



# TITLE IX ADMINISTRATOR ANNUAL TRAINING 2025 FOR DEPUTY COORDINATORS, INVESTIGATORS, ADVISORS, CONFIDENTIAL RESOURCES, AND SUPPORT STAFF

Davis & Elkins College & West Virginia Wesleyan College

Amy Kittle, Title IX Coordinator



**HELLO  
MY NAME IS**

## INTRODUCTIONS

- **Name and Institution or Agency**
- **Role (In and Out of the Title IX Process)**
- **One thing you like/dislike about the Title IX/Equity Assurance process**
- **One question you have about Title IX/Equity Assurance**

## RESOURCES, TEMPLATES, AND SUPPLEMENTAL TRAININGS

- Google Drive for WVWC
- Teams for D&E
- Please do not put sensitive information in these locations!! Use Guardian for all case file and related information.

**CLERY ACT (AND VAWA): FEDERAL CONSUMER SAFETY  
CRIME REPORTING LAW THAT INCLUDES  
OBLIGATIONS AROUND SEXUAL ASSAULT, DATING AND  
DOMESTIC VIOLENCE, AND STALKING**

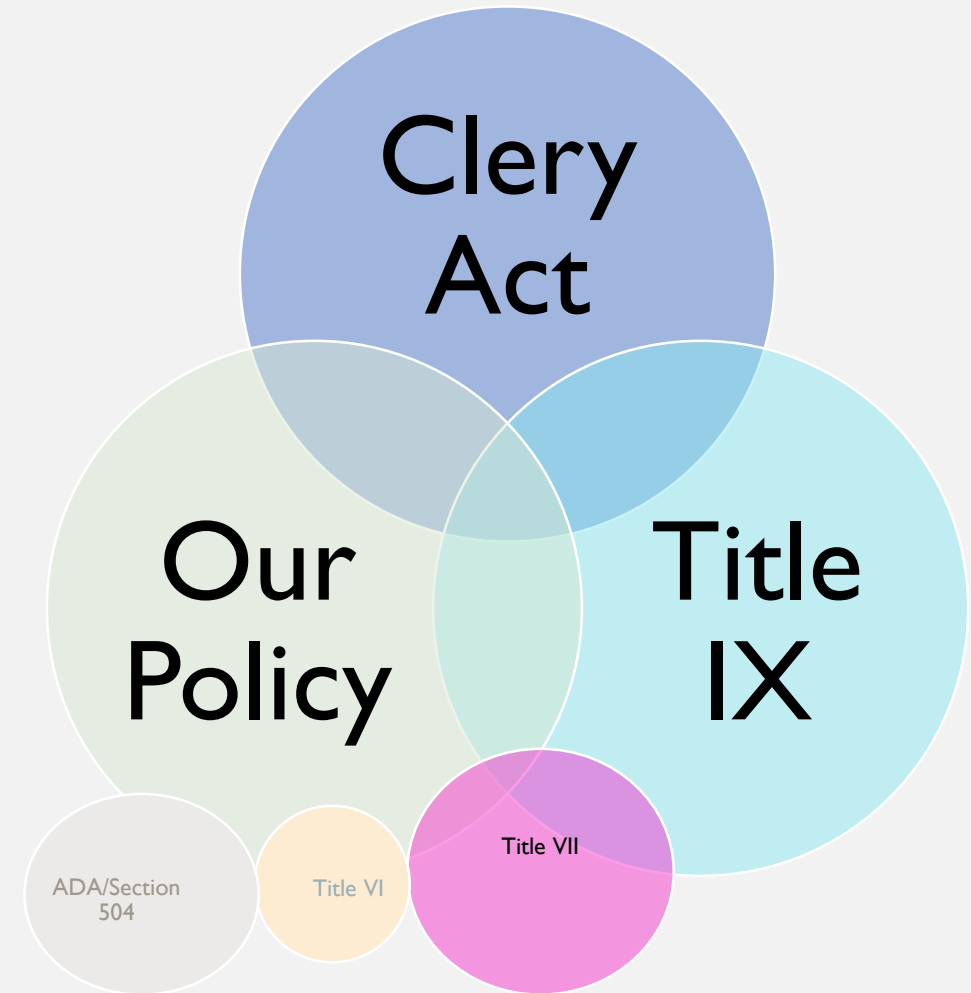
**TITLE IX : FEDERAL LAW THAT PROHIBITS  
DISCRIMINATION AND HARASSMENT ON THE BASIS OF  
SEX (AND GENDER)**

**TITLE VI: FEDERAL LAW THAT PROHIBITS  
DISCRIMINATION AND HARASSMENT ON THE BASIS OF  
RACE IN EDUCATIONAL INSTITUTIONS THAT RECEIVE  
FEDERAL FUNDING**

**TITLE VII: FEDERAL LAW THE PROHIBITS  
DISCRIMINATION AND HARASSMENT IN EMPLOYMENT  
SETTINGS**

**ADA (TITLE II): A FEDERAL LAW THE PROHIBITS  
DISCRIMINATION AGAINST INDIVIDUALS WITH  
DISABILITIES IN ALL AREAS OF PUBLIC LIFE**

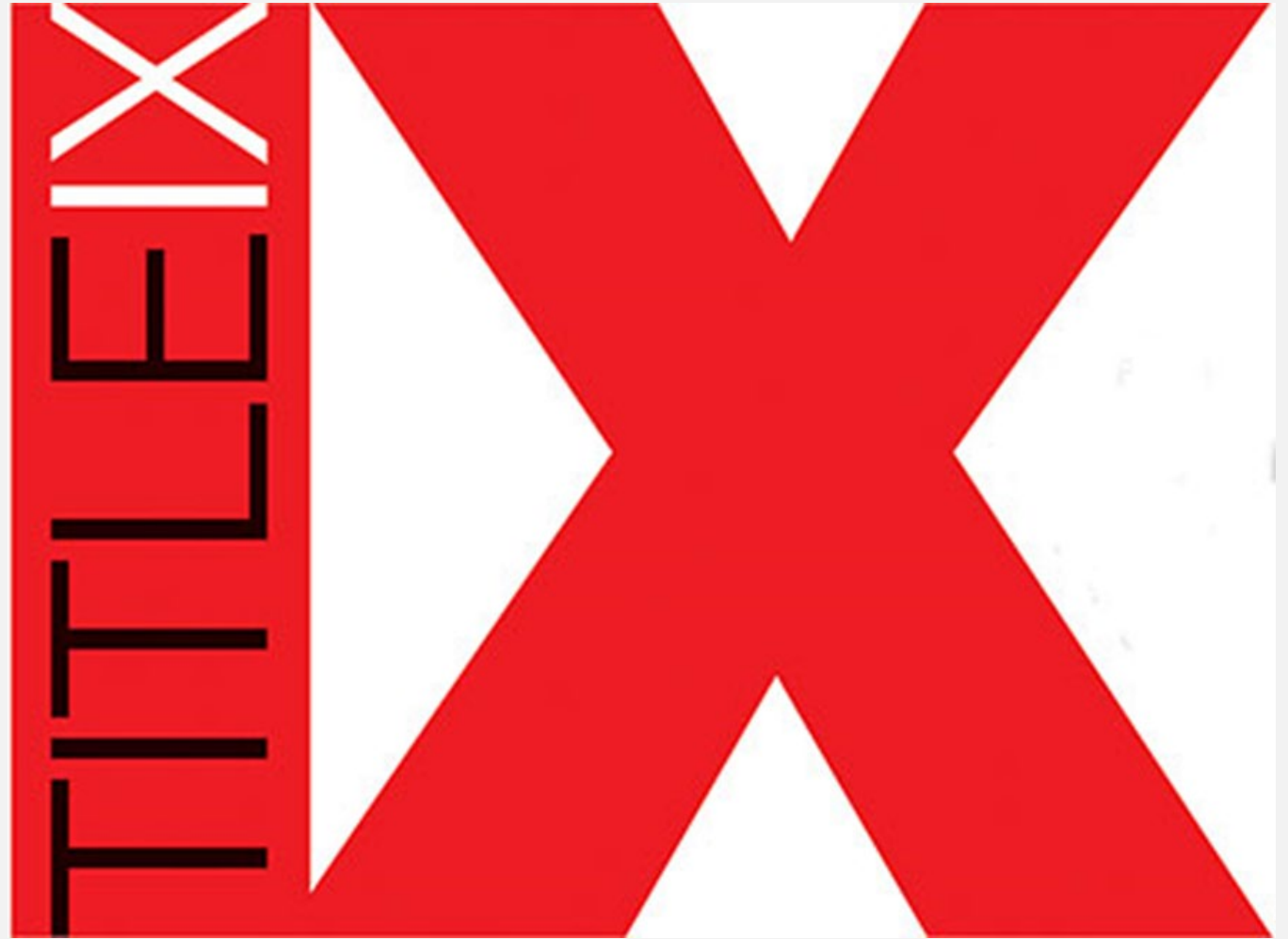
**SECTION 504: A FEDERAL LAW THAT PROHIBITS  
DISCRIMINATION BASED ON A DISABILITY IN  
PROGRAMS OR ACTIVITIES RECEIVING FEDERAL  
FINANCIAL ASSISTANCE**



***All responsible employees and Officials with Authority are required to report any Title IX or other form of  
Prohibited Conduct to the Title IX Coordinator.***



**TITLE IX** “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.”





## Title IX Influencers

Regulations

Sub-  
regulatory  
Guidance

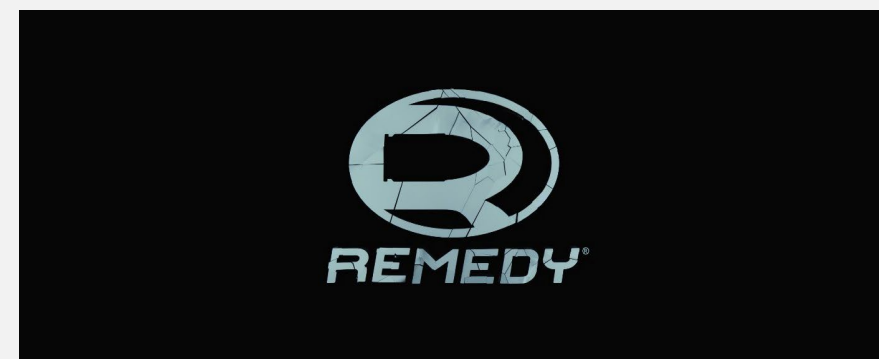
Case Law

# REGULATIONS UPDATE

Lol, just kidding. There is no update. We still, as always before, are operating under the 2020 Title IX regulations.



