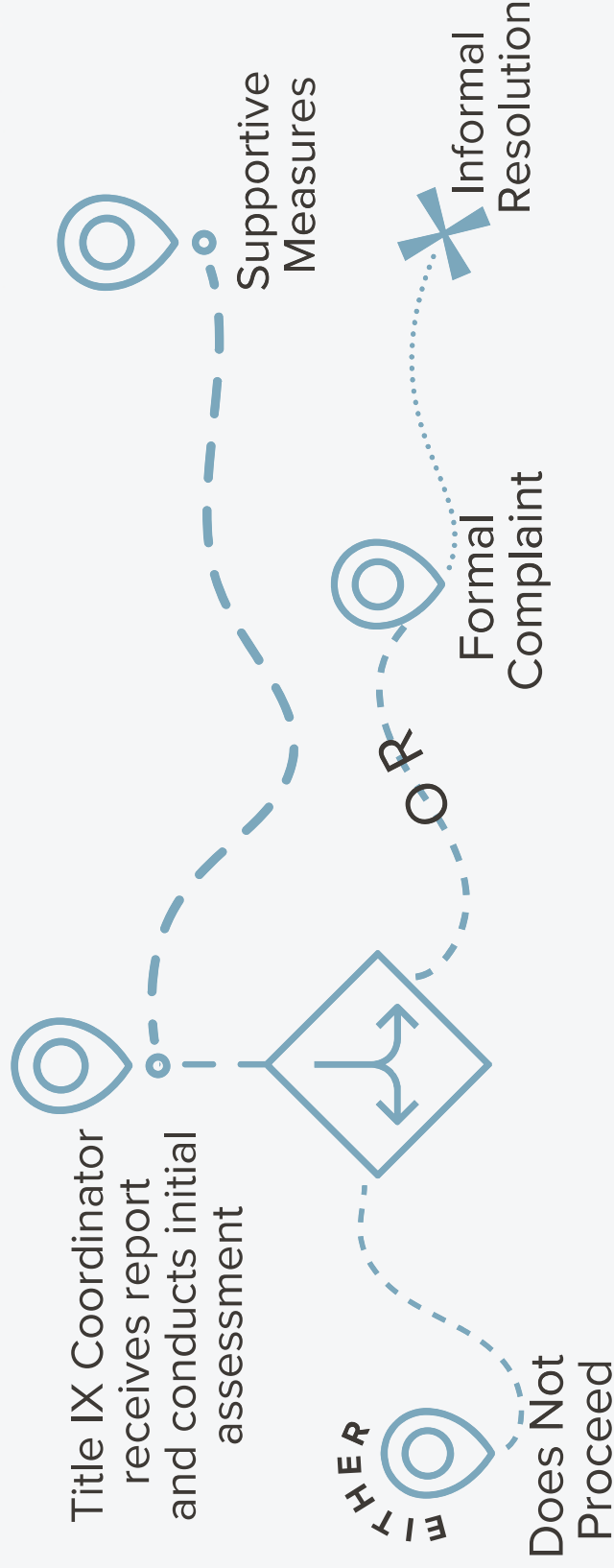
The Title IX Coordinator may dismiss a formal complaint if:

- Complainant indicates in writing they want to withdraw.
- Respondent is no longer enrolled in or employed by recipient.
- Specific circumstances prevent recipient from gathering evidence sufficient to reach a determination as to a formal complaint.

Hypothetical (cont'd)

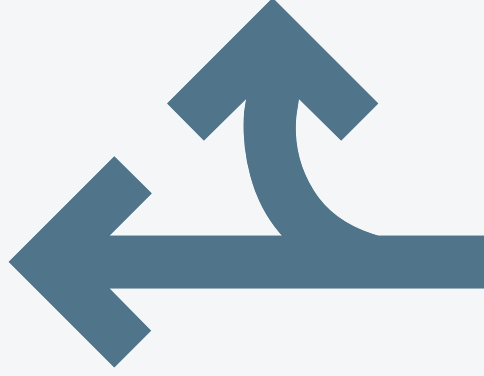
During the investigation, Aaron asks what would happen if he unenrolls before the hearing.





