



D. STAFFORD
& ASSOCIATES

Title IX Coordinator

(Tiers 1, 2, and 3)

July 2025

Presented by:

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Associate

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Title IX Coordinator Comprehensive Course

A tiered learning experience designed to build foundational knowledge, risk awareness, and procedural fluency for Title IX administrators. This course allows the attendee to complete three separate certificates in one course.

Day One

Tier 1 – Law & Policy: Understanding the 2020 Title IX Regulations

- Overview of Title IX Law
- Major Elements of the 2020 Regulations
- Required Title IX Grievance Procedures
- Clery Act (VAWA) Procedural Requirements
- Addressing “Non-Title IX” Sex Discrimination Cases

Day Two: Morning Session

Tier 3 – Safety & Risk: Emergency Removals for Sex-Based Harassment

- Emergency Removal under Title IX
- Intersection with FERPA, ADA, and Key Case Law
- Risk Analysis Framework
- Operational Logistics for Emergency Actions
- Challenges in Implementation and Equity Considerations

Day Two: Afternoon Session & Day Three: Morning Session

Tier 2 – Procedural Fluency: Responding to Sex Discrimination (Introduction of Case Study)

- Re-engaging with Title IX Grievance Procedures
- Receiving a Report & Initial Triage
- Conducting Intake Meetings
- Filing & Assessing a Formal Complaint
- Informal Resolution Strategies
- Consolidation of Formal Complaints



- Dismissal Criteria and Required Communications
- Notice of Allegations & Procedural Safeguards
- Conducting a Neutral Investigation
- Evidence Review & Final Investigative Report
- Evidence Evaluation and Relevance Filtering
- Decision-Making Frameworks
- Understanding the Appeals Process



TITLE IX

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To receive a certificate, attendees must attend the majority of the class and have paid class invoice in full. This applies to both in-person classes and virtual classes. We understand that attendees may need to miss class for a legitimate reason for longer periods of time or may need to leave the room during a class for a few minutes to take a phone call or attend to other business. If an attendee misses a significant amount of the class (depending on the length of the class) or they miss an attendance poll, they will not be issued a certificate of completion for the class.

Attendees should report each absence using the online form provided (each class has its own unique form that is sent to all attendees via email prior to class). Attendees should complete the form twice for each absence: once to record their departure, and again to record their return. Attendees should complete the form immediately before leaving class and as soon as practicable upon their return. If an attendee signs out but does not sign back in, they will be marked absent for the remainder of the day.

The criteria for receiving a certificate is determined based on missed class time and participation in the Attendance Polls that will be launched throughout each day of class. Attendance polls are left up for approximately 5 minutes and the instructor notifies the attendees that a poll is being launched to ensure that everyone who is present can respond to the poll. If an attendee is unable to respond to the attendance poll, the attendee would need to **immediately post "I am here"** in the chat feature within the Zoom platform. That way we can give the attendee credit for being in attendance for that specific poll. Notifying us after the attendance poll has been closed will not allow us to give the attendee credit for being in class during the poll.

Some of our classes may qualify for credit toward a Master's Degree at New England College (and regardless if you decide to seek credit or not, accreditation requirements mandate that we follow the same standards for all class attendees), so we have strict attendance standards that we follow for issuance of a certificate. For DSA & NACCOP, issuance of a Certificate of Completion is verification of attendance.



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Adrienne Meador Murray, Vice President, Equity Compliance and Civil Rights Services



In January 2014, Adrienne Meador Murray joined D. Stafford & Associates where she currently serves as the Vice President, Equity Compliance and Civil Rights Services after having been affiliated with D. Stafford & Associates as a part-time Associate since 2012 and the National Association of Clery Compliance Officers & Professionals (NACCOP) where she currently serves as Director of Training and Compliance Activities. Murray began her career in municipal law enforcement as a civilian employee with the City of Richmond Police Department (Virginia). She graduated from the Virginia Commonwealth University Police Training Academy and began her career as a sworn police officer for the University of Richmond (UR) Police Department (Virginia). At UR, Murray progressed through the ranks from a night shift patrol officer to Operations Lieutenant (overseeing criminal investigations, crime prevention and patrol) over the span of a decade before becoming the Chief of Police at Davidson

College in North Carolina. Most recently, Murray served as Chief of Police at Trinity Washington University (in Washington, D.C.).

As the Executive Director, Equity Compliance and Civil Rights Services for DSA, Murray builds on her 17-year career in law enforcement in which she became a nationally recognized expert in the field of best practice postsecondary institutional response to the sexual victimization of college women in the United States and in Canada. She is also a trained civil rights investigator and is well respected throughout the country for her ability to aid institutions in understating how to do best practice criminal and civil rights investigations concurrently. She is well known for her work in having provided support, advocacy and criminal investigative services for victims of sexual assault, stalking and intimate partner violence and is a sought-out speaker and investigator. She has expertise in the construction of best practice law enforcement standard operating procedures and training police officers to respond in best practice and trauma-informed ways to victims of sexual assault and intimate partner violence. In her current role, Murray coordinates curriculum development and instruction for national classes, including basic and advanced sexual misconduct investigation classes; an investigation of dating violence, domestic violence and stalking class; and a Title IX Coordinator/Investigator class offered through D. Stafford & Associates. To date, Murray has trained more than 3,500 criminal and civil rights investigators throughout the U.S.

Drawing on her experiences as a trained criminal and civil rights investigator, Murray also oversees independent investigations of complex sexual misconduct cases; conducts audits of Title IX/VAWA



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Compliance; drafts institutional sexual misconduct policies and procedures; and conducts campus-based trainings pertaining to the resolution of sexual misconduct offenses on college and university campuses. Murray frequently presents at regional and national conferences on topics such as the *Sexual Victimization of College Women*, *Understanding Consent and Incapacitation*, and *Responding to Sexual Assault on Campus: Clery Act and Title IX Implications*. Murray also conducts provincially specific sexual misconduct trainings throughout Canada.

Murray is a graduate of the University of Richmond, where she received her Bachelor's Degree in Applied Studies in Human Resource Management and of New England College, where she received her Master's Degree in Campus Public Safety Administration. Murray is also a graduate of the 235th session of the prestigious FBI National Academy where she was awarded a graduate certificate in Criminal Justice from the University of Virginia. She has authored numerous journal articles.



NACCOP Title IX & Equity Alliance

The Alliance is a dedicated affinity group through which Title IX and Equity Professionals, and the practitioners who support and/or supervise them, can benefit from NACCOP's expertise in complying with the Clery Act, Title IX, and other civil rights laws that affect their work.

BENEFITS OF JOINING THE ALLIANCE

- **Access to NACCOP's annual 9 on IX webinar series at no additional cost (a \$710 value)**
 - These 60-minute succinct webinars will offer legal insight and practical guidance on Title IX topics from experts who have served or are currently serving as active practitioners on college and university campuses.
- **Alliance-Exclusive Professional Development Opportunities such as the Title IX & Equity Open House Discussion Series**
 - An Alliance-exclusive virtual open house will be held bi-monthly (every other month, 6 sessions annually) to engage with experts from NACCOP's partner organization, D. Stafford & Associates, as well as other invited guests, to discuss current trends and issues. Each open house will focus on a specific topic for discussion and participants will be encouraged to engage in the conversation.
- **Access to Alliance-Exclusive Whitepapers regarding Title VI, VII, and IX**
- **Connect and collaborate with other Title IX and Equity Professionals via an Alliance-restricted Listserv**
- **Discounted Professional Development Opportunities**
 - Coffee and Conversations webinar series and individual webinars focused on Title IX & Equity compliance issues
- **A 50% discount on the Title IX Notice Document Library developed by NACCOP's Partner Organization, D. Stafford & Associates (a \$335 value)**

Join the Alliance

Eligible individuals must have Institutional, Professional, or Committee Membership with NACCOP.

Cost: \$425 for 1 year subscription

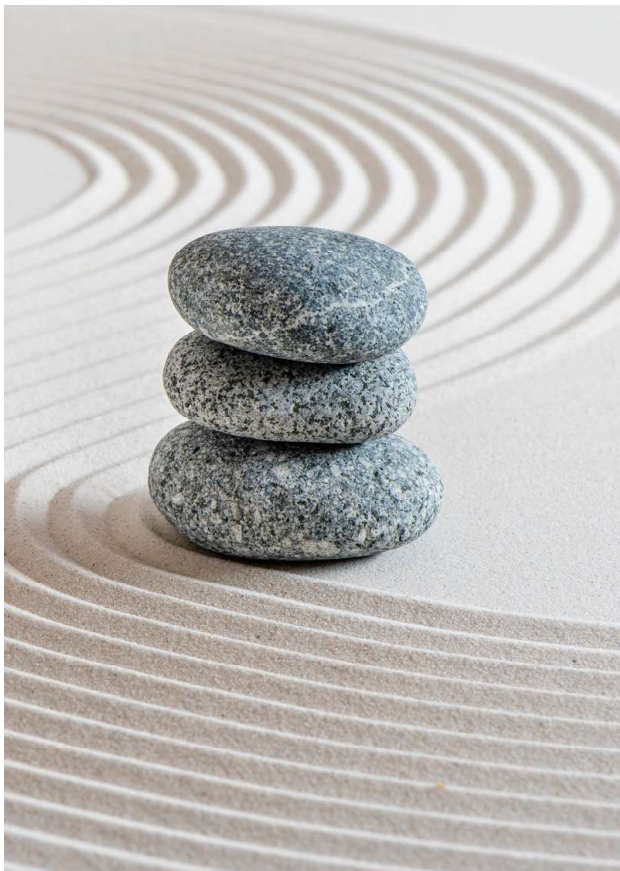
(The first year of enrollment will be pro-rated to match the NACCOP membership expiration date.)

Request to Join: <https://naccop.memberclicks.net/join-the-alliance>

Questions? Contact us at info@naccop.org or 302-344-1068.



TITLE IX COORDINATOR COMPREHENSIVE COURSE



AGENDA

- Day One: Law and Policy
- Day Two AM: Emergency Removals
- Day Two PM: Response
- Day Three: Response

INTRODUCTIONS AND ICE BREAKER

Instructions for Participants

In your small group (4–5 people), your mission is to discover surprising connections and celebrate your differences. You'll have 10 minutes.

- ✓ Who are you, what school do you work at, and what state are you in?
- ✓ Three things you all have in common *(Not work-related! Think life quirks, family facts, food preferences, unexpected hobbies...)*
- ✓ One unique fact about just one person in your group *(Something surprising, random, or delightful — a hidden talent, odd job, cool travel story, etc.)*

Report-Out Format: Designate one person to report back to the group with:

Each person's name, school, and state.

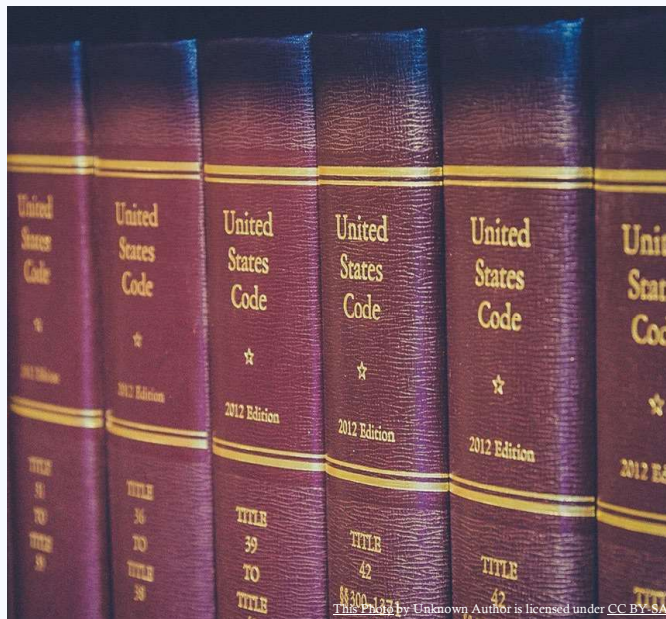
"We're the group who all _____, and one of us once _____."

Example Report-Outs

"This is NAME, SCHOOL, AND STATE....We're the group who all hate cilantro, and one of us was almost cast on Wheel of Fortune."

"We all have pets with human names... and one of us went backpacking in Mongolia."

BEGIN DAY ONE: TITLE IX LAW



FEDERAL LAW



Statutes

20 U.S.C.D.
§1681-1688



Regulatory Guidance

34 C.F.R. § 106



Sub-Regulatory Guidance

DCLs
Preamble to Regs
Executive Orders
OCR Website



Case Law

Circuit courts
District courts

TITLE IX, EDUCATION AMENDMENTS OF 1972, 20 U.S.C. § 1681

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.

§ 1681(a) - EXCEPTIONS

- Admission policies
- Institutions changing from single-sex status
- Religious institutions
- Military services or merchant marines
- Public traditional single-sex institutions
- Social fraternities or sororities
- Voluntary youth organizations
- Boy or girl conferences
- Father-son/mother-daughter activities
- “Beauty” pageants

§ 1681(c) - “EDUCATIONAL INSTITUTION”

Any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each such school, college, or department.

TITLE IX REGULATIONS - MAJOR ELEMENTS



Air Traffic Control View

This section highlights the major elements, except for the grievance procedures.

Items related to the grievance procedures will be explained later in the class.



34 C.F.R. § 106 - SUBPARTS

Subpart A: Introduction (106.1 – 106.9)

Subpart B: Coverage (106.11 – 106.18)

Subpart C: Admission and Recruitment (106.21 – 106.24)

Subpart D: Education Programs/Activities (106.31 – 106.46)

Subpart E: Employment (106.51 – 106.62)

Subpart F: Retaliation (106.71 – 106.72)

Subpart G: Procedures (106.81 – 106.82)

TITLE IX REGULATIONS OVERVIEW

Applies to
Higher
Education and
K-12

Covers wide
range of sex
discrimination

SUBPART A: INTRODUCTION



SUBPART A: A FEW FYIs...



§ 106.2
Definitions



§ 106.3
Remedial Action



§ 106.3
Affirmative Action

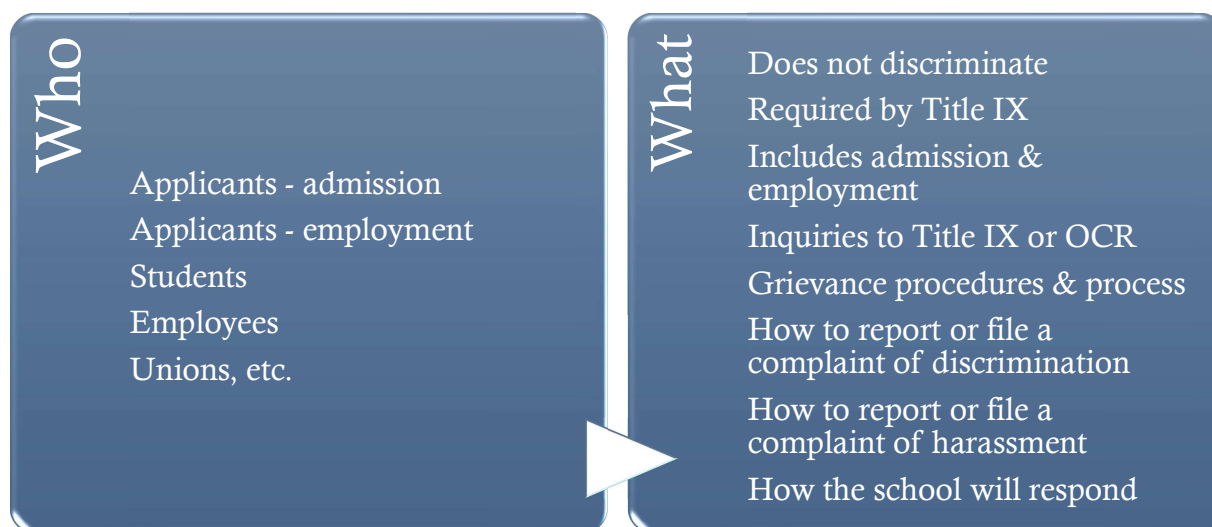


§ 106.6
Preservation of rights

§ 106.8(a) - DESIGNATION OF COORDINATOR

Designate	Designate at least one person
Notify	Notify people of name or title and contact information
Receive	Receive reports in person, by mail, by phone, by email, or other
Accept	Accept reports during non-business hours

§ 106.8(b)(1) - NOTIFICATION OF POLICY





§ 106.8(b)(2) – PUBLICATIONS

What

- Contact information
- Policy

Where

- Website
 - Handbook and/or catalogs
-

17

§ 106.8(c) - ADOPTION OF GRIEVANCE PROCEDURES

“grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by this part and a grievance process that complies with § 106.45 for formal complaints as defined in § 106.30.”

18

§ 106.8(d)

Applies only to sex
discrimination occurring
against a person in the
United States

SUBPART B: COVERAGE





§ 106.11 – APPLICATION

Every recipient and its education program or activity which receives Federal financial assistance

21

§ 106.12 – EDUCATIONAL INSTITUTIONS CONTROLLED BY RELIGIOUS ORGANIZATIONS

May submit in writing seeking assurance of the exemption

Must identify the provision and explain how it conflicts with a specific tenet

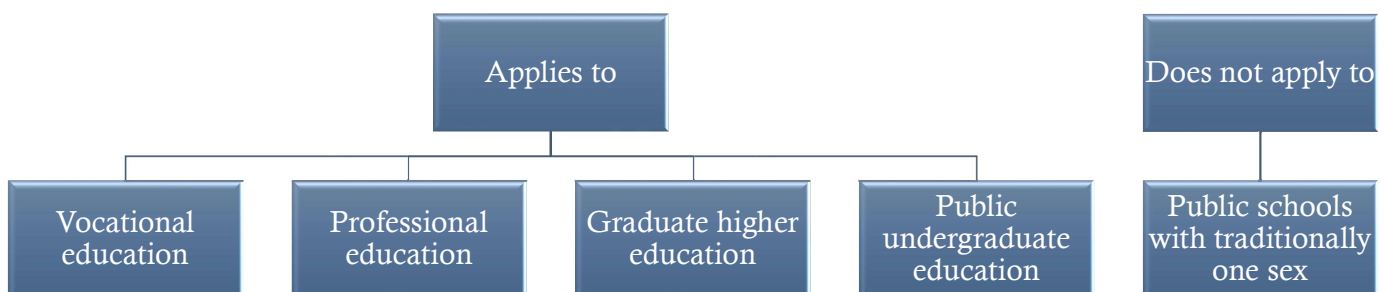
Not required to seek assurance

May raise its exemption at any time

§ § 106.13 & § 106.14 – EXEMPTIONS

- Military and merchant marine educational institutions
- Membership practices of certain organizations
 - Social fraternities and sororities
 - YMCA, YWCA, Girl Scouts, Boy Scouts, and Camp Fire Girls
 - Voluntary youth service organizations

§ 106.15 – ADMISSIONS (EXCEPTIONS AND COVERAGE)



SUBPART C: ADMISSION & RECRUITMENT



§ 106.21 & § 106.23 – ADMISSION & RECRUITMENT

No ranking
separately

No number or
proportion
admissions

Testing cannot have
disproportionately
adverse effect

No rule relating to
marital or parental
status

No discrimination or
exclusion based on
pregnancy

Pregnancy and
related conditions
treated the same as
any other temporary
disability

No pre-admission
inquiries as to marital
status

Cannot recruit
primarily from single-
sex high schools

SUBPART D: EDUCATION PROGRAMS OR ACTIVITIES



§ 106.30 - Definitions

**“
COMING
SOON
”**

We will come back to this.

§ 106.31 – EDUCATION PROGRAMS OR ACTIVITIES

No person on the basis of sex may be excluded from participation in,
be denied the benefits of, or be subjected to discrimination

§ 106.31(b) – SPECIFIC PROHIBITIONS



Aid, Benefit, or Service
Requirement or Condition
Provide or deny
Right or privilege
Advantage or opportunity



Academic, Extracurricular,
Research, Occupational Training
Eligibility for in-state tuition
Rules of behavior, sanctions



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§ 106.32 – HOUSING

A recipient shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing, except as provided in this section (including housing provided only to married students).

31



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§ 106.33 – COMPARABLE FACILITIES

A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.