# STOP, PREVENT, AND REMEDY





## POLICY UPDATES

- Many revisions and reorganization to better comply with the Clery Act and recommendations from the Clery Center.
- Revisions to the definitions of Hostile Environment Harassment to better reconcile the differences between Title VII and Title IX standards
- Expanded more clear definitions for Prohibited Conduct
- A caveat that explains that Retaliation, Failure to Report, Unauthorized Disclosures, and False Statements may be resolved under these procedures or by Student Conduct or Human Resources
- A caveat that explains that in instances of allegations of disparate impact or culture or climate investigation in which there is no identifiable Respondent, the Cabinet Member who oversees the area will be provided the Notice of Allegations and Outcome. This does \*not\* make this person the Respondent.
- Kept the extra review and opportunity to ask additional questions in Process B as was required in the 2024 regulations.

# BREAK TIME



# REPORTING OBLIGATIONS

- ANYONE who has witnessed or is aware of an Prohibited Conduct is encouraged to report.
- EVERYONE is required to report the abuse or neglect of a minor.
- Unless otherwise noted, all Employees must report incident of Prohibited Conduct under this policy to the Title IX Coordinator and all other crimes to the Office of Public Safety/Security and Safety.
- Counselors and Chaplains are \*not\* required to report Prohibited Conduct or crimes (unless it is child abuse or neglect or indicates imminent harm to self or harm to others) to anyone.
- Others who have been designated confidential, but who do not have a legal privilege (e.g. Director of CClA, Professor of Religious Studies, Ombudsperson) are \*not\* required to report Prohibited Conduct, but are still required to report de-identified Clery Crimes to the Director of Public Safety/Safety and Security.



PRIVACY,  
CONFIDENTIALITY,  
AND ANONYMITY

# WHAT DO THEY MEAN?

Privacy: a right to have sensitive personal information out of the public. As an employee and a Title IX administrator you are expected to keep all information you learn private. We ask parties to a complaint to respect the sensitive nature of these issues and keep information learned private.



Confidentiality: a legal term referring to the ability to not report or share information. Medical and therapy records are confidential. Confidential employees have legal privilege and do not report Title IX or Clery related offense.



Anonymity (anonymous): A person not identified by name. An anonymous employee is a person that does not have to report to Title IX and names and can keep identities private for Clery reports. A person, not a responsible employee or official with authority, can file an anonymous report.

# PRIVACY CONSIDERATIONS

- All records generated through the Policy and Procedure on Discrimination, Harassment, and Title IX Sexual Harassment are subject to consideration under FERPA, employment law, and institutional record retention and keeping policies.
- Institutions are prohibited to restrict complainant's and respondent's ability to discuss the allegations under investigation or to present evidence. Although the parties are not immune from legal claims of defamation.
- Retaliation, intimidation, and witness manipulation are prohibited and should be addressed by the institution.

# BIAS AND CONFLICT OF INTEREST

All Title IX Administrators participating in a resolution process must be impartial and free from bias or conflict of interest, including bias for or against a specific Complainant or Respondent or for or against complainants and respondents generally. If an acting Title IX Administrator has concerns that they cannot conduct a fair or unbiased process, they must report those concerns to the Title IX Coordinator.



# BIAS

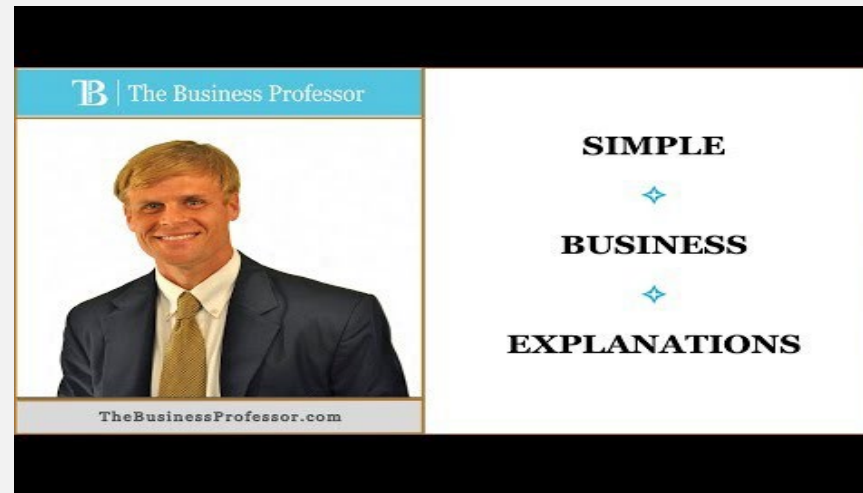
One's gender, current or past work history, support or opposition to particular causes or political affiliations do not, in and of themselves indicate bias.

The Title IX Coordinator signing a complaint is not an act of bias.

Participating in an emergency removal process is not act of bias unless the knowledge presented in the process biases the employee.

Advisors may not serve for a complainant or a respondent *in the same case*.

# BIAS AND ERRORS IN DECISION MAKING



# THINK PAIR SHARE

- Identify ways bias might impact a decision made in the Title IX/Equity Assurance process.
- Identify strategies you and others might employ to avoid bias impacting your decision.
- Pair up with a neighbor (or two or three) and discuss.
- Share with the larger group.



# CONFLICT OF INTEREST

The Title IX  
Coordinator  
may NOT be  
the decision  
maker.

The decision  
maker may  
NOT be the  
appellate  
officer.

The  
investigator  
may NOT be  
the decision  
maker.

The  
investigator  
may NOT be  
the appellate  
officer.

# RECORDING KEEPING AND NOTE TAKING

Considerations

# GUARDIAN

- All case notes, files, documents, evidence, and such should be shared in Guardian. The entire case from report to closure should be stored in Guardian.
- Please do not keep these files on your computer after a case has been closed. If you have old cases on your computer, consider the record retention policies of your institution.
- If you are an Appeal Officer, please send all relevant information to the Title IX Coordinator for inclusion in Guardian to the case file is complete.
- Do **\*NOT\*** use the shared Google Drive or the Teams Channel to share sensitive information.

## NOTES AND OTHER DOCUMENTATION

- Interviews are to be recorded. Once an interview summary or transcript has been “approved” by a party, please destroy any interview notes.
- If you are making notes in the case (e.g. Guardian) or sending another notes or documentation, please consider the following:
  - Prioritize clarity, accuracy, and concision. Only include the relevant information.
  - The purpose of notes is to keep track of decisions and discussions that can be referenced in the future.
  - Be factual and be aware of biased language.
  - Follow up emails to in person discussions are an important kind of documentation.
  - Imagine these notes are part of a records request and will be reviewed by the person about whom you are writing and/or their defense attorney.

# SCOPE OF PROGRAMS AND ACTIVITIES

**All** of the College/University's operations, including, but not limited to, "traditional educational operations, faculty and student housing, campus transportation services, campus dining services, the bookstore, and any other commercial activities."



# TITLE IX JURISDICTION

In order for Title IX to apply, the alleged conduct must have occurred in a College or University program or activity *in the United States*. There must be a nexus between conduct and the sponsored program or activity.

# TITLE IX SEXUAL HARASSMENT

Defined in our policy and the 2020 regulations as the following conduct that occurs *on the basis of sex*:

- Quid pro quo harassment
- Sexual Harassment that is severe, pervasive, **and** objectively offensive
- Sexual assault
- Dating & Domestic violence
- Stalking
- Retaliation

QUID PRO QUO SEXUAL HARASSMENT, SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, STALKING AND UNWELCOME CONDUCT (ON THE BASIS OF SEX) DETERMINED BY A REASONABLE PERSON TO BE SO SEVERE, PERVASIVE, **AND** OBJECTIVELY OFFENSIVE THAT IT EFFECTIVELY DENIES A PERSON EQUAL ACCESS TO THE UNIVERSITY'S EDUCATION PROGRAM OR ACTIVITY.

## **Title IX Sexual Harassment**

# **WHAT ABOUT OFF CAMPUS SEXUAL HARASSMENT?**

- ✓ Did the Title IX Sexual Harassment occur at an off campus apartment or location not controlled by the institution or a recognized organization?
  - ✓ Did the Sexual Harassment occur in another country?
- ☐ No, Title IX does NOT apply.

# WHAT ABOUT OFF CAMPUS TITLE IX SEXUAL HARASSMENT

- ✓ Did the harassment occur as part of the institution's educational program or activity?
- ✓ Did the harassment occur on property owned or controlled by the College or University or a recognized student organization?

☐ YES. Title IX Applies.

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*While Title IX may not apply to incidents that occur off campus or in another country, the new Policy and Procedure on Discrimination, Harassment, and Title IX Sexual Harassment, Student Codes of Conduct, and employee and faculty handbooks **STILL** apply.*

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*The institution is still required to remedy any on-campus effects the misconduct might have caused.*

Within Title IX Jurisdiction

**Title IX Sexual Harassment (Process A)**

**Non-Title IX Sexual Harassment (Process B)**

Not Within Title IX Jurisdiction

Sexual harassment

Sexual harassment

Sexual assault

Sexual assault

Dating violence

Dating violence

Domestic violence

Domestic violence

Stalking

Stalking

All other policy violations: discrimination and harassment based on a protected identity

# BREAK TIME





# PROHIBITED CONDUCT

And Related Issues

Discrimination is conduct that is based on an individual's race, color, national origin, ancestry, age, physical or mental disability, marital or family status, pregnancy, veteran status, service in the uniformed services (as defined in state and federal law), religion, creed, **sex\***, sexual orientation, genetic information, gender identity, or gender expression and excludes an individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in the College's program or activities. Policy and procedures that intentionally or unintentionally create a disparate impact on a protected group or person are also considered a form of discrimination if they result in an exclusion from a benefit or access to an education program or activity. This includes failure and refusal to provide reasonable accommodations, consistent with state and federal law, to persons with disabilities or who are pregnant.

# Discrimination

*\* Discrimination on the basis of sex still falls under Title IX, but it does NOT constitute Title IX Sexual Harassment, and will be resolved under "Process B."*

## FEELINGS ARE NOT FACT

Some things to consider when investigating or making decisions regarding allegations of discrimination.

- Generally, it must be considered how more than one person is being treated because the foundation of discrimination definitions is differential treatment that leads to an adverse or unfair treatment.
- Most forms of discrimination are covert and not overt which means that most evidence is not direct.
- Discrimination is typically more than a singular incident and requires a much deeper investigation of patterns of behavior and analyzing other kinds of evidence (e.g. evaluations, pay statements, grading practices, schedules, and so on).
- Not all acts of discrimination are intentional (e.g. disparate impact).

Biased based harassment is conduct that creates a hostile environment, as defined by our policy, and is based upon an individual's race, color, national origin, ancestry, age, physical or mental disability, marital or family status, pregnancy, veteran status, service in the uniformed services (as defined in state and federal law), religion, creed, sex, sexual orientation, genetic information, gender identity, or gender expression.

Harassment which is a form of discrimination may take various forms, including, but not limited to, name-calling, graphic or written statements (including the use of social media, text messages, email, or other similar forms), or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not necessarily have to include intent to harm, be directed at a specific target, or involve repeated incidents.

