



Title IX Personnel Sexual Harassment Training

Asheboro City Schools

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Poyner Spruill, LLP





Overview

Title IX

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The Players

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Appeals

Other Requirements

The Intersection of Title IX & Special Education

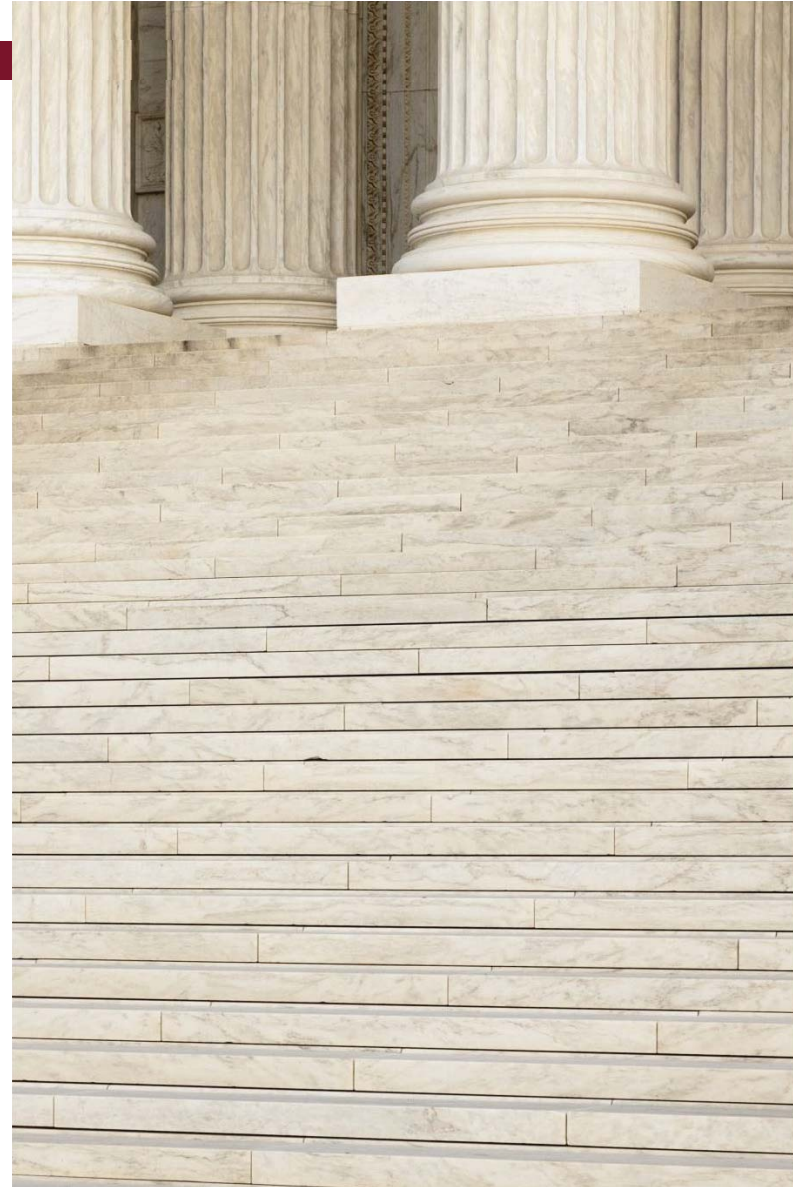
Questions



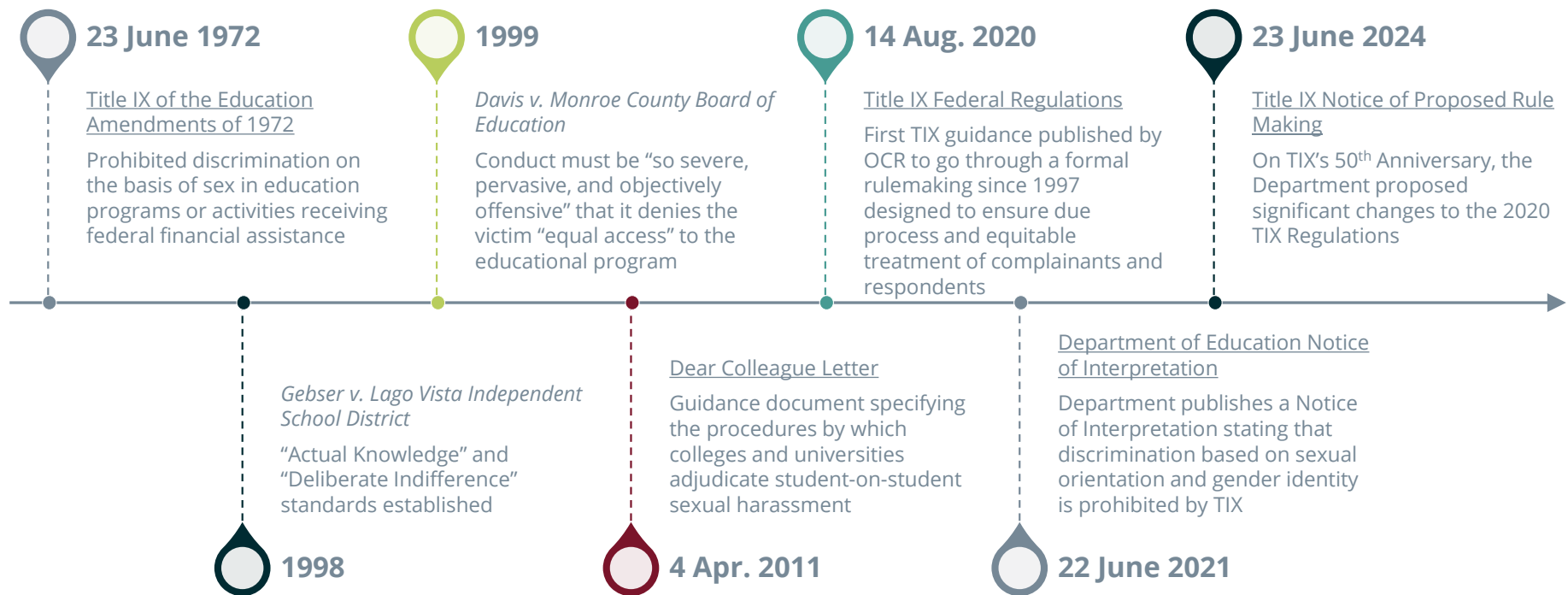
Title IX

Title IX of the Education Amendments of 1972

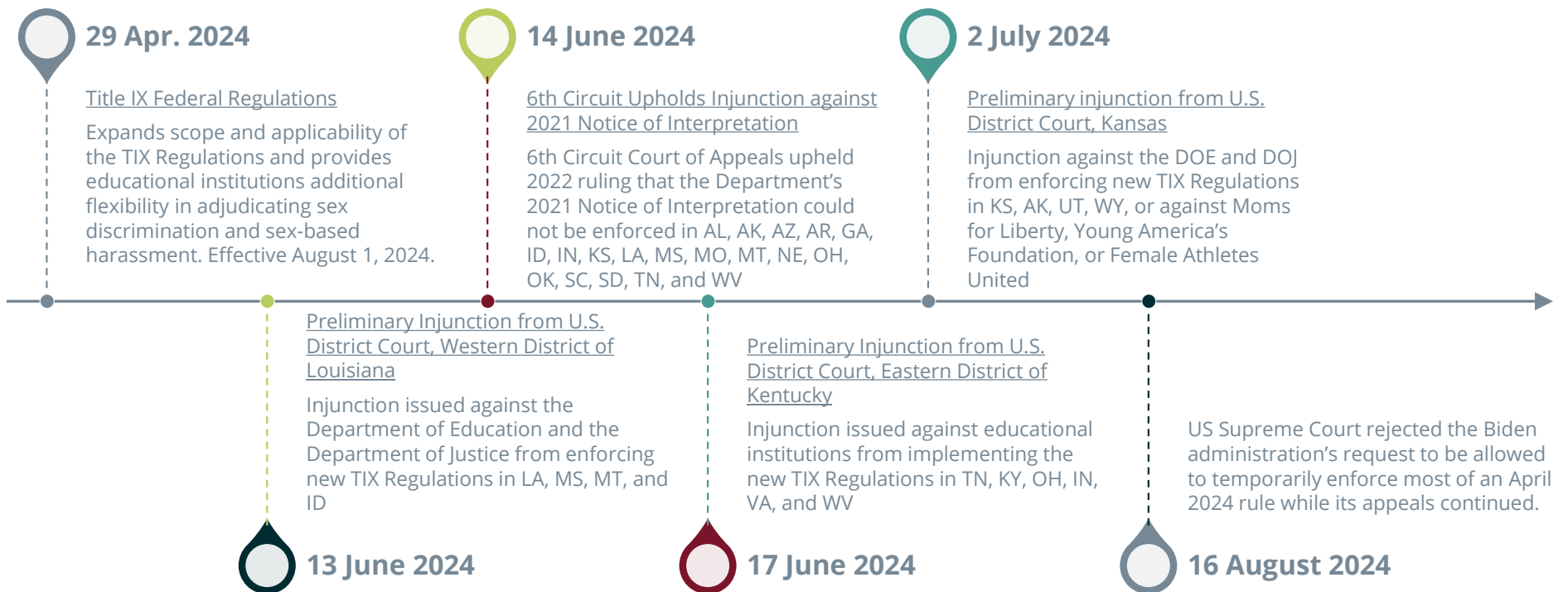
“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activities receiving Federal financial assistance.” 20 U.S.C. §1681



The Evolution of Title IX



The Evolution of Title IX



The Evolution of Title IX

9 Jan. 2025

2024 TIX Regulations Found Unconstitutional

Federal District Court finds the 2024 TIX Regulations “unconstitutional” in violation of the First Amendment and the Spending Clause

4 Feb. 2025

“Dear Colleague Letter” Issued, Returning Districts to 2020 TIX Regulations

Directs K-12 schools receiving federal financial assistance to implement the 2020 TIX Regulations

Executive Order *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government* issued

States that the policies of the U.S. is to recognize two sexes – male and female – and sets forth definitions for the terms sex, women/girls, men/boys, female, male, gender ideology, and gender identity

Requires federal agencies to “enforce laws governing sex-based rights, protections, opportunities, and accommodations to protect men and women as biologically distinct sexes” using these terms.