32



§ 106.34 – ACCESS TO CLASSES & SCHOOLS

Cannot carry out any of its education programs or activities separately on the basis of sex, or refuse participation except...

33

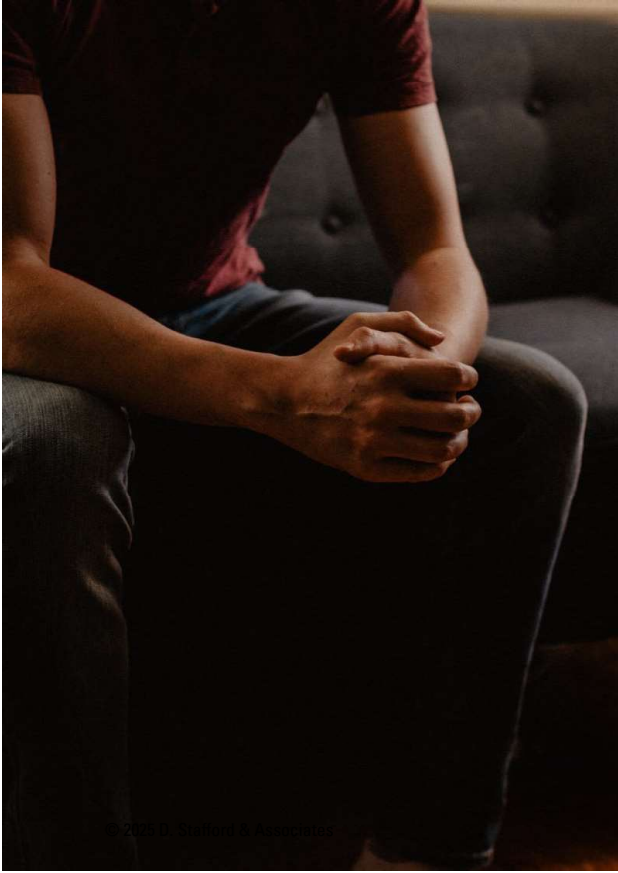
EXCEPTIONS

Contact sports

Ability grouping
in physical
education

Human sexuality
classes (K-12)

Choruses

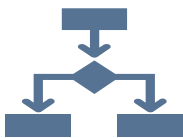


§ 106.36 – COUNSELING

- Cannot discriminate in the counseling or guidance of students or admission applicants
- Cannot use different appraisal or counseling materials

35

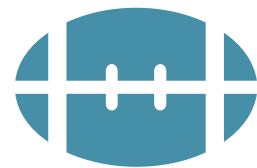
§ 106.37 – FINANCIAL ASSISTANCE



§ 106.37(a) – Can't discriminate in financial assistance



§ 106.37(b) Exceptions to rule that can't have single-sex scholarships



§ 106.37(c) – Athletic scholarships allocated proportionally based on participation numbers

§ 106.378 – EMPLOYMENT ASSISTANCE TO STUDENTS

§ 106.37 – HEALTH & INSURANCE

- When providing assistance to outside employers, the institution must ensure the outside employer does not discriminate on the basis of sex.
- An institution cannot provide services to any agency, organization, or person that discriminates on the basis of sex in its employment practices.
- Cannot discriminate on the basis of sex in providing a medical, hospital, accident, or life insurance benefit, service, policy, or plan to any of its students.
 - An institution must provide gynecological care if it provides full coverage health services.

§ 106.40 – MARITAL OR PARENTAL STATUS

No rule concerning a student's actual parental, family, or marital status which treats students differently on the basis of sex

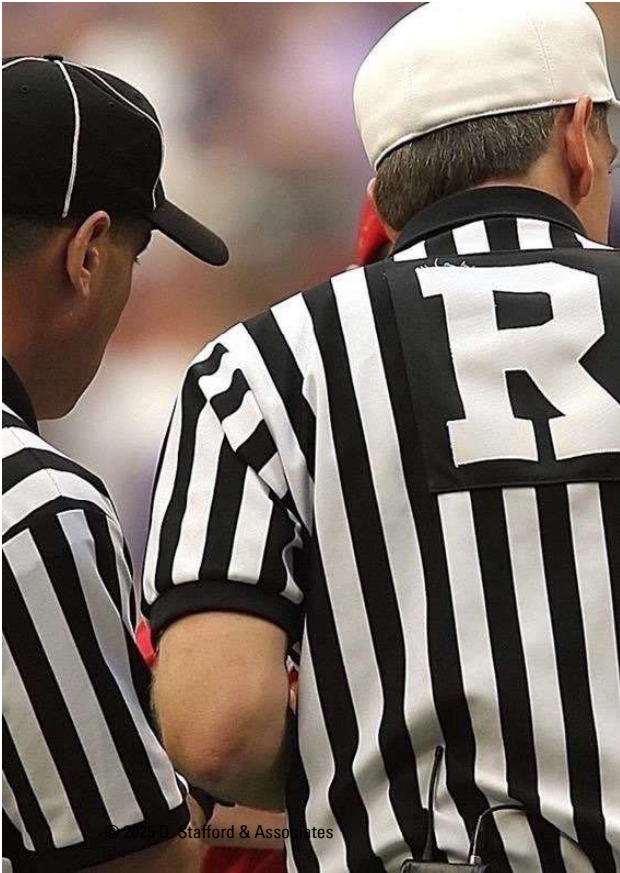
No discrimination against students on the basis of pregnancy or related conditions

May require documentation as long as required for all students with similar physical or emotional conditions

May operate program or activity separately for pregnant students BUT it must be completely voluntary

Treat pregnancy and related conditions in the same manner as other temporary disabilities

If there is not a leave policy, must treat pregnancy as justification for a leave of absence



§ 106.41(a) – ATHLETICS

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club, or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.

§ 106.41 – ATHLETICS



Applies to intercollegiate, club,
& intramural



Separate teams are
permitted



§ 106.41(c) – EQUAL OPPORTUNITY

1. Accommodate the interests
2. Equipment and supplies
3. Scheduling (games and practice)
4. Travel and per diem
5. Coaching and tutoring
6. Assignment and compensation for above
7. Locker room and other facilities
8. Medical and training services
9. Housing and dining services
10. Publicity

§ 106.44 -
Response to
Sexual
Harassment

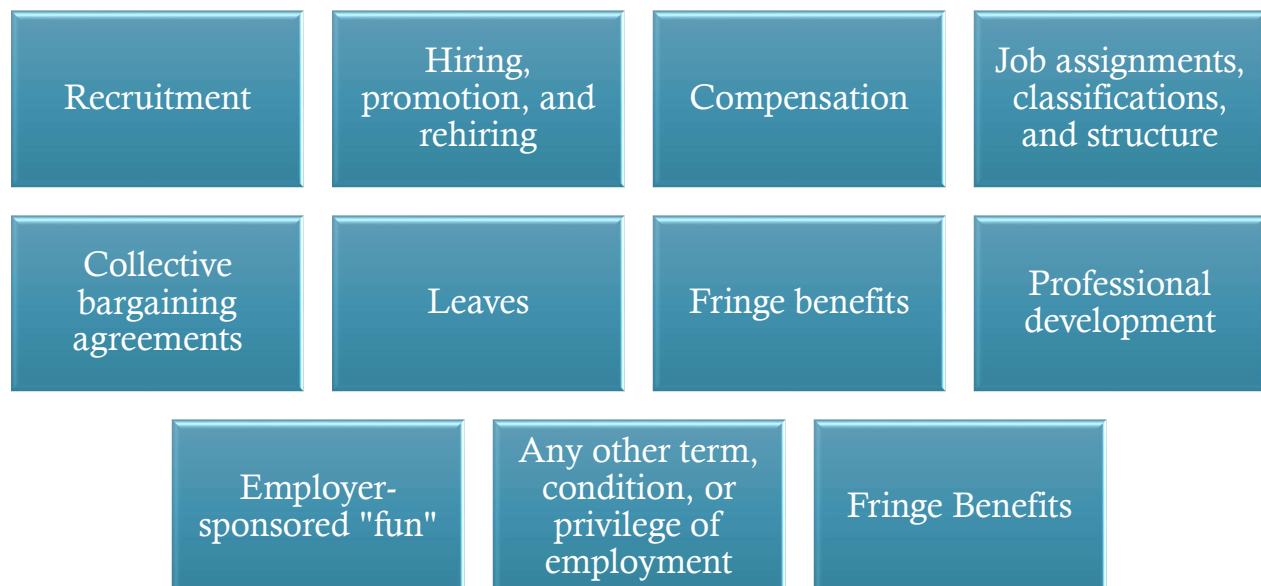
Coming
Soon

We will come back to this.

SUBPART E: EMPLOYMENT



§ § 106.51 - 106.56 – EMPLOYMENT



§ 106.57 – MARITAL OR PARENTAL STATUS

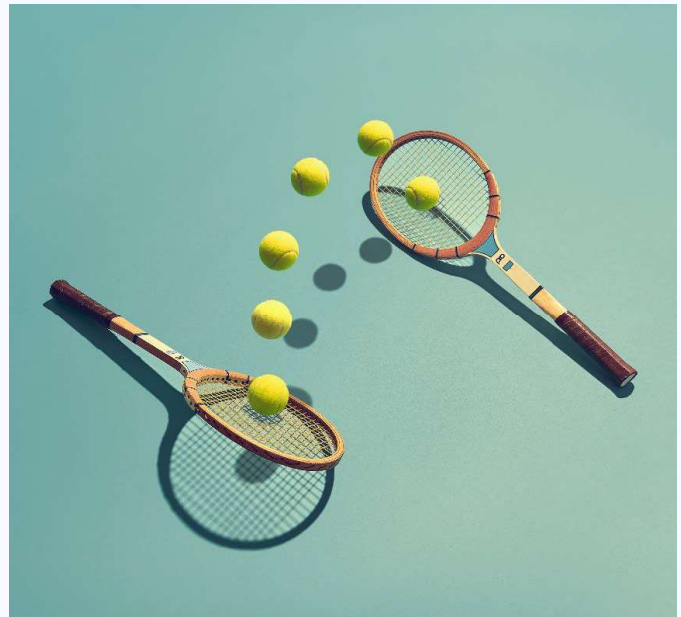
Cannot have any policy or take any employment action concerning the potential marital, parental, or family status

Cannot exclude from employment

Must treat pregnancy as a temporary disability

Justification for a leave of absence

SUBPART F: RETALIATION



§ 106.71 RETALIATION

No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by title IX or this part, or 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 under this part. . .

§ 106.71 RETALIATION

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by title IX or this part, constitutes retaliation.

§ 106.71 - RETALIATION

Must keep confidential the identity of parties and witnesses

May use sex discrimination grievance procedures

Exercise of First Amendment does not constitute retaliation

Discipline for “materially false statement in bad faith” is not retaliation

Determination of responsibility alone does not mean a person provided a false statement

“Title IX
Regulations
Major Elements”



TITLE IX GRIEVANCE PROCEDURES



BEFORE WE BEGIN...

Sex Discrimination

§ 106.8(c)

- “grievance procedures that provide for the prompt and equitable resolution of student and employee complaints.”
- Any person may report sex discrimination to the Title IX Coordinator
- Must publish grievance procedures to address sex discrimination
- No requirement other than “prompt” and “equitable”

Sexual Harassment

§ 106.44 and § 106.45

Other Behaviors

Conduct codes

MORE REMINDERS

- Applies to K-12
- Incorporates the Clery Act
- Lots of guidance: 500+ pages of preamble plus more recent Q&As
- (This section is not in order of regulations)

53

PEOPLE DEFINITIONS



§ 106.30(a) - DEFINITIONS

Complainant

- An individual who is alleged to be the victim of conduct that could constitute sexual harassment

Respondent

- An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment

TITLE IX PERSONNEL

Title IX
Coordinator

Investigator

Decision-
maker

Informal
Resolution
Facilitator

DUTIES OF THE TITLE IX COORDINATOR

- § 106.8(a) Must be referred to as the “Title IX Coordinator”
- § 106.8(a) Coordinate efforts to comply
- § 106.44(a) Receive reports and promptly contact the complainant
- § 106.30 Sign formal complaints
- § 106.30 Responsible for coordinating the effective implementation of supportive measures

§ 106.45(b)(1)(iii) - TRAINING

All Title IX Personnel

- Definition of sexual harassment
- Scope of the recipient’s education program or activity
- How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias

§ 106.45(b)(1)(iii) - TRAINING

Decision-makers

- Technology to be used at a live hearing
- Issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant

Investigators

- Issues of relevance to create an investigative report that fairly summarizes relevant evidence

ADVISOR OF CHOICE



May be but is not required to be an attorney



May accompany to any meeting or proceeding



Institution may restrict participation (except at hearing)



Receives the draft and final reports



Conducts cross-examination at hearing

SEXUAL HARASSMENT DEFINITIONS



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61

§ 106.30(a) - SEXUAL HARASSMENT

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;
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;
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).

PRONG 1: QUID PRO QUO

*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*

(§ 106.30(a))



QUID PRO QUO (FROM THE PREAMBLE)



“This for that” harassment



Must be an employee respondent (not volunteer, visitor, student)



“Unwelcome” is subjective element (submission vs. consent)



Does not need to meet pervasiveness element



Limited need to show impact - single instance could jeopardize access

PRONG 2: HOSTILE ENVIRONMENT+ (THE DAVIS STANDARD)



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

(§ 106.30(a))



§ 106.30(a) - HOSTILE ENVIRONMENT+

Referred to in preamble as “The Davis Standard”

Not the same Title VII “hostile environment” or 2001 Guidance

First Amendment protections

Must show the “effectively denies” to reach the bar

PRONG 3: THE VAWA OFFENSES



“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)

(§ 106.30(a))



THE VAWA OFFENSES

Severity, pervasiveness, and offensiveness are not elements

Denial of equal access is not an element - it is assumed

Includes multiple offenses

§ 106.30(a) - THE VAWA OFFENSES



Sexual Assault

Rape
Fondling
Incest
Statutory Rape



Intimate Partner Violence

Dating Violence
Domestic Violence



Stalking



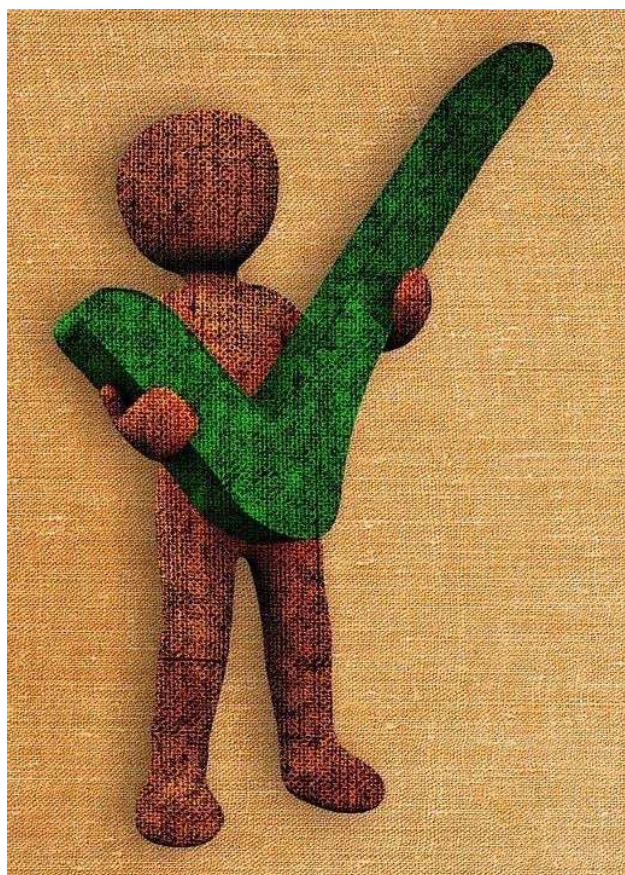
SEXUAL ASSAULT

*“Sexual assault” as defined in 20
U.S.C. 1092(f)(6)(A)(v)*

CLERY DEFINITIONS OF SEXUAL ASSAULT

- **Rape** - The 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 victim. This offense includes the rape of both males and females.
- **Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental incapacity.
- **Incest** - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape** - Sexual intercourse with a person who is under the statutory age of consent.

34 CFR 668 Appendix A



§ 106.30(a) - CONSENT

The Assistant Secretary will not require recipients to adopt a particular definition of consent with respect to sexual assault.

SEXUAL ASSAULT DEFINITION CONSIDERATIONS

Includes attempts

Can broaden based
on “consent”
definition

Can specify which
body parts are
“private” and
whether touching is
over or under clothes

“Severity” of rape vs.
fondling

Naming the offense
in the policy

INCEST AND STATUTORY RAPE CONSIDERATIONS

State law
definitions

Complainant
as a non-
student

Conduct codes



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INTIMATE PARTNER VIOLENCE

“dating violence” as defined in
34 U.S.C. 12291(a)(10),

“domestic violence” as defined in
34 U.S.C. 12291(a)(8)

75

DATING VIOLENCE - 34 U.S.C. 12291(A)(10)

The term “dating violence” means violence committed by a person—
(A) who is or has been in a social relationship of a romantic or
intimate nature with the victim; and (B) where the existence of such a
relationship shall be determined based on a consideration of the
following factors: (i) The length of the relationship. (ii) The type of
relationship. (iii) The frequency of interaction between the persons
involved in the relationship.

DATING VIOLENCE - CLERY REGULATION ADDITIONS

(ii) For the purposes of this definition -

(A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

(B) Dating violence does not include acts covered under the definition of domestic violence.

DOMESTIC VIOLENCE - 34 U.S.C. 12291(A)(8)

The term “domestic violence” includes felony or misdemeanor crimes of violence committed by

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

INTIMATE PARTNER VIOLENCE CONSIDERATIONS

Consistency in
assigning
violations

Severity,
pervasiveness,
and offensiveness
not elements

Denial of equal
access is not an
element



STALKING

“stalking” as defined in 34 U.S.C.
12291(a)(30)

STALKING - 34 U.S.C. 12291(A)(30)

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress.

STALKING - CLERY REGULATION ADDITIONS

(ii) For the purposes of this definition -

(A) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

(B) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

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

TITLE IX JURISDICTION - PERSON



At the time of filing a formal complaint...the complainant must be participating in or attempting to participate in the education program or activity.” (§106.30(a))



The recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs.

“ATTEMPTING TO PARTICIPATE”

- Has withdrawn due to alleged harassment and has desire to re-enroll
- Has graduated but intends to apply to new program or participate in alumni programs
- Is on a leave of absence and still enrolled or intends to re-apply
- Has applied for admission

NON-STUDENT OR NON-EMPLOYEE COMPLAINANTS (Q&A)

There are circumstances when a Title IX Coordinator may need to sign a formal complaint that obligates the school to initiate an investigation regardless of the complainant's relationship with the school or interest in participating in the Title IX grievance process.