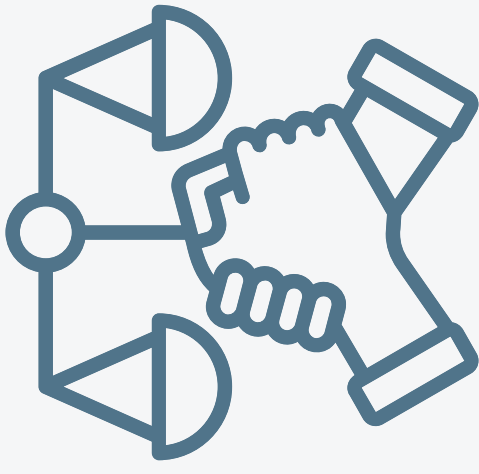
Informal Resolution

- Available as alternative; regulations call it “informal”
- Must have a formal complaint
- Both parties must agree
- Not available if employee alleged to have commit sexual harassment against a student
- May return to formal process at any time until resolution complete
- Enormous creativity in options for informal resolution techniques



Informal Resolution Examples

- Re-education/training
- Shared statements/shuttle mediation
- Restorative practices/facilitated dialogue
- Negotiated resolution
 - Course changes
 - Forfeiture of study abroad
 - Probation or suspension



Hypothetical

Howard and Clyde are members of your Board of Trustees and were students together at your school in the 1990s. Since graduation, the pair have had an on-again-off-again relationship. Today, Howard reported to your Title IX Coordinator that Clyde sexually assaulted him when the two were students together in the 90's.



§ 106.30 Formal Complaint Definition

Formal complaint means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed. A formal complaint may be

2026 Title IX Summer Summit

Jodie Crosby Ferise, JD, EdD
James Nussbaum, JD

Presented by **Church Church Hittle + Antrim**
Winona Lake, IN | July 2026





Entering the Grievance Process

Overview of the Formal Complaint Process

- **Investigation:** The process begins with an investigation, usually conducted by the Title IX Coordinator. The investigation will likely include interviews with the Complainant, Respondent, and Witnesses; collection of document evidence including education records, emails, texts, social media, and direct messaging.
- **Exchange of Evidence and Draft Investigation Report:** When evidence collection is completed, both parties will have an equal opportunity to inspect and review the evidence obtained that is directly related to the allegations raised in the Complaint along with the Investigator's draft investigation report.
- **Final Investigative Report:** Investigator will author a report summarizing the relevant evidence. Both parties will have an opportunity to review and respond to the investigative report.
- **Hearing:** After the investigative report is provided, a live hearing is conducted by a Decision-Maker(s) in which some form of cross-examination is administered.
- **Determination:** Written determination issued detailing whether the allegations were substantiated and, if so, discipline and remedies for the conduct.