20 Jan. 2025



Prohibited Conduct

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Sexual Harassment

There are three types (“buckets”) of TIX Sexual Harassment:



Quid Pro Quo



Unwelcome Conduct



Clery Act and Violence Against Women Act
 (“VAWA”) Offenses

Quid Pro Quo

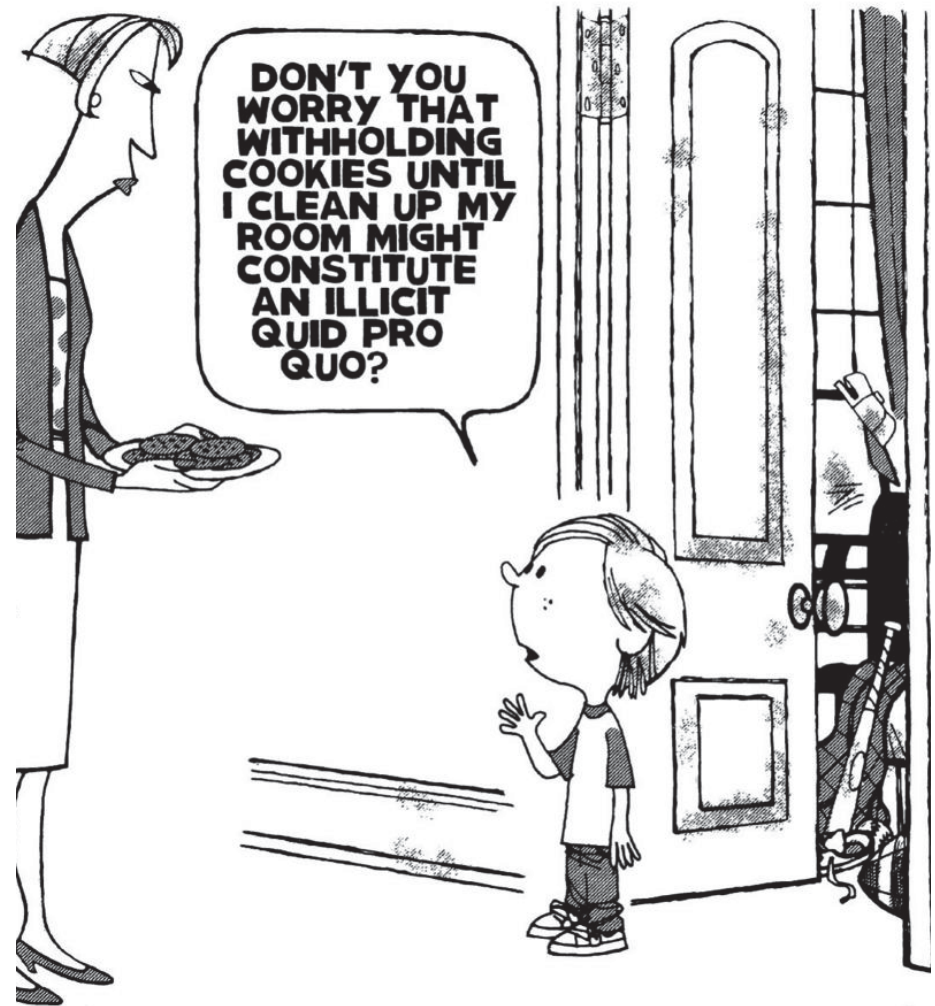
- “This for that”
- Occurs when a **school employee** conditions access to educational benefits on an individual's participation in unwelcome sexual conduct



Examples of Quid Pro Quo

- A teacher tells a student that the student will get an A on the final exam if the student sends the teacher nude photos
- The coach of the varsity soccer team names a student captain of the team with the expectation that the student will provide sexual favors to the coach.
- An assistant principal says that he/she will only provide a college application recommendation letter for a student if the student participates in sexual conduct with the assistant principal.

2019 PITTSBURGH POST-GAZETTE
REATOR'S SYNDICATE



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Unwelcome Conduct

Unwelcome, sex-based conduct, determined by a reasonable person to be so severe, pervasive, **and** objectively offensive that it effectively denies equal access to the education program or activity





Effective Denial of Equal Access to Education Program or Activity

- Does not require “that a person’s total or entire educational access has been denied”
- Examples
 - Skipping class to avoid a harasser
 - Decline in student’s GPA
 - Athlete who quits participating in school athletics, but carries on with other school activities following sexual harassment

Clery Act & VAWA Offenses

- The Clery Act and the Violence Against Women Act (VAWA) are two federal laws that do not apply to K-12 institutions
- What does apply to K-12 in the Title IX context are the following offenses, as defined in Clery and VAWA:
 - Sexual Assault
 - Dating Violence
 - Domestic Violence
 - Stalking



Sexual Assault

- Conduct that qualifies as one of the following:
 - Rape
 - Sodomy
 - Sexual assault with an object
 - Fondling
 - Incest
 - Statutory Rape
- Rape, sodomy, and sexual assault with an object are either
 - Without consent, or
 - Victim was incapable of giving consent because of age or temporary/permanent mental or physical capacity

Dating Violence

Violence committed by a person who has been in a relationship of romantic or intimate nature with the victim

- Up to 19% of teenagers in the United States experience sexual or physical dating violence, 65% report being psychologically abused
- In the age range 14 to 21, 51% of females and 43% of males reported being victims of dating violence





Domestic Violence

A misdemeanor or felony crime of violence committed by:

- Current/former spouse or intimate partner;
- A person with whom the victim shares a child in common;
- A person who is cohabitating with or who has cohabitated with the victim as a spouse or intimate partner;
- By any other person against an adult or youth victim who is protected from that person's act under domestic or family violence laws



Stalking

- A course of conduct that is directed at a specific person and would cause a reasonable person to either:
 - Fear for his/her safety or the safety of others; or
 - Suffer substantial emotional distress



Responding to Sexual Misconduct that is not Prohibited Conduct under Title IX



A school has discretion to respond appropriately to reports of sexual misconduct that do not fit within the scope of conduct covered by the Title IX grievance process.



Title IX does not replace a school's more expansive code of conduct and does not prohibit a school from enforcing that code to address misconduct that is not Title IX sex-based harassment





District's Obligations

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Actual Knowledge

- A school must respond to possible sexual harassment occurring in its education program or activity when it has **actual knowledge** of the harassment
- A mandated reporter has notice of sexual harassment or allegations of sexual harassment
- In the K-12 context, **all** employees are mandated reporters



Education Program or Activity

- Locations, events, or circumstances over which the school exercised substantial control over both the Respondent and the context in which the sexual harassment occurs
- Schools are only responsible for responding to allegations of sex discrimination that occur in the U.S.

Settings Where Title IX May Apply

Buildings or other locations that are part of the school's operations, including remote learning platforms;

Off-campus settings if the school exercised substantial control over the respondent and the context in which the alleged sex-based harassment occurred (e.g., a school field trip to a museum)

Computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of, the school

Student's personal electronic devices if used to perpetrate online sex-based harassment during class time may constitute a circumstance over which the school exercises substantial control



Deliberate Indifference

- A school that has actual knowledge must respond in a manner that is **not deliberately indifferent**
- A school will be deliberately indifferent only if its response to sexual harassment is **clearly unreasonable** in light of the known circumstances

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Reporting Prohibited Conduct

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Making a Report

- A report of Title IX sexual harassment may be made by anyone, not just the alleged victim or a mandated reporter
 - School employees **shall immediately** notify the school's Title IX Coordinator of any report of sexual harassment
 - School administrators **must not** resolve allegations of sexual harassment through normal discipline procedures.
- May be made by phone, mail, email, letter, or by any means that result in the Title IX Coordinator receiving the report
- May be made at any time, including non-business hours

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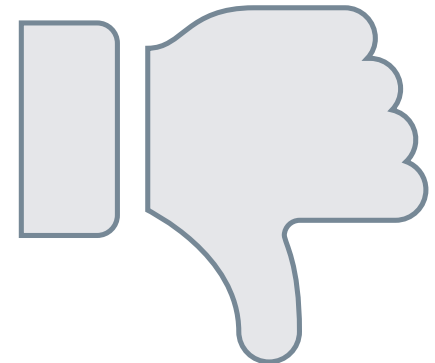
Do I make a report of
Title IX sexual
harassment?

Do I make a report of Title IX sexual harassment?

Alex reports to the media center coordinator that Mary, another student at your school, is sending him dozens of text messages every night. He said he has not responded to any of the messages.

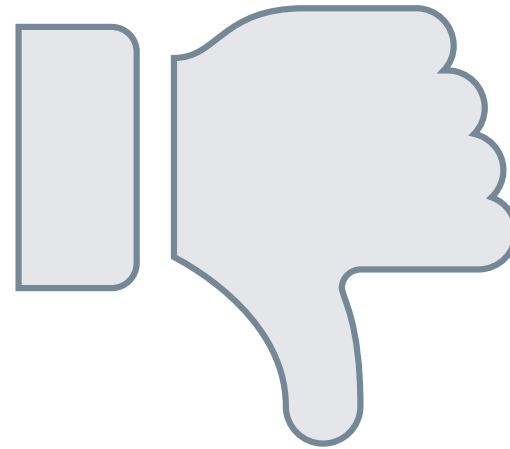
Alex says that some of the messages Mary has been sending include inappropriate memes and sexual jokes.

