

TIXEdu

TITLE IX COORDINATOR TRAINING

**MARCH,
2021**

**PROVIDED BY:
TIX EDUCATION SPECIALISTS**

**WWW.TIXEDU.COM
503-960-8261**

INSTRUCTOR: JACKIE SANDMEYER

Jackie Sandmeyer is the Founder and Principal of TIX Education Specialists. They received their Bachelor of Science from University of Idaho and Juris Doctor at Willamette University of Law. After creating the country's first statewide Title IX training and technical assistance program for colleges and universities, Jackie sought to fill the need for further capacity in training and consultation related to sexual harassment and interpersonal violence nationally. They have worked with colleges and universities, law enforcement,



state agencies, and community based service providers to identify and create some of the nation's leading models in Title IX and student services. From pioneering education based legislation that spread to other states to developing new and emerging school based investigation techniques, Jackie and their team bring this experience and more to TIX and its clients.

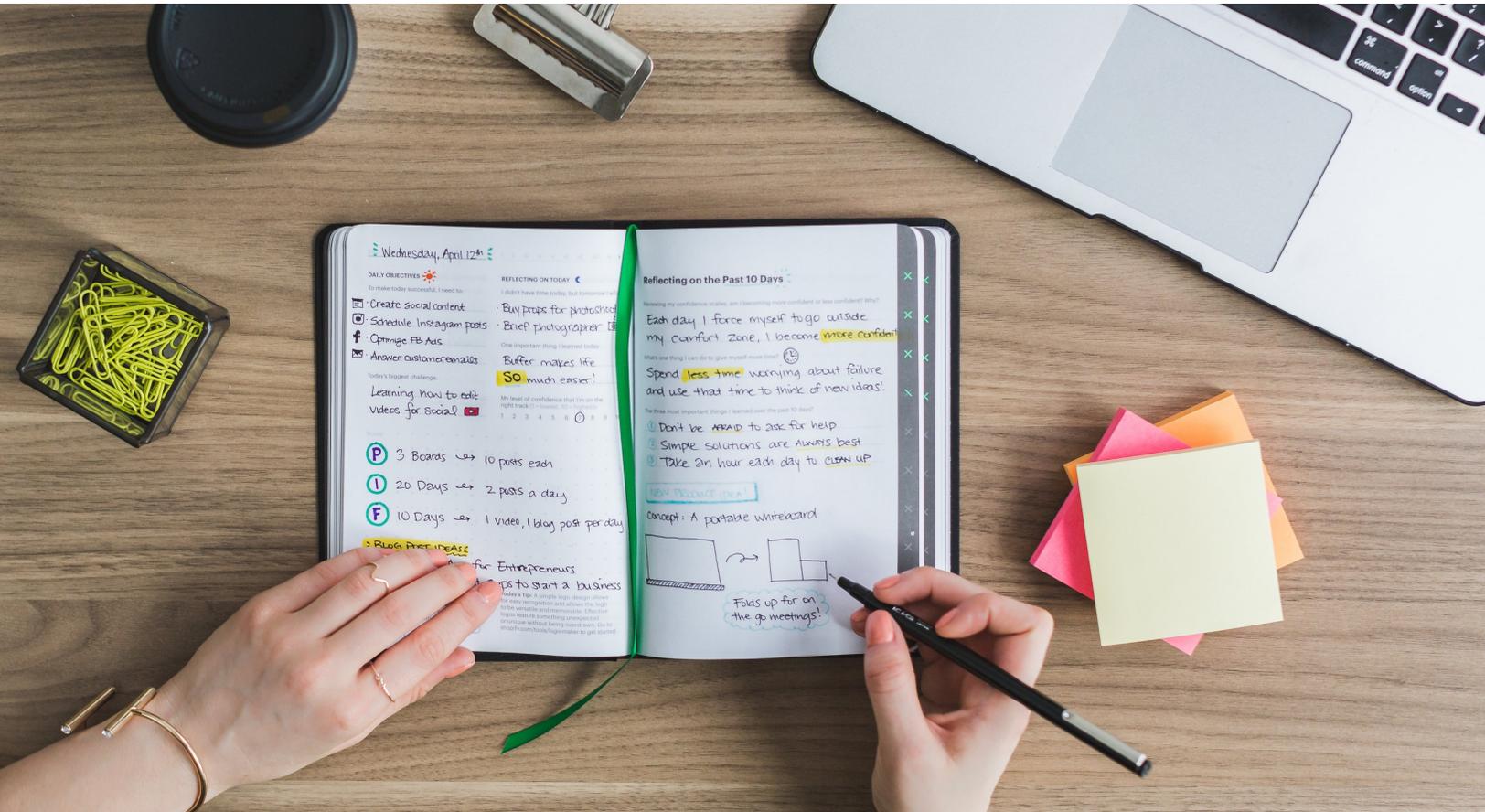
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founder | principal