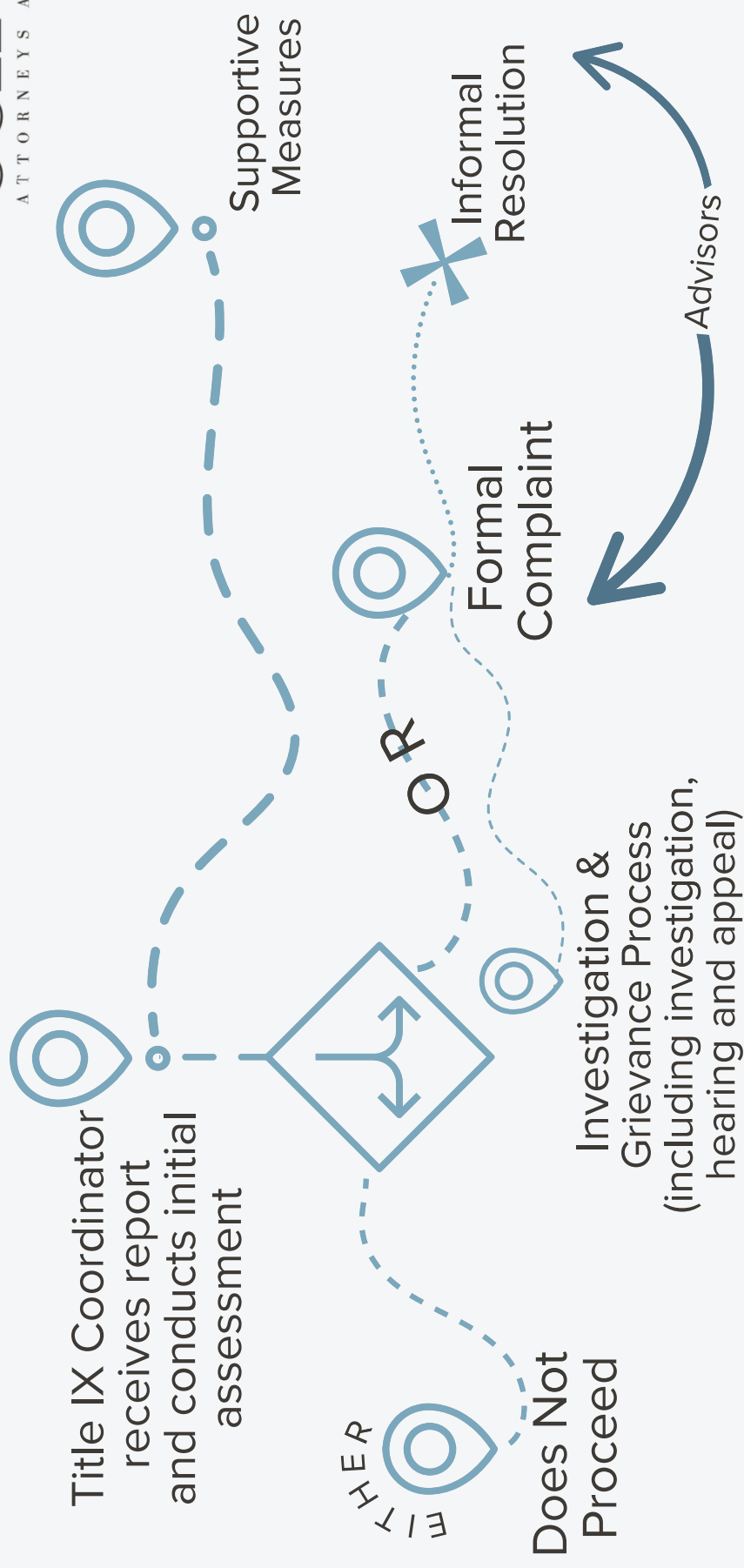
The Formal Complaint Process

Start to Finish

- Intake
- Notice of allegations
- Supportive measures
- Appointment of investigator
- *Opportunity to object*
- Investigation is completed
- Parties review evidence
- Final investigative report is issued
- Hearing officer appointed
- *Opportunity to object*
- Evidence provided to adjudicator
- Hearing takes place
- Determination report delivered
- Opportunity to appeal
- Decision becomes final

Notice of Investigation + Allegations

- In writing and mailed/emailed/delivered in person
- Sufficient details known at the time (identities of parties involved, conduct allegedly constituting sexual harassment, date and location of alleged incident)
- Statement that Respondent is presumed not responsible
- Statement that responsibility is determined at the conclusion
- Sufficient time to prepare a response before any initial interview
- Right to Advisor
- Code of conduct regarding false statements
- Amended when new information, allegation, or potential violation known



Role and Qualification of Advisors

- Parties are entitled to (and at hearing must have) an Advisor
- Choice of party or provided by institution
- No training required
- Question witnesses on party's behalf
- Non-adversarial

Role and Qualification of Advisors

- May attend meetings with Title IX Coordinator
- May help party prepare for interview
- May attend interview (but may not participate)
- May assist with review of reports, evidence
- May assist with impact or mitigation statements

Role and Qualification of Advisors

- Must attend pre-hearing meeting
- Must attend hearing and conduct cross-examination

Other Expectations of Advisors

- Maintain confidentiality + privacy of issues while serving as advisor
- Advise ethically, with integrity and in good faith
- Comply with rules of decorum + policy
- Not speak on behalf of or answer questions for party advising (except to conduct cross-examination)
- Prioritize in scheduling



**What if one party
has an attorney
for their advisor
but the other does
not?**



The Investigation Process

Role of the Investigator

- Conduct prompt, thorough, fair, equitable, and impartial investigation
- Make thorough search for relevant facts and evidence sufficient for adjudicators to reach a determination
- Effectively organize documents and develop comprehensive investigation file
- Prepare preliminary evidence report and final investigation report
- Provide testimony at hearing related to investigation

*Investigate to
find relevant
facts, not make
outcome
determination.*

Qualifications of an Investigator

- Internal or external to institution
- Appropriately + regularly trained
- Not an Adjudicator
- Respectful of privacy
- Of appropriate temperament
- Able to engender trust
- Capable of balancing sensitivity and directness
- Free from bias + conflict of interest