Alex does not want you to tell anyone.





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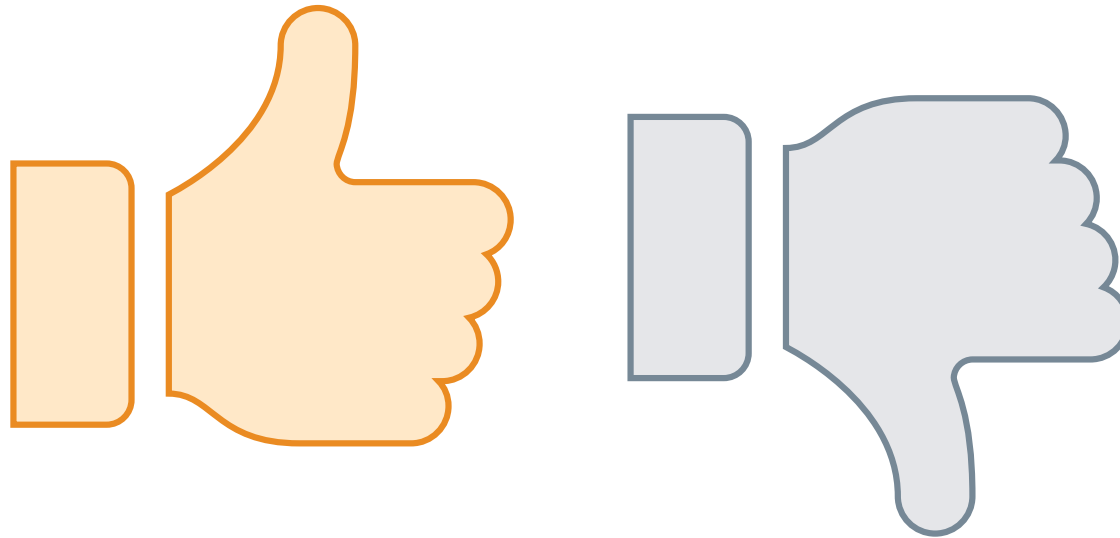


Do I make a report
of Title IX sexual
harassment?

Joey is a Junior in high school. You observe that
Joey has been spending a lot of time with his
math teacher, Ms. Greene, outside of classroom
time.



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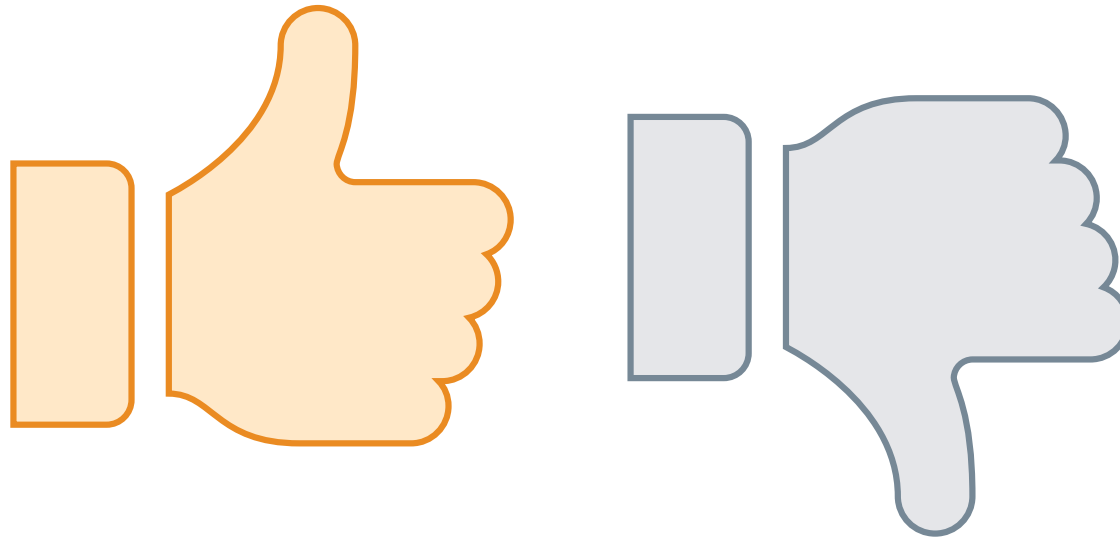


Do I make a report
of Title IX sexual
harassment?

You often observe Joey sitting with his mother
and Ms. Greene at basketball games.



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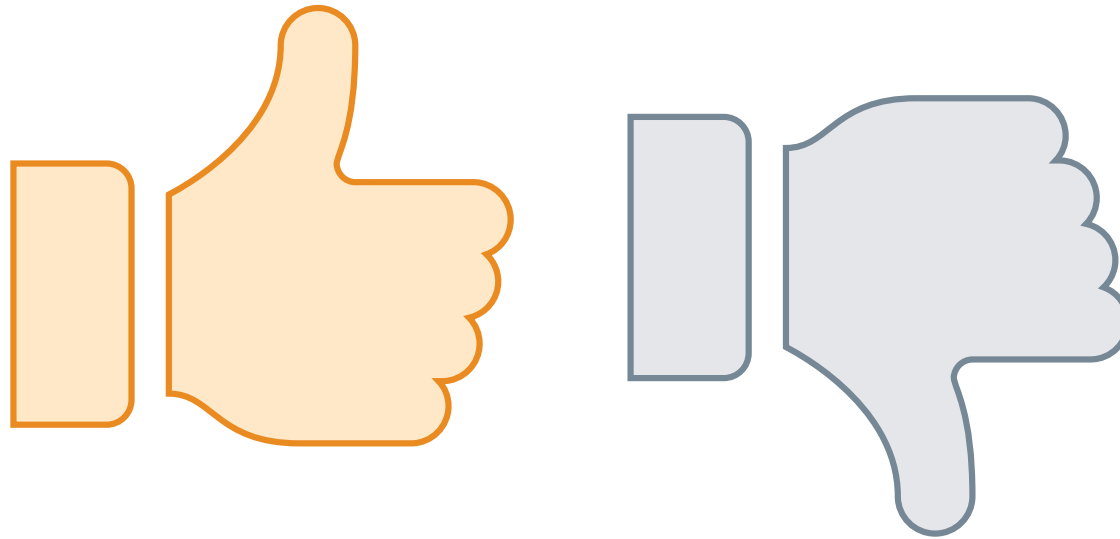


Do I make a report
of Title IX sexual
harassment?

You have heard rumors that Joey and Ms. Greene are in a relationship. You speak to Joey's mother about this, and she says that Ms. Greene is just a good family friend.



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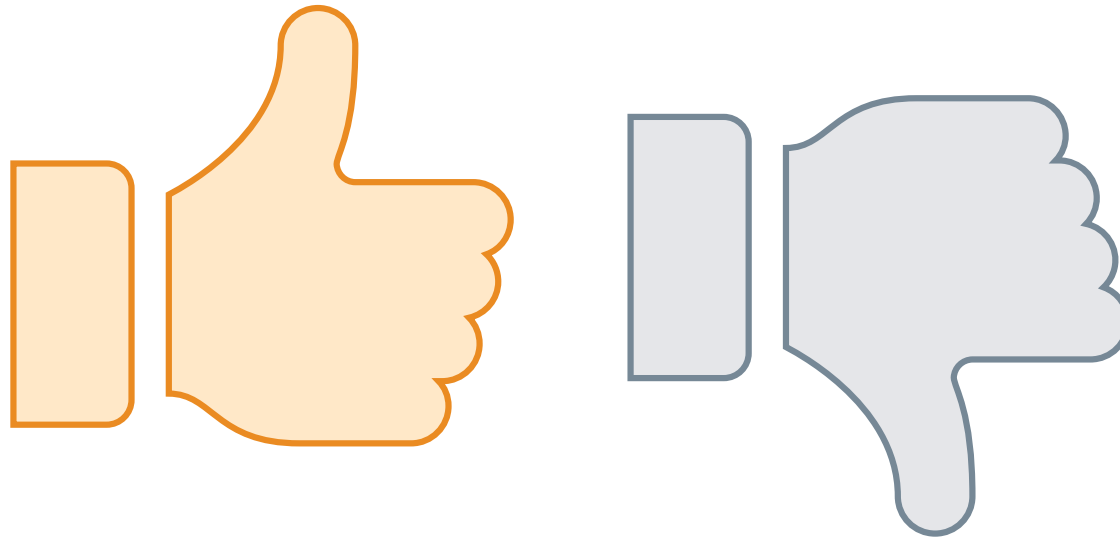


Do I make a report
of Title IX sexual
harassment?

You walk by Ms. Greene's classroom one day after school and believe you saw Joey and Ms. Greene holding hands, but you are not 100% sure of what you saw.



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Do I make a report
of Title IX sexual
harassment?

You talk to Joey's friend, Alex, who says Joey and
Ms. Greene have kissed according to Joey.

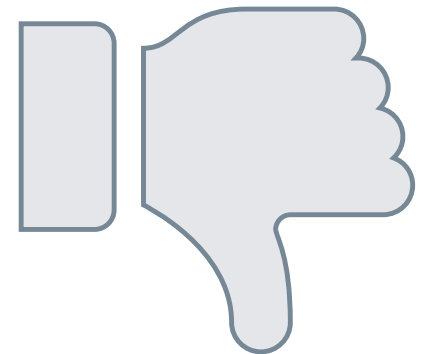


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Do I make a report of Title IX sexual harassment?