# Bias Based Harassment

Is a form of sex discrimination that creates a hostile environment (as defined in this policy) based on sex, which includes, without limitation, unwelcome sexual advances, requests for sexual favors, other verbal or physical conduct of a sexual nature, harassment based on stereotypical notions what is female/feminine and male/masculine, or failure to conform to gender stereotypes. Sexual harassment may occur between people of the same sex or people of different sexes. All conduct must meet the applicable definitions and create a hostile environment before rising to the level of prohibited conduct under this policy.

# Sexual Harassment

A hostile environment is created when a person is subjected to biased based or sexual harassment that is so severe, pervasive, OR objectively offensive as determined by a reasonable person that it limits or denies a person's ability to participate in a program or activity.

## Hostile Environment

## EXAMPLES OF POSSIBLE HOSTILE ENVIRONMENT SEXUAL HARASSMENT

- **unsolicited**, deliberate, or repeated touching, sexual flirtation, advances or propositions which are not welcomed and/or desired;
- **unwelcome** jokes, stories, comments, innuendos, or other sexually oriented statements which are specifically designed to embarrass or humiliate through their sexual subject matter content;
- **unwelcome** sexual communication such as graphic or degrading comments about one's gender related to personal appearance;
- **unwelcome** display of sexually explicit materials, objects, or pictures in an individual's place of work or study, such as viewing material on computers or other electronic devices where others can see.

*(Subjective offensiveness alone is not enough to create a hostile environment.)*

# IS IT A HOSTILE ENVIRONMENT?

- From a reasonable person's perspective consider the following
    - The type of misconduct
    - The frequency of the misconduct
    - Where the misconduct occurred
    - The roles of the relationship between the individuals
    - Is the speech protected under the First Amendment?
- (Subjective offensiveness alone is not enough to create a hostile environment.)*



**Quid pro quo sexual harassment, sexual assault, dating violence, domestic violence, stalking and unwelcome conduct (on the basis of sex) determined by a reasonable person to be so severe, pervasive, AND objectively offensive that it effectively denies a person equal access to the college's education program or activity that occurs within the title ix jurisdiction. The standards required for title ix sexual harassment are more than the standards for sexual harassment and biased based hostile environment harassment.**

## **Title IX Sexual Harassment**

When an authorized agent of the college explicitly or impliedly conditions the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct

# Quid Pro Quo

Any sexual act direct against another person, without the consent of the victim, including instances where the victim lacks the ability to consent. Sexual assault can occur between individuals of the same or different sexes or genders. Sexual assault includes the following:

**Non-consensual penetration:** actual or attempted 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 affirmative consent of the victim. This includes penetration forcibly and/or against the person's will or in instances where the victim is incapable of giving affirmative consent because of their youth or because of their temporary or permanent mental physical incapacity.

**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 their age or because of their temporary or permanent mental or physical 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.

# Sexual Assault

(Non-Consensual Penetration, Fondling, Incest, Statutory Rape)

Agreement, approval, or permission to some act or purpose given knowingly, willingly, and voluntarily by a competent person.

Silence, by itself cannot constitute consent.

Consent to one sexual act does not constitute consent to a different sexual act.

Previous consent cannot imply consent to future sexual acts.

Consent is required regardless of the parties' relationship status or sexual history.

Consent can be withdrawn at any time.

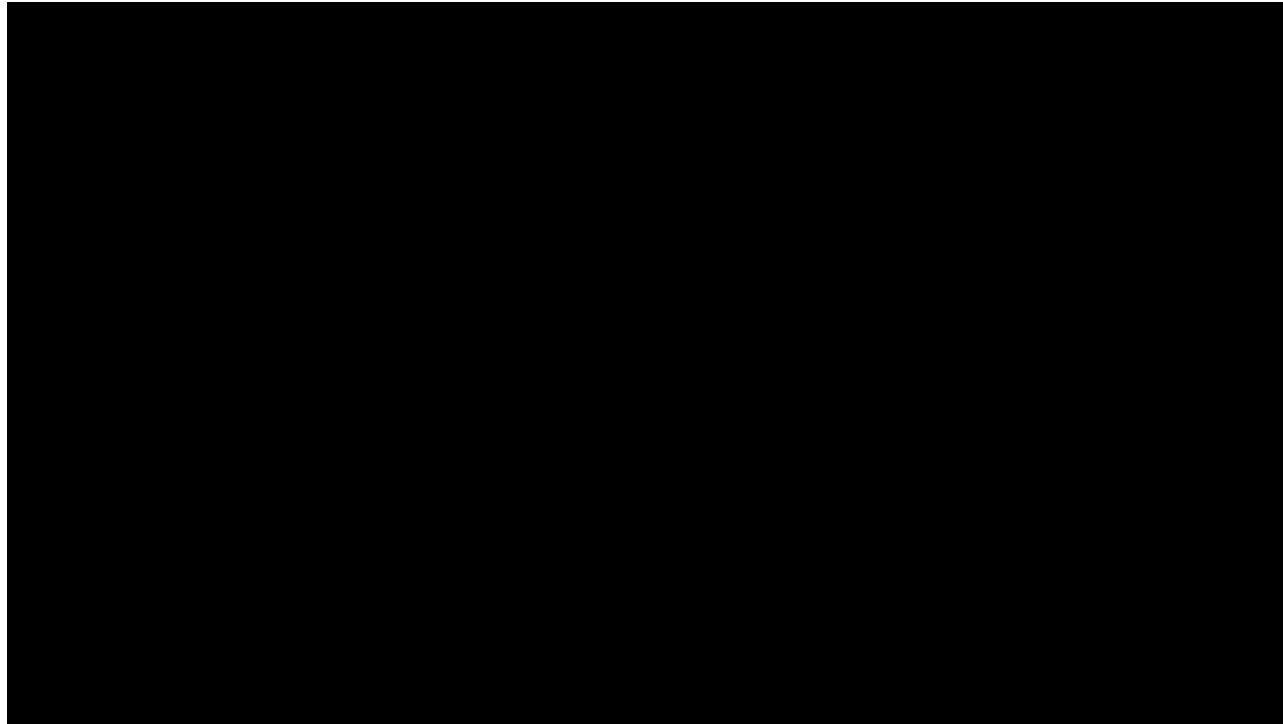
# Consent

A state beyond drunkenness or intoxication in which someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent. Indicators that an individual may be incapacitated include, without limitation, inability to communicate coherently, inability to dress or undress without assistance, extreme clumsiness, slurred speech, vomiting, emotional volatility, difficulty in walking without assistance, loss of coordination, or inability to perform other physical or cognitive tasks without assistance. States of incapacitation may also include sleep, unconsciousness, or any other state where the individual is unaware that sexual activity may be occurring.

*Incapacitation negates consent when the alleged perpetrator knows, or a reasonable person, under the circumstances, should know that the alleged victim is incapacitated. The presence of Forcible Compulsion also makes consent impossible.*

# Incapacitation

# Alcohol and Sexual Assault on Campus





# Sexual Exploitation

Is an act or failure to act that involved a member of the college community taking non-consensual, unjust, humiliating, or abusive sexual advantage of another, either for the individual's own advantage or to the benefit of anyone other than the person being exploited. Sexual advantage may include, without limitation, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person causing the prostitution of another person; recording, photographing or transmitting identifiable images of private sexual acts; disclosing, causing to be disclosed or threatening to disclose, with the intent to harass, intimidate, threaten, humiliate, embarrass, or coerce an image of another which shows the intimate parts of the depicted person or shows the depicted person engaged in sexually explicit conduct which was captured under circumstances where the person depicted had a reasonable expectation that the image would not be publicly disclosed, engaging in voyeurism, and intentionally exposing another to a sexually transmitted infection.

Any act violence

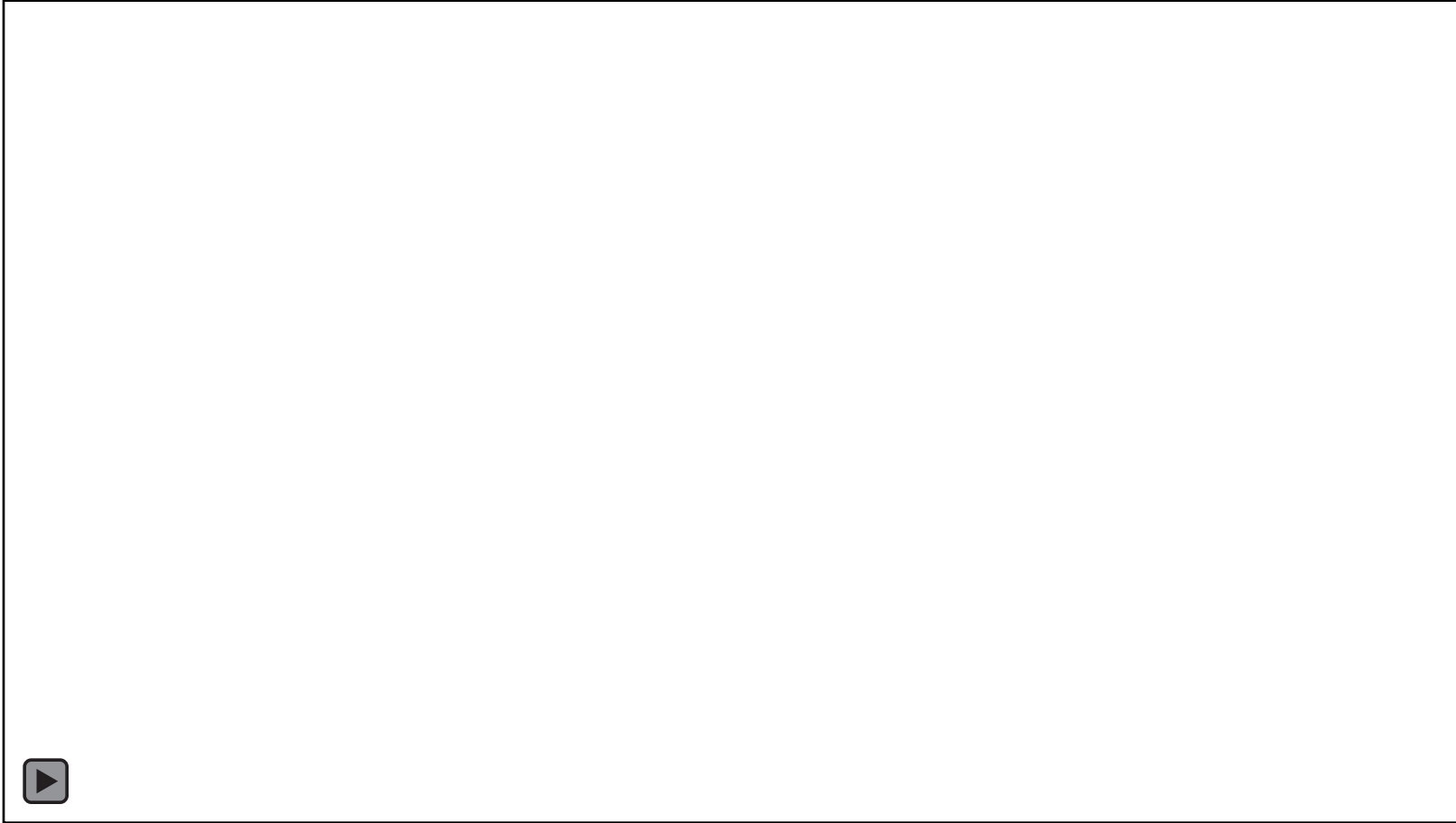
Committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; **and**,

Where the existence of such a relationship is determined based on a consideration of the length, type, and frequency of interactions between the persons involved in the relationship.