- Examples:
 - Perpetrator in a position of authority
 - Potential for harm to other students

TITLE IX JURISDICTION – CONTEXT OF EDUCATIONAL PROGRAMS OR ACTIVITIES

Locations, events or circumstances in which the institution has control over the respondent AND context

Or

Any building owned or controlled by a student organization that is officially recognized

And

Occurred in the United States

OFF-CAMPUS JURISDICTION



Hotel
On field trip



Home
While tutoring



Bus
For athletic travel



Virtual
During class

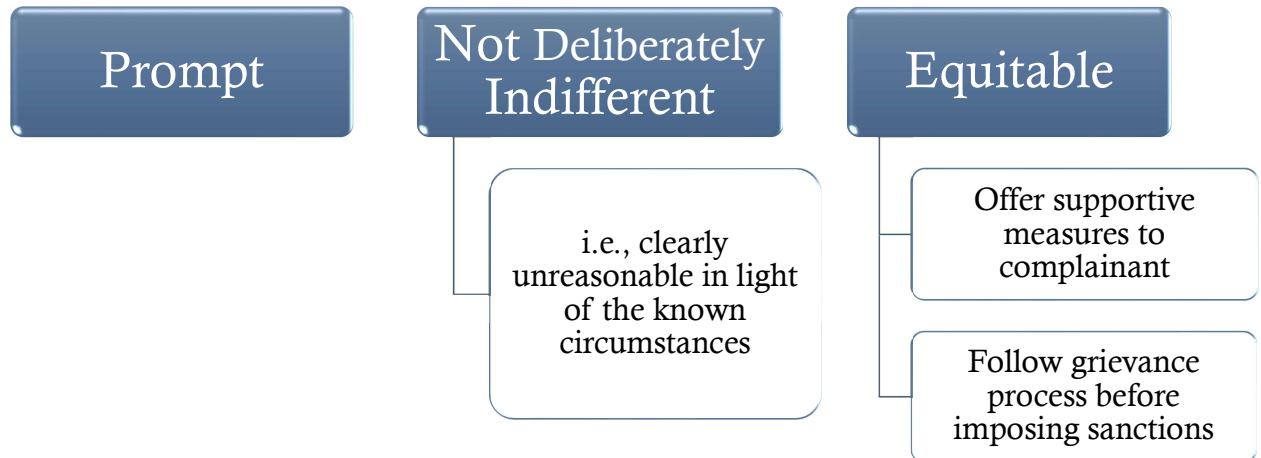


Business
At internship

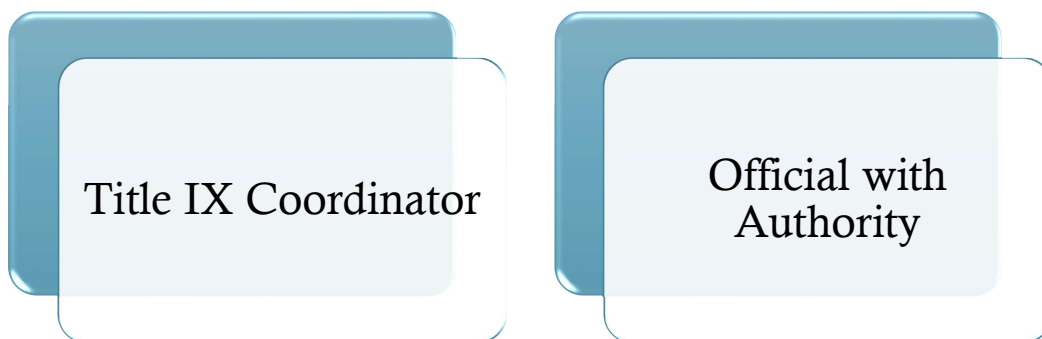
RECEIVING REPORTS



§ 106.44(a) - GENERAL RESPONSE TO SEXUAL HARASSMENT



§ 106.30(a) - ACTUAL KNOWLEDGE



NO ACTUAL KNOWLEDGE § 106.30(a)

Not constructive
notice

Not vicarious
liability

Not when
respondent only
has notice

Not just ability,
obligation, or
training to report

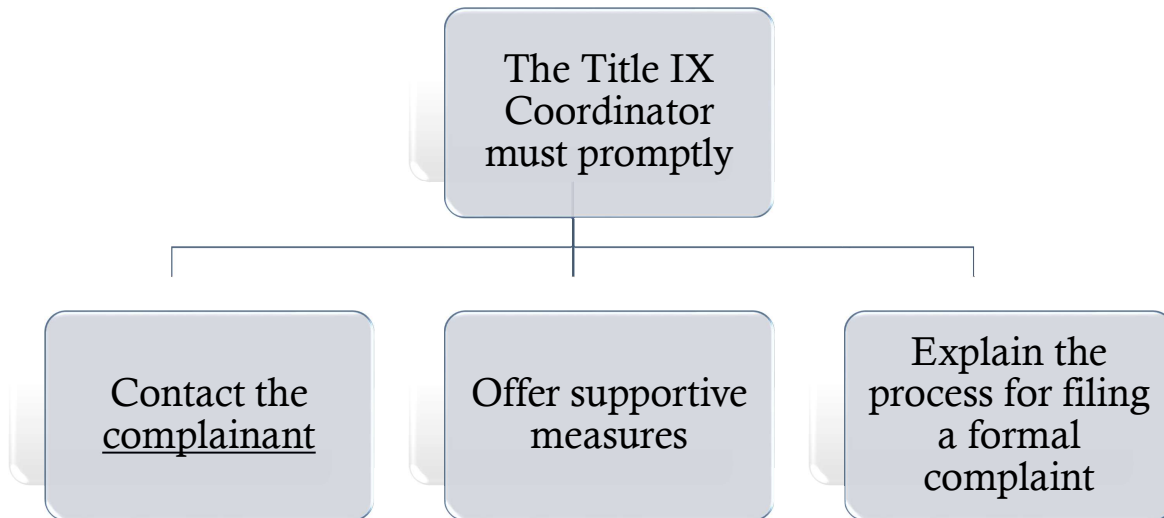


WHO MAY REPORT (FROM THE Q&A)

“A school may receive actual knowledge of sexual harassment from any person. There is no requirement that the person be participating in or attempting to participate in a school program or activity to report sexual harassment.”

- Complainant
- Friend
- Parent
- Witness

RESPONSE TO A REPORT



§ 106.30(a) - SUPPORTIVE MEASURES

Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment.

SUPPORTIVE MEASURES

Non-disciplinary and non-punitive	Individualized	Offered as appropriate	Reasonably available
Without fee or charge	Complainant or the respondent	Before or after the filing of a formal complaint or where no formal complaint has been filed	Must keep confidential

SUPPORTIVE MEASURE EXAMPLES § 106.30(a)

Counseling

Extensions of deadlines or other course-related adjustments

Modifications of work or class schedules

Campus escort services

Mutual restrictions on contact between the parties

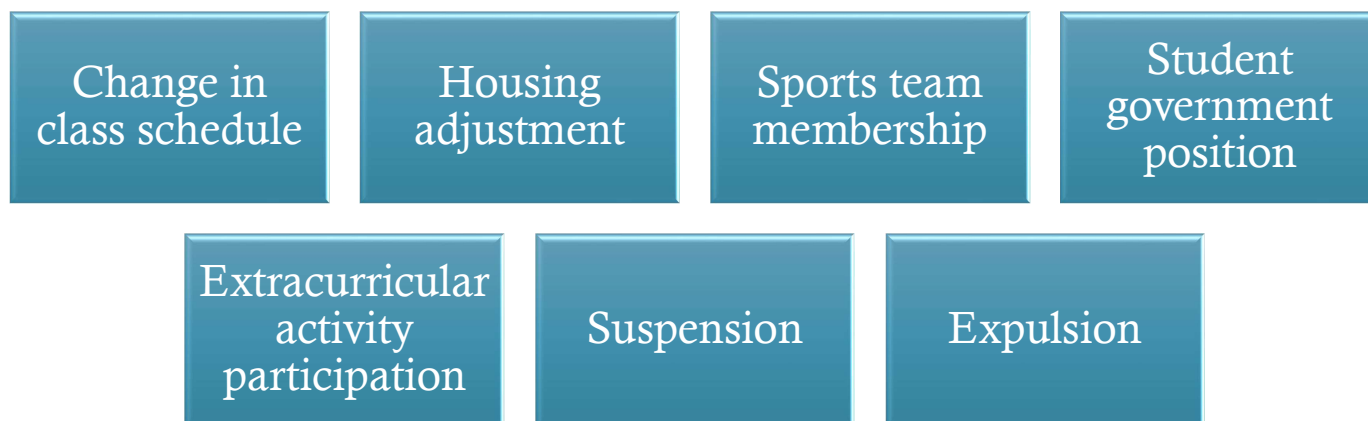
Changes in work or housing locations

Leaves of absence

Increased security and monitoring of certain areas of the campus

Other similar measures

WHAT COULD “UNREASONABLY BURDEN”?



LEAVE OPTIONS



Emergency removal



Administrative leave

§ 106.44(c) - EMERGENCY REMOVAL



Immediate
threat to
physical health
or safety



Must arise
from the
allegations



Provide notice
and
opportunity to
challenge



SUPPORTIVE MEASURES FROM GUIDANCE

- Fact-specific determinations of supportive measures
- If considered as a potential sanction, it is a burden
- Emergency removal can include removal from all or part of the educational program
- No contact orders do not have to be mutual
- Student workers straddle both removal options

§ 106.45(a) - RECIPIENT'S TREATMENT OF PARTIES

A recipient's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX.

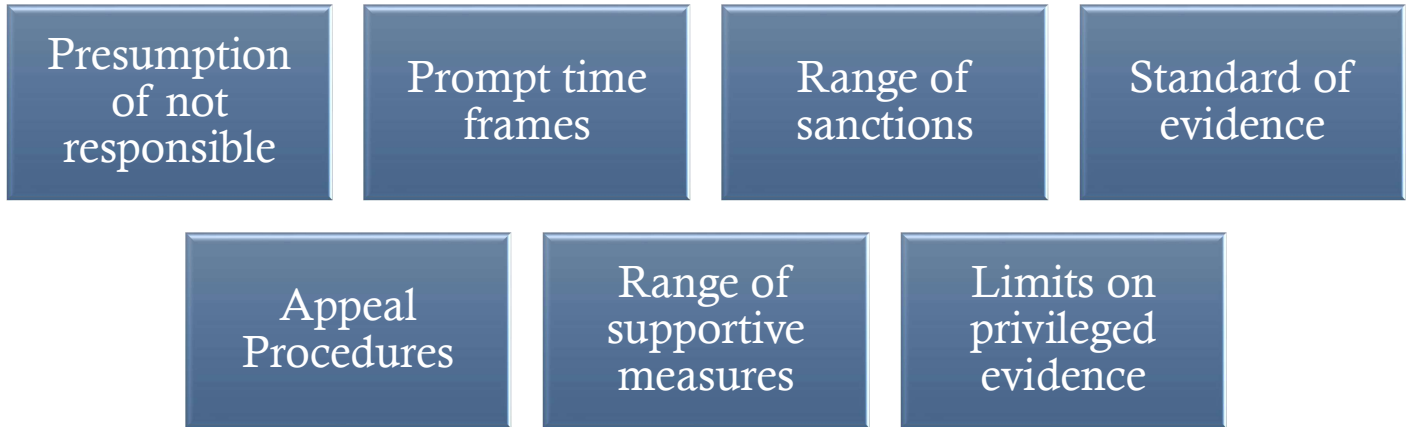
§106.45 (b)(1)(i-iii) - GRIEVANCE PROCESS

Equitable

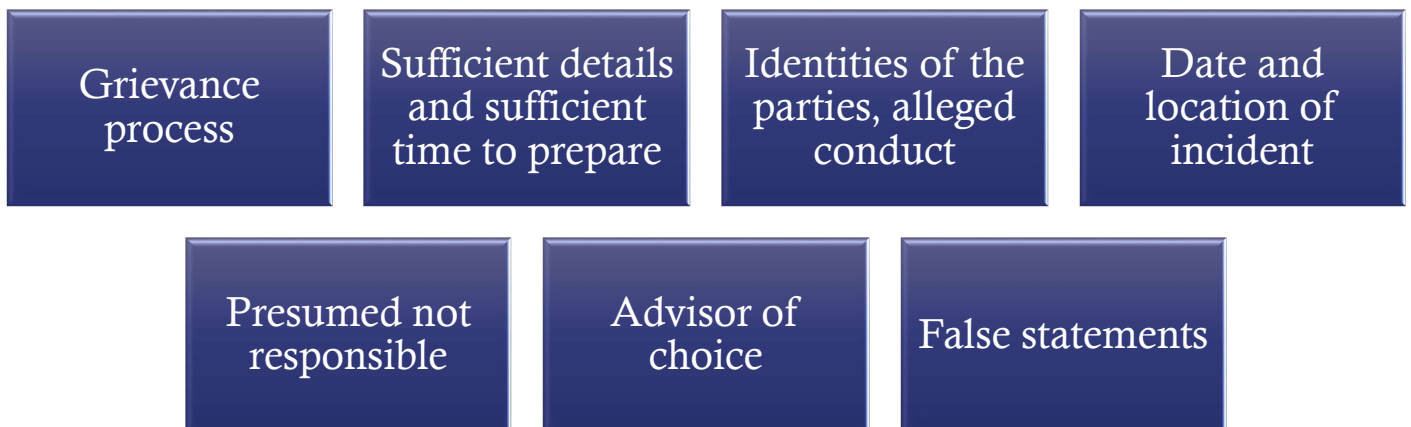
Objective Evaluation
(inculpatory and
exculpatory)

No conflict of
interest or bias

§ 106.45 (b)(1)(iv-x) - GRIEVANCE PROCESS



§ 106.45(b)(2) - NOTICE OF ALLEGATIONS



§ 106.45(b)(2)(ii) - Additional Allegations

An amended notice must be sent to the parties when additional allegations will be investigated that were not in the original notice letter.

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107



§ 106.45(b)(3) - DISMISSAL OF FORMAL COMPLAINT

Must Dismiss

- If the conduct alleged in the formal complaint would not constitute sexual harassment
- Did not occur in the educational program or activity
- Did not occur in the United States

May Dismiss

- Complainant withdraws the formal complaint
- Respondent is no longer enrolled/employed
- Insufficient evidence

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108

§ 106.45(b)(4) - CONSOLIDATION OF COMPLAINTS



Multiple
respondents

More than one
complainant
against one or
more respondent

One party
against other
party

§ 106.45(b)(9) - INFORMAL RESOLUTION



Notice



Voluntary



Not allowed for
Employee/student

§ 106.45(b)(5) - INVESTIGATION OF A FORMAL COMPLAINT

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111



§ 106.45(b)(5)(i-iii) - INVESTIGATION

Burden of proof
is on the
institution

Equal opportunity
to present
witnesses and
facts

No restriction on
discussing
allegations

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112

§ 106.45(b)(5)(iv-vii) - INVESTIGATION

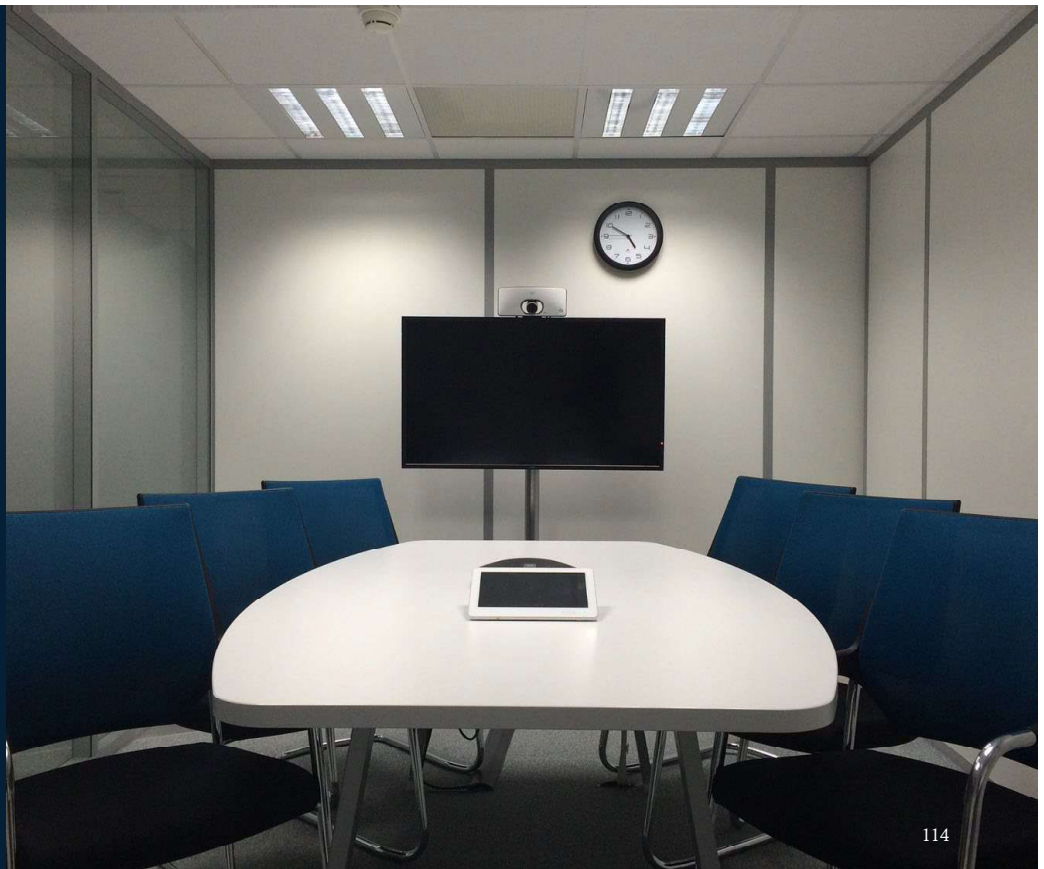
Advisor of
choice

Notice of
meetings

Right to
inspect
evidence and
respond

Receive
investigative
report and
may respond

§ 106.45(b)(6) - HEARINGS



§ 106.45(b)(6)(i) - HEARINGS



Live hearing



Cross-examination

§ 106.45(b)(6)(i) - CROSS-EXAMINATION BY ADVISOR OF CHOICE

- Directly, orally, and in real time by the party's advisor of choice
- If a party does not have an advisor, the recipient must provide without fee or charge to that party, an advisor of the recipient's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

§ 106.45(b)(6)(i) - RELEVANCY DETERMINATION

Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

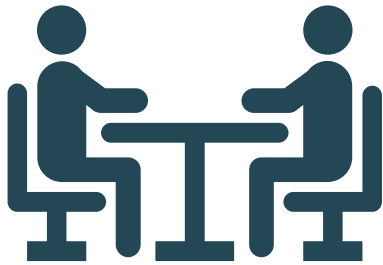
117

§ 106.45(b)(6)(i) - RELEVANCY - SEXUAL PREDISPOSITION AND HISTORY

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless

- offered to prove that someone other than the respondent committed the conduct, or
- if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

§ 106.45(b)(6)(i) - “PHYSICALLY PRESENT”



§ 106.45(b)(6)(i) - HEARING RECORDING



Audio



Video



Transcript

§ 106.45 (b)(7)(i) - DETERMINATION REGARDING RESPONSIBILITY



Made by the decision-maker



Decision-maker can have no other role



Applying the standard of evidence

§ 106.45 (b)(7)(ii) - DETERMINATION REGARDING RESPONSIBILITY

Allegations

Procedural steps

Findings of fact

Conclusion/application

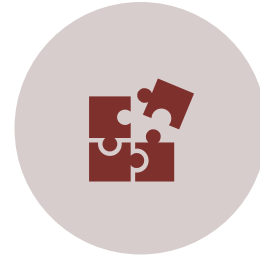
Rationale

Appeal procedures

SANCTIONS AND REMEDIES



Sanctions:
Disciplinary/punitive



Remedies:
Restore or preserve access

§ 106.45(b)(8) -
APPEALS



§ 106.45(b)(8) - APPEALS

- Mandatory grounds
 - Procedural irregularity that affected the outcome
 - New evidence that was not reasonably available when the determination of responsibility was made that could affect the outcome
 - The Title IX Coordinator, investigator, or decision-maker had a general or specific conflict of interest or bias against the complainant or respondent that affected the outcome
- Additional grounds are permitted