Jaden shows you a video taken at an off-campus party over the summer. The video shows two students sneaking off together during the party and holding hands as they leave.

Jaden tells you the video is being shared with other students via text message. Jaden said that one of the students in the video is being called a “cheater” by some students because she had a boyfriend at the time the video was taken.

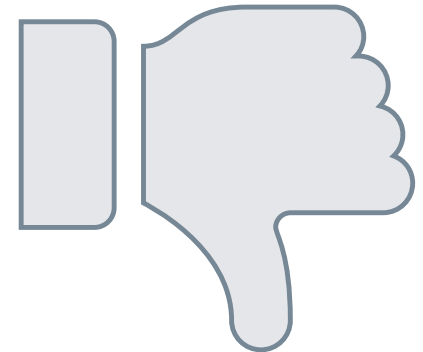




Do I make a report of Title IX sexual harassment?

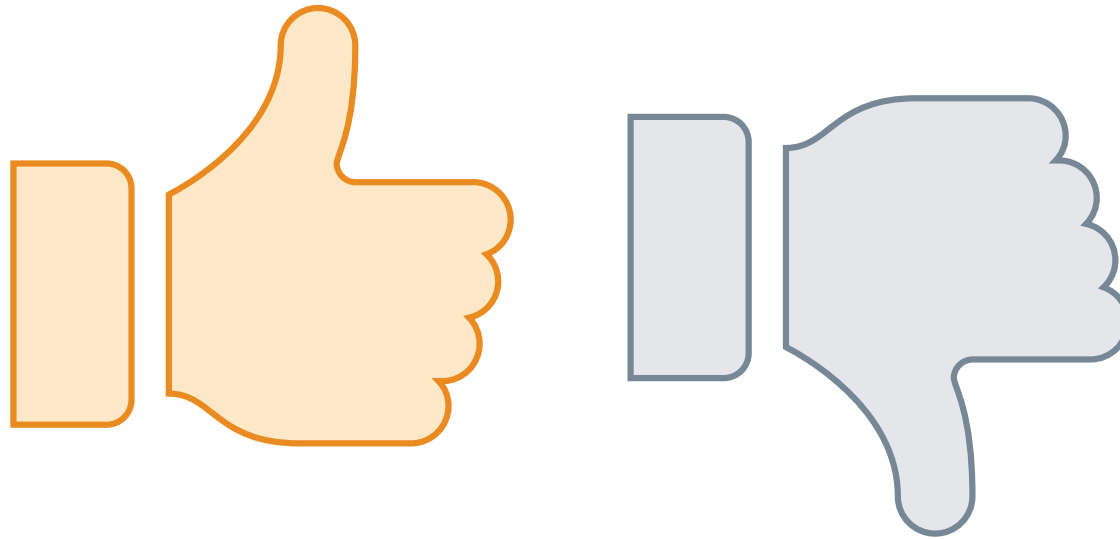
A custodian comes to you and tells you that, while working in the boys' locker room one evening, he overheard two members of the football team talking about the annual hazing ritual.

One team member states that it was so funny to make the freshman stand naked in line while he hit them with a towel.





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Do I make a report
of Title IX sexual
harassment?

Employee A likes to tell dirty jokes at work. Employee A sends text messages that contain sexual innuendo to other employees. Employee A also includes sexual language in her conversations. One day, Employee B makes a sexual joke to Employee A and Employee A files a complaint.



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The Players

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Title	Responsibilities	Who?
Complainant	A person who is alleged to be the victim of conduct that could constitute sexual harassment • <u>NOT</u> the third party who reports alleged sexual harassment perpetrated against someone else • <u>NOT</u> the Title IX Coordinator, even if the TIXC “signs” a formal complaint	• Student, Staff, Third Party
Respondent	A person who has been reported to be a perpetrator of conduct that could constitute sexual harassment	• Student, Staff, Third Party
Title IX Coordinator	• Oversees and coordinates <u>all</u> Title IX responsibilities for district • Oversees district’s response to Title IX reports and complaints • Implements supportive measures and remedies • Identifies and addresses any pattern or systemic problem revealed by reports and complaints • Evaluates an alleged victim’s confidentiality request, if one is made • Files a formal complaint on behalf of a student/employee, if necessary	• Must be employee; • May not serve as decision-maker

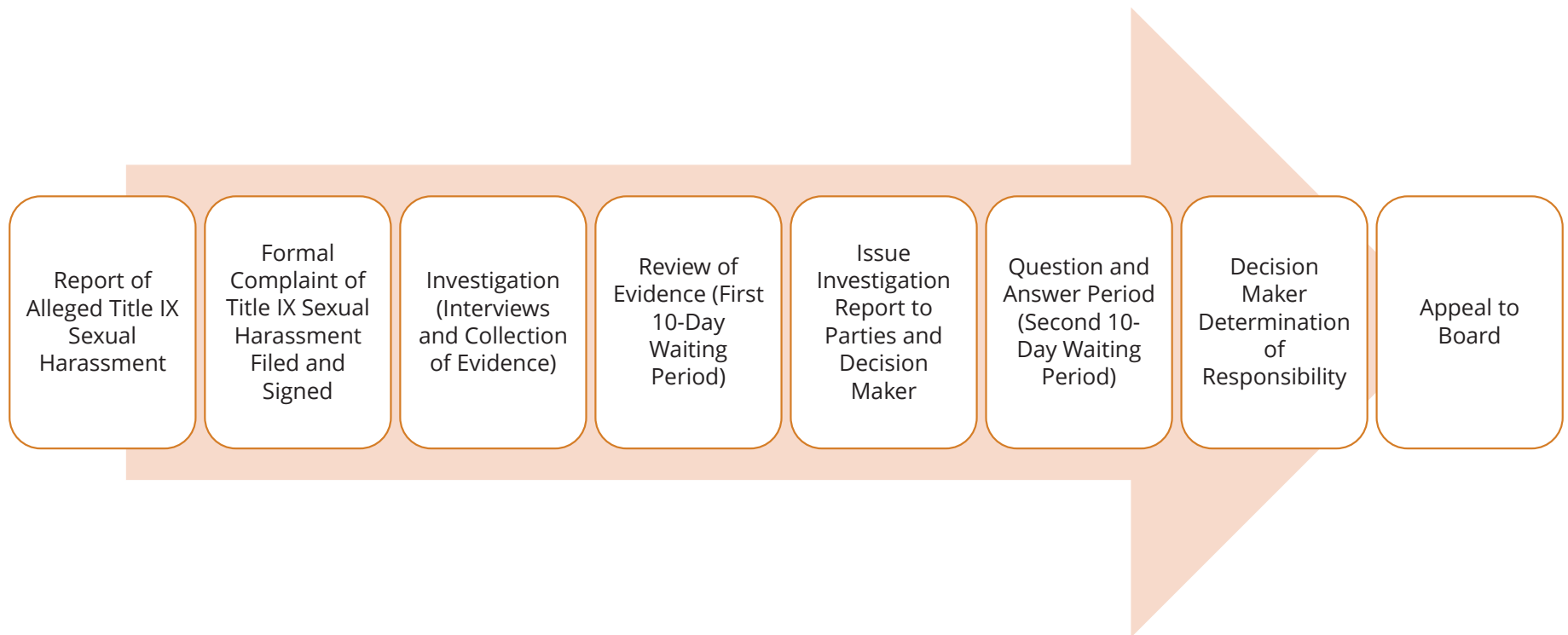
Title	Responsibilities	Who?
Investigator	• Conducts a fair, objective, & impartial investigation • Differentiates b/w related & relevant evidence & privilege	• Staff or External Person • May not serve as decision-maker
Decision-Makers	• Evaluates evidence, makes, and writes decision • “Rules” on relevancy during cross examination	• Staff or External Person • Cannot serve in any other capacity
Advisor(s)	• Advises party they represent (not required)	• Staff or External Person
Informal Resolution Facilitator	• Conducts informal resolution process	• Staff or External Person



Title IX Grievance Process

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Overview of the Grievance Process



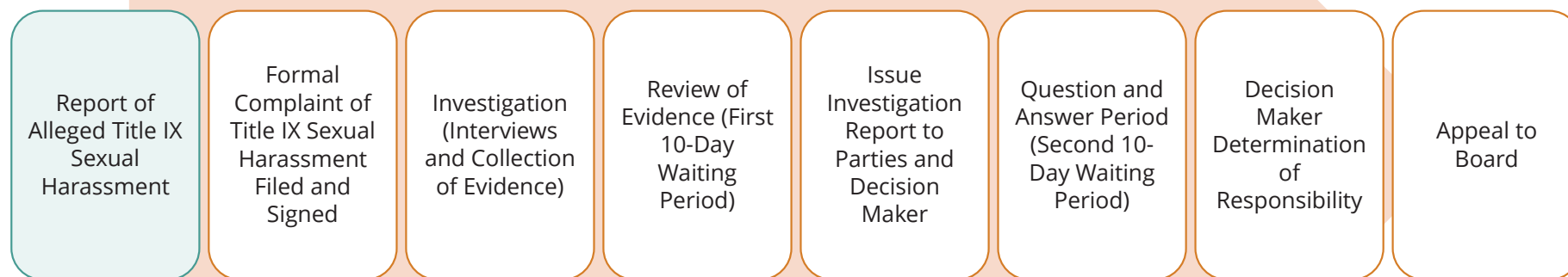


Grievance Process

The district must ensure its grievance process is consistent, transparent and:

1. Treats complainants and respondents **equitably**;
2. Does **not** make credibility determinations based on/because of a person's status as a respondent or complainant;
3. Requires **objective evaluation of all relevant evidence**, both **inculpatory** and **exculpatory**;
4. Requires Title IX Coordinators, investigators, decision-makers, and informal resolution facilitators to be **free** from **conflicts of interest** and **bias** and trained to serve **impartially**;
5. Presumes the **non-responsibility of respondents until conclusion** of the process;
6. Includes reasonably prompt time frames for the grievance process;
7. Informs all parties of critical information about the district's procedures including the range of remedies and disciplinary sanctions a district may impose, the standard of evidence applied, the district's appeal procedures; and
8. Protects any legally recognized privilege from being pierced during a grievance process.