## Dating Violence



# Spot the Red Flags



A felony or misdemeanor crime of violence committed by:

- a current or former spouse or intimate partner of the victim;

- a person with who 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;

- a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or,

- by any other person against an adult or youth victim who is protected from the person's acts under the domestic or family violence laws of the jurisdiction in which the crime of the violence occurred.

# Domestic Violence

Is the behavior of  
a person:

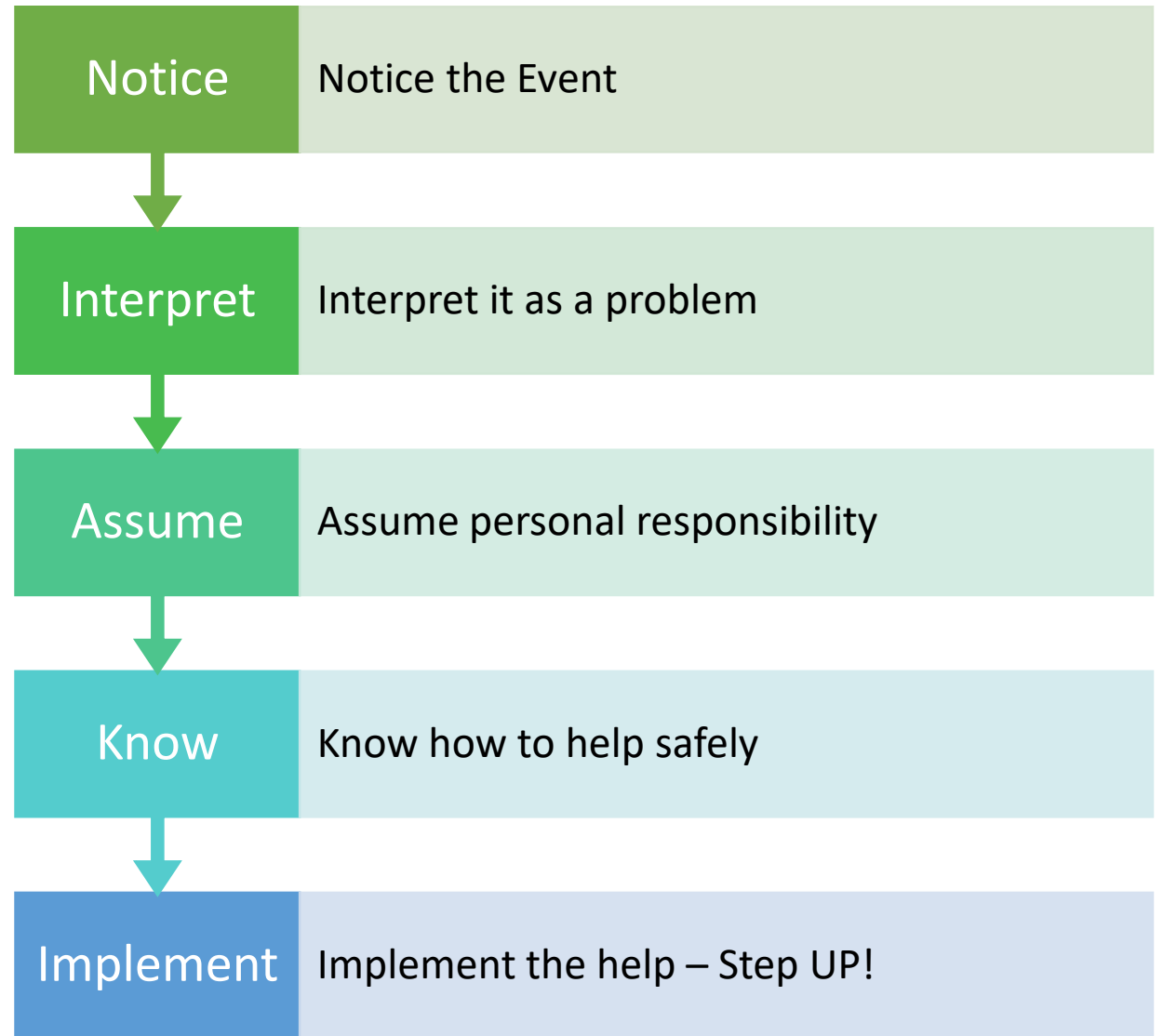
- Engaging in a course of conduct
- Directed at a specific person

That would cause  
a reasonable  
person

- To fear for his or her safety or the safety of others; or,
- suffer substantial emotional distress.

**Stalking**

It's On Us to  
Help!



# Bystander Intervention

## Ways to Help: The 3Ds



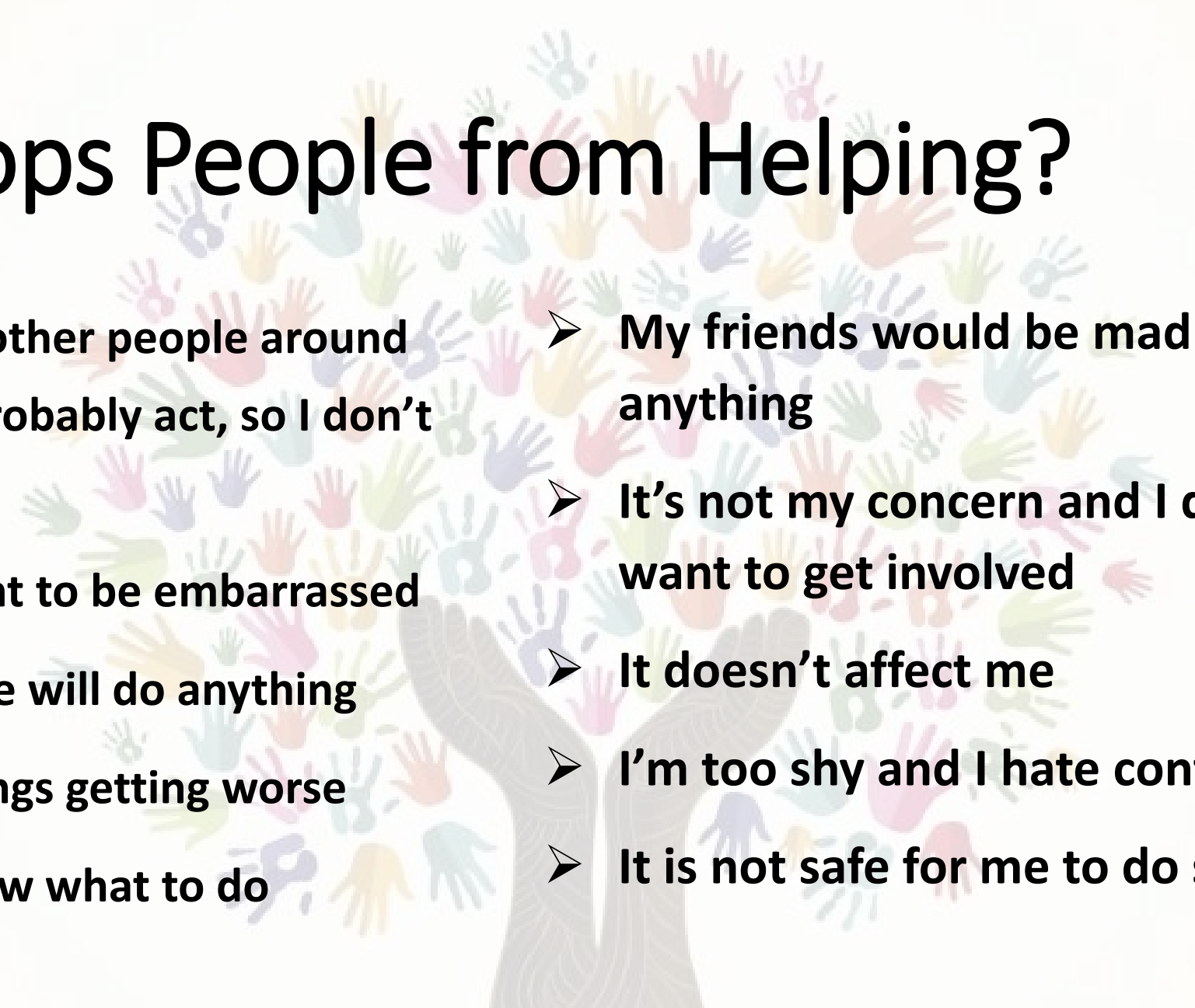
The diagram consists of three identical rectangular boxes arranged horizontally. Each box has a dark blue header and a light blue body. The word 'Direct' is centered in the light blue body of the first box. The word 'Distract' is centered in the light blue body of the second box. The word 'Delegate' is centered in the light blue body of the third box. The boxes are slightly offset to the right, creating a layered effect.

**Direct**

**Distract**

**Delegate**

# What Stops People from Helping?

- 
- There are other people around who will probably act, so I don't have to
  - I don't want to be embarrassed
  - No one else will do anything
  - Fear of things getting worse
  - I don't know what to do
  - My friends would be mad if I did anything
  - It's not my concern and I don't want to get involved
  - It doesn't affect me
  - I'm too shy and I hate conflicts
  - It is not safe for me to do so

An adverse action or other form of negative treatment, including, without limitation, intimidation, threats, coercion, discrimination or harassment, carried out in response to a good-faith reporting of or opposition to Prohibited Conduct; an individual's or group's participation, including testifying or assisting in the College's resolution of Reports and Complaints of Prohibited Conduct, an individual's or group's refusal to participate in College Policies and Procedures on Discrimination and Harassment; or other form of good faith opposition to what an individual reasonably believes to be Prohibited Conduct under this Policy.

## Retaliation

# Lunch Time





# ROLES IN THE PROCESS

# ALL TITLE IX ADMINISTRATORS MUST BE NEUTRAL AND FREE FROM BIAS OR CONFLICT OF INTEREST

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Title IX Coordinator: Oversees the process; ensures federal compliance and that policy and procedures are followed; issues all formal correspondence and notice related to the process

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Decision Makers: Deputy Coordinators! Depending on the respondent classification, they may be a hearing chair and/or a decision maker (or appellate officer)

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Appellate Officers: Deputy Coordinators! Depending on the respondent classification, the designated Coordinator will not participate in the hearing but instead serve as an appeal officer

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Investigator: the person or people who are neutral fact gatherers of the evidence and responsible for drafting and finalizing the investigation report

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Advisor: A person who assists complainants or respondents in understanding our policies and procedures and their decision making throughout the process. Advisors also have a role in live hearings.