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MOVING BEYOND COMPLIANCE. EMERGING BEST PRACTICES.



TRAINING

Cutting edge training integrating up to date mandates as well as emerging best practices. Each curriculum tailored to meet your needs.

CONSULTATION

Customized consultation in all forms including policy audits and review, case consultation, program review, climate surveys and more.

INVESTIGATION

Let our team of highly trained and experienced investigators help you stay on top of challenging cases and expanding case loads.

ABOUT: TIX EDUCATION SPECIALISTS

About TIX Education Specialists

TIX Education Specialists sets itself apart from other training and consultation bodies in that it offers guidance and training on not only what is compliant, but what is known to be best practice and trauma-informed. We don't believe that one model fits all. Instead, TIX brings years of expert experience to identify solutions that serve you and your community best.

Our Mission - Bridging Compliance & Best Practice

Successful responses by schools take not only compliant policies and strategies, but must also include techniques rooted in emerging best practice. While many firms solely provide schools with what the law requires, TIX Edu goes a step further by ensuring that schools understand what implementation looks like, and how mandates integrate with institutional missions. Schools are tasked with the safety of students as well as creating and fostering an environment for students to reach their fullest potential. Let TIX Edu assist with the hard work of identifying the path to get there.

Email: admin@tixedu.com

Phone: 503-960-8261

Web: tixedu.com

TIX Education Specialists

“Bridging compliance and best practice.”

NEED ADDITIONAL HELP?

WEBINARS

Keep up to date through short training episodes covering emerging topics with live and recorded webinars. Don't be left behind.

RESOURCES & TOOLKITS

Stop recreating the wheel and take advantage of our templates, one-pagers, toolkits and other resources covering all areas.

TRAININGS & COURSES

From topic specific certification to courses on larger Title IX and related fields we have curriculum offered both in person and online.

MEMBERSHIP

Become a member of TIX Edu's network and receive email alerts, resources, networking opportunities, technical assistance and more.

TITLE IX COORDINATOR TRAINING

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DAY 1

Monday, March 8, 2021

UNDERSTANDING TITLE IX

Purpose of Title IX / USDOE & OCR / Bridging Compliance & Best Practice

An overview of the tenants of Title IX as it relates to sex discrimination including the purpose of Title IX, how to navigate guidance and resources provided by the U.S. Department of Education and Office for Civil Rights. A look at how institutions can bridge compliance with Title IX with best practices in serving students and staff and building processes that reflect institutional missions and community values.

INSTITUTIONAL RESPONSE

Institutional Discretion/ Administrative Requirements

A look at the scope and limitations of institutional discretion in how they create policies that are compliant with Title IX, but also reflective of larger campus mission. Identify administrative requirements of Title IX and common pitfalls of institutions when overlooking the easily remedied facial compliance requirements.

DAY 2

Tuesday, March 9, 2021

SCOPE OF TITLE IX

When is Title IX triggered / Defining Conduct / Jurisdiction / Institutional Notice

Understand the scope of Title IX and what types of reports or notice trigger an institution's responsibilities under Title IX. Create confidence in Title IX Coordinators to triage initial complaints to determine whether a report triggers a Title IX response by better understanding the dynamics of jurisdiction, notice and definitions of conduct.