Upon Receipt of a Report





Upon Receipt of a Report

When the Title IX Coordinator receives a report of prohibited Title IX sexual harassment, the Title IX Coordinator must:

1. Contact the alleged victim, the Complainant;
2. Offer the Complainant supportive measures;
3. Explain the process of filing a formal complaint; and
4. Contact the alleged perpetrator, the Respondent, and offer supportive measures

Do we still follow the grievance process if...

1

We have it on video?

YES

2

We questioned the accused
and he/she admitted to it?

YES

3

The potential complainant
does not wish to file a formal
complaint?

MAYBE

Supportive Measures

Offered to both alleged victim and alleged perpetrator

Individualized services

Reasonably available

Nonpunitive, non-disciplinary, and not unreasonably burdensome to the other party

Designed to ensure equal educational access, protect safety, or deter sexual harassment

Supportive measures must be offered regardless of whether the district is informed via a "Formal Complaint" or a "Report"



Examples of Supportive Measures

- Counseling
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Security and monitoring of certain areas of campus
- Other similar measures
- Note: A supportive measure that completely removes a Respondent from an activity (except for “emergency removals” for students and “administrative leave” for employees) would likely be considered punitive.

Emergency Removal

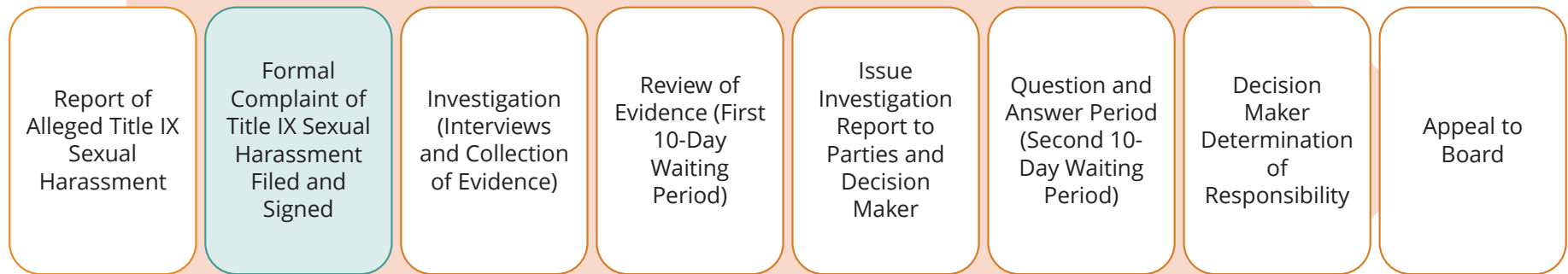
Students

- An accused student can be removed from the education program or activity on an **emergency basis**.
- School must conduct an individualized safety and risk assessment and determine that there is:
 - An **immediate threat** to the **physical health or safety** of any student or other individual arising from the allegations of sexual harassment; and
 - This immediate threat justifies removal from the education program/activity.
- The accused student must be provided with **notice** and an **opportunity to challenge** the decision “immediately” following the removal.
- **Does not modify a student’s rights under the IDEA (e.g., “change in placement”), Section 504, or the ADA**

Employees

- The final regulations do not limit an institution’s ability to place an employee on administrative leave during the pendency of a complaint.
- Whether such leave is paid or unpaid is at the institution’s discretion.

Formal Complaint of Title IX Sexual Harassment



Formal Complaint of Sexual Harassment

A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment

Only individuals participating in or attempting to participate in the education program or activity of the school may file a "Formal Complaint"

May be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator and by any additional method designated by the school

Must contain the complainant's physical or digital signature, or otherwise indicate that the complainant is the person filing the formal complaint

Triggers the school's duty to initiate the grievance process



Responding to Formal Complaints

- Upon receipt of a Title IX Formal Complaint, the Title IX Coordinator must:
 - Provide written notice of the allegations to the known parties
 - Investigate and adjudicate the complaint using a grievance process that complies with the final regulations
- An institution may **not** impose discipline on a respondent without going through its grievance process.



Informal Resolution

1. After a formal complaint has been filed, an informal resolution process (mediation) may be used, but only if all parties agree to participate
 - Informal Resolution does not involve a full investigation and adjudication
2. The Title IX Coordinator will appoint an informal resolution process facilitator who is free from conflicts of interest or bias and who has received specialized training for the role
3. Any party may decline or terminate an informal resolution process at any time prior to agreeing to a resolution, without penalty

Note: The informal resolution process may not be used to resolve allegations that an employee sexually harassed a student

Dismissal of Formal Complaints

An institution **must** dismiss a complaint if the conduct alleged:

- Would not constitute sexual harassment even if proven;
- Did not occur in the institution's education program or activity; or
- Did not occur against a person in the United States.

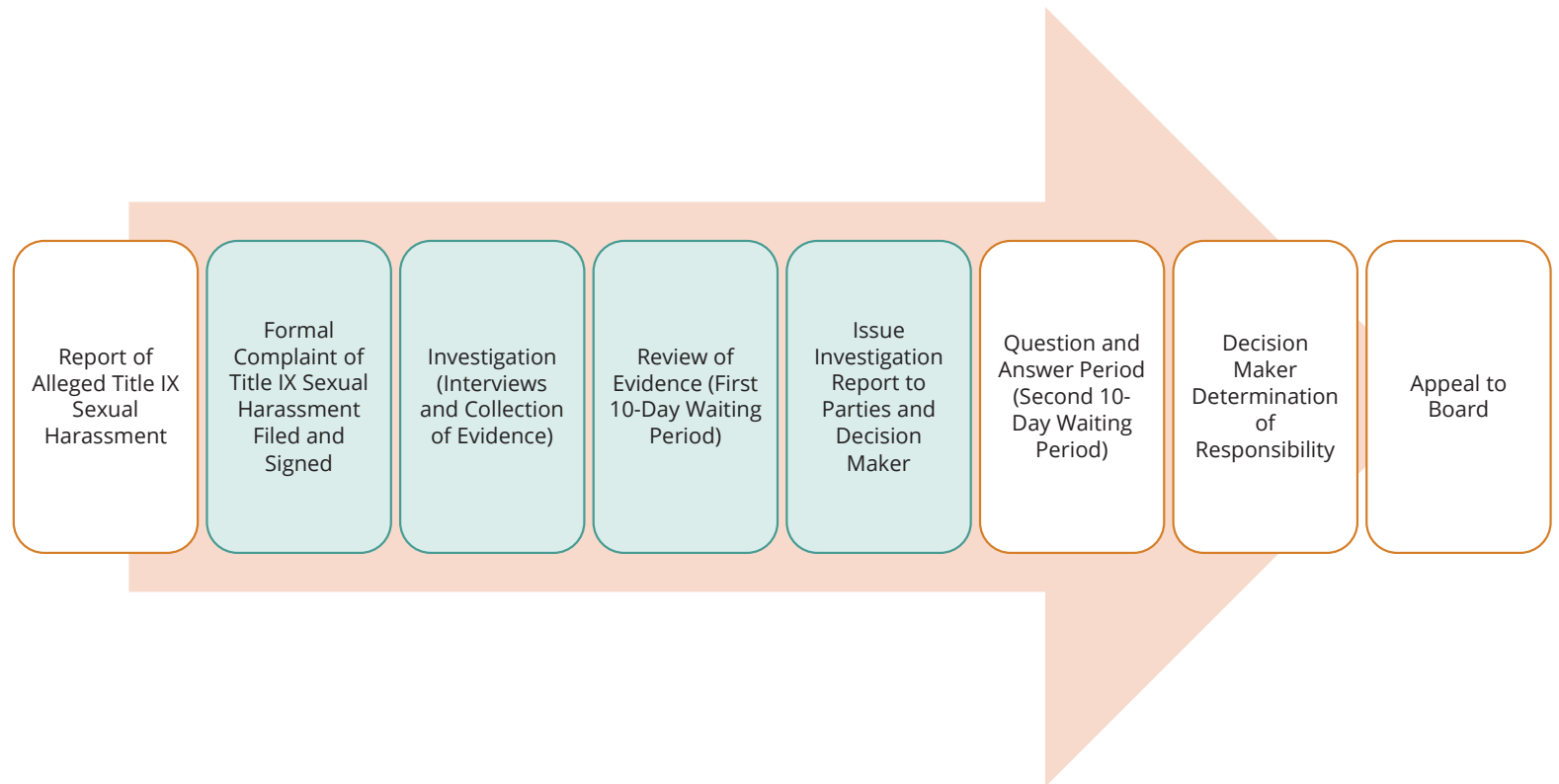
Additionally, an institution **may** dismiss a complaint where:

- The complainant notifies the Title IX Coordinator in writing that they wish to withdraw the complaint or allegations;
- The respondent is no longer enrolled/employed by the institution; or
- Specific circumstances prevent an institution from gathering evidence sufficient to reach a responsibility determination.

Institutions **must** provide the parties with written notice of a dismissal **and** the reasons for the dismissal.

Note: Dismissal of the formal complaint under Title IX does not preclude action under another policy or code of conduct. Dismissals may be appealed.