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# ROLE OF THE DECISION MAKER (DEPUTY COORDINATORS)

- Oversees the “live” hearing(Process A)
- Ensures the “live” hearing follows policies and procedures and is in compliance with applicable laws and regulations(Process A)
- Makes relevancy determinations at the hearing(Process A)
- Make determination of responsibility
  - Independent determination
  - Cannot give deference to an investigation report (Process A)
- Provides a rationale for the decision; Title IX Coordinator issues written outcome notice to the parties

If the Respondent is a student, the Chair will be the Dean of students.

If the Respondent is an employee, the Chair will be the Director of Human Resources.

If the Respondent is a member of faculty, the Chair will be the VPAA.

# ROLE OF THE APPELLATE OFFICER (DEPUTY COORDINATORS)

Does not otherwise participate in the process as they must be neutral in their consideration

Implement the appeal process as defined in the policy

Communicates with the Title IX Coordinator when appeals have been filed and when the process is complete

Provides documentation of the appeal process to the Title IX Coordinator for the case file

If the Respondent is a student, the written appeal shall be submitted to the VPAA.



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graph TD; A["If the Respondent is a student, the written appeal shall be submitted to the VPAA."] --> B["If the Respondent is an employee, the written appeal shall be submitted to the Dean of Students."]; B --> C["If the Respondent is a member of faculty, the written appeal shall be submitted to the Director of Human Resources."];
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If the Respondent is an employee, the written appeal shall be submitted to the Dean of Students.

If the Respondent is a member of faculty, the written appeal shall be submitted to the Director of Human Resources.

## ADVISORS MAY BE

- An advisor of choice (This advisor is chosen by the party and entitled to accompany the party to all meetings, interviews, hearings, etc.)

OR

- A College appointed advisor (This advisor may accompany the party throughout the entire process; however, unless requested, this advisor will only be appointed if the party has not chosen one by the time of the “live” hearing. )

# ADVISOR REQUIREMENTS

- Advisors of choice may be friends, family, roommates, faculty, staff, attorneys, or anyone else.
- Advisors may not advise on both “sides” of the same complaint in the same case.
- Must be transparent about availability and any possible conflicts of interests or commitments.
- Advisors may not be a confidential employee or resource.



# THE ADVISOR CAN:

- Accompany the advisee through all phases of the resolution process and explain each step of the process.
- Assist the advisee in understanding the Notice of the Investigation, allegations, and relevant policy.
- Help the advisee to decide about whether to file a formal Title IX sexual harassment complaint or to appeal the dismissal of a formal complaint.
- Help the advisee think through options, such as initiating or cooperating with an informal resolution.

# THE ADVISOR WILL:

- Conduct questioning on behalf of their advisee at the hearing (Process A).
- Conduct cross-examination at the hearing (Process A).
- Maintain decorum during the hearing (Process A).

# PROCESS OVERVIEW

## TIMELINES

The College will make a good faith effort to complete the resolution of reports of Prohibited Conduct as promptly and thoroughly as circumstances permit and will communicate regularly with the Parties to update them on progress and timing of the process to ensure a fair process. The process timelines may be extended for good cause.

**Initial Evaluation:** The Initial Evaluation typically takes five (5) to ten (10) Days.

**Supportive Measures:** Supportive Measures are available when Prohibited Conduct is reported and whether or not a Formal Complaint is filed. Supportive Measures are available throughout the entire Resolution Process, and in some cases after a Resolution Process; however, Supportive Measures are first offered during the Initial Evaluation which typically takes five (5) to ten (10) Days. See Section XV for more information about Supportive Measures.

**Informal Resolution:** Informal Resolutions can occur at any time prior to a Decision Outcome, and typically take anywhere from five (5) to twenty (20) Days to complete after the request to pursue an Informal Resolution has been made. See Section XVI for more information about Informal Resolutions.

**Formal Resolution:** The overall Formal Resolution Process takes between sixty (60) and ninety (90) Days depending on how long each step from Report to Formal Complaint to Decision Outcome takes. See Section XVII and XVIII for more information about Formal Resolutions.

**Investigation:** Investigations typically take approximately sixty (60) Days to complete.

**Live Hearing:** The Live Hearing, which includes, a ten (10) day review period of the evidence and another ten (10) day review period of the final investigation report, typically takes twenty (20) to forty (40) Days to complete.

**Administrative Hearing:** The Administrative Hearing, which includes the final review and questioning process, take twenty to (20) to thirty (30) Days to complete.

**Decision Outcome:** Once an Administrative or Live Hearing has concluded, it takes approximately five (5) Days for a Decision to be rendered and communicated to the Parties in writing.

**Appeals:** Appeals are possible at several stages in the Resolution Process: each time a Dismissal is made and after a Decision Outcome has been made. Each appeal window is five (5) Days and may take longer in instances where Appeals are challenged. See Section XX for more information about Appeals.

## INITIAL EVALUATION/INTAKE OF A REPORT

If the allegations reported, if true, would not constitute Prohibited Conduct as defined in this Policy, the Title IX Coordinator may implement a remedy that is not punitive to the respondent; an Informal Resolution, refer the matter to another office for resolution, or take no further action.

Once a report of Prohibited Conduct is received by the Title IX Coordinator, the Title IX Coordinator shall review the report to determine the appropriate next steps. After receiving a report of conduct that, if true, would constitute a violation of this Policy, the Title IX Coordinator will contact the Complainant, request to meet with Complainant to discuss the resources, rights, and options available and provide a copy of this Policy and (when relevant) the College's VAWA brochure which:

- explains the availability of Supportive Measures and on campus resources that provide support;
- provides information about off campus resources that provide mental health support, victim advocacy, and legal assistance;
- explains that Supportive Measures are available with or without filing a Formal Complaint with the College or law enforcement;
- informs the Complainant that even if they decide not to file a Formal Complaint, the Title IX Coordinator may do so by filing a Formal Complaint;
- explains that they have the option to seek Supportive Measures regardless of whether they choose to participate in a College-related proceeding or Investigation;
- explains the option to seek medical treatment and information on preserving potentially key forensic and other evidence that may be helpful in obtaining an order of protection or in other legal processes;
- explains the process for filing a Formal Complaint of and the Resolution Processes for Prohibited Conduct;
- includes the College's procedural options for Formal and Informal Resolutions;
- explains the right to and Advisor of their choosing; and,
- includes the College's prohibition of Retaliation against the Complainant, Respondent, the witnesses, reporting Parties, and that the College will take prompt action when Retaliation is reported.

## EMERGENCY REMOVAL AND ADMINISTRATIVE LEAVE

Where there is an immediate threat to the health or safety of any students or other individuals arising from reported Prohibited Conduct, the College can remove a Student Respondent, partially or entirely, on an emergency basis. The College will make the decision to remove a Student-Respondent based upon an individualized assessment and risk analysis completed by the appropriate members from the BIT/CARE Team (or trained designee) in conjunction with the Title IX Coordinator.

If the College makes such a decision, the Student Respondent will be provided with written notice and an opportunity to appeal the decision immediately following the removal.

The College may place an Employee Respondent on administrative leave during the pendency of a Complaint. Student Employees may also be placed on administrative leave from their employment during the pendency of a Formal Complaint in circumstances in which the Prohibited Conduct was alleged to have occurred in the scope of their employment.

## SUPPORTIVE MEASURES

Designed to restore or preserve equal access to the institution's programs and activities without unreasonably burdening the other party. This includes measures intended to protect the safety of all parties and/or the campus community.