§ 106.45(b)(8)(iii) - APPEALS

Notification to both parties of an appeal submission

Appeal officer cannot be the hearing decision-maker

Appeal officer must be trained and be without bias/conflict

Give both parties an opportunity to respond

Notification of decision to both parties

§ 106.45(b)(10) - RECORDKEEPING

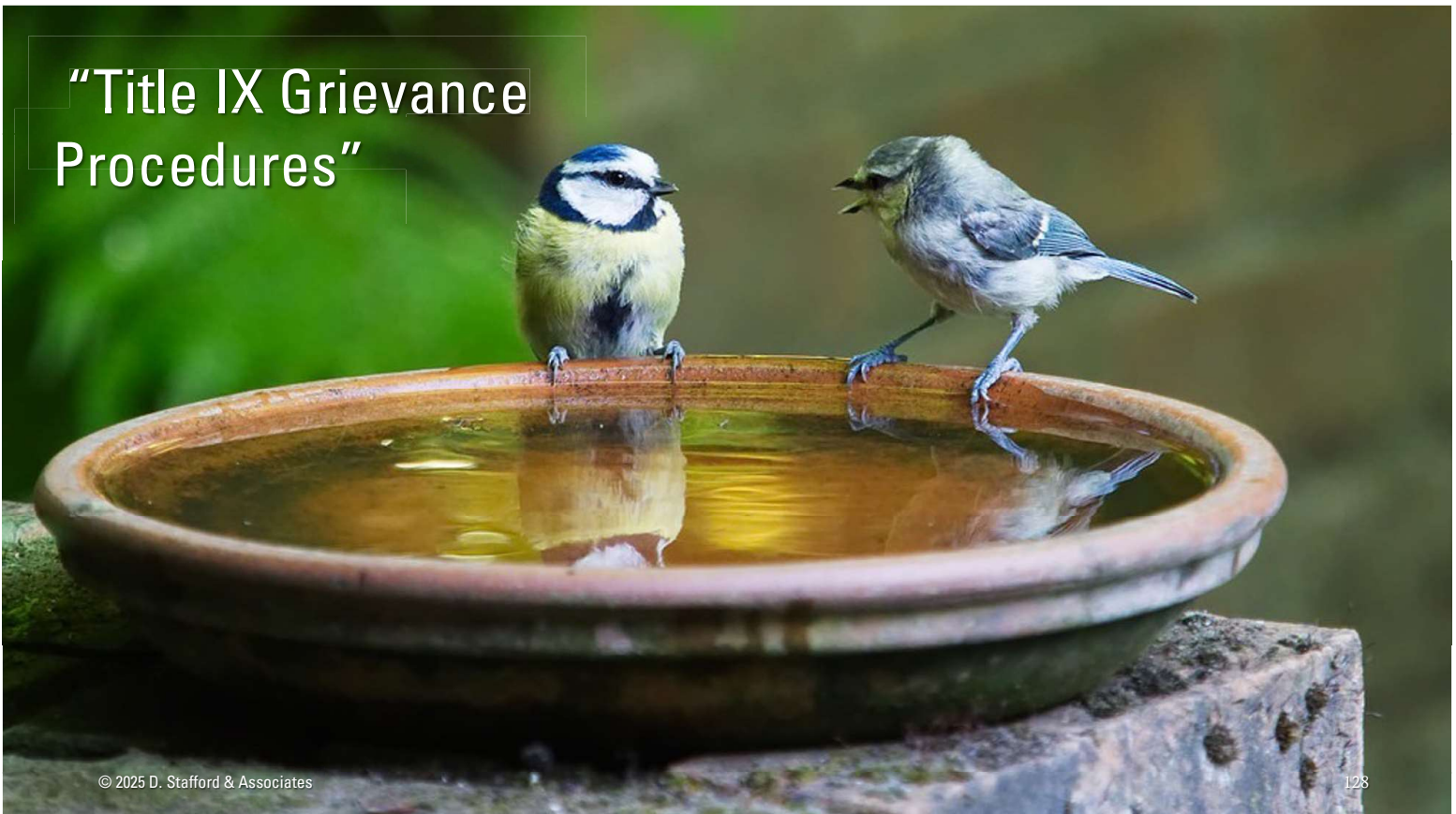


Case Materials



Training materials

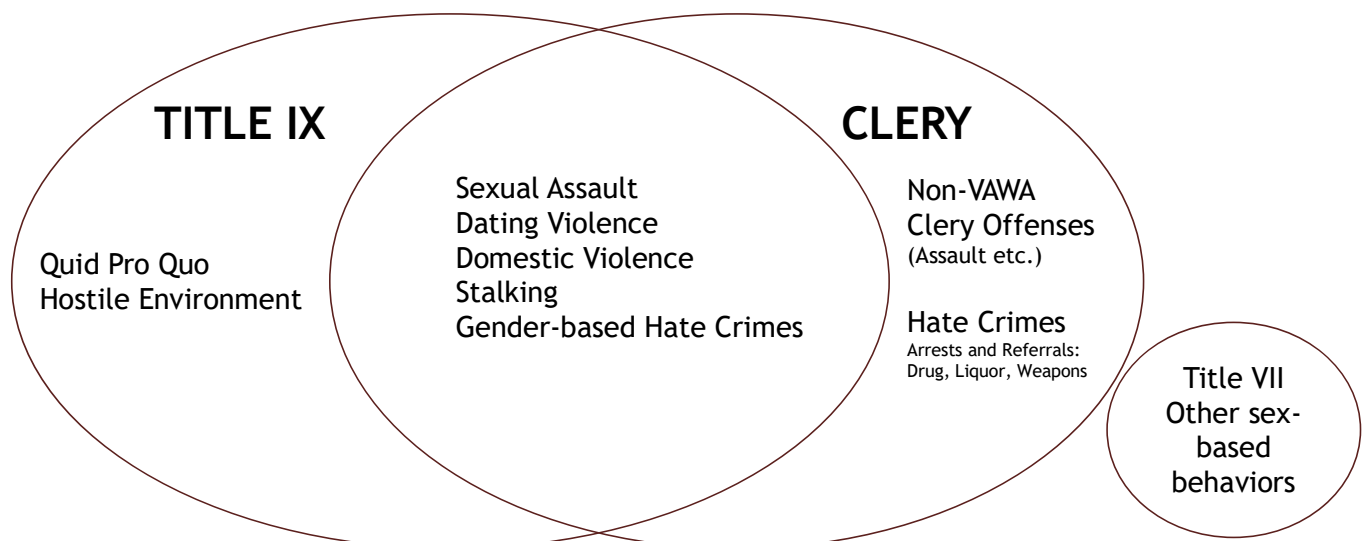
“Title IX Grievance
Procedures”



VAWA PROCEDURAL REQUIREMENTS



OVERLAPPING CONDUCT ALLEGATIONS



34 C.F.R. § 668.46(a) - VAWA OFFENSES



Rape



Fondling



Incest



Statutory
Rape



Dating
Violence



Domestic
Violence



Stalking

§ 668.46 - RESPONSE REQUIREMENTS FOR VAWA OFFENSES

Procedures victims of VAWA Offenses should follow



Procedures an institution will follow when offense reported



and make sure it is all in WRITING.

§ 668.46(b)(11)vii) - WRITTEN EXPLANATION OF STUDENT OR EMPLOYEE'S RIGHTS

When a student or employee reports to the institution that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options, as described in paragraphs (b)(11)(ii) through (vi) of this section. . .

§ 668.46(b)(11)(ii) - WRITTEN EXPLANATION OF RIGHTS AND OPTIONS

1. **The importance of preserving evidence** that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order
 - Not required but recommended: Where to obtain forensic exams, contact info, does not require police report and can have exam now, decide later
2. **How and to whom the alleged offense should be reported**
 - List any person or organization that can assist the victim
 - Recommended: Also include community organizations

§ 668.46(b)(11)(ii) - WRITTEN EXPLANATION OF RIGHTS AND OPTIONS

3. Notification of the victim's option to

- Notify proper law enforcement authorities, including on-campus and local police
- Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses
- Decline to notify such authorities

4. The rights of victims and the institution's responsibilities for

- Orders of protection
- "No contact" orders
- Restraining orders
- Similar lawful orders issued by a criminal, civil, tribal, or institutional

§ 668.46(b)(11)(ii) - WRITTEN EXPLANATION OF RIGHTS AND OPTIONS

5. To students AND employees about existing

- Counseling, health, mental health services
- Victim Advocacy
- Legal Assistance
- Visa and Immigration Assistance
- Student Financial Aid
- Other services available for victims

6. Options for, available assistance in, and how to request changes to (if requested and reasonably available)

- Academic, living, transportation, working

§ 668.46(b)(11)(ii) - WRITTEN EXPLANATION OF RIGHTS AND OPTIONS

7. Confidentiality

- Publicly available recordkeeping has no personally identifying information about the victim (not required for the respondent but best practice in most cases)
- Accommodations and protective measures are confidential (to the extent they can be without impairing the ability to provide them)

8. Disciplinary Procedures

- An explanation of the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as required

RESPONSE TO “ACTUAL KNOWLEDGE”

Title IX

- Contact the complainant
- Offer and/or implement supportive measures
- Explain the process for filing a formal complaint

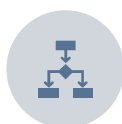
Clery Act

- Written explanation of victim’s rights and options
- Assess for Timely Warning Notice and Emergency Notification

CLERY ACT REQUIREMENTS FOR DISCIPLINARY PROCEEDINGS



Anticipated timelines (“reasonably prompt”)



Decision-making process



How to and options for filing a school complaint (with contact info)



How school determines which process to use



Who makes decisions



Include employee procedures



Use procedures regardless of Clery geography

§ 668.46(k)(2)(iii-iv)- ADVISORS

- Provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice
- Not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties

INFORMAL RESOLUTIONS

Title IX

- Can offer, but may not require
- Not allowed for “employee on student” sexual harassment
- Party may withdraw up to a point

Clery Act

- Written information about procedures the institution will follow for VAWA offenses (does not differentiate between formal vs informal)

FORMAL COMPLAINT RIGHTS

Title IX

- Treat equitably with goal to restore/preserve access to education; due process for respondent
- Reasonably prompt time-frames

Clery Act

- Prompt, fair and impartial investigation and resolution
 - Anticipated timeframes
 - List all possible sanctions for each offense (employees and students)
 - Consistent with policy and transparent
 - Not required to list all protective measures

WRITTEN DETERMINATION

Title IX

- Identification of the allegations
- Procedural steps taken from receipt through determination
- Findings of fact supporting the determination
- Conclusions regarding the application of code of conduct to the facts
- Result (responsibility, rationale, sanctions, remedies for each allegation)
- Appeals procedures
- When results become final (post appeal)

Clery Act

- Result (include any sanctions and rationale for results and sanction)
- Appeals procedures
- Any change to the result
- When such results become final

§ 668.46(k)(2)(ii) - BIAS FREE AND TRAINING FOR “OFFICIALS”

Annual training on the issues related to dating violence, domestic violence, sexual assault and stalking and on how to conduct an investigation and hearing process that protects the safety of the victims and promotes accountability

APPEALS

Title IX

- Must offer both parties an appeal
- Based on specific grounds

Clery Act

- Not required (but must provide notice if allowed along with appeal procedures)
- Simultaneous written decision describing result, sanction, any changes to the result, when it becomes final

“Clery Act (VAWA) Procedural Requirements”



ADDRESSING "NON-TITLE IX" CASES



"Title IX is not the exclusive remedy for sexual misconduct or traumatic events that affect students. 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." (85 Fed. Reg. at 30,199)

EXAMPLE BEHAVIORS OUTSIDE THE TITLE IX DEFINITIONS

Administering a date
rape drug

Touching non-private
body part with
perpetrator's private
body part

LOCATIONS OUTSIDE THE DEFINITION

- Outside an education program or activity
- Outside the U.S.



"Addressing Non-Title IX"



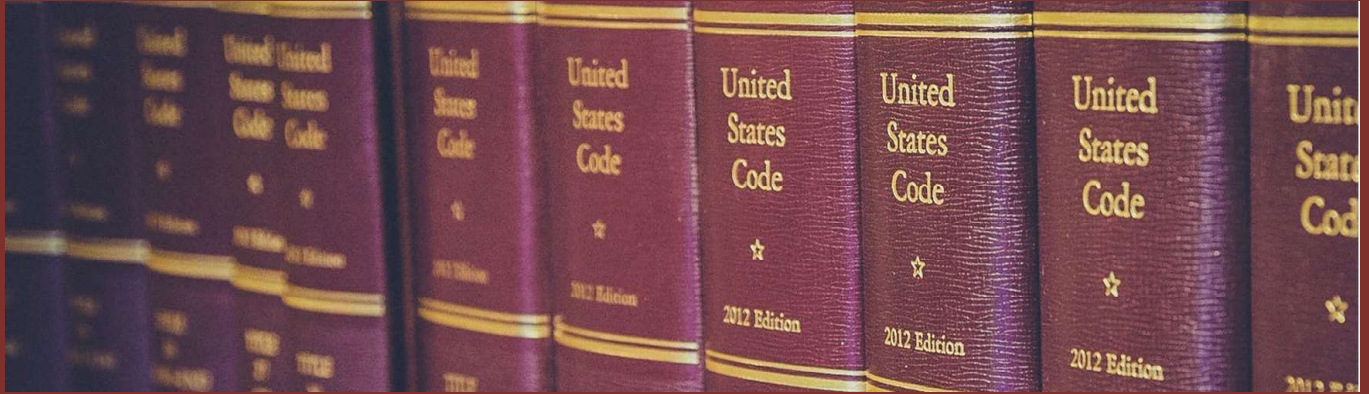
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151



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152

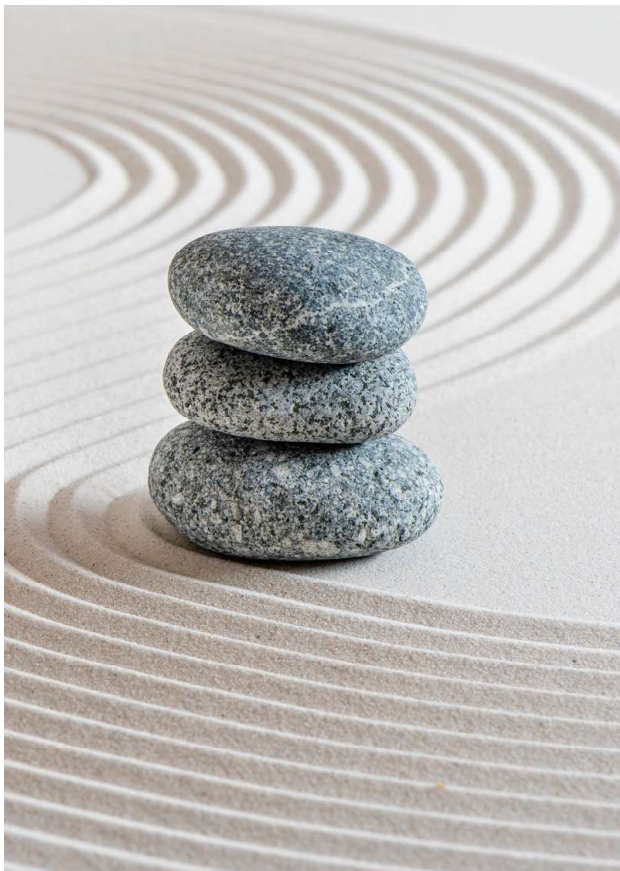


THANK YOU





RESPONSE



AGENDA

- Title IX Grievance Procedures
- Sex-Based Harassment
- Receiving a Report
- Intake Meetings
- The Complaint
- Emergency Removal & Leave
- Informal Resolution
- Consolidation
- Dismissals
- Notice
- The Investigation
- Evidence Review & The Final Report
- Evidence Evaluation
- Decision-Making
- The Appeal

TITLE IX GRIEVANCE PROCEDURES



BEFORE WE BEGIN...

Sex Discrimination

§ 106.8(c)

- “grievance procedures that provide for the prompt and equitable resolution of student and employee complaints.”
- Any person may report sex discrimination to the Title IX Coordinator
- Must publish grievance procedures to address sex discrimination
- No requirement other than “prompt” and “equitable”

Sexual Harassment

§ 106.44 and § 106.45

Other Behaviors

Conduct codes

POLICY ACTIVITY

What is the difference between a policy and a procedure at your institution?

Do you respond to non-Title IX conduct under your Title IX Policy and Procedure?

What policy/procedure do you use to respond to the following? Discuss the major differences in your required response once you have evaluated the following...

- Non-Title IX sexual harassment where the complainant is a student and the respondent is a student?
- Non-Title IX sexual harassment where the complainant is a faculty member and the respondent is a student?
- Non-Title IX sexual harassment where the complainant is a student and the respondent is a faculty member?
- Non-Title IX sexual harassment where the complainant is a staff member and the respondent is a staff member?
- What is the respondent is your President? Member of your board?

RECEIVING A REPORT

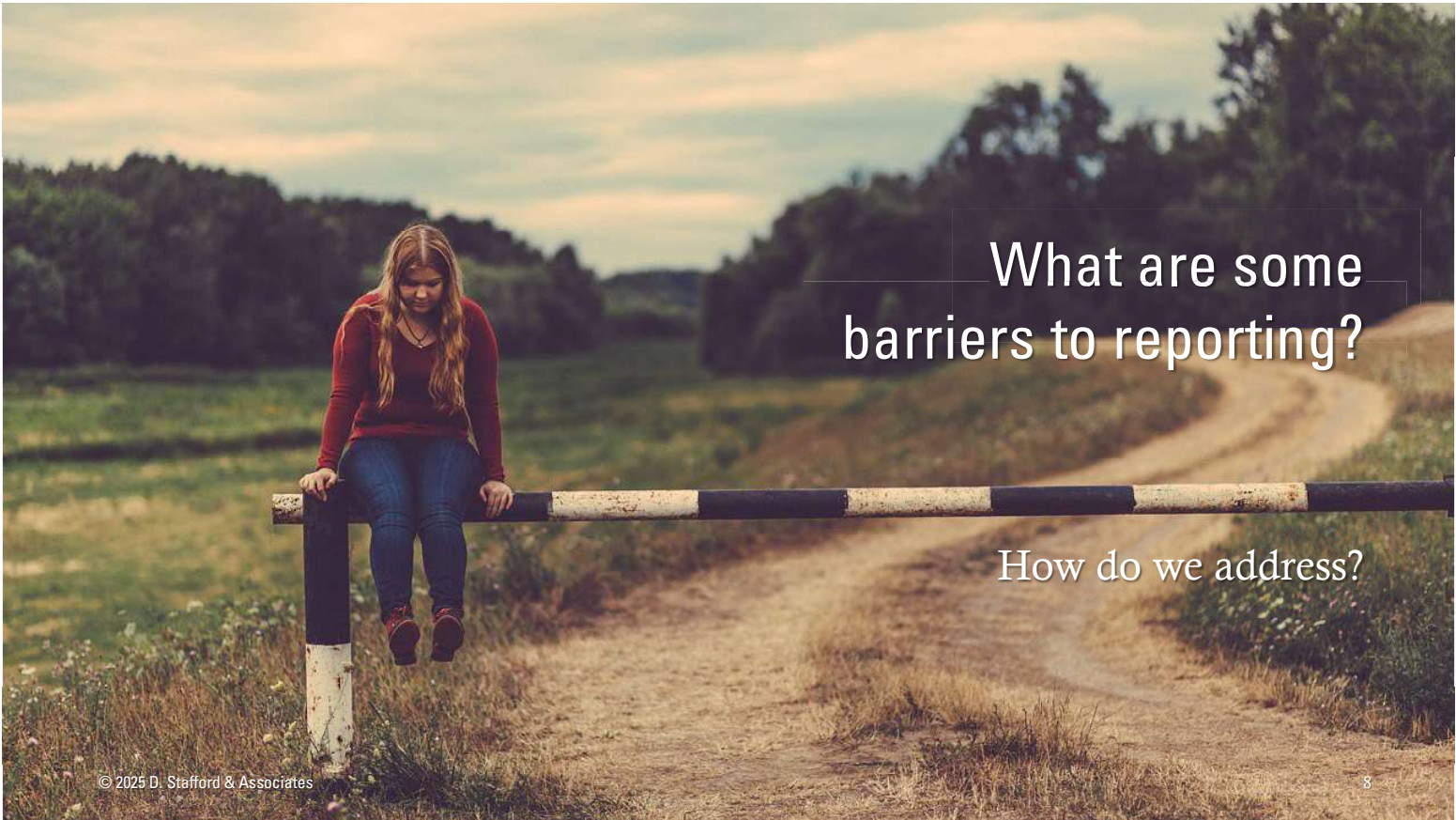




Report vs. Complaint

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7



What are some
barriers to reporting?

How do we address?