Investigations





Investigations

- Purpose of investigations is to determine:
 - Whether the alleged TIX sexual harassment has occurred/is occurring
 - Quid Pro Quo
 - Unwelcome Conduct
 - Sexual Assault
 - To remediate the situation by finding facts to support a determination of responsibility and any disciplinary sanction or remedy

Investigation Procedures



The investigator should gather information by interviewing both parties and other witnesses and by collecting additional evidence.



The investigator should gather all evidence, inculpatory and exculpatory, directly related to the allegations.



The investigator should provide written notice in advance to parties who will be interviewed or requested to attend a meeting with sufficient time for the parties to prepare to participate.

This written notice will include date, time, location, participants, and purpose of the interview or meeting.



Investigation Procedures

- If the parties decline an informal resolution process, reported sexual misconduct of any kind will be adequately, reliably, and thoroughly investigated, regardless of whether the incident is the subject of a separate criminal investigation.
 - The filing of a criminal complaint will not replace or hinder the district's investigation of a sexual misconduct violation.
- Title IX Coordinator will appoint an investigator (who may be the Title IX Coordinator himself or herself) who will thoroughly search for facts and evidence relevant to the claims made in the initial report or complaint.
 - The investigator must be properly trained and free from conflicts of interest or bias.
 - Throughout the course of an investigation, both parties should have an equal opportunity to discuss the allegations or gather evidence and to present the relevant evidence that they gather.

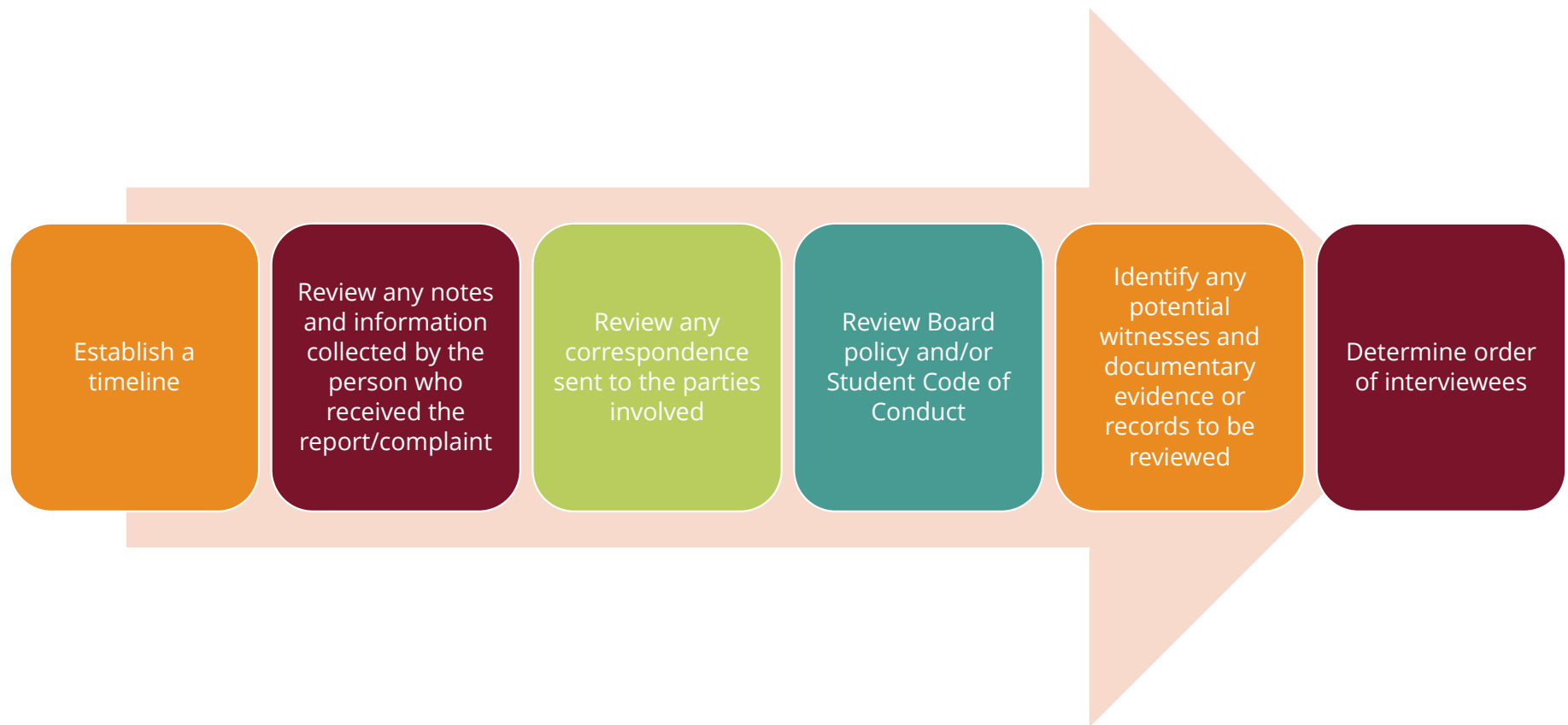


Investigation Procedures

At the conclusion of the investigation, the parties will be allowed **10 days** to inspect and review copies of any evidence directly related to the allegations.

- Information **directly related** to the allegation may not be redacted regardless of whether it is sensitive, confidential, or prejudicial.
- The parties may submit a written response to the investigator. The investigator must consider the written response prior to completing the final report.

Conducting an Investigation

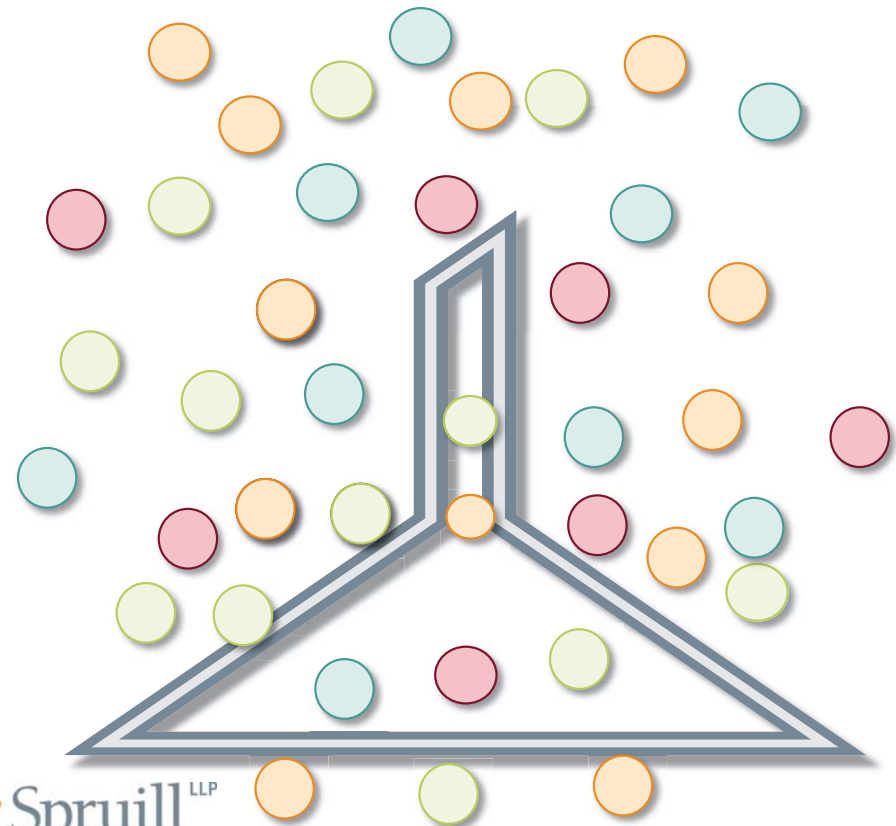
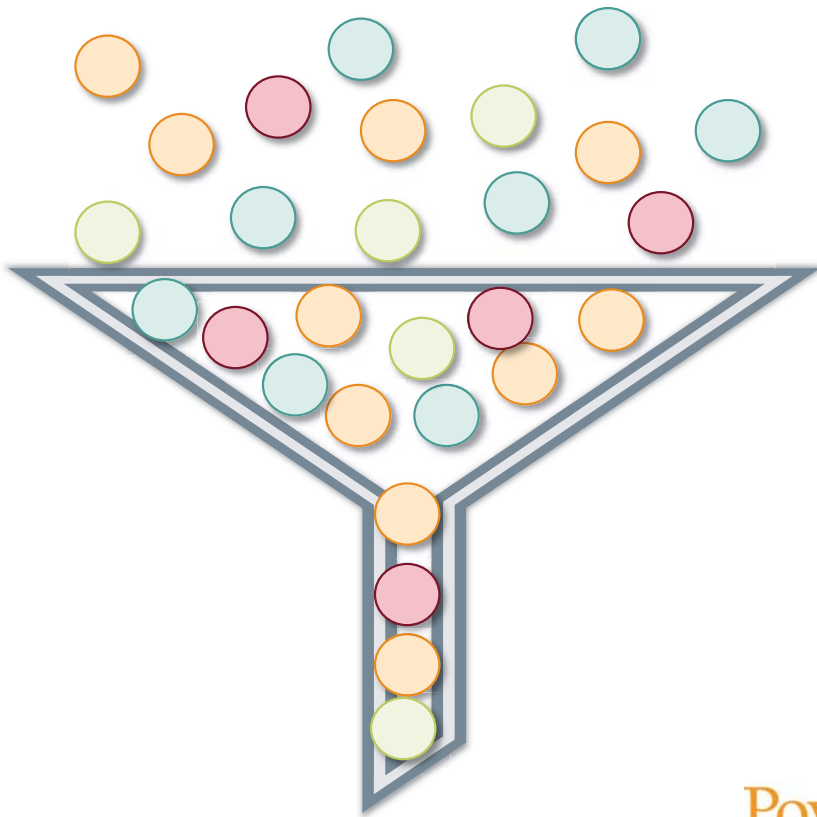