TITLE IX COORDINATOR TRAINING

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DAY 2 CONT'D

Tuesday, March 9, 2021

INFORMAL PROCESSES

Regulations to Meet / Models / Best Practices

Develop an understanding of the compliance requirements of the informal process option, overview pre-existing models to learn from and borrow from, identify challenges and pitfalls as well as benefits to an additional process option.

DAY 3

Wednesday, March 10, 2021

INVESTIGATIONS

Inv. Models / Receiving Reports / Formal Complaints / Investigation Process

Learn the framework and step by step of a Title IX investigation from receiving and triaging reports to process counseling parties and providing notice. Develop a better understanding of the purpose of investigations and the steps required to ensure equitable and fair outcomes for all parties.

HEARINGS

Models / Conducting Live Hearings / Cross-Examination / Decision-Maker

A look at the new requirements of live hearings and cross-examination as well as the role of the decision-maker(s). Identify how the hearing fits into both the fact finding role as well as the adjudicatory function as well as the different models in high schools can learn from. Identify the potential roles for the Title IX Coordinator as well as best practices in conducting live hearings.

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DAY 4

Thursday, March 11, 2021

INTERIM MEASURES

Administrative Leave / No-Contact Orders / Emergency Removals

Identify the frameworks used to identify when interim measures are necessary and appropriate as well as the tests needed to determine which types of interim measures are most appropriate. A look at executing and documenting interim measures and understanding how they differ from supportive measures.

NON-SEXUAL HARASSMENT TOPICS

Athletics / Gender / Single Sex Programs / Pregnant & Parenting / Sex Discrim.

Develop an understanding of the areas of Title IX outside conduct that falls under sexual harassment. Identify how these different protected areas of Title IX may intersect as well as how understand the tests used when evaluating whether a violation has occurred.

DAY 5

Friday, March 12, 2021

SKILLS WORK

Case Studies

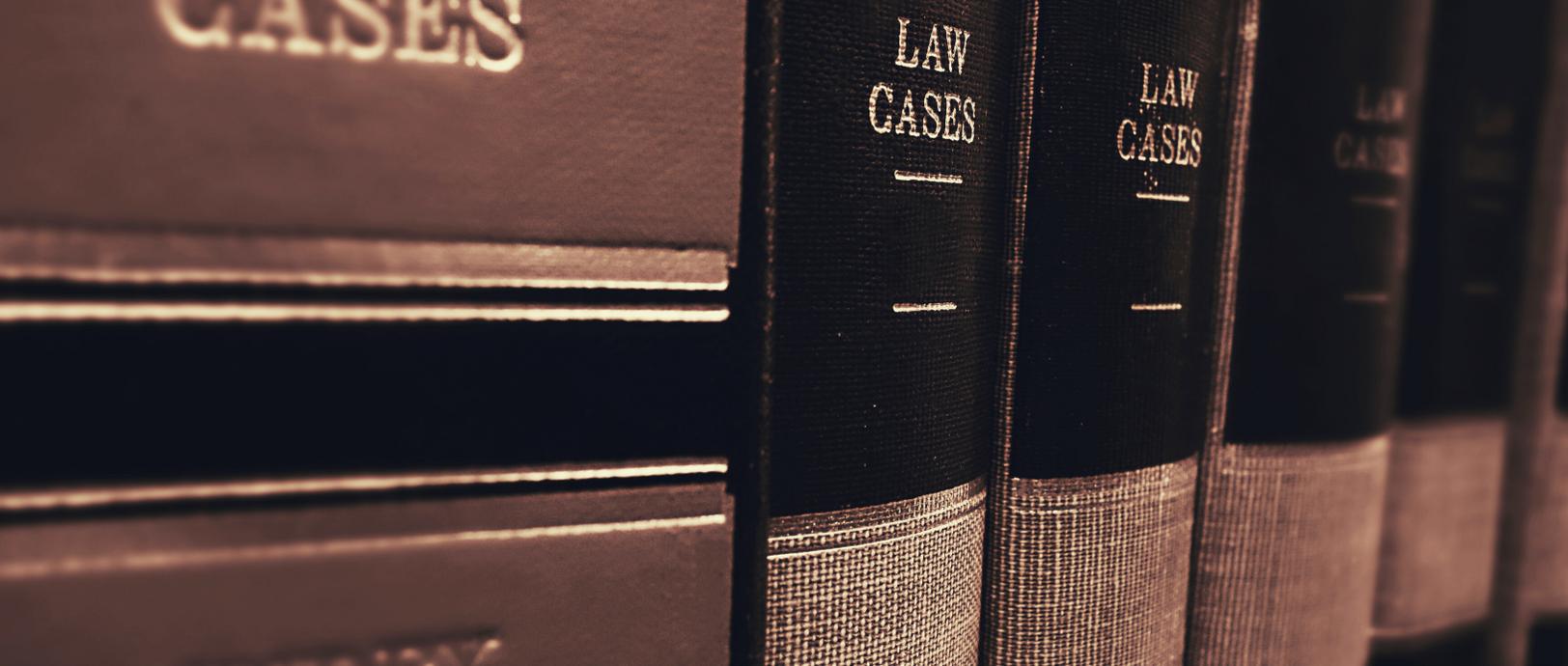
Put your knowledge to the test by walking through sample reports and case hypotheticals to better identify the limits and scope of different regulations as well as gain the confidence and muscle memory needed to apply this knowledge to your every day role. Ask questions and get answers as you fine-tune your notes and checklists.