Rights of the Parties in an Investigation

- Present their statements and evidence, and identify witnesses
- Discuss the allegations under investigation
- Opportunity to review and comment on the draft investigation reports and evidence
- Be accompanied by an Advisor of their choice to any meeting, interview, hearing, etc.
- Written notice of the date, time, location and purpose of meetings, interviews, hearings, etc., with sufficient notice to prepare



**What happens if a
party or witness
declines to
participate in the
investigation?**



**Are there any
additional
considerations for
parties with
particular needs?**

Respondents with IEP/504

- Does **not** exempt student from compliance with Title IX
- Equitable treatment for **all** parties is required, including with respect to supportive measures
- Additional procedural safeguards
 - Right to accommodations
 - Limits on disciplinary removals
 - Manifestation Determination Review (MDR)
 - Disability appropriate supportive measures + sanctions
 - Coordination between TIX + Special Ed teams

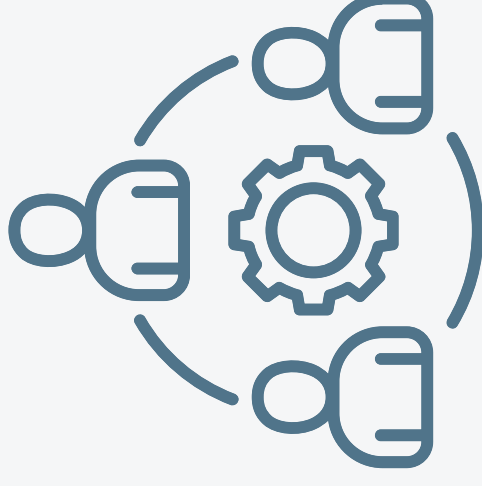


Respondents with IEP/504

Issue	Title IX Requirement	IDEA/504 Requirement
Investigation	Must proceed regardless of disability	Student must have access and accommodations
Interim measures	Must be non-punitive	Cannot deny access or change placement
Discipline	Allowed if conduct occurred	MDR required if removal >10 days
Long-term removal	Permitted if not a manifestation	Prohibited if conduct is a manifestation
Coordination	Title IX Coordinator leads	IEP/504 team ensures disability rights

It's All About the Process

OCR and courts will generally *not* second-guess the outcome of a Title IX process, as long as the investigation is done according to policy and appropriate standards.





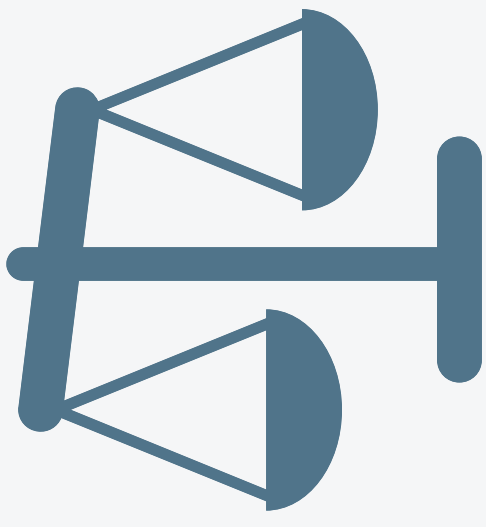
Hearing/ Determination

Standard of Evidence

Preponderance of the Evidence =
More Likely Than Not

Clear + Convincing = Higher burden

Remember that the burden is always upon the institution, not the parties, to prove that a violation has occurred.



Who is the Decision Maker?

Decisional Official, Hearing Panel,
Decision Maker, Adjudicator

The recipient employee(s) appointed
to make a determination regarding a
finding of responsibility



Responsibilities of Decisional Official

- Conduct hearing based on policy and regulations
- Hear relevant evidence
- Manage decorum and procedure
- Render pre-hearing and in-hearing procedural determinations regarding relevance and testimony
- Draft determination report
- Determine appropriate sanctions, if any