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8

CASE STUDY - THE REPORT

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9

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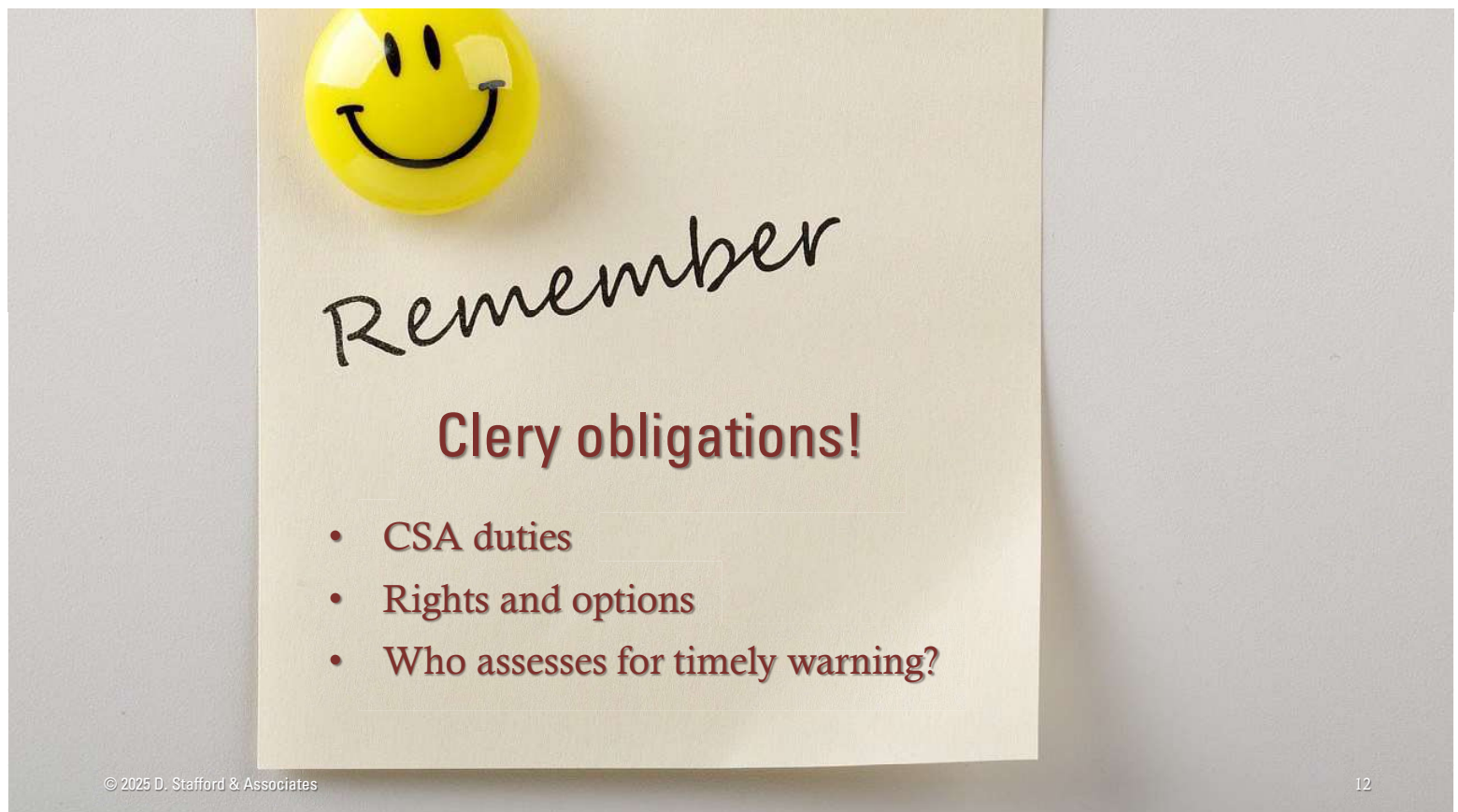
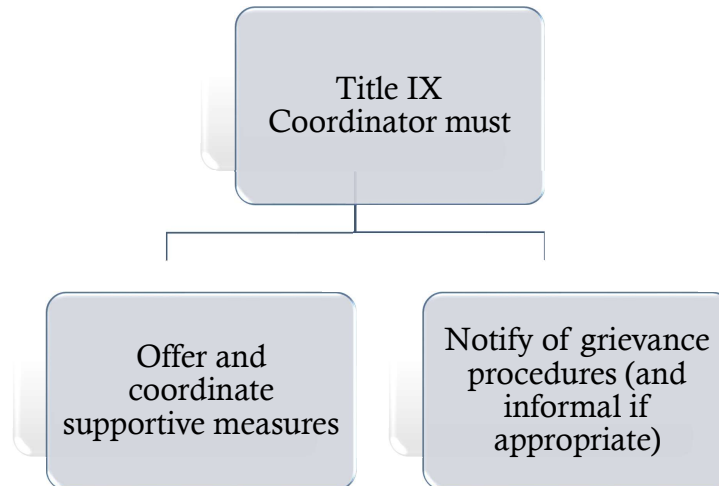
INTAKE MEETINGS



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10

TITLE IX COORDINATOR OUTREACH DUTIES TO COMPLAINANT





What do you
need for the
meeting?



Supportive Measures

What are your options?

CASE STUDY - THE INTAKE MEETING

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15

Meeting Follow-up

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16

Take a temperature check



- What are the alleged violations?
- Should there be an emergency removal/administrative leave?
- What if it would not “reasonably constitute sex discrimination?”

THE COMPLAINT





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19



FORMAL COMPLAINT

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.

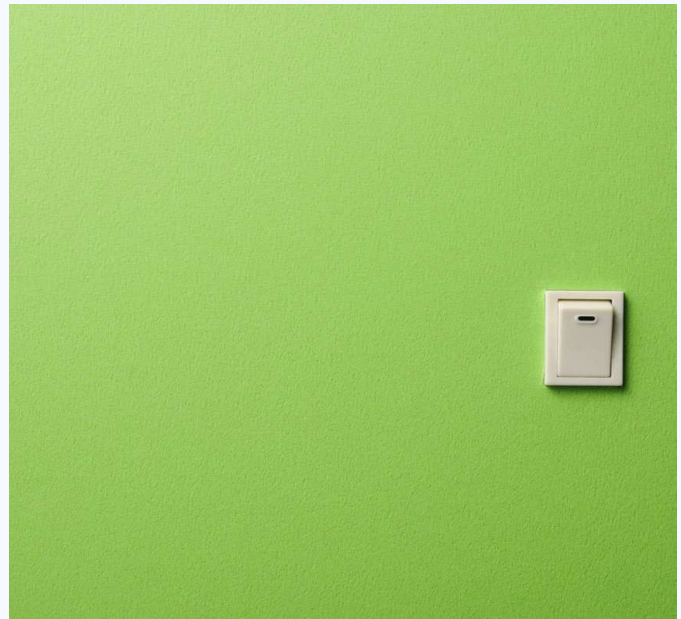
CASE STUDY - THE COMPLAINT

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21

TITLE IX- INITIATED COMPLAINTS



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22



TITLE IX-INITIATED COMPLAINTS

The Title IX Coordinator can initiate a complaint. The Title IX Coordinator is not considered the complainant or a party.

EIGHT FACTORS TO CONSIDER

Complainant's
request

Safety
concerns

Risk of
additional acts


Severity of
allegation

Age and
relationship

Scope and
pattern

Evidence

Alternatives to
resolve



What circumstances
may warrant the Title
IX Coordinator to
initiate a complaint?

IF TITLE IX INITIATES A COMPLAINT...

Notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures.

27

EMERGENCY REMOVAL & LEAVE



LEAVE OPTIONS



Emergency removal



Administrative leave

EMERGENCY REMOVAL



Immediate threat to the physical health or safety of any student or other individual



Arises from the allegations



Provide notice and opportunity to challenge immediately following the removal



Cannot modify any rights under IDEA, Section 504, or the ADA

CASE STUDY - CHECK FOR EMERGENCY REMOVAL

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31

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INFORMAL RESOLUTION



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32



INFORMAL RESOLUTION



No
employee/student



Discretion to offer
or decline



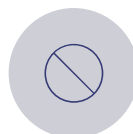
Voluntary for
parties



Provide notice



Facilitator must not
be investigator or
decisionmaker



Must be in writing
IF offered in lieu of
grievance procedure

NOTICE REQUIREMENTS

Requires voluntary, written consent

- (i) The allegations;
- (ii) The requirements of the informal resolution process;
- (iii) That, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the recipient's grievance procedures;
- (iv) That the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
- (v) The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- (vi) What information the recipient will maintain and whether and how the recipient could disclose such information for use in grievance procedures ... if initiated or resumed.

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35




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EXAMPLES OF ALTERNATIVE RESOLUTIONS

- Shuttle conference
- Mediation
- Restorative justice
- Agreements
- Single-adjudicator determination

36

A row of teal-colored doors set into a wall. The doors are slightly recessed. The fifth door from the left is slightly ajar, revealing a bright yellow light from within, which casts a warm glow on the floor and the surrounding walls. The other doors are closed.

Under what
circumstances would
you offer an
alternative resolution?

A 3D rendering of a winding asphalt road with white dashed lines, set against a bright blue sky with soft clouds. Three red location pins are placed along the road: one in the distance, one in the middle ground, and one in the foreground on the right side, partially cut off by the frame.

At what point in the
process do you offer
an alternative
resolution?

CONSOLIDATION



CONSOLIDATION OF COMPLAINTS

Multiple
respondents

More than one
complainant
against one or
more respondent

One party
against another
party



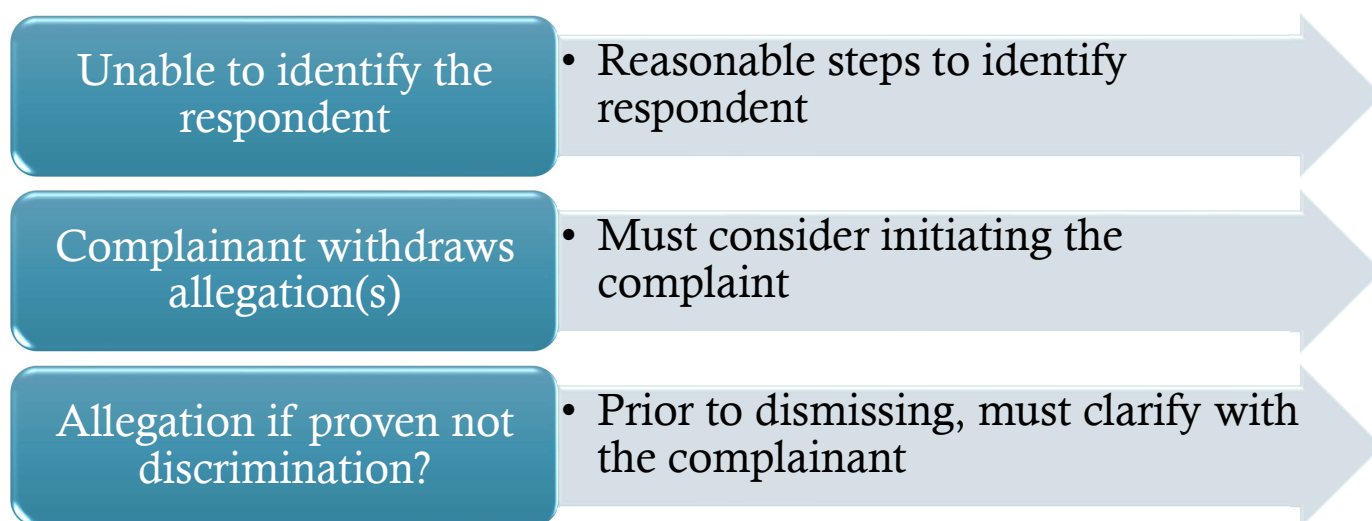
DISMISSALS



DISMISSALS

- Must
 - The formal complaint, on its face, does not constitute sexual harassment
 - Not in educational program or activity
 - Not in the United States
- May
 - Complainant withdraws complaint
 - Respondent no longer enrolled
 - Prevented from gathering evidence

SUGGESTED DUTIES BEFORE DISMISSAL



BASES FOR APPEAL OF DISMISSAL



Procedural Irregularity



New Evidence



Bias or Conflict of
Interest

CASE STUDY - WHERE ARE WE AT?



NOTICE



NOTICE

Requirements	2020 §106.45(b)(2) required to be in writing
Grievance Procedures	YES
“Sufficient information” (parties, conduct, date, location)	YES
Statement that retaliation prohibited	NO (prohibited but not required in notice)
Access to relevant evidence	YES (any evidence)
Respondent is presumed not responsible	YES
Right to advisor of choice	YES
Prohibition on false statements	YES

LETTERS



Who sends the letters?

Notice of report/request
for intake

Notice of case closure

Notice to the
complainant of Title IX-
initiated complaint

Notice of
allegations/investigation

Notice of any meeting or
proceeding

Outcome letter

Appeals

- Appeal submission
- Appeal decision
- No appeal submitted

Alternative resolution

- Notice of option
- Agreement

Dismissal

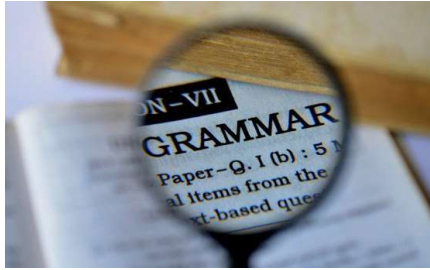
- Notice of dismissal
- Notice of appeal
- Notice of result

Investigation status

- Additional allegations
- Temporary delay
- Periodic updates

Witness notifications

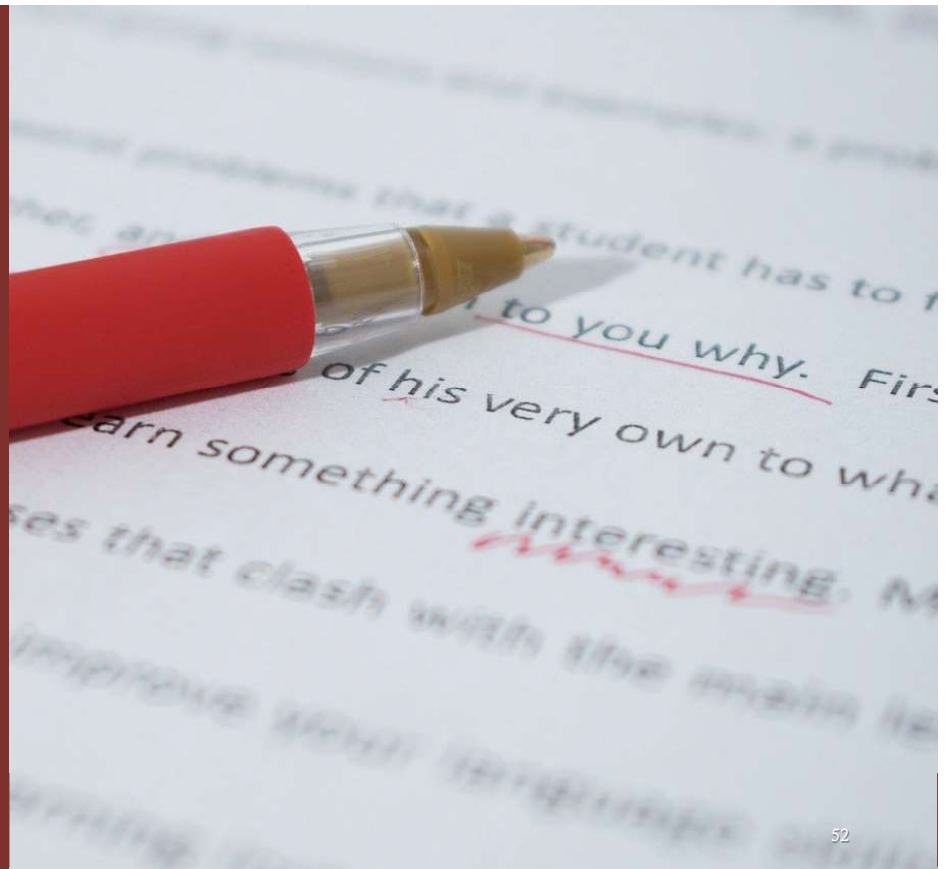
- Interview
- Meeting hearing



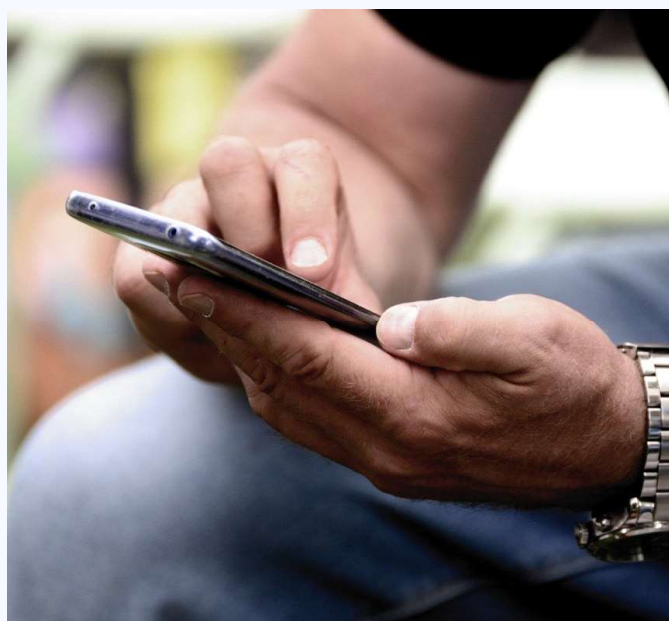
COMMON PITFALLS WITH NOTICES OF ALLEGATION & INVESTIGATION

- Dates - incorrect or not broad enough
- Description of behaviors is too specific or too narrow
- Typos
- Poor grammar

CASE STUDY - THE NOTICE OF INVESTIGATION LETTERS

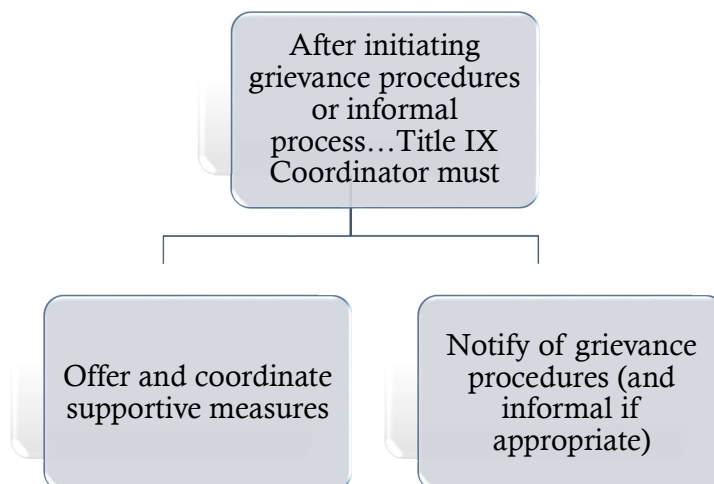


INFORMING THE RESPONDENT

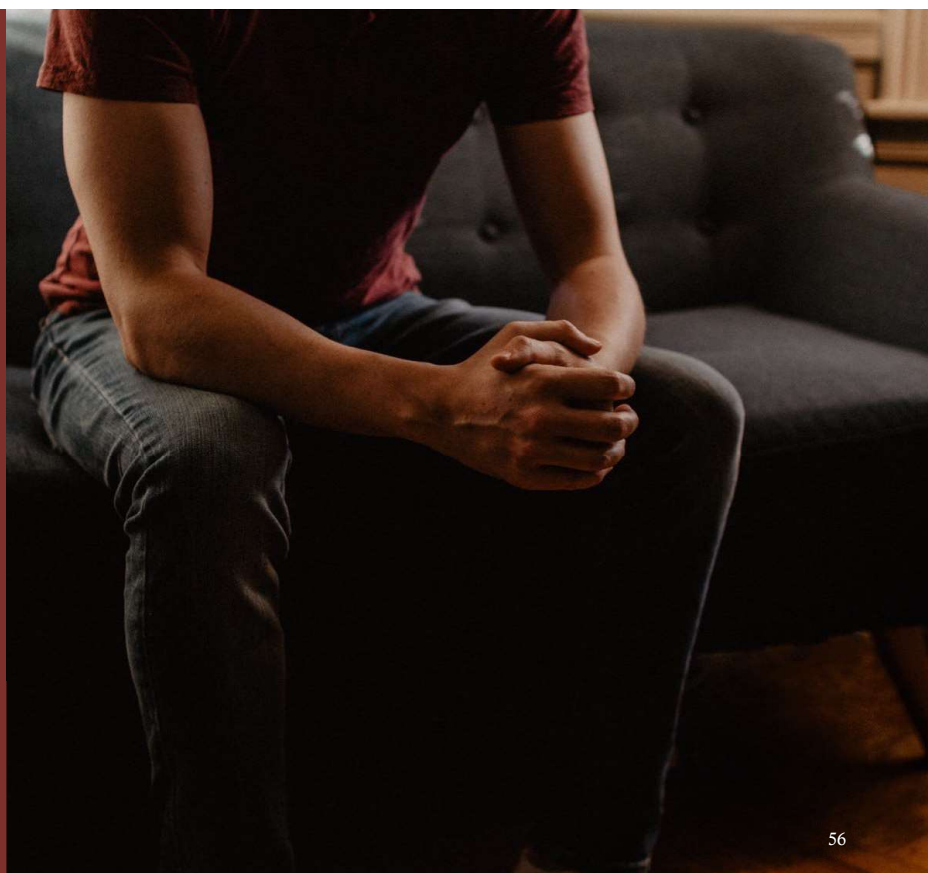


What does your first
outreach to the
respondent look like?