DAY 1



MARCH 8, 2021



OVERVIEW OF Title IX: Understanding The Purpose

An overview of the tenants of Title IX including the purpose of Title IX, how to navigate guidance and resources provided by the USDOE and OCR. A look at how institutions can bridge compliance with Title IX with best practices in serving students and staff and building better processes.

Learning Objectives:

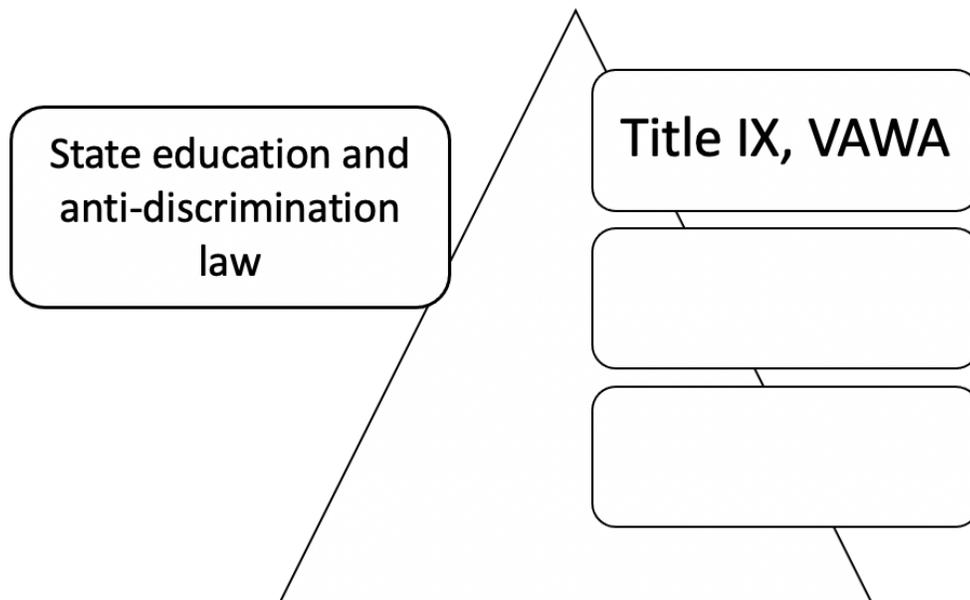
- Develop a clear understanding of requirements of Title IX
- Understand the scope and limitations of Title IX and how that intersects with best practices
- Identify where regulations begin and end and where institutional discretion can guide school's decisions

Title IX encompasses more than just sexual harassment.