Hearing

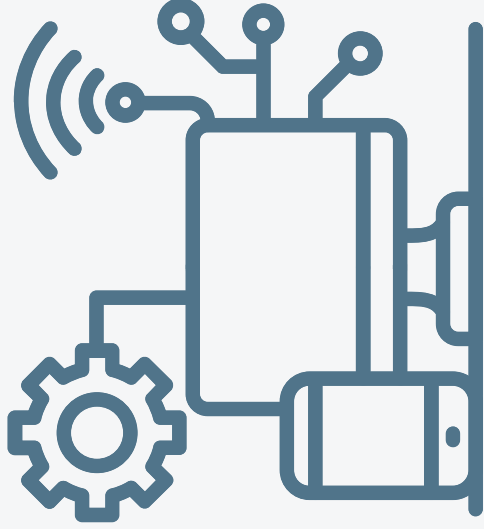
Coordinator's Role

- Notice of hearing 10 business days prior to the hearing
 - *List of what is required in the notice in the policy (see issue on party not participating in hearing)*
- Pre-hearing coordination
- Coordinating hearing logistics
 - *Flow of rooms*
 - *Witnesses*
 - *Parties*
 - *Recording*
- Managing objections re: conflicts and bias

Pre-hearing

- Separate meeting(s) with parties + advisors
- Invite questions/topics ahead of time (can rule on relevance ahead of time but still opportunity during hearing)
 - If include or exclude based on relevance, document decision
- Witness presence (full agreement if witness does not need to attend hearing)
- Hearing arguments on relevance or directly related but not relevant and rule on arguments
 - Exchange rulings prior to hearing

Technology Considerations



- All parties should be admitted to the virtual meeting simultaneously.
- Notify parties that the hearing will be recorded.
- Ensure privacy to degree possible.
- Mention view options.
- Ensure Coordinator sets up breakout rooms.
- Coordinator should provide contact information.



What happens if a party or witness declines to participate in the hearing?

Hearing Tips

Breaking the ice

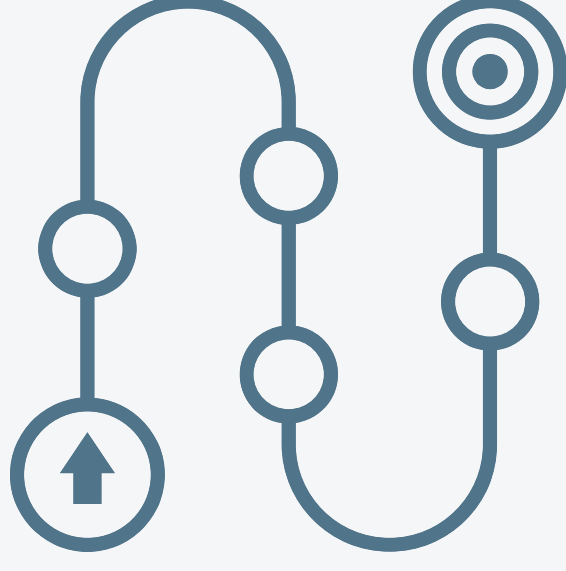
- Recording disclosure
- Purpose of hearing
- Technology disclosures
- Introductions
- Not legal proceeding
- Truthfulness is expected
- Introductory questions

Trauma-Informed tone setting

- Recognition of difficulty
- Need for breaks, pauses
- Reassurance of decorum
- Discussion of amnesty
- View options
- What to expect
- No preconceived notions

Typical Hearing Flow

- Explanation of proceedings
- Summary of charges
- Opening statements
 - Complainant
 - Respondent
- Investigator presentation and questioning
- Questioning of witnesses
- Questioning of parties