Conducting Investigatory Interviews

1. Prepare an outline of questions, but be prepared to deviate
2. Interview parties and witnesses separately
3. Obtain current and accurate contact information for all individuals interviewed
4. Determine how to record the interview(s) (handwritten notes, audio recording)
5. Explain that retaliation is prohibited
6. Remind individual of duty to maintain confidentiality and cooperate
7. Ask open-ended questions
8. Disclose to individual only what is necessary to question him/her and/or required by policy
9. Do not interrupt an individual during an interview
10. Practice active listening and reiterate or restate responses to ensure accuracy, if necessary
11. Ask for documents/records to extent the individual refers to them during the interview
12. Assess individual's credibility
13. If confused, repeat what you think you have heard, then ask the individual to confirm your understanding

The Funnel Technique



Conducting Investigatory Interviews

- Employee Interviews
 - Duty to cooperate
 - Garrity Warning
 - You are required to cooperate with our investigation and answer our questions without waiving any Fifth Amendment privilege against self-incrimination that might apply. If there is any investigation conducted by law enforcement into this situation, the information obtained from this interview could not be used against you by such authorities
- Student Interviews
 - No duty to cooperate
 - Subject to Board Policy
 - Parental Notification?
 - Special Considerations
 - Role of student as accuser, accused, victim, or witness
 - Age
 - Maturity
 - Ability/Disability
 - Trauma or fear
 - Peer pressure
 - Retaliation

Collecting Evidence: Types of Evidence



Photographs and
videos



Roster and seating
charts



Schedules



Attendance records



Student records



Personnel records



Desk contents



Investigation
documents and
other records



Written reports



Project files



Computer history
logs



Emails, social media
posts, text messages



Letters or written
messages



Court documents



Collecting Evidence: Important Considerations

- Chain of Custody
- Search and Seizure
 - "Reasonable Suspicion"
 - Exceptions:
 - Public employee's expectations of privacy may be reduced by virtue of actual office practices and procedures, or by legitimate regulation
 - Policies informing employees that employer-issued laptops could be inspected destroyed any reasonable expectation of privacy
 - Fourth Amendment
 - Board Policy 4342, Student Searches
- Relationship with School Resource Officer



Impartiality, Bias, and Conflict of Interest



Impartiality, Bias, & Conflict of Interest

Title IX Coordinators, investigators, decisionmakers, and persons who facilitate informal resolutions are prohibited from having conflicts of interest or bias against complainants or respondents generally, or against an individual complainant or respondent.

General Principles:

1. Objective evaluation of all relevant evidence – inculpatory and exculpatory
2. Credibility determination may not be based on a person's status as a complainant, respondent, or witness
3. Complainants and respondents must be treated equitably
4. Respondent is presumed not responsible for alleged conduct until a determination of responsibility is made at the conclusion of the grievance process
5. Uniform application of the selected evidentiary standard



Impartiality

- Objective evaluation of all relevant evidence
- Consider all evidence, information, and testimony
- Credibility determinations may not be based on a person's status as a perpetrator or victim of the alleged misconduct or their role as a witness
- All parties must be treated equitably

Bias: Explicit, Implicit, Appearance of, & Actual

- Explicit/Conscious Bias
- Implicit Bias: Attitudes of stereotypes that affect our understanding, actions, and decisions in an unconscious manner
- Appearance of Bias vs. Actual Bias
 - Whether a reasonable person believes that bias exists
 - Avoid applying generalizations that may unreasonably lead to a person believe bias exists
 - **Example:** Investigator finds a party more credible because the party speaks “perfect English” while the other party only knows English as a second language

Conflicts of Interest

1

Actual

Direct conflict between one's official duties and responsibilities, and a competing personal interest or obligation

Example: The investigator's son is involved in alleged misconduct

2

Perceived

A situation where it could reasonably be perceived that a competing interest could improperly influence the performance of one's official duties or responsibilities

Example: The investigator previously had a personal relationship with the family of the employee alleged to have engaged in misconduct

3

Potential

Where a personal interest or obligation could conflict with one's official duties and responsibilities in the future

Example: The investigator and the father of a party who alleged misconduct co-chair a local non-profit board and socialize outside of work on occasion

Avoiding Bias and Conflicts of Interest

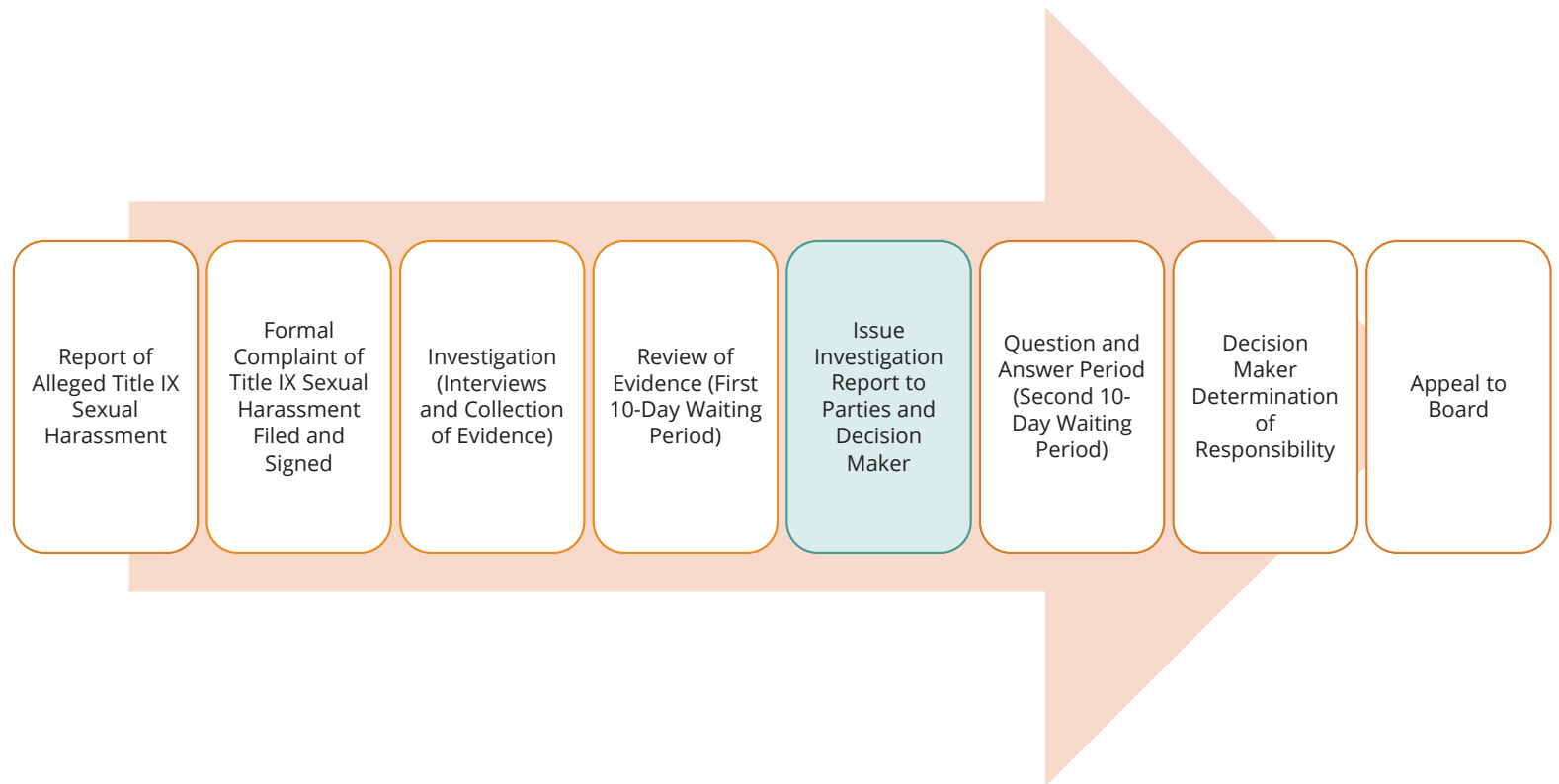
Bias

- Consider the relationship between and among the investigator, the parties, and the witnesses (if any)
- If either party has a history of conflict with the District, consider a third-party investigator
- Adhere to investigation policies and procedures
- Avoid pre-determined conclusions
- Conscious awareness of personal biases

Conflicts of Interest

- Adhere to investigation policies and procedures
- Avoid pre-determined conclusions
- Conscious awareness of personal biases

Investigations





Investigation Report

At the conclusion of the investigation, the investigator must prepare a written investigative report that fairly summarizes all directly related and relevant evidence, including inculpatory and exculpatory evidence.

Investigation Report



Drafting the investigative report:

- Fairly summarize all relevant evidence
- Provide contact for evidence
- Analyze the evidence and, if necessary, weigh credibility of witnesses
- Address any need for confidentiality with regard to complainants, witnesses, etc. Within the report. It may be advisable to use pseudonyms and a key be maintained in a separate document
- Apply the appropriate evidence standard (preponderance of the evidence)



Contents of the Investigation Report

Date

Recipients

Allegations

Timeline and chronology of the investigation

Relevant policies, procedures, ordinances, handbook provisions, etc.