Counseling

Extensions of  
deadlines or other  
course related  
adjustments

Modifications to  
class or work  
schedules

Campus escort  
services

No Contact  
Orders\*\*

Changes in work  
and housing  
locations

Leaves of absence

Increased security  
or monitoring of  
certain campus  
areas

Within Title IX Jurisdiction

**Title IX Sexual Harassment (Process A)**

**Non-Title IX Sexual Harassment (Process B)**

Not Within Title IX Jurisdiction

Sexual harassment

Sexual harassment

Sexual assault

Sexual assault

Dating violence

Dating violence

Domestic violence

Domestic violence

Stalking

Stalking

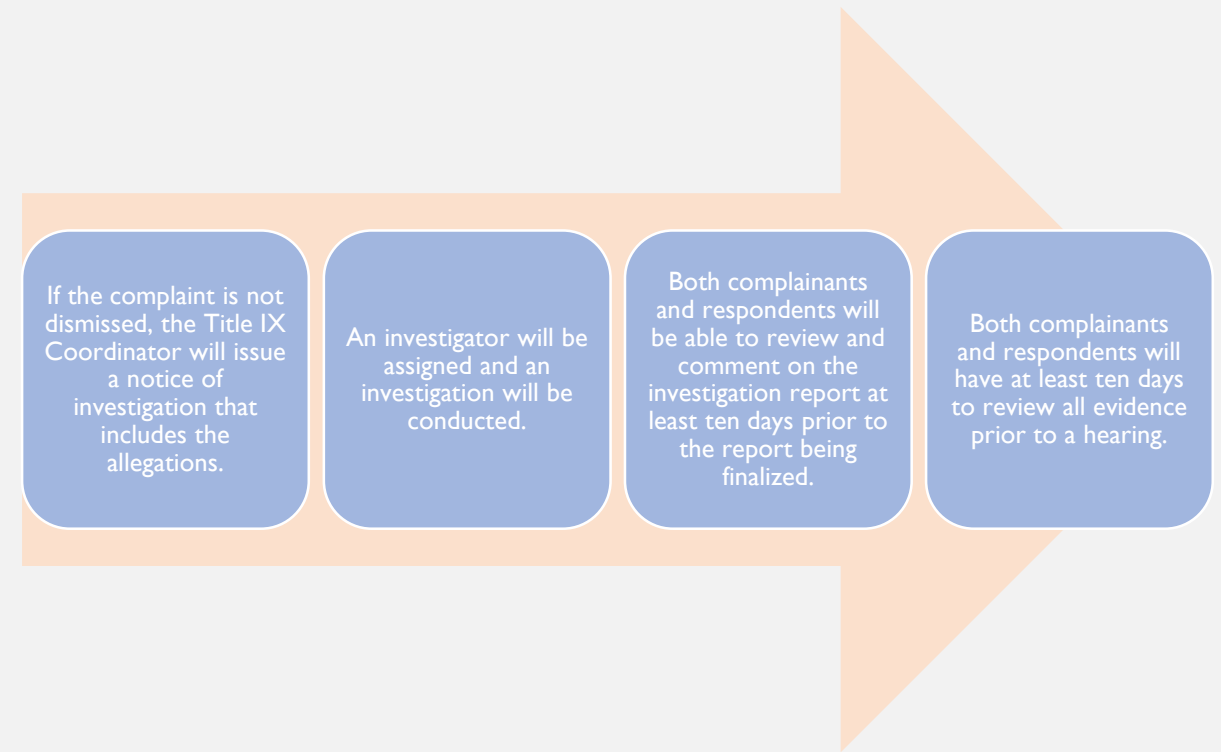
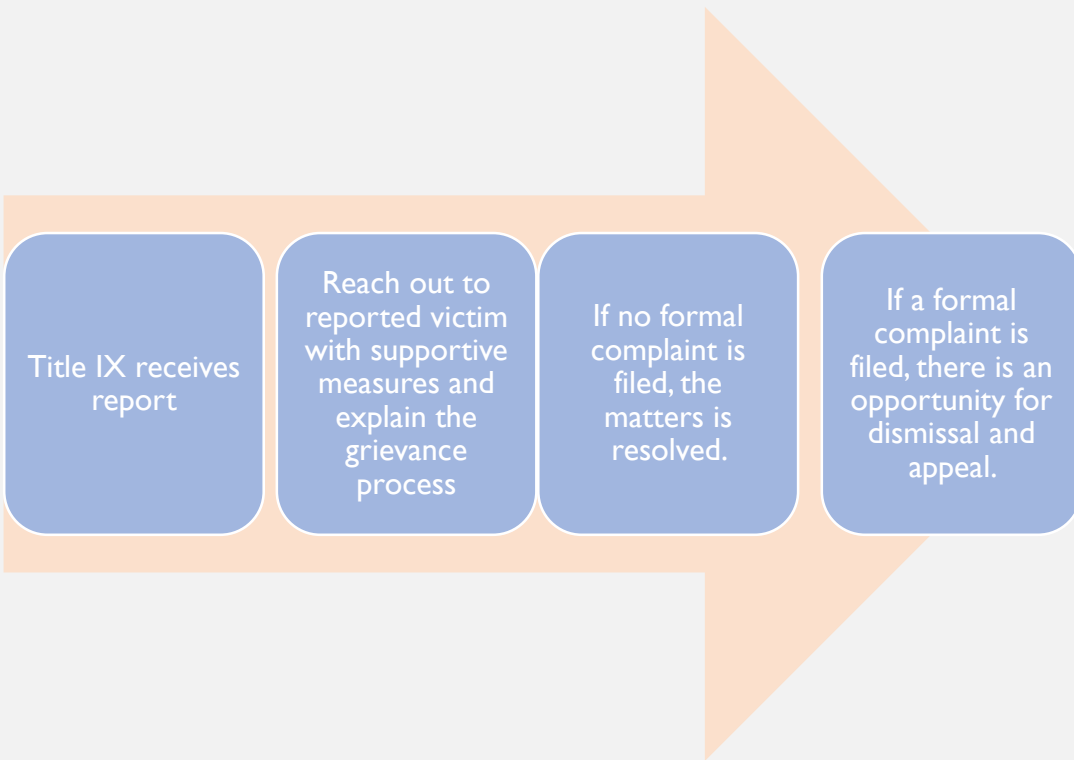
All other policy violations: discrimination and harassment based on a protected identity



**TITLE IX SEXUAL  
HARASSMENT  
PROCESS (PROCESS A)**

# Process A

## Title IX Sexual Harassment



# Process A

A live hearing is held

Informal resolutions are possible; must be requested in writing and agreed upon by both parties and the Title IX Coordinator

Incidents in which there is a student complainant and an employee respondent may NOT be resolved informally

A decision is made; both parties have the right to appeal

# Process A

- Requires a formal complaint
- A hearing during which each party will have an advisor responsible for questioning
- A decision will be rendered by the appropriate Decision Maker (Deputy Coordinator)
- The decision is appealable

*An informal resolution is possible at any stage of the process, so long as it is requested in writing and the parties and College agree.*

# Process A

## FORMAL COMPLAINT

There **must** be a formal complaint to trigger an institution's grievance process that includes the following

- Options for an informal resolution
- An investigation
- A live hearing
- Rights to appeal

## COLLEGE ACTION ABSENT A FORMAL COMPLAINT

In rare cases, the College may move forward without a formal complaint (aka, the Title IX Coordinator signs the complaint) if there is additional independent corroborating information of the misconduct reported such as other reports involving the same party or pattern of assault or abuse, a history of arrests or violence, use of a weapon, or other relevant evidence.

# DISMISSAL OF A FORMAL COMPLAINT

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May occur upon receipt, after an initial interview with the reported victim, or during an investigation, but before a hearing

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Must be provided simultaneously in writing to both parties

---

May be appealed by either party

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## DISMISSALS UNDER TITLE IX

### Mandatory

- The alleged behavior did not occur in the United States
- The alleged behavior did not occur within the College's programs or activities
- The complainant is not participating or attempting to participate in the College's programs or activities

### Discretionary

- A Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any of the allegations
- The Respondent is no longer enrolled or employed by the College or University
- Specific circumstances limit our ability to gather evidence sufficient to reach a determination regarding the alleged behavior



# A NOTE ABOUT THE DISMISSAL OF A FORMAL COMPLAINT....

Supportive measures are still offered.



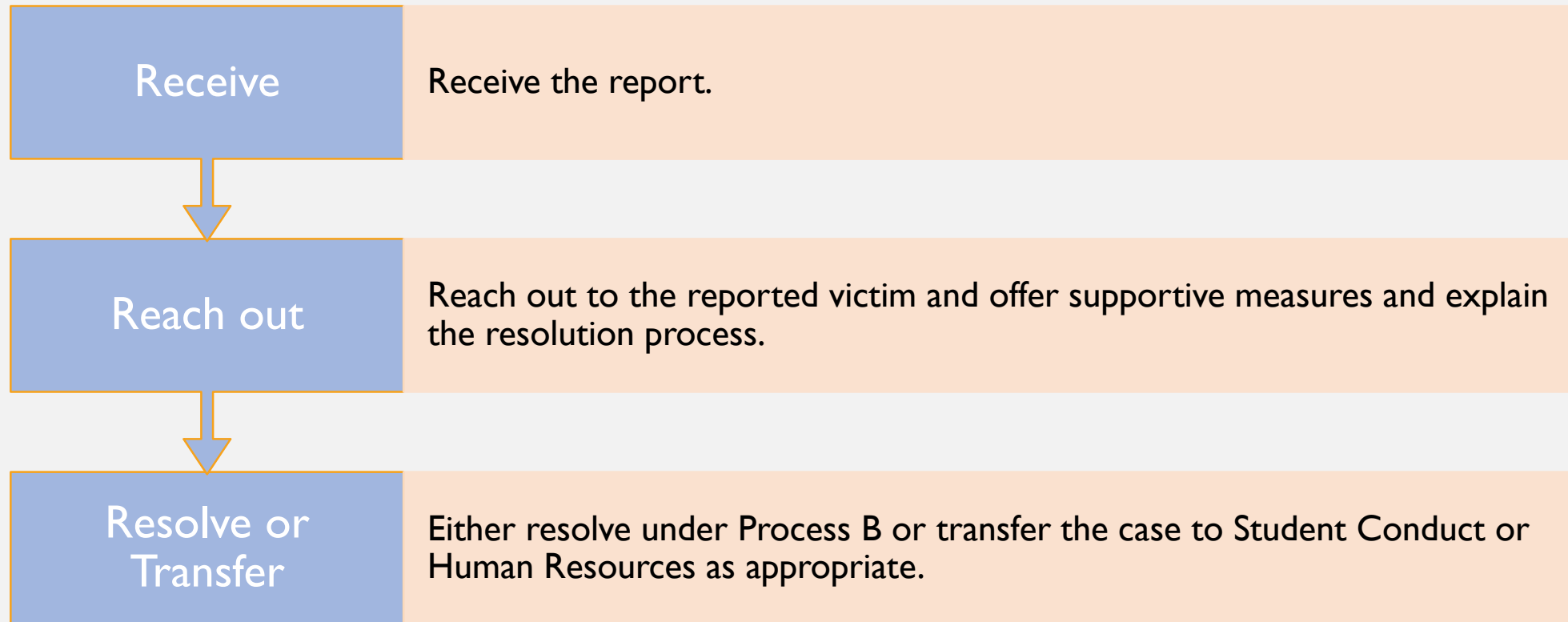
The dismissal can be appealed by a complainant or a respondent.