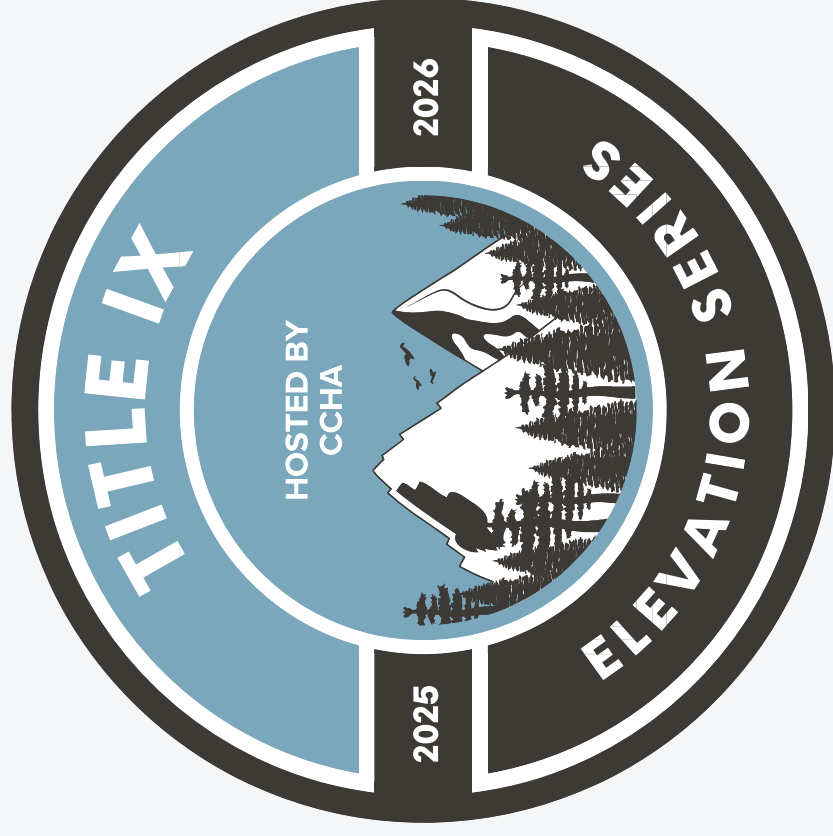
Investigator Presentation + Questioning

- Investigator presents summary of Final Investigation Report.
 - Facts that are contested
 - Facts that are uncontested
- Investigator should not be asked for, nor should they give, their assessment or opinion of credibility, responsibility, or appropriate outcomes.
- Investigator may be asked about exclusions or perceived irregularities in investigation process.

Testimony + Cross-Examination

For Title IX, the institution cannot compel participation of parties or witnesses:

You are not required to answer my questions. If you choose not to answer some or all of my questions, I will still consider statements you have made in making a determination of responsibility.



Don't just hear about it.
Experience it.

Evidentiary Considerations: Relevance

Only relevant questions are allowed.

- *"Questions must be submitted in writing to the Chair for a relevance determination before they are asked."*

Repetitious questions are not allowed.

- *"Questions should be framed in a manner that seeks new information or clarification."*

Relevance Determinations

Evidence is relevant if it has “any tendency” to make a fact that is “of consequence” to the determination of sexual harassment “more or less probable than it would be without the evidence.”

- The evidence must be directed to a matter of consequence, essentially the definition of sexual harassment.
- The evidence must be probative – it must make something more or less probable. It does not have to be undisputed. Whether something is more or less likely is guided by logic and human experience.
- Technical rules of evidence are not those used in court proceedings, and hearsay evidence is allowed.



Irrelevant Evidence

Investigation does NOT consider:

- Incidents not directly related to alleged conduct, unless a pattern
- Character of the parties
- Complainant's sexual predisposition or prior sexual behavior (but see next slide)
- Respondent's disciplinary record (but can be considered if there is a finding in the sanctions process)



Evidence that Must Be Deemed Irrelevant - with Exceptions

- Questions and evidence about a Complainant's sexual predisposition must always be deemed irrelevant and therefore excluded.
- Questions and evidence about a Complainant's prior sexual history must be deemed irrelevant, and therefore excluded - with two limited exceptions:
 - Where Respondent contends that someone other than the Respondent committed the misconduct.
 - Where the question(s) or evidence concern incidents between the Complainant + Respondent and are offered to prove consent.



Hypothetical (cont'd)

Aaron finds several people who are willing to provide information about their conversations with Stacy regarding her sexual interactions with Aaron.



IS
IT
RELEVANT?!

A

Relevant

B

Not Relevant

C

No idea!



IS
IT
RELEVANT?!

1. Scan QR code.
2. Join on Slide 166.



Do you think that you were too
drunk to drive that night?

Relevant

Not Relevant

No idea

Your Canva profile name won't be shared

Are you a virgin?

Relevant

Not Relevant

No idea

Your Canva profile name won't be shared

Why didn't you tell your
roommate what happened
when you got home?

Relevant

Not Relevant

No idea

Your Canva profile name won't be shared

Do you watch pornography with your intimate partners?

Relevant

Not Relevant

No idea

Your Canva profile name won't be shared

**Did you and Respondent watch
pornography together on the night of
the alleged incident?**

Relevant

Not Relevant

No idea

Your Canva profile name won't be shared

Were you and Respondent sharing a twin-size bed
at the time of the alleged incident?

Relevant

Not Relevant

No idea

Your Canva profile name won't be shared

"Do you own a gun?"