Review of evidence

Findings of fact

Conclusions

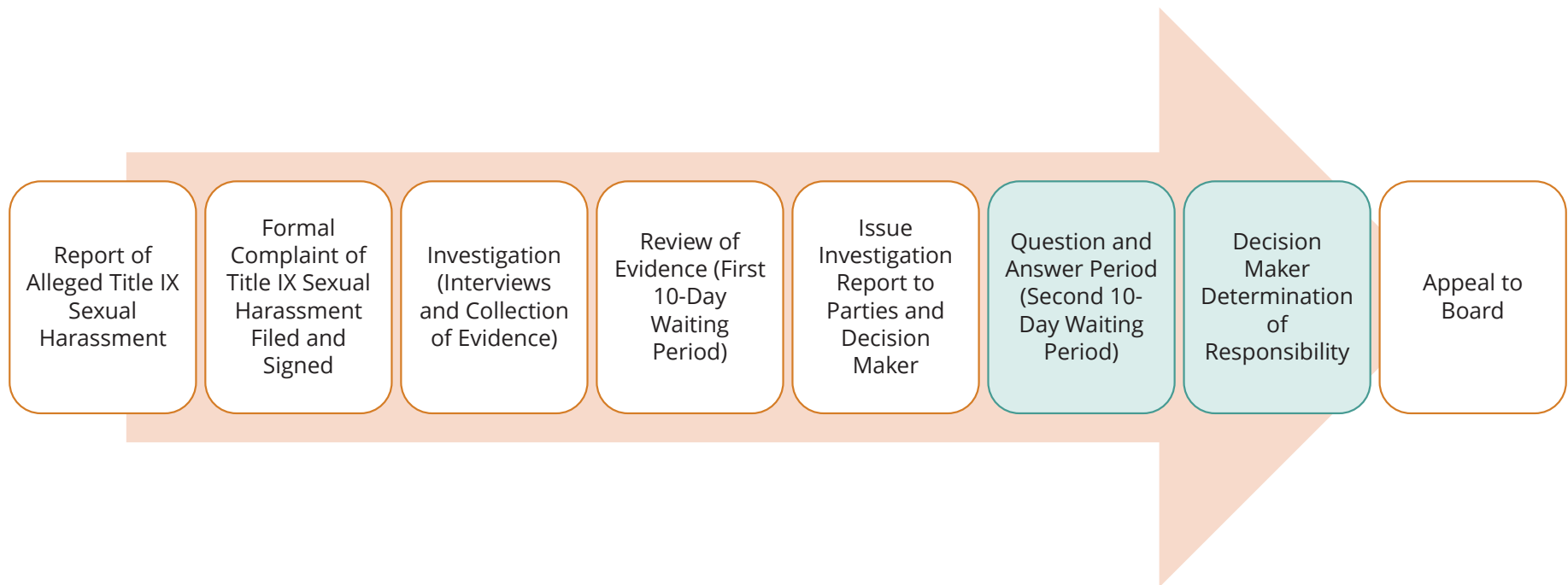
Recommendations



Investigation Report

- The investigator will simultaneously provide both parties with a written copy of the investigative report, and they will have **at least 10** days before a determination regarding responsibility.
- The report can be provided electronically or in hard copy but must be presented to both sides simultaneously.

Responsibility Determinations and Disciplinary Consequences





Responsibility Determination

- The independent, trained, decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility.
 - The written determination must be sent to both parties simultaneously.
 - The burden of proof is on the District.
- With or without a hearing, after the investigative report has been sent to the parties, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.

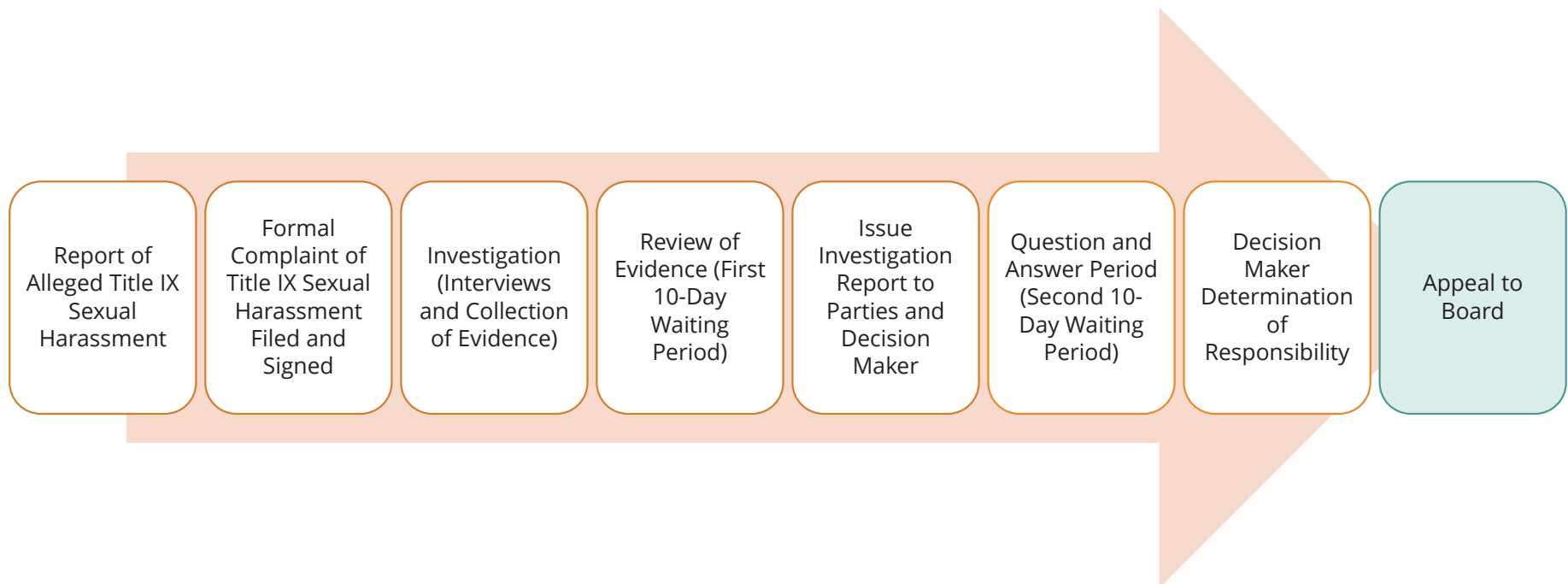


Question and Answer Period

The decision maker, before reaching a determination regarding responsibility, must:

- 1) Afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness;
- 2) Provide each party with the answers; and
- 3) Allow for additional, limited follow-up questions from each party.
- 4) Allow questions about a complainant's prior sexual behavior or sexual predispositions only to establish that another person committed the alleged conduct, or if they concern specific incidents of complainant's prior sexual behavior with respondent and are offered to prove consent.

Responsibility Determinations and Disciplinary Consequences





Appeals Process

A school must offer both parties the opportunity for an appeal from a determination regarding responsibility, and from a school's dismissal of a formal complaint or any allegations therein, on the following bases:

1. procedural irregularity that affected the outcome of the matter;
2. newly discovered evidence that could affect the outcome of the matter;
3. Title IX personnel (i.e., Title IX Coordinator, investigator or decision-maker) had a conflict of interest or bias, that affected the outcome of the matter;
4. the disciplinary sanction is inappropriate or unreasonable; and/or
5. Any other basis provided by law or board policy governing appeals to the board.



Other Requirements

Retaliation

No district or other person may intimidate, threaten, coerce, or discriminate against any person because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation proceeding or hearing



Notice Requirements

- Each district must designate at least one employee to coordinate its efforts to comply with Title IX, and that employee must be referred to as the **"Title IX Coordinator."**
- The district must notify all applicants for admission and employment; students, parents or legal guardians of elementary and secondary school students; and employees of the "name or title, office address, electronic mail address, and telephone number of the employee or employees" designated as the Title IX Coordinator.
- The district also must provide notice that the district does not discriminate on the basis of sex in education programs or activities that it operates, including admission or employment, and that inquiries may be referred to the Title IX Coordinator or the U.S. DOE's Assistant Secretary for Civil Rights, or both. This non-discrimination statement and the contact information for the Title IX Coordinator must be prominently displayed on the district's website and in each handbook and catalog.

Training



Training required for all staff on how to identify and report sexual harassment

Training required for all Title IX investigators, decision-makers, coordinators, and facilitators of an informal resolution to instruct on how to be:

- 1) impartial and unbiased;
- 2) objectively evaluate all relevant evidence, including inculpatory and exculpatory evidence



Record Keeping

Maintain for seven years every **report** and **formal complaint** of sexual harassment. Records to be maintained include:

- Investigative records;
- Disciplinary sanctions;
- Remedies;
- Appeals;
- Actions taken; and
- Supportive measures.

If complainant is not provided supportive measures, then the reasons why must be documented.

Document the basis for the school system's conclusion that its response was not deliberately indifferent.

Document that it has taken measures designed to restore or preserve equal access to the education program or activity.

A record of all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must also be maintained and published on the website.



Intersection of Title IX and the IDEA

Poyner Spruill^{LLP}



IDEA, 504, & Title IX

The Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 and Title IX are all **federal law**.

Importantly, the IDEA and 504 both afford students with disabilities with protections before they can be **removed** from school for disciplinary reasons.

Those involved in the investigation process should not be analyzing which law takes precedence, but rather should be reading these laws together.



Involving the IEP/504 Team

- If a Complainant or Respondent is a student with a disability, Title IX personnel should consult with the student's IEP or 504 team to discuss what supports might be appropriate based on the student's needs in the context of the Title IX process as there may be IDEA/504 implications
- 2 examples of supportive measures set forth in 34 CFR § 106.30 include "changes in work or housing locations [and] leaves of absence," which may be considered a change in the student's placement and should be discussed with the student's IEP or 504 team



Questions?

Poyner Spruill^{LLP}