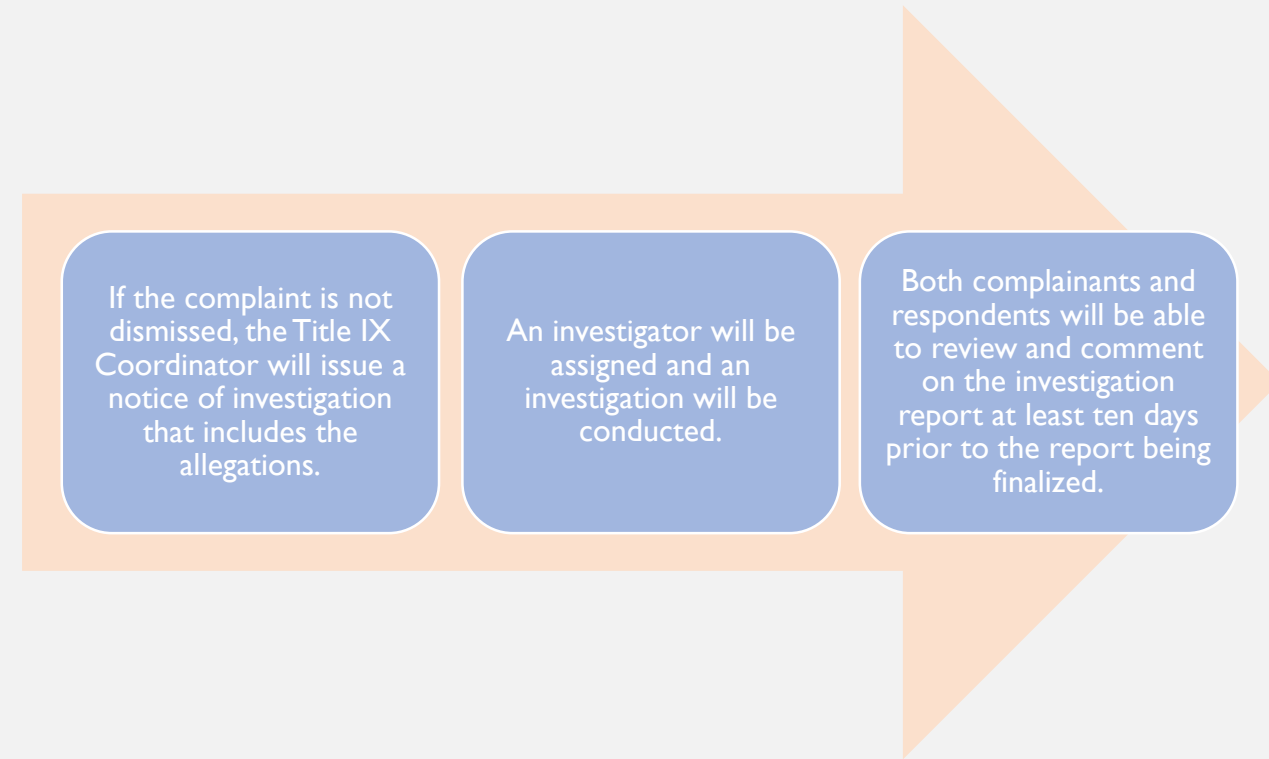
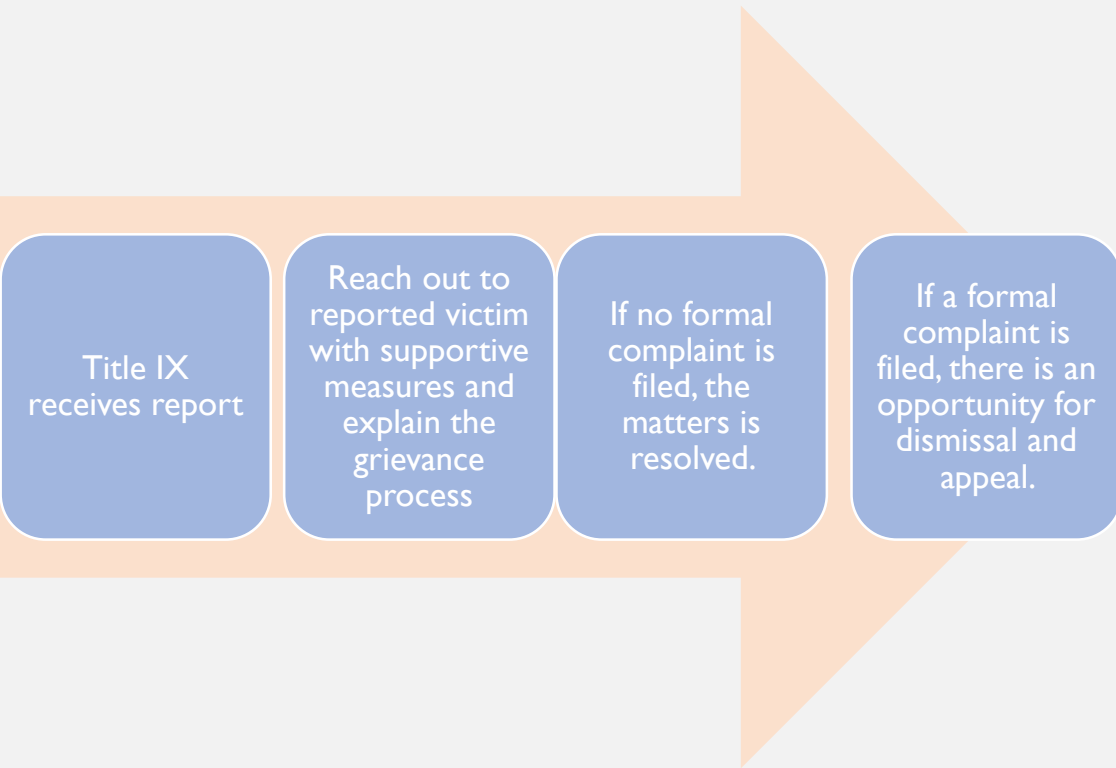
If appropriate, the misconduct may still be investigated and addressed under another process.

**OTHER PROHIBITED CONDUCT  
PROCESS (PROCESS B)**

# Process B

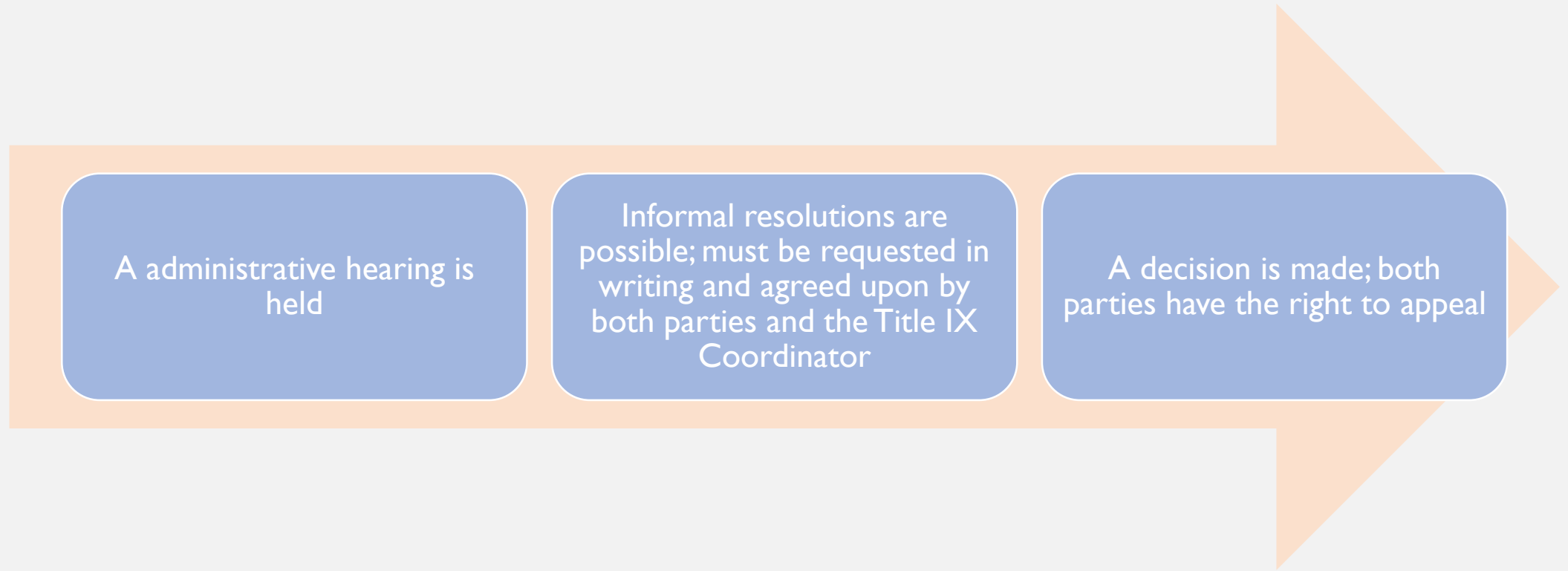


# Process B



# Process B

Title IX Sexual Harassment



# Process B

- An investigator will be assigned, and an investigation will be conducted.
- An administrative hearing may still be held.
- An outcome will be determined and issued to the parties as before.

**An informal resolution is possible at any stage of the process, so long as it is requested in writing and the parties and the Title IX Coordinator agree.**

### COLLEGE ACTION ABSENT A COMPLAINT

In rare cases, the College may move forward without a complaint (aka, the Title IX Coordinator signs the complaint) if there is additional independent corroborating information of the misconduct reported such as other reports involving the same party or pattern of assault or abuse, a history of arrests or violence, use of a weapon, or other relevant evidence.

In instances in which there is no complaint, the College may still be obligated to stop, remedy, or prevent any concerns or possible hostile or discriminatory environments.

### COMPLAINT DISMISSAL

If a Complaint is filed, the College may, in its discretion, choose to dismiss a Complaint of Prohibited Conduct or if time during the Resolution Process:

- the College is unable to identify the Respondent after taking reasonable steps to do so;
- the Respondent is no longer enrolled or employed by the College;
- specific circumstances prevent the recipient from gathering the evidence sufficient to reach a determination in regards to the allegations in the Complaint; and/or,
- the College determines the conduct alleged would not constitute a policy violation, if proven.

Dismissal decisions are appealable by the Parties.



## INFORMAL RESOLUTION

A voluntary process, requested in writing, that resolves formal complaints in a way other than a hearing that is agreed upon by both parties and the College.

*Informal resolutions may not be implemented to resolve allegations that an employee engaged in Title IX sexual harassment of a student.*

# INFORMAL RESOLUTIONS

- Before the Title IX Coordinator begins the Informal Resolution Process, both Parties must provide informed consent in writing. In addition, where both Parties and the College determine that Informal Resolution is worth exploring, the College will provide the Parties with a written notice disclosing:
  - the allegations;
  - the requirements of the Informal Resolution Process;
  - any consequences resulting from participating or withdrawing from the process; and,
  - information about the records relating to an Informal Resolution that may be maintained by the College.
- At any time prior to reaching a resolution, either Party may withdraw from the Informal Resolution Process and proceed with the appropriate Formal Resolution Process. The Complainant may also request that a Complainant be dismissed.
- Once an Informal Resolution is agreed to by all Parties, the resolution is binding, and the Parties generally are precluded from resuming or starting the applicable formal grievance process related to specific misconduct that was alleged. Any breach of the terms of an Informal Resolution agreement may result in disciplinary action.

# INVESTIGATIONS

A fair and impartial process conducted by the institution to collect evidence sufficient for a decision maker to determine whether the misconduct occurred.

# INVESTIGATION OVERVIEW

- Trained investigator(s)
- Fair and impartial (evidence gathering, not fact finding)
- Written Notice of Allegations (Amended as needed)
- Ensure investigation participants have advanced written notice of interviews
- Understand the burden of evidence collection belongs to the institutions
- Cannot access medical, mental health, or other privileged materials without voluntary written consent
- Understand that parties are not restricted in discussing the allegations
- Ensure that both parties have the right to present witnesses (even experts) and evidence
- Ensure that both parties have at least ten days to review and respond to any evidence prior to a finalized report (Process A)
- Ensure that both parties have at least ten days to review and respond to final investigation report prior to a hearing
- Identify relevant policy elements and required procedures.

# NOTICE OF INTERVIEW

- Comes from the Investigator
- Directly to the participant and if relevant, the advisor
- Includes the date, location (format), and purpose of the interview or an invitation to provide availability
- Allows enough time for the participant to prepare for the interview

## AMNESTY

The College will generally not pursue disciplinary action against a student who makes a good faith report or who participates truthfully as a party or witness in the resolution process related to Prohibited Conduct, for personal consumption of alcohol or other drugs (underage or illegal) or other minor misconduct which would otherwise be a violation of the Student Code of Conduct, Handbook, or other policies, provided the misconduct did not endanger the health or safety of others. The College may, however, engage in an assessment or educational discussion or pursue other non-disciplinary options regarding the ancillary misconduct, including alcohol or other drug use.

# AFTER THE INVESTIGATION...

## Title IX Sexual Harassment (Process A)

- Investigator will prepare a Draft Investigation Report
- Complainants and respondents will have a minimum of ten days to review and inspect all **relevant or directly related** evidence
- The Investigator will prepare a Final Investigation Report
- Complainants and respondents will have a minimum of ten days prior to the live hearing to review and inspect the final investigation report
- A live hearing

## All other Prohibited Conduct (Process B)

- Investigator will prepare a Draft investigation Report
- Complainants and Respondents will have a minimum of ten days prior to the administrative hearing to review and inspect all the **relevant** evidence and pose additional questions
- An administrative hearing

## LIVE HEARINGS

A “live” meeting designed to allow the decision-makers to hear testimony and receive non-testimonial evidence to determine by the preponderance of the evidence standard whether or not the policy has been violated



## HEARING OVERVIEW

- May be conducted virtually so long as the decision-makers, the parties (and their advisors) can simultaneously see and hear the party or witness speaking.
- Complainants and respondents can request to be located in separate rooms so long as they can hear and observe each other in real-time.
- Must be recorded or transcribed.