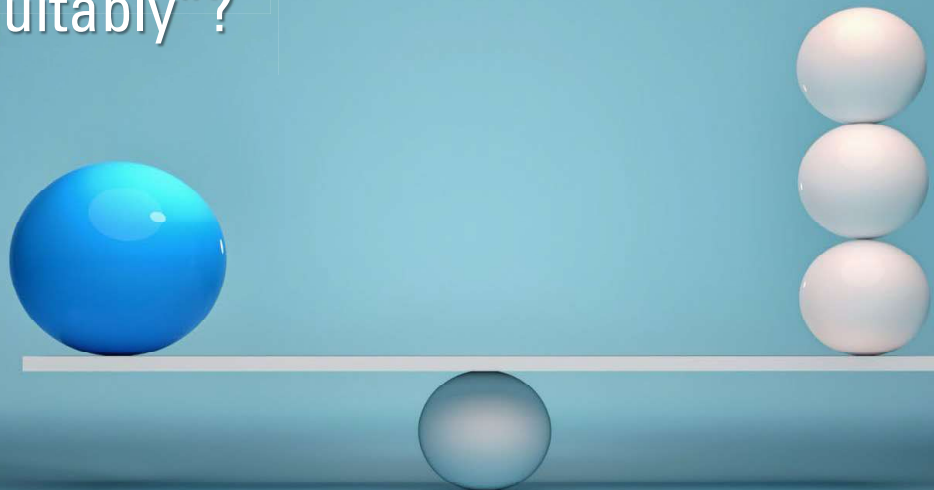
TITLE IX COORDINATOR OUTREACH DUTIES TO RESPONDENT



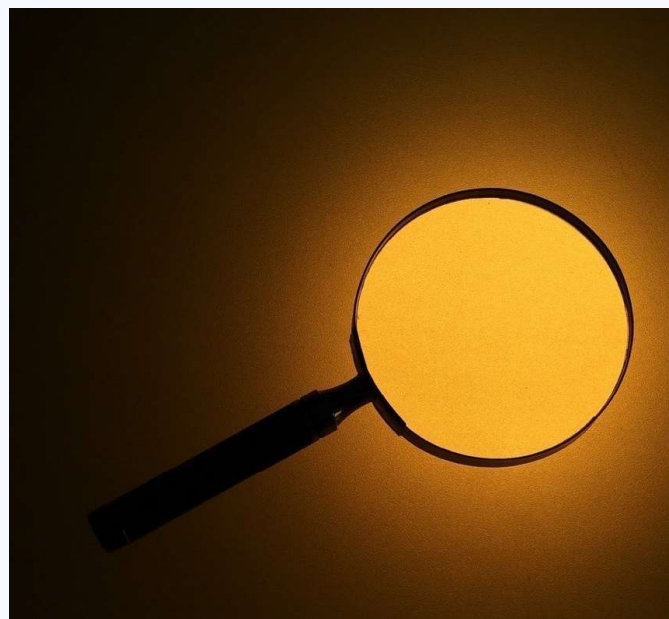
CASE STUDY - MEETING WITH THE RESPONDENT



How do we treat
the parties
“equitably”?



THE INVESTIGATION





INVESTIGATIONS

- Burden of information gathering rests on the institution
- Cannot restrict parties from discussing the allegations with others
- Cannot restrict parties from gathering and presenting relevant evidence

INVESTIGATIONS "MUSTS"



Provide notice of meetings, time to prepare



Provide an opportunity for the parties to present evidence, including fact witnesses



Allow advisor of choice



Allow reasonable extensions of time



Provide party and advisor access to evidence



Create an investigative report that summarizes relevant evidence

ADVISOR OF CHOICE



May be but is not required to be an attorney



May accompany to any meeting or proceeding



Institution may restrict participation



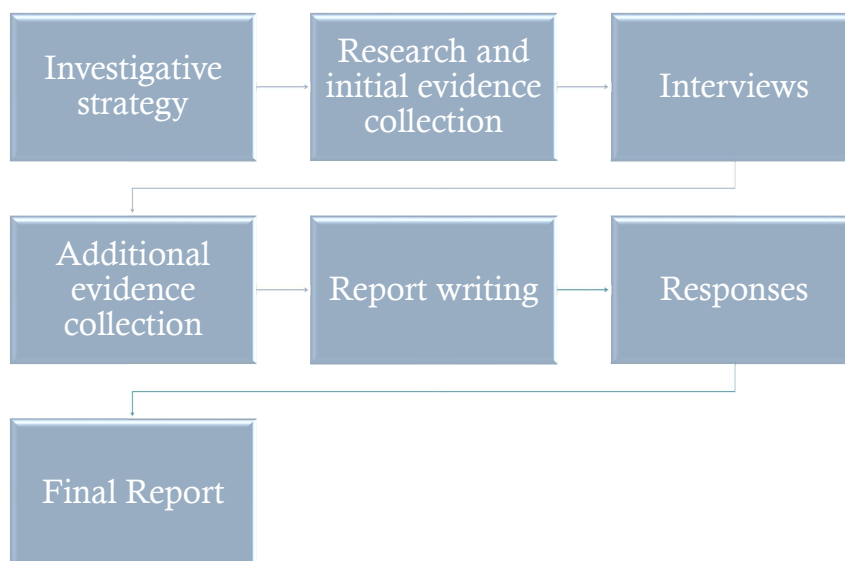
Receives access to evidence and report



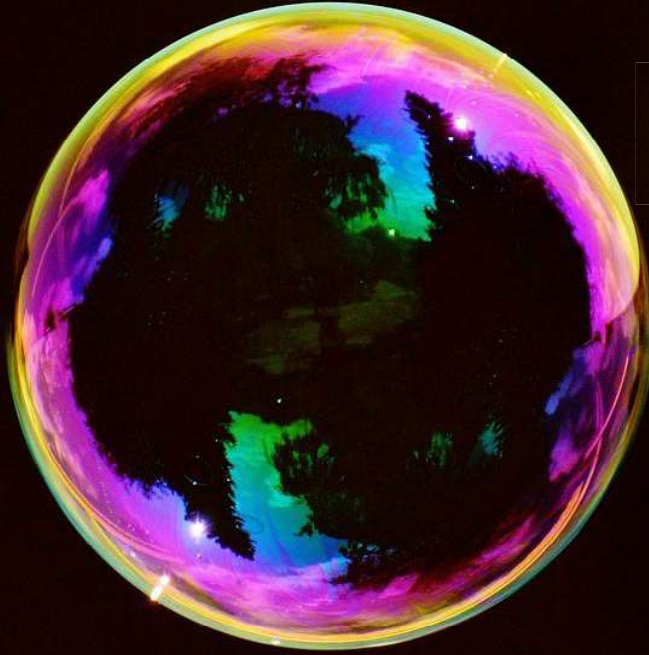
Must conduct cross-examination at hearing



INVESTIGATION ROAD MAP



The Investigation Bubble



EVIDENCE



EVIDENCE REQUIREMENTS

1

Provide an equal opportunity to present fact witnesses and evidence

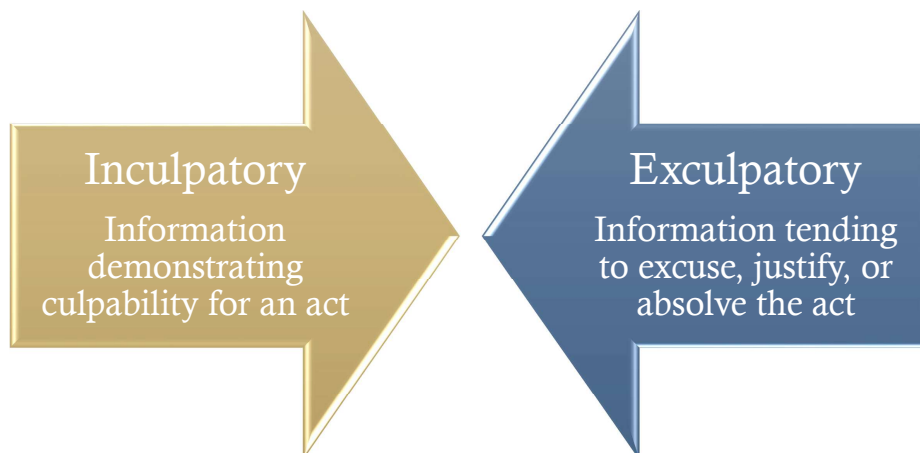
2

Provide an equal opportunity for each party to inspect and review the evidence and respond

3

Investigator must determine relevant and permissible evidence

EVIDENCE



RELEVANT AND NOT OTHERWISE IMPERMISSIBLE EVIDENCE



Privileged information



Physician/psychologist records



Complainant's sexual interest or prior sexual conduct

TYPES OF EVIDENCE



Real evidence



Demonstrative



Documentary



Testimonial

Managing Evidence Requests

Shopping List

1. Milk
2. Eggs
3. Cheese
4. Butter

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69

 D. STAFFORD
& ASSOCIATES

EVIDENCE REVIEW & THE FINAL REPORT



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70



EVIDENCE REVIEW

- Each party and advisor will receive all evidence obtained that is directly related to the allegations, including evidence that may not be relied on to make a decision.
 - The parties have 10 calendar days to submit a written response to the investigator.
 - In writing the report, the investigator will consider the responses and the evidence obtained.
-

71

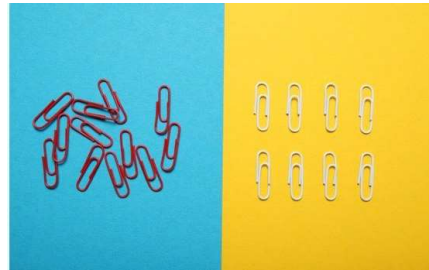
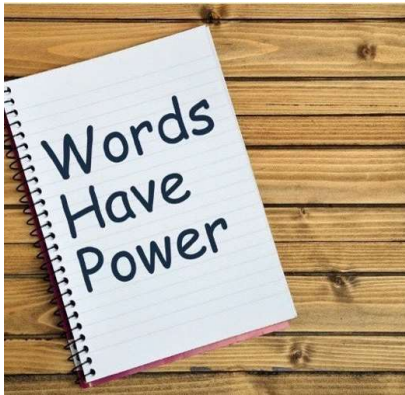
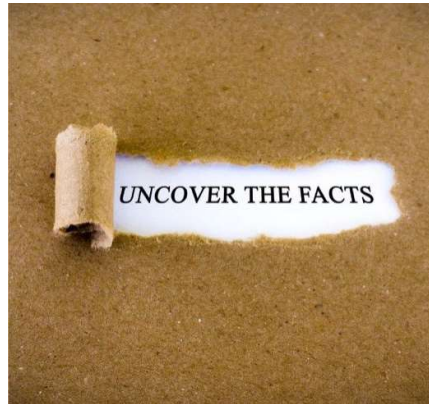
REPORT PURPOSES

Documentation
of Process

Compilation of
Evidence

Summary of
Facts

72



ELEMENTS OF A GOOD REPORT

PROOFREAD

☒ SPELLING

☒ GRAMMAR

☒ ACCURACY

CASE STUDY - THE REPORT



EVIDENCE EVALUATION



EVALUATORS OF EVIDENCE

Investigators

- Develop lines of questioning
- Determine additional witnesses and evidence needed
- Identify relevant evidence
- Identify evidence related to credibility

Decision-makers

- Review the investigator's summary of relevant evidence
- Assess the credibility of the parties and witnesses to the extent credibility is in dispute and relevant

RELEVANCY



RELEVANCY

Makes a fact more
or less probable than
it would be without
the evidence

The fact is of
consequence in
determining the
action

KEY RELEVANCY POINTS

1

The evidence does not need to be conclusive

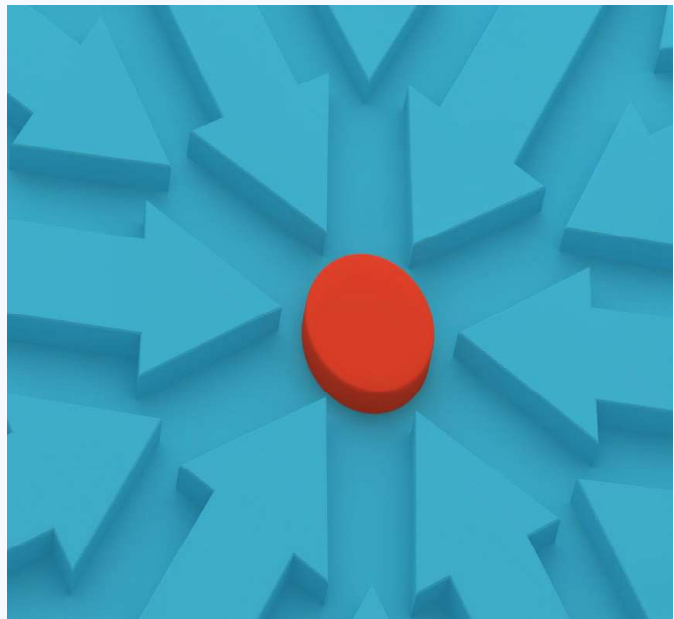
2

Is sufficient if it constitutes a link in the chain

3

Enough if in connection with other evidence, helps "*a little*"

DECISION- MAKING



LOGISTICS

Scheduling

Sharing of evidence with decisionmaker

Meeting/Hearing notification letters

Post-investigation meeting

Advisors

Recording

Written determination

Sanctions/Remedies

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81

PRE-HEARING ACTIVITY



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82

RECOMMENDED HEARING NOTICE



Date, time, location, and names of decision-makers



Reiterate details from notice (parties, alleged behavior and allegations)



Investigative report

INVESTIGATIVE REPORT



Must accurately summarize the relevant evidence



Parties must be provided an opportunity to respond prior to the final determination

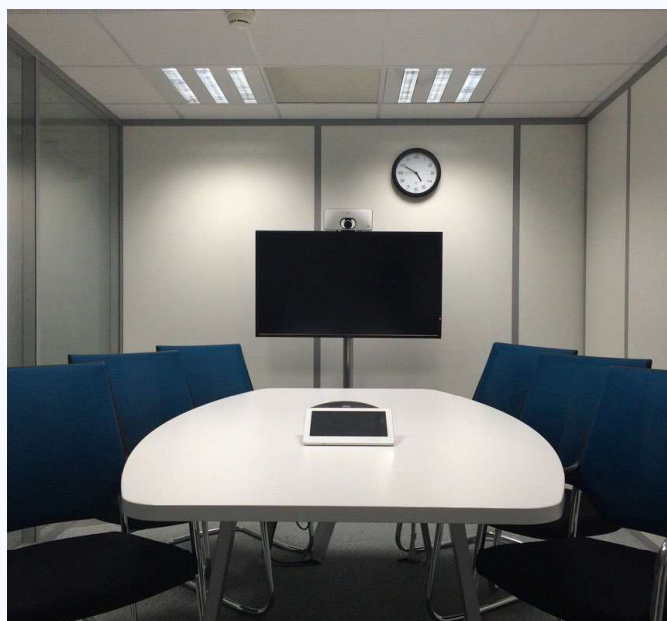
HEARING DECISION- MAKER PREPARATION



PRE-HEARING PREP

-  Review notice of allegation and complaint
-  Review policy and procedures
-  Review final investigative report
-  Review party responses
-  Develop clarifying questions related to relevant evidence summary
-  Identify potential challenges and responses

THE HEARING



Let's take a moment...



SAMPLE AGENDA



SAMPLE AGENDA

1. Opening (Chair)

2. Purpose of the Hearing (Chair)

3. Review of the Hearing Process (Chair)

4. Questioning

5. Concluding Remarks (Chair)

CASE STUDY - DECISION- MAKER QUESTIONS

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91



CROSS-EXAMINATION BY ADVISORS

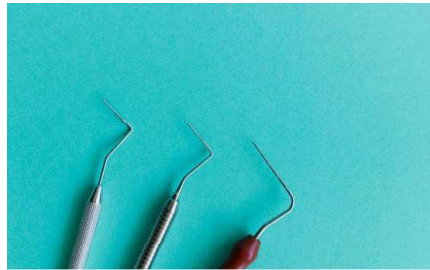
Question by advisor

Relevancy determination by decision-maker

Answer by party or witness

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92



IRRELEVANT QUESTIONS

- Past sexual history
- Privileged information
- Repetitive question
- Not probative of material fact

RELEVANCY DETERMINATIONS



Use logic and common sense



Maintain a neutral, objective position



A lengthy or complicated explanation is not needed

HEARING MANAGEMENT ISSUES



What could go wrong?



PARTICIPATION

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97



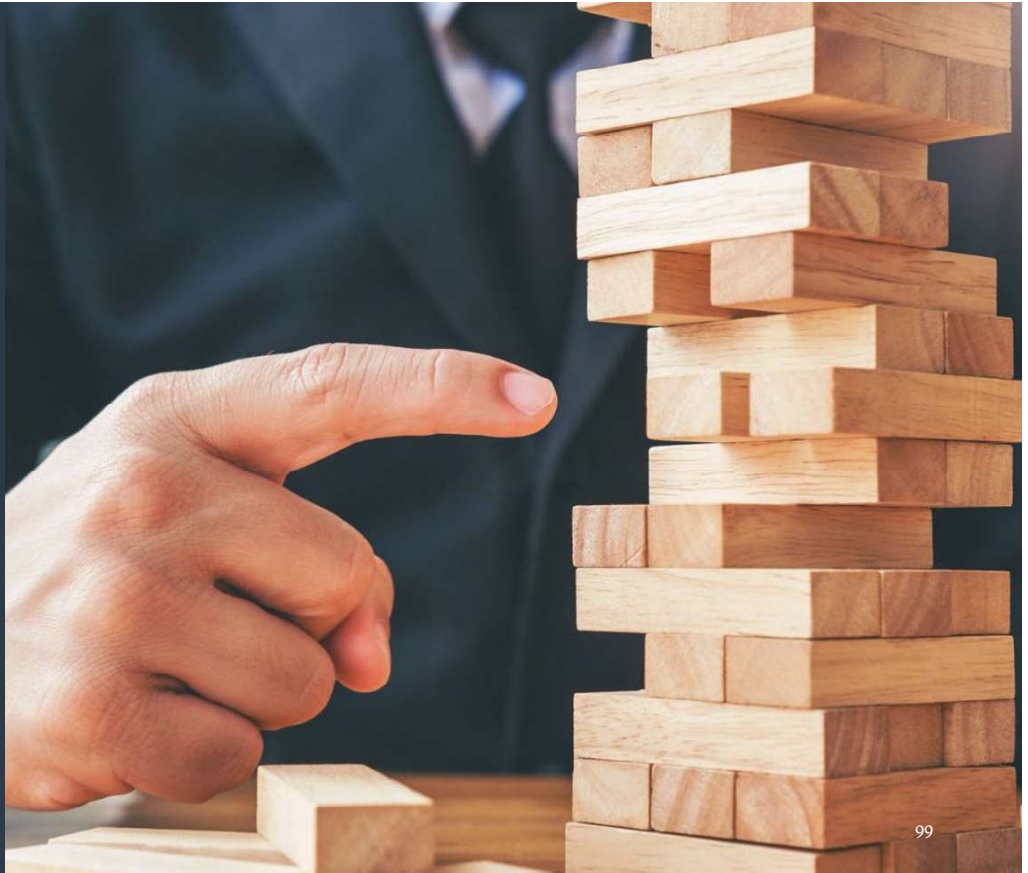
ABSENCE OR REFUSAL TO ANSWER CROSS

“The decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions.”