Relevant

Not Relevant

No idea

Your Canva profile name won't be shared

Didn't you tell Respondent you had significant trauma in your past?

Relevant

Not Relevant

No idea

Your Canva profile name won't be shared

**Why did you go to the bedroom
with Respondent if you weren't
intending to have sex with
Respondent?**

Relevant

Not Relevant

No idea

Your Canva profile name won't be shared

Were you obsessed with Complainant?

Relevant

No Relevant

No idea

Your Canva profile name won't be shared

What were you wearing when you and
Respondent got into his bed?

Relevant

Not Relevant

No idea

Your Canva profile name won't be shared

What had you eaten on the day of the alleged incident?

Relevant

Not Relevant

No idea

Your Canva profile name won't be shared

Did you bring a condom with you when you came
to Respondent's room?

Relevant

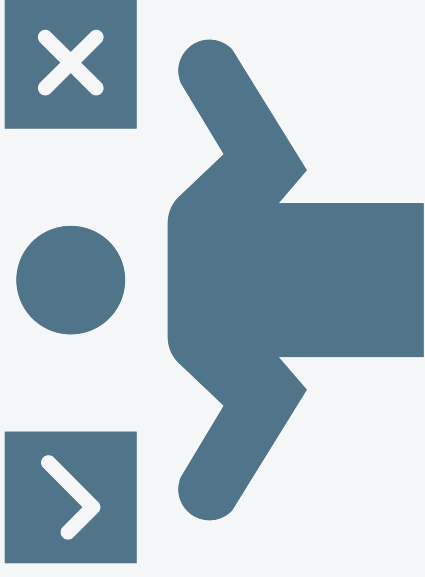
Not Relevant

No idea

Your Canva profile name won't be shared

Decision

- If finding of responsibility, then consider impact and/or mitigation statements
- Determination of sanctions



Sanctions

- Factors in determining sanctions
 - Nature, severity and circumstances of violations
 - Respondent's disciplinary history
 - Need for sanctions to end discrimination and/or prevent future discrimination
 - Need for sanctions to remedy the effects to Complainant and/or community
 - Impact on parties
 - Other information deemed relevant
- Student sanctions → Student Code
- Employee sanctions → Employee Handbook

Drafting the Determination

- Use neutral tone.
- Provide as much detail as possible but rely on factual evidence.
- Indicate why certain evidence was or was not determined to be credible.
- Reconcile inconsistent evidence and indicate how determination was made.



What to Include

- Identification of the allegations potentially constituting policy violation
- A description of the procedural steps taken, including all witnesses interviewed
- Precise policy language defining elements of alleged violations
- Findings of fact supporting the determination
- Conclusions regarding the application of the policy to the facts
- Determination for each allegation and the rationale for the finding
- Any disciplinary sanctions imposed including aggravating + mitigating circumstances warranting the sanctions imposed
- Procedures + permissible grounds for either party to appeal

Distribution of Report

- Policy requires determination report within ten (10) business days unless extension is granted.
- Once the report is completed, it must be shared with the parties and their Advisors simultaneously.
- Clearly reflect bases and process for appeal; both in cover letter and in determination.



Appeals

Appeals - § 106.45 (b) 8

Both parties may appeal determinations regarding responsibility or the dismissal of a formal complaint, on the following bases:

- Procedural irregularity affected the outcome of the matter
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter, or
- The Title IX Coordinator, Investigator(s), or Decision Maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

Notification of Right to Appeal

Provide following information, in bold print, in both cover email and at conclusion of determination report:

- Name of Appeals Officer or Appeal Panel Chair
- Requirement that appeal must be completed in writing
- Email address to which appeal should be sent
- The timeframe in which appeal must be filed
- Permissible grounds for appeal

Elements of Appeal

- Appeals officer should not be same as Decision Maker, Investigator, or Coordinator.
- Preponderance standard still applies.
- Both parties may provide statement to Appeals Officer(s) in support of position.
- Appeals Officer is not required to review all relevant evidence but may determine appeal from Determination Report and statements.
- Appeal decisions are to be deferential to original determination.