***Our live hearings will always be conducted virtually. Decisions makers may request training to use Zoom prior to the hearing if needed.***

## HEARING REQUIREMENTS

- Decision-maker must independently evaluate questions for relevance; questions about past sexual conduct are generally not permitted.
- Party's advisors must be allowed to conduct live questioning of other party and witness.
- Any rules implemented by the institution **must** apply to both parties.

## DECISION-MAKER'S DETERMINATION

Must consider all the admissible testimony and non-testimonial evidence

Evaluate evidence for relevance, weight, and credibility

Analyze and resolve facts under our policy using the preponderance of the evidence standard

## ADMINISTRATIVE HEARING

A meeting designed to allow the decision-makers to deliberate on the evidence and ask questions of the investigators to determine by the preponderance of the evidence standard whether or not the policy has been violated. Parties and advisors will be made aware of administrative hearing's dates and times, but they will not be present.

## RELEVANCE

Colleges and Universities are expected to apply the “plain and ordinary meaning” of relevance.

Questions (during a hearing or an investigation)

- Not directly related to the allegations will generally be irrelevant.
- That ask whether the facts material to the allegations are more or less likely to be true will generally be considered relevant.
- That are relevant but are asked in an abusive or argumentative manner maybe required to rephrased in an appropriate manner.

## IRRELEVANCE

Questions that are always irrelevant:

- Questions and evidence about a complainant's sexual predisposition or prior sexual behavior **UNLESS**
  - The questions and/or evidence about the complainant's prior sexual behavior are asked or offered to prove that someone other than the respondent committed the alleged misconduct; OR,
  - The questions and/or evidence concern specific incidents of the complainant's prior sexual behavior with the respondent and are asked or offered to prove consent.
- Questions and evidence that seeks the disclosure of legally privileged materials unless the party has given *prior* voluntary written consent.
- Duplicative questions

# NOTICE OF OUTCOMES

# APPEALS

An equal opportunity for complainants and respondents to appeal or challenge, in writing, a decision to dismiss or the outcome of a hearing on limited specified grounds



## COMPLAINANTS AND RESPONDENTS HAVE THE RIGHT TO APPEAL THE FOLLOWING:

- Title IX Coordinator's decision to dismiss a Formal Complaint of Prohibited Conduct;
- Emergency Removal decisions; and,
- decisions regarding responsibility for policy violation or outcome.

If the Respondent is a student, the written appeal shall be submitted to the VPAA.



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graph TD; A["If the Respondent is a student, the written appeal shall be submitted to the VPAA."] --> B["If the Respondent is an employee, the written appeal shall be submitted to the Dean of Students."]; B --> C["If the Respondent is a member of faculty, the written appeal shall be submitted to the Director of Human Resources."];
```

If the Respondent is an employee, the written appeal shall be submitted to the Dean of Students.

If the Respondent is a member of faculty, the written appeal shall be submitted to the Director of Human Resources.

# APPEALS

Are granted **ONLY** in the following circumstances

- new information not reasonably available at the time of the decision that could affect the outcome of the matter;
- the Title IX Coordinator or other Title IX Administrator had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent specifically that affected the outcome of the matter;
- the Sanction is excessively severe considering the cumulative conduct/disciplinary record of the Respondent; and/or,
- procedural error(s) that affected the outcome of the matter. An appeal is not a re-hearing of the case.

***Third-parties may not file an appeal on behalf of a complainant or respondent.***

AFTER A DECISION

## REMEDIES

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Designed to restore or preserve equal access to the institution's education program or activity and is provided to the complainant

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May be a continuation of or the same as supportive measures, but they may also burden the respondent or be disciplinary in nature

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The nature and specifics of the remedy need not be disclosed; just that the institution is providing remedies to the complainant

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Records maintained for at least seven years

# SANCTIONS

Will be determined based on the nature of the violation and in consideration of aggravating and mitigating factors



May have educational, punitive, and protective elements



Records maintained for at least seven years

# SANCTIONS

- Sanctions for a finding of responsibility for Student Respondents include any of the sanctions outlined in the Student Codes of Conduct, education, growth plans, community service, referral to counseling, warnings, probation, suspension, suspension from participation in activities or privileges, suspension from the College or the residence halls, or expulsion. In determining (a) sanction(s), the designated Deputy Coordinator will consider whether the nature of the conduct at issue warrants removal from the College, either permanent (expulsion) or temporary (suspension).
- Sanctions for findings of responsibility for Employee and Faculty Respondents include, but are not limited to, education, referral to counseling, and disciplinary actions such as warnings, reprimands, withholding of a promotion or pay increase, reassignment, restriction in activities or privileges, temporary suspension without pay, compensation adjustments, or termination.
- Other factors pertinent to the determination of what sanction applies include, but are not limited to, the nature of the conduct at issue, prior disciplinary history of the Respondent, previous College response to similar conduct, and the College interests (e.g., in providing a safe environment for all).
- Third parties, such as visitors, contractors, consultants, vendors providing services to the College/University may be subject to appropriate corrective action, including, but not limited to, issuance of a no trespass order or cancellation of relationship with the College.

# EVIDENCE & CREDIBILITY



# WEIGHING THE EVIDENCE

## **More weight**

- Directly related & relevant
- Corroborating
- Convergent
- Credible
- Consistent

## **Less weight**

- Directly related & irrelevant
- Contradictory
- Conflicting
- Not credible
- Inconsistent

# ASSESSING CREDIBILITY

**Credibility Assessment** - When some of the evidence requires the evaluation of one person's word against another, investigators and decision makers should follow guidance from the Office of Civil Rights to weigh evidence and credibility. The evaluation of evidence may take into account:

- **Detail and Consistency:** The accuracy of each person's account should be compared in an attempt to evaluate honesty and consistency.
- **Demeanor:** While emotional responses vary widely, each party's reactions and behavior after the alleged incident could be evaluated as part of a decision.
- **Action taken:** The timing of a report may be considered, although either an immediate or delayed report could be reasonably explained. Actions taken after the alleged encounter may also be considered.
- **Other contemporaneous evidence:** Verbal or electronic communication with friends or family (and their reactions), any other form of written details, and the timing of such communications may be factors in a decision.

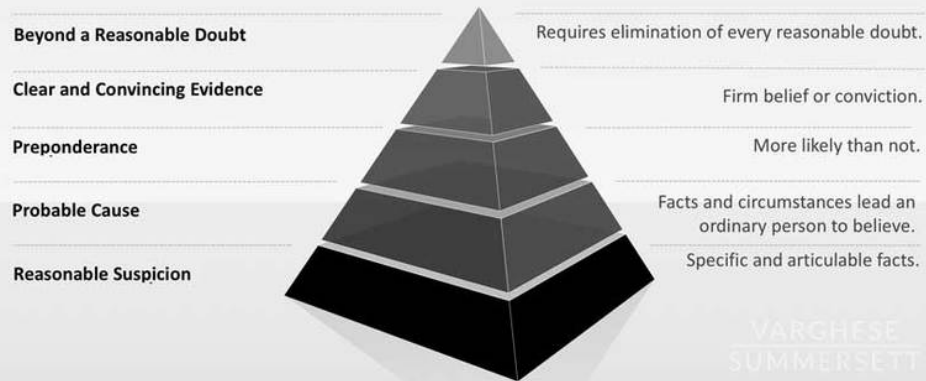
## ASSESSING CREDIBILITY

- Inherent plausibility: Is the testimony believable on its face? Does it make sense?
- Demeanor: Did the person seem to be telling the truth or lying? Why?
- Motive to falsify: Did the person have a reason to lie?
- Corroboration: Is there witness testimony (eye-witnesses, people who saw the person after the alleged incidents, or people who discussed the incidents with them at or around the time they occurred) or physical evidence that corroborates the party's testimony?

## EVIDENCE STANDARD

In Title IX sexual harassment cases and other forms of Prohibited Conduct, the **preponderance of the evidence** standard will be used to determine whether or not a person is found responsible for violating our policies.

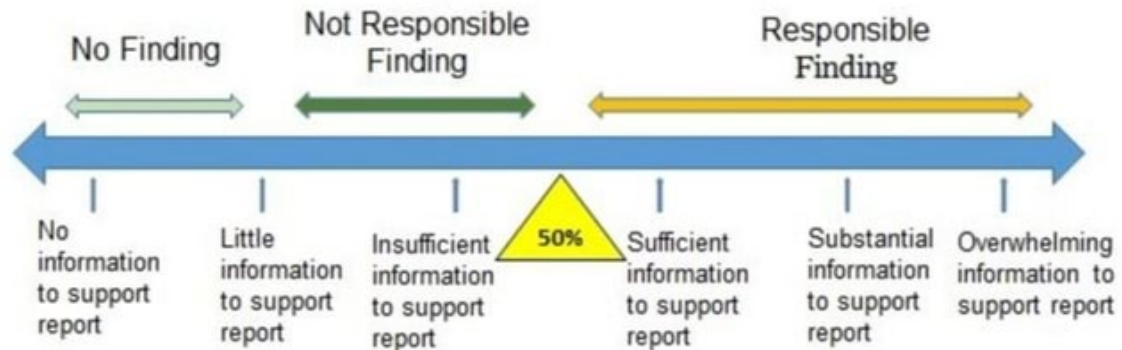
## BURDENS OF PROOF



**Why a pyramid?** | As the level of proof required rises, the fewer number of cases meet the level of proof.

## Preponderance of Evidence Standard

*A Requirement that **More than 50%** of the Evidence Points to Something*



## Preponderance of the Evidence



**Greater Weight of the Evidence**

# RESOURCES

- <https://sites.ed.gov/titleix/policy/>
- <https://www.eeoc.gov/policy/docs/harassment.html>
- <chrome-www2.ed.gov/about/offices/list/ocr/docs/dcl-title-ix-coordinators-guide-201504.pdf>
- <https://www.bricker.com/insights-resources/publications/higher-education-title-ix-training-requirements-an-overview>
- <https://atixa.org>
- <https://legal-dictionary.thefreedictionary.com/weight+of+evidence>
- [https://www.linkedin.com/pulse/three-techniques-weighing-evidence-short-guide-tom-coyne/?trk=read\\_related\\_article-card\\_title](https://www.linkedin.com/pulse/three-techniques-weighing-evidence-short-guide-tom-coyne/?trk=read_related_article-card_title)
- <https://www.vaildaily.com/opinion/robbins-inculpatory-and-exculpatory-evidence/>



# 2025 Annual Title IX Administrator Training Attendance