§ 106.45(b)(6)(i)

DISRUPTIONS

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99



DISRUPTION EXAMPLES

Emotions

Intimidation

Technical issues

Not following
instructions

Lateness

Unpreparedness

ADVISORS

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101



POTENTIAL ADVISOR ISSUES

Relationship with
party

Relationship with
case

Disruptive

Inappropriate
cross-examination

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102

NEW EVIDENCE

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103



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WHAT IS NEW EVIDENCE?

Evidence that was not reasonably available at the time that could have affected the outcome

104

DECISION-MAKER CONSIDERATIONS

What does the policy state?

- Review your policy!

Is it truly new evidence?

- Evidence that has recently become known
- Evidence that has recently come into existence
- New is not withheld evidence

Why was it not available?

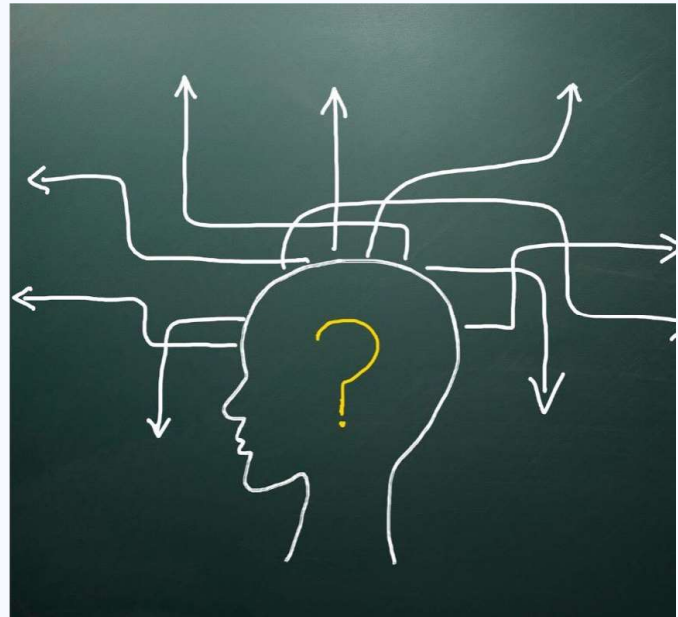
- Example: Requested by the party during the investigation but not produced (e.g., logs, records)
- Example: Witness's identity not previously known

Could it affect the outcome?

- Relevancy - Does it help to prove or disprove the allegation(s)?



THE DELIBERATION



Let's take a look back
at evidence
evaluation.

The investigator
identifies relevant
evidence. The
decision-maker puts it
together in the context
of the allegation.

Beware of “standard creep”!

This is not your standard -
Clear and convincing

This is your standard -
Preponderance of the evidence

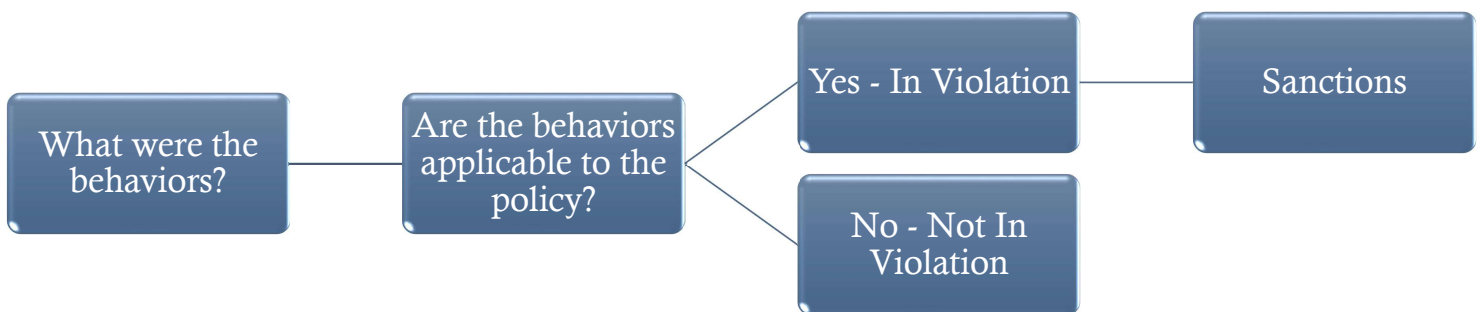


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DECISION-MAKING STEPS



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110

THE DECISION LETTER



NOTIFICATION



Parties must be notified
simultaneously



Becomes final on the date the
parties are notified of an appeal
decision

DETERMINATION REGARDING RESPONSIBILITY

Allegations

Procedural steps

Findings of fact

Conclusion/application

Rationale

Appeal procedures

THE DETERMINATION

Previously Shared Information

- Alleged allegations
- Procedural steps up to the hearing
 - Notifications
 - Interviews with parties and witnesses
 - Site visits
 - Methods used to gather other evidence

New Information

- Procedural steps from the actual hearing
- Findings of fact
- Conclusions regarding the application of the policy
- Statement regarding responsibility and rationale for each allegation
- Any sanctions imposed
- Any remedies for the Complainant imposed
- Appeal procedures, including the grounds

CASE STUDY - THE DECISION

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115

THE APPEAL



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116

TYPES OF APPEALS*

Dismissal

Determination Regarding
Responsibility

*An emergency removal allows for a “challenge” by the respondent; it is not an appeal.

APPEAL GROUNDS



Procedural irregularity that
affected outcome



New evidence that **could**
affect the outcome



Conflict of interest or bias
that **affected the outcome**

APPEALS ARE NOT...



A substitute for another's
judgment



Political decisions

PROCEDURAL DETERMINATIONS

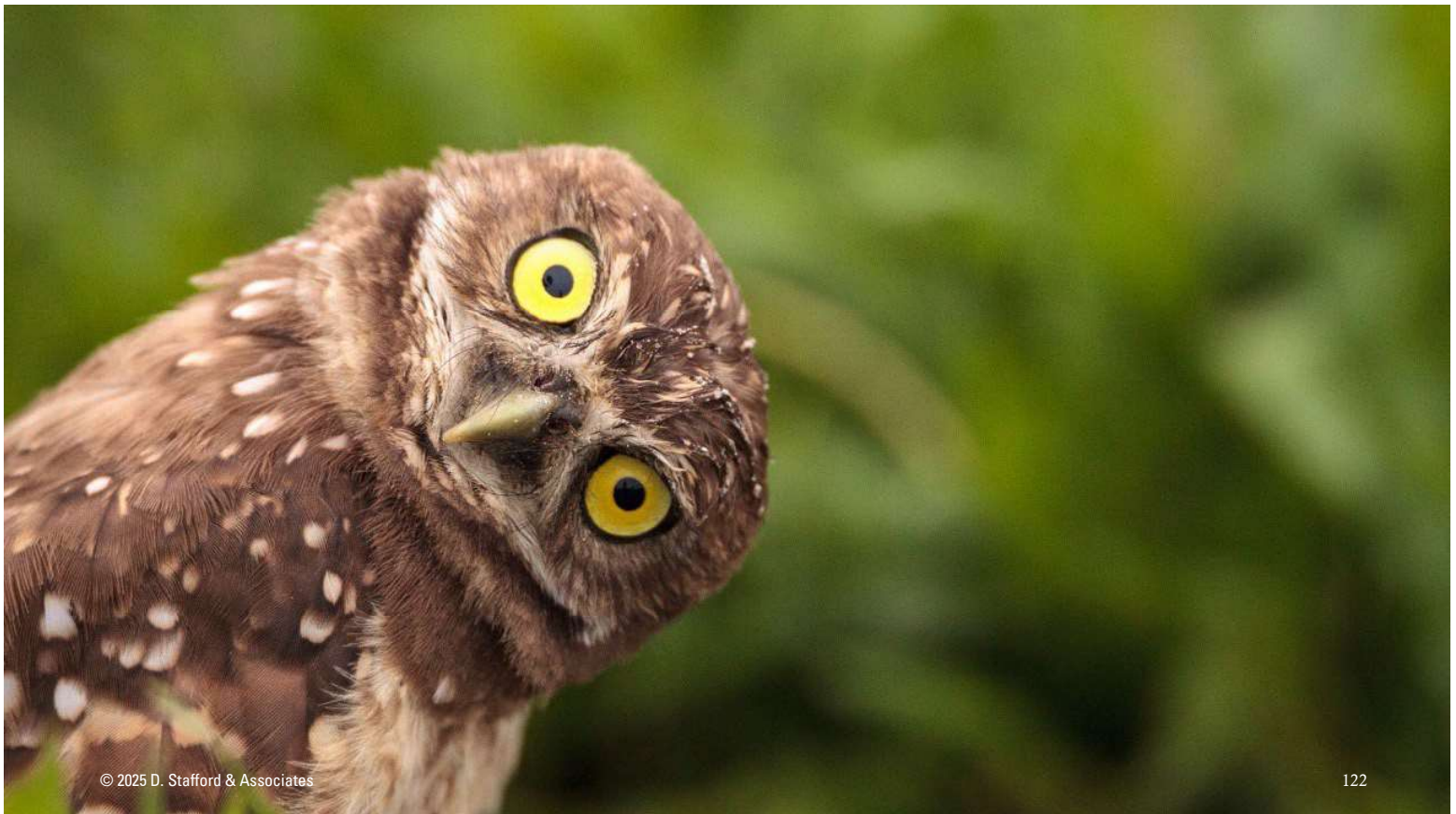
- Who is your decision-maker for appeals?
- Who is informing the parties of an appeal submission?
- Who is collecting the information and giving to the decision-maker for the appeal?
- Who is communicating with the parties?
- Timelines
 - Deadline for appeal
 - Submission of written statements
 - Written decision

CASE STUDY - THE APPEAL

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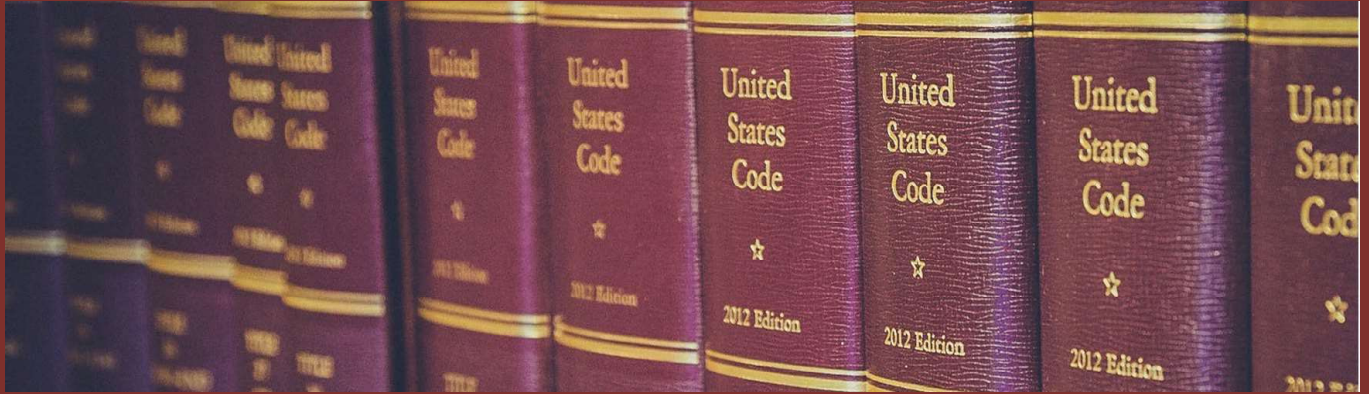


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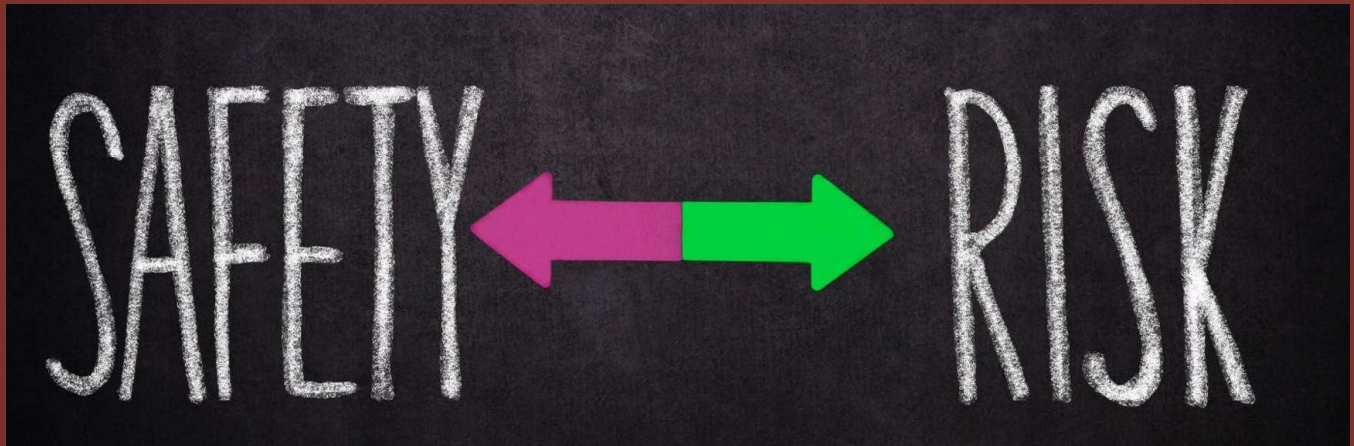
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122

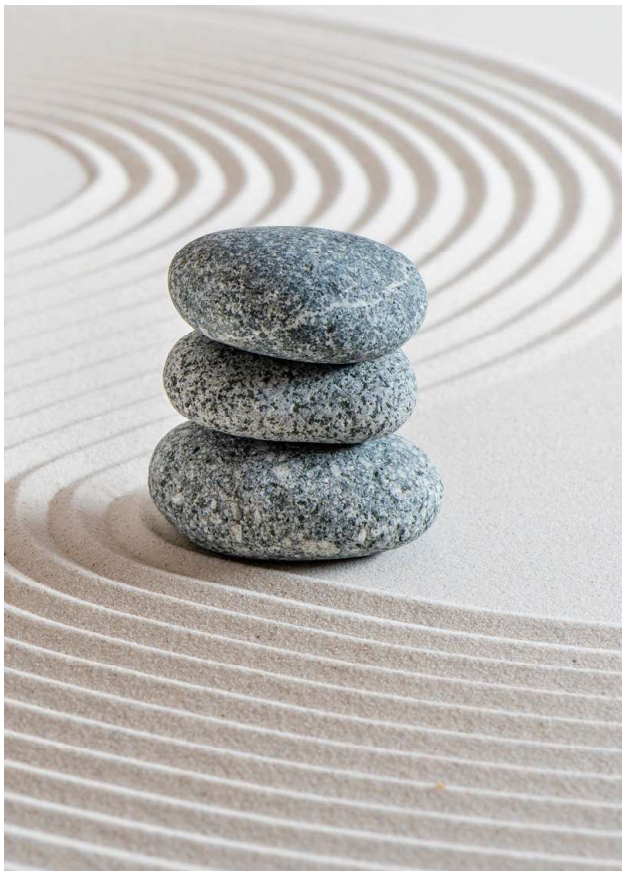


THANK YOU





SAFETY & RISK ANALYSES



AGENDA

- Introduction
- Regulations, Guidance, & Case Law
- The Analysis
- Logistics
- The Challenge

INTRODUCTION



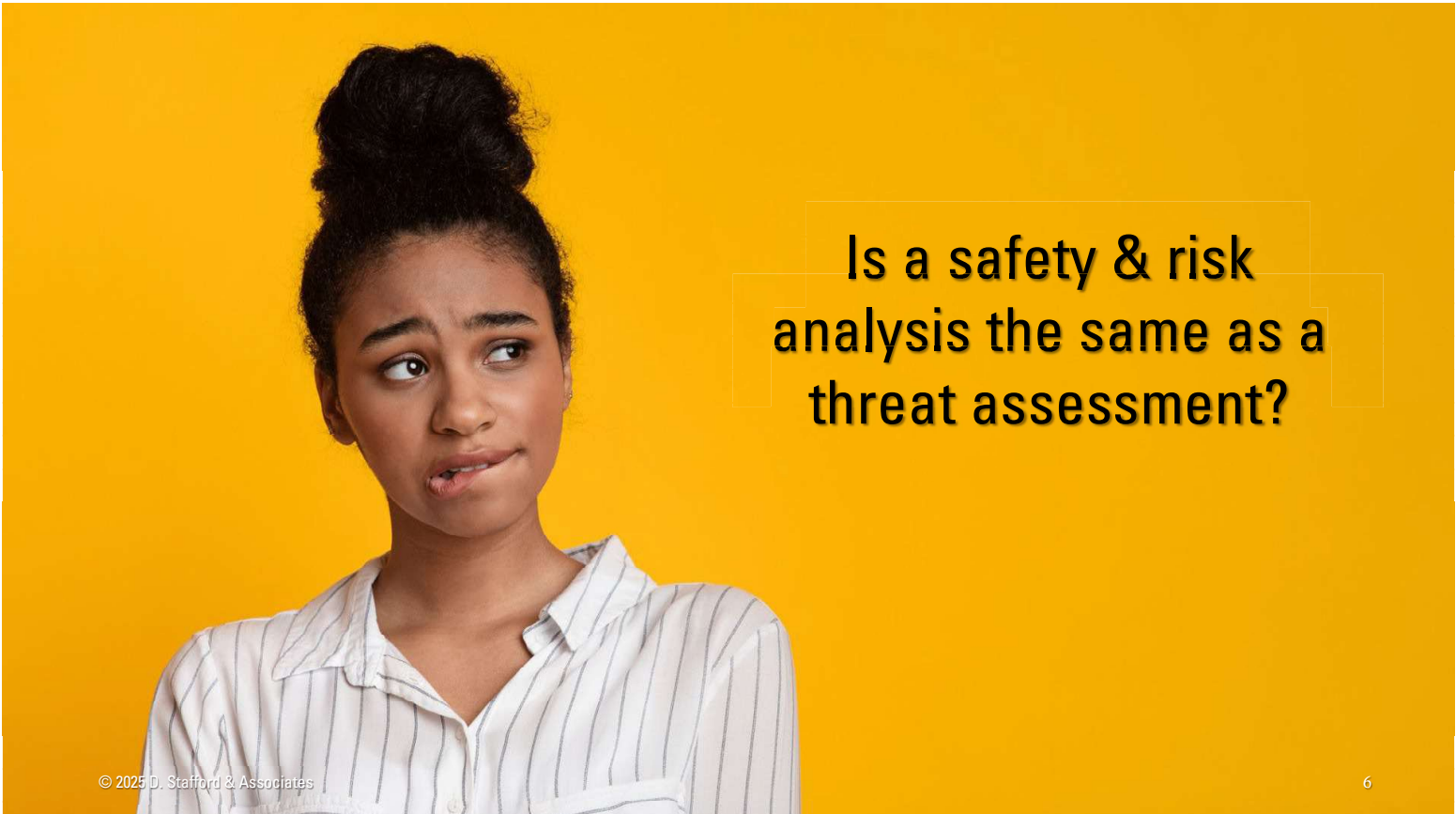
**Is a safety & risk
analysis the same as a
violence risk
assessment?**



VIOLENCE RISK ASSESSMENT

“Conducted by appropriately trained mental health professionals, for determining the probability of violence being perpetrated by a particular individual, in a particular environment, often in a correctional institution, locked mental health facility, or to determine the level of risk related to violence if the individual was to be released from these environments into the community.”

(Cawood & Corcoran, 2020)



Is a safety & risk
analysis the same as a
threat assessment?

THREAT ASSESSMENT

“A systematic, fact-based method of investigation and examination that blends the collection and analysis of multiple sources of information with published research and practitioner experience, focusing on an individual’s patterns of thinking and behavior to determine whether, and to what extent, a Subject is moving toward an attack. A threat assessment is not a final product, but the beginning of the management process. It guides a course of action to mitigate a threat of potential violence; merely identifying that someone is of moderate or higher concern, without developing a management strategy, does not complete this process and is not recommended.”