If Appeal is Upheld

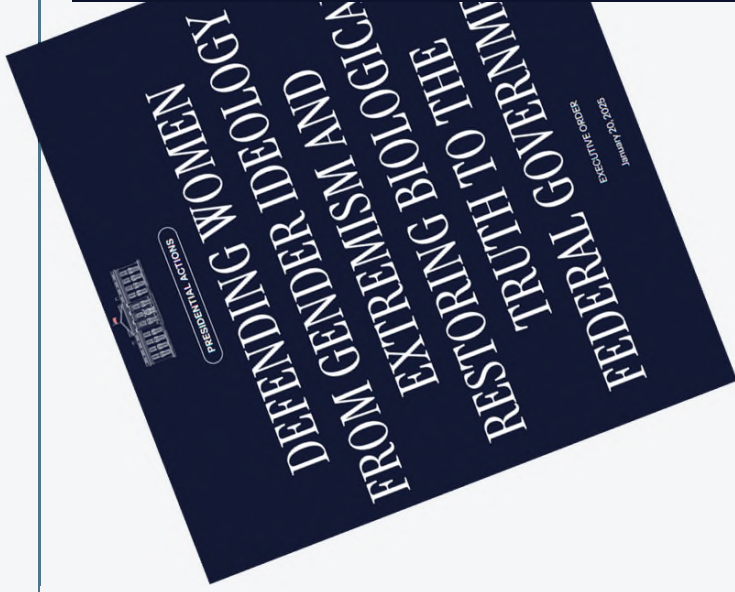
- Must describe the result and rationale for the result.
- May send back to Investigator to explore newly discovered evidence.
- May order new hearing with corrections to defect(s).
- May overturn (limited circumstances).



Section Four:

Recent Federal Developments

2025 Executive Orders




PRESIDENTIAL ACTIONS

ENDING ILLEGAL
DISCRIMINATION AND
RESTORING MERIT-
BASED OPPORTUNITY

January 21, 2025



Executive Orders

- Do not have the force of law
- Can affect government contracts
- Can indicate agency interpretation and enforcement priorities

UPenn Resolution Agreement

PRESS RELEASE

U.S. Department of Education Announces the University of Pennsylvania Has Entered into a Resolution Agreement to Resolve its Title IX Violations

JULY 1, 2025

Today, the U.S. Department of Education (the Department) announced the University of Pennsylvania (UPenn) has entered into a Resolution Agreement to comply with Title IX of the Education Amendments of 1972 (Title IX). This action follows the Department's Office for Civil Rights' (OCR's) investigation that found UPenn [violated](#) Title IX by allowing a male to compete in female athletic programs and occupy female-only intimate facilities.

Department of Energy

Why did the Energy Department issue a Title IX rule?

The proposed athletics rule would rescind a prior requirement on coed sports tryouts
— but only for schools receiving Energy Department grants.

Published June 16, 2025

Current Status of Department of Education and Office of Civil Rights



False Claims Act Enforcement

PRESS RELEASE

Justice Department Establishes Civil Rights Fraud Initiative

Monday, May 19, 2025

For Immediate Release

Today, the Department of Justice announced the establishment of the Civil Rights Fraud Initiative, which will utilize the False Claims Act to investigate and, as appropriate, pursue claims against any recipient of federal funds that knowingly violates federal civil rights laws. Violations of the False Claims Act can result in treble damages and significant penalties.

"Institutions that take federal money only to allow anti-Semitism and promote divisive DEI policies are putting their access to federal funds at risk," said Attorney General Pamela Bondi.

"This Department of Justice will not tolerate these violations of civil rights – inaction is not an option."

"America has watched a tidal wave of anti-Semitism sweep our universities and seen public institutions codify inherently divisive policies like DEI at an unprecedented rate," said Deputy Attorney General Todd Blanche. "In advancing the initiative, the Department of Justice's Civil Fraud Section and Civil Rights Division will work in concert – alongside other Department components and government agencies – to identify and root out instances in which recipients of federal funds fail to uphold their basic obligations under federal civil rights laws. The days of using federal funds to further discrimination are over."

The Department strongly encourages anyone with knowledge of discrimination by federal funding recipients to consider filing a qui tam action under the False Claims Act. See 31 U.S.C. § 3730. When a qui tam action is successful, the whistleblower typically receives a portion of the monetary recovery. The Department also encourages the public to report instances of such discrimination to the appropriate federal authorities. Please visit <https://www.justice.gov/civil/report-fraud> for more information.

False Claims Act Enforcement

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West Virginia v. B.P.J

cch+a
ATTORNEYS AT LAW





Let us know
how we did.



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Questions?

Feel free to reach out!



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