(FBI, 2017)

THREAT ASSESSMENT TEAMS

What they are:

- Multidisciplinary teams
- Non-adversarial community engagement
- Holistic approach
- Proactive and integrated case management
- Consult with Title IX

What they should not be:

- Discipline processes
- Conduct/hearing officers (Title IX or otherwise)
- Determiners of emergency removals

OCR TO ST. JOSEPH'S COLLEGE (NY) - JANUARY 21, 2011

“Specifically. OCR determined that the College utilized the BAC process to suspend the Student because College staff perceived her behavior as symptomatic of a mental health condition. OCR further determined that the College has only used the BAC process, in situations where it perceives that a student’s behavior are the result of a mental health condition (even if undiagnosed). OCR determined that the College has used the ‘emergency suspension’ process, which includes an SJC hearing, only when a student’s behaviors do not appear to be the result of a mental health condition.”



So, what is it?

SAFETY & RISK ANALYSIS

- This is a case-specific approach examining the current situation to determine if an imminent and serious threat to the health or safety.
- The threat arises from the allegations of sex discrimination and justifies removals.
- The respondent has the right to notice and an opportunity to challenge the decision immediately following the removal.

There may be situations where a threat assessment is also appropriate.
The safety and risk analysis concerns a possible emergency removal.

TITLE IX EMERGENCY REMOVAL



34 CFR 106.44(c) EMERGENCY REMOVAL

Nothing in this part precludes a recipient from removing a respondent from the recipient's education program or activity on an emergency basis, provided that the recipient undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

KEY TAKEAWAYS FROM THE 2020 PREAMBLE





NOT A BACKDOOR

“... is **not a substitute for reaching a determination as to a respondent’s responsibility for the sexual harassment allegations**; rather, emergency removal is for the purpose of addressing imminent threats posed to any person’s physical health or safety, which might arise out of the sexual harassment allegations.” (85 FR 30224)

15



YOU DO YOU

“... the recipient should have **discretion to determine the appropriate scope and conditions** of removal of the respondent from the recipient’s education program or activity. Similarly, we **decline to require recipients to follow more prescriptive requirements** to undertake an emergency removal (such as requiring that the assessment be based on objective evidence, current medical knowledge, or performed by a licensed evaluator).” (85 FR 30224)

16

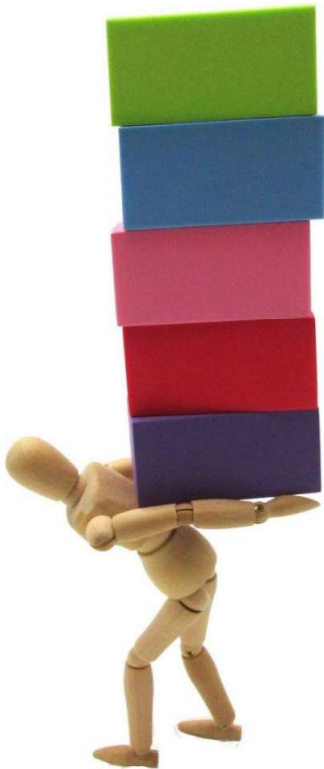


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TOMAYTO, TOMAHTO

“Rather, this provision authorizes a recipient to remove a respondent from the recipient’s education program or activity **(whether or not the recipient labels such a removal as an interim suspension or expulsion, or uses any different label to describe the removal)** when an individualized safety and risk analysis determines that an imminent threat to the physical health or safety of any person, arising from sexual harassment allegations, justifies removal.” (85 FR 30226)

17



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THE BURDEN

“Changing a respondent’s class schedule or changing a respondent’s housing or dining hall assignment may be a permissible supportive measure depending on the circumstances. By contrast, **removing a respondent from the entirety of the recipient’s education programs and activities, or removing a respondent from one or more of the recipient’s education programs or activities (such as removal from a team, club, or extracurricular activity), likely would constitute an unreasonable burden** on the respondent or be deemed disciplinary or punitive, and therefore would not likely qualify as a supportive measure. Until or unless the recipient has followed the § 106.45 grievance process (at which point the recipient may impose any disciplinary sanction or other punitive or adverse consequence of the recipient’s choice), **removals of the respondent from the recipient’s education program or activity need to meet the standards for emergency removals** under § 106.44(c).” (85 FR 30230)

18



POST-REMOVAL CHALLENGE

“ . . . because § 106.44(c) is intended to give recipients authority to respond quickly to emergencies, and does not substitute for a determination regarding the responsibility of the respondent for the sexual harassment allegations at issue, **recipients need only provide respondents the basic features of due process (notice and opportunity), and may do so after removal rather than before a removal occurs.**” (85 FR 30226)



THREAT TO OTHERS

“ . . . if a respondent threatens physical violence against the complainant in response to the complainant’s allegations that the respondent verbally sexually harassed the complainant, the immediate threat to the complainant’s physical safety posed by the respondent may ‘arise from’ the sexual harassment allegations.” (85 FR 30225)



THREAT TO SELF

“...if a respondent reacts to being accused of sexual harassment by threatening physical self-harm, an immediate threat to the respondent’s physical safety may ‘arise from’ the allegations of sexual harassment and could justify an emergency removal.” (85 FR 30225)



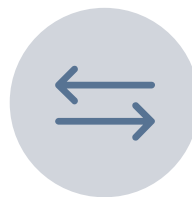
APPLES & ORANGES

“The Department appreciates commenters’ suggestion to mirror the ‘direct threat’ language utilized in ADA regulations; however, we have instead revised § 106.44(c) to refer to the physical health or safety of ‘any student or other individual’ because this language better aligns this provision with the FERPA health and safety emergency exception, and avoids the confusion caused by the ‘direct threat’ language under ADA regulations because those regulations refer to a ‘direct threat to the health or safety of others’ which does not clearly encompass a threat to the respondent themselves (e.g., where a respondent threatens self-harm). By revising § 106.44(c) to refer to a threat to the physical health or safety ‘of any student or other individual’ this provision does encompass a respondent’s threat of self-harm (when the threat arises from the allegations of sexual harassment), and is aligned with the language used in FERPA’s health or safety exception.” (85 FR 30228)

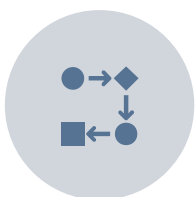
KEY POINTS



The institution has the right to take interim action when there is a threat to the health or safety of an individual (including self) or others.



There is a line when an action moves from being a supportive measure to an “emergency removal.”



The institution determines the process (must have the opportunity to challenge), scope, and conditions.



Interim actions are not long-term solutions. The clock is ticking.

FERPA, ADA, AND CASE LAW



FERPA



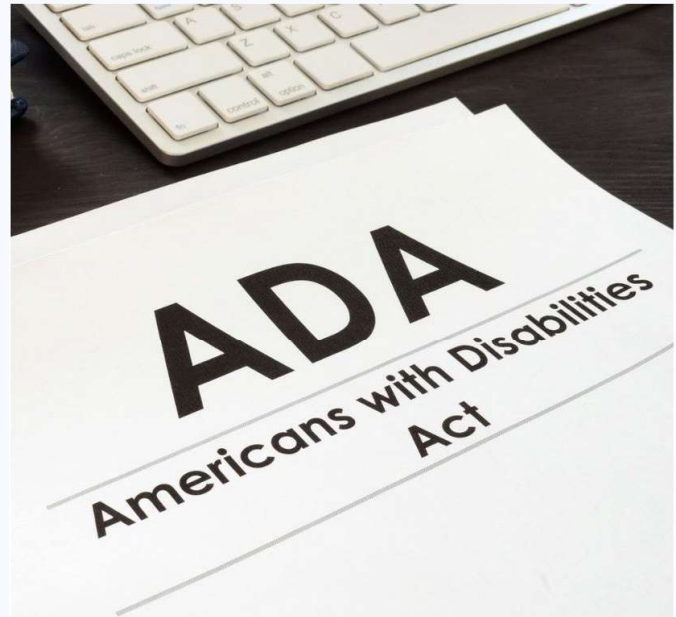
FERPA HEALTH & SAFETY EXCEPTION

“In making a determination under paragraph (a) of this section, an educational agency or institution may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the educational agency or institution determines that there is an **articulable and significant threat to the health or safety of a student or other individuals**, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. If, based on the information available at the time of the determination, there is a rational basis for the determination, the Department will not substitute its judgment for that of the educational agency or institution in evaluating the circumstances and making its determination.” [34 CFR 99.36(c)]

FERPA - ARTICULABLE & SIGNIFICANT THREAT

“The phrase ‘articulable and significant threat’ means that a **school official is able to explain, based on all the information available at the time, what the significant threat is** under § 99.36 when he or she makes and records the disclosure. For instance, if a school official believes that a student poses a significant threat, such as a threat of substantial bodily harm to any person, including to the student, then, under FERPA, the school official may disclose personally identifiable information (PII) from the student’s education records without consent to any person whose knowledge of the information will assist in protecting a person from that threat. This is a flexible standard under which school administrators may bring appropriate resources to bear on the situation. If, based on the information available at the time of the determination, there is a rational basis for the educational agency’s or institution’s decisions about the nature of the emergency and the appropriate parties to whom the information should be disclosed, the Department will not substitute its judgment for that of the school in evaluating the circumstances and making its determination.” (FERPA FAQs - Exceptions - Health and Safety Emergency)

ADA



OCR TO SPRING ARBOR - DECEMBER 16, 2010

“Under Section 504, the ‘direct threat’ standard applies to situations where a university proposes to take adverse action against a student, **whose disability poses a significant risk to the health or safety of others**. A significant risk constitutes a high probability of substantial harm and not just a slightly increased, speculative, or remote risk. In determining whether a student poses a direct threat, the university must make an individualized assessment, based on a reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures will sufficiently mitigate the risk. The student must not be subject to adverse action on the basis of unfounded fear, prejudice, and stereotypes.”

SPRING ARBOR, CONTINUED

“Under OCR policy, nothing in Section 504 prevents educational institutions from **addressing the dangers posed by an individual who represents a ‘direct threat’ to the health and safety of others, even if such an individual is a person with a disability, as that individual may no longer be qualified for a particular educational program or activity under 34 C.F.R. § 104.3(k)(3).**

Following a proper determination that a student poses a direct threat, an educational institution may require as a precondition to a student’s return that the student provide documentation that the student has taken steps to reduce the previous threat (e.g., followed a treatment plan, submitted periodic reports, granted permission for the institution to talk to the treating professional).

However, educational institutions cannot require that a student’s disability-related behavior no longer occur, unless that behavior creates a direct threat that cannot be eliminated through reasonable modifications.”

ADA REGULATIONS - 2011

“The term ‘direct threat’ means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.”

CASE LAW



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33

GOSS V. LOPEZ

“Generally, notice and hearing should precede the student’s removal from school, since the hearing may almost immediately follow the misconduct, but if prior notice and hearing are not feasible, as where the student’s presence endangers persons or property or threatens disruption of the academic process, thus justifying immediate removal from school, the necessary notice and hearing should follow as soon as practicable.”

Goss v. Lopez, 419 U.S. 565, 566 (1975)

PICOZZI V. SANDALOW

“In this case, the deprivation was similarly limited. Sandalow neither imposed nor sought formal disciplinary sanctions. Neither did he permanently and finally bar plaintiff’s access to legal education. He simply placed a temporary and preliminary hurdle in Picozzi’s path, *pending the outcome of an administrative hearing*. He made it clear to Picozzi that the University was ready to move ahead with a hearing at his convenience.”

Picozzi v. Sandalow, 623 F. Supp. 1571, 1577 (E.D. Mich. 1986)

HILL V. MICHIGAN STATE UNIVERSITY

A riot of several thousand students was a threat to the physical facility, the faculty, and students of MSU. Although the riot was over by the time June suspended Hill on April 16 (as the fire was over before Picozzi sought to re-enroll), June perceived Hill to be a student who, despite being given warnings and being placed on probation, continued his threatening and destructive behavior. Thus, Hill presented himself as a law to himself — a destructive person. Furthermore, the risk of an unwarranted suspension was low given the police evidence of Hill’s participation and his disciplinary record at the school. The Court concludes the school’s interest in the safety of persons and property and its goal of educating students each hour and each day that school is in session outweigh Hill’s interest in being able to live on campus and attend class between April 16 and April 21.

Hill v. Board of Trustees of Michigan State University, 182 F. Supp. 2d 621, (W.D. Mich. 2001)

HAIDAK V. UMASS AMHERST

“The seven-month delay is a matter of concern. It is true that a university tends, to some extent, to go into ‘sleep mode’ over the summer. But due process is a twelve-month obligation. If the University wishes to avoid a risk of a due process violation, not to mention a violation of its own CSC, it obviously needs to establish a mechanism that allows a prompt response to complaints of this sort over the summer months.”

Haidak v. Univ. of Mass. At Amherst, 299 F. Supp. 3d 242, 267 (D. Mass. 2018)

THE ANALYSIS





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WHAT IS A THREAT?

“A threat is an expression of intent to do harm or act out violently against someone or something. A threat can be spoken, written, or symbolic - for example, motioning with one’s hands as though shooting at another person.”

O’Toole, 2000

“Perceived possibility of harm (i.e., potential danger)”

Meloy & Hoffman, 2021

39

THREE THREAT CATEGORIES

Direct Threat

Clear statement of an intent to commit harm without any conditions or recourse for the intended target

Veiled Threat

Indirect, vague, or subtle statements suggesting potential harm without conditions stated to avoid the danger

Conditional Threat

Threatening statements that portend harm with conditions that can avoid a violent outcome

(Meloy & Hoffman, 2021)

FOUR AREAS TO EXAMINE



COMPLAINT



THREAT-RELATED
BEHAVIORS



THREAT
ENHANCERS



THREAT
MITIGATORS

THE COMPLAINT



What is the substance and
status of the complaint?



What are the initial threat-
related concerns?



Is there an active threat that
requires immediate action?

THE COMPLAINT



Complainant: Taylor Livingston

Respondent: Logan Aubuchon

I first met Logan last March. Logan kept insisting that we were meant to be together. I finally relented in May, and we started to date. During our relationship, Logan insisted that I share my location though Logan didn't share their location with me. Logan would accuse me of liking other people and cheating. Logan once keyed my friend Jordan's car when Logan thought that I was spending too much time with Jordan.

Last week, on Monday, October 24, I was at Logan's off-campus apartment. I wanted to go home, but Logan refused to drive me home until we had sex. I told Logan that I didn't want to, but I was afraid as I knew Logan had a gun under their pillow. I consented, and we had sex.

Logan then drove me to my residence hall. Once we got there, we went into my room. My roommate, who is afraid of Logan, saw us and immediately left. Logan wanted to have sex again, and I refused. Logan told me that if I didn't have sex, I would regret it. Logan pushed me onto the bed, took off my pants, and penetrated me. As Logan was putting on their coat, I think I saw the gun in the inside pocket.



THREAT-RELATED BEHAVIORS

- What are the threat-related behaviors that you learned when examining the complaint?
- What other information exists to cause concern for the immediate health and safety of the individual or others?
 - Remember: You are not investigating the allegations. You are collecting information specific to any immediate threat.

OTHER INFORMATION



- Text messages from Logan to Taylor:
 - Logan has threatened suicide if Taylor were to break up with Logan. The most recent text threatening suicide was three days ago.
 - Logan has threatened Taylor (“I will mess up your face so no one will want to look at you”) after seeing Taylor with Jordan (a week ago).
- The Title IX office has a withdrawn complaint from Taylor that was submitted back in August. Taylor had alleged that Logan was physically abusive. No contact letters were issued, which Logan violated. Taylor withdrew the complaint and told Title IX that it was all a misunderstanding.
- Logan has three registered guns.
- Taylor reported to Title IX today that they are afraid Logan knows something is going on. In the last two days, Logan has insisted on walking Taylor to class and then will wait outside the classroom for Taylor.



THREAT ENHANCERS

- What are the existing realities about the person of concern and the case that may increase the risk of violence?
- Are there behaviors arising from the allegations that are accelerating and causing an elevated concern?
- What are the possible triggers that could precipitate impulsive/reactive violence?
- What are the possible stressors that are causing tension or anxiety?



Logan's Threat Enhancers

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47



THREAT MITIGATORS

- What are the protective factors that may prevent the person of concern from committing an act of violence?
- What does their support network look like?
- What circumstances exist to reduce the likelihood of violence?

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48



- Document that identifies:
 - Presenting issue
 - Threat-related concerns
 - Threat enhancers
 - Threat mitigators
 - Rationale
- Complaint
- Supporting documentation









EXAMPLES & CONSIDERATIONS

- What is the action you can take that will mitigate the threat with the least harm to all involved?
- What conditions may be imposed?

LOGISTICS



PROCESS FLOWCHART

	Is there a concern about an imminent threat?	No - Do not conduct an analysis Yes - Conduct the analysis
	Analysis - Is there an imminent threat?	No - No further action with this process Yes - Proceed to emergency removal
	Determine the emergency removal	Conditions
	Challenge	Review of the challenge and determination
	Monitoring	Who is responsible for ensuring the action is imposed and monitored?
	Review - adjust as needed	As the case proceeds, review to determine if the emergency removal is still needed to address the threat



CHARACTERISTICS OF EFFECTIVE INTERIM ACTION PERSONNEL

Empathetic

Direct, firm,
and kind

Calm and
discreet

Objective

Organized with
good follow
through

Able to adjust
and adapt



PLAN

- Timing
- Attendees
- Location
- Letter and resource documents
- Contingency plans

THE LETTER

{date}

Case Number: {case number}

{respondent's name}

{respondent's address}

Dear {respondent}:

I have received information regarding your alleged involvement in a {incident date} at {incident location} involving {parties}. The incident is described as {description}.

As a result of this information, and in accordance with {institution}'s {policy name}, I am imposing an {Interim Suspension, Interim Removal from Housing, etc.}. Effective {date and time}, {identify the restriction}.

THE LETTER, CONTINUED

An interim action is not a sanction. This action is preliminary in nature and is utilized when information indicates that your presence on campus poses an immediate threat to the health and safety of others. It is in effect until the matter is resolved through the institution's resolution process.

You will face additional policy allegations if you do not comply with this administrative action.

You may challenge this decision in writing by {provide direction as to how to submit it} no later than {time} on {date}. Your challenge will be reviewed, and you will be notified of the decision.

Please do not hesitate to contact me at {contact information} if you have any questions.

Sincerely,

{signature, name, and position}

PHYSICAL ENVIRONMENT

- Other attendees
- Furniture
- Lighting
- Displayed items
- Coping tools
- Clothing
- Safety measures

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59



VIRTUAL ENVIRONMENT

- Not ideal
- Other attendees
- Background
- Camera on
- Privacy
- Safety measures

60



THE MEETING



Explain but not
debate



Treat the person
with dignity



Be patient



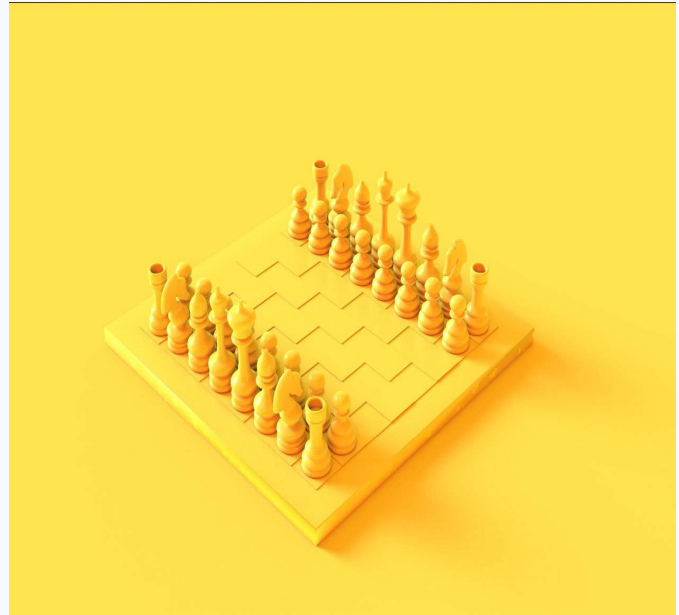
Help to problem
solve



Know where
they are going



THE CHALLENGE



POST-REVIEW CHALLENGE



Interim action is still in effect



Notice and opportunity to challenge



Not a new analysis nor a substitute of judgment



It is a review of the analysis and any new information from the respondent



THANK YOU





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