Main areas of Title IX **not an exhaustive list:*

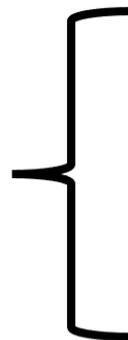
- sexual harassment
- retaliation
- athletics
- single sex educational programs and activities
- gender identity and gender expression
- pregnant and parenting students

Notes:



Language and Title IX:

Sex based
discrimination

- 
1. Sexual harassment
 2. Sexual Assault
 3. Domestic Violence
 4. Dating Violence
 5. Stalking

Notes:

Who does title IX apply to?

Religious Exemptions:

“'program or activity,' as defined in 20 U.S.C. 1687, “does not include any operation of an entity which is controlled by a religious organization if the application of section 1681 of this title to such operation would not be consistent with the religious tenets of such organization.”

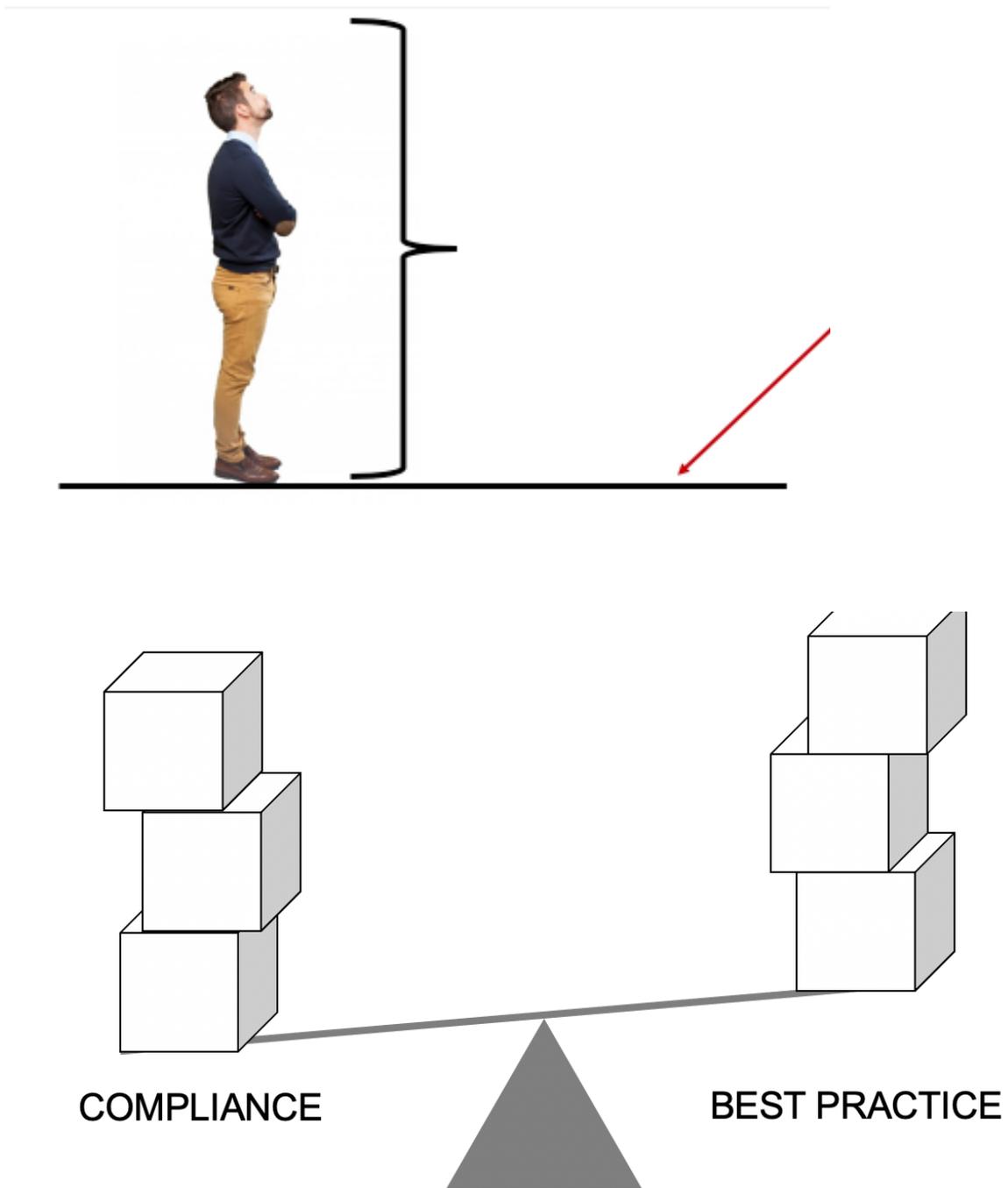
Office for Civil Rights:

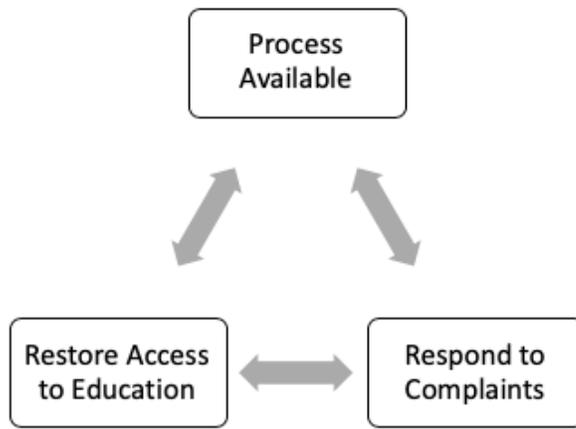
Title IX regulations effective August 14th, 2020.

New Title IX regulations are not retroactive in their application.

← Did conduct occur before or after August 14, 2020? →

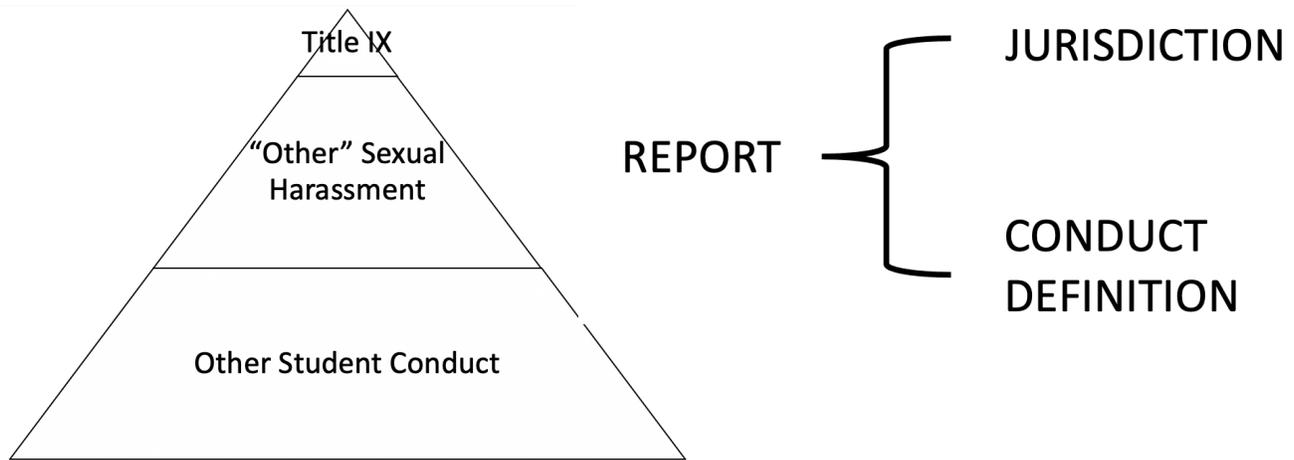
Institutional discretion:





Narrowing of Title IX:

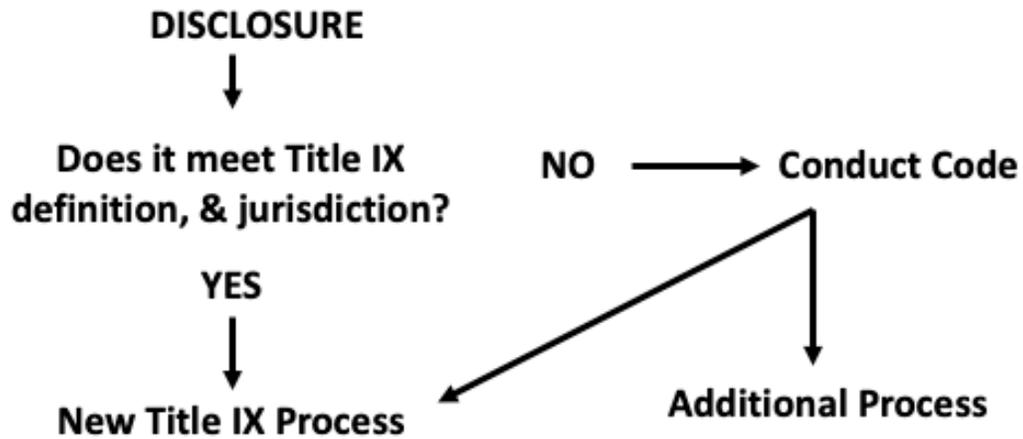
“A recipient with actual knowledge of sexual harassment in an education program or activity of the recipient against a person in the United States to respond promptly in a manner that is not deliberately indifferent, meaning not clearly unreasonable in light of the known circumstances.”



1. Does your institution want to create policy to respond to "other" types of sexual harassment and sex discrimination?

2. If you capture "other" types of conduct, do you use one process provided by the federal regulations or do you use two?

"If the allegations in a formal complaint do NOT meet the definition of sexual harassment, or [jurisdiction], ... the school must dismiss such allegations for purposes of Title IX.... BUT may still address allegations in any manner the school deems appropriate under the school's own code of conduct."



Deliberate indifference:

DELIBERATE INDIFFERENCE + RESPONSE:

- support measures offered
- contact complainant and process counsel
- follow grievance procedures
- investigate formal complaints
- determine if formal complaint will be filed
- dismiss complaints that don't fall under Title IX

Basic administrative requirements:

- 1.
- 2.
- 3.

TITLE IX COORDINATOR:

Training Considerations:

NOTICE OF NON-DISCRIMINATION:

“[Institution] does not discriminate on the basis of sex in education programs or activities it operates including admissions and employment...”

Notice of non-discrimination:

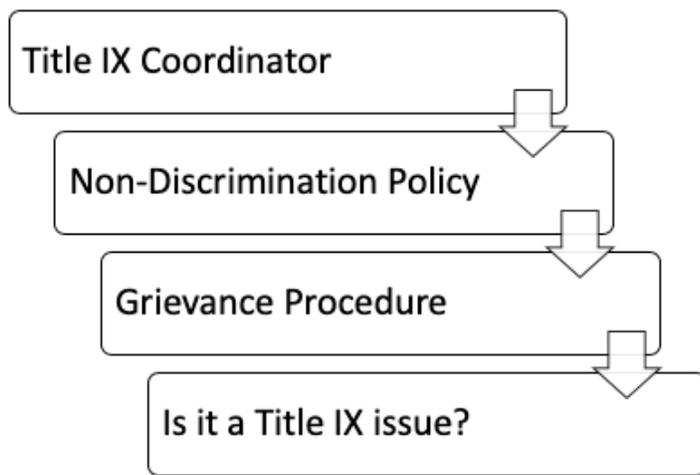
Grievance procedure:

Grievance procedure requirements:

- Definitions
- How to file a complaint
- Contact information of Title IX Coordinator
- Process available
- Prohibition of retaliation
- Evidence standard used
- Scope of sanctions
- Appeals process
- Impartial investigations
- Support measures
- Party notice
- Whether informal process offered
- Presumption that respondent not responsible
- Reasonably prompt timeframes
- Range of remedies
- Whether sanctions for providing false information

All non-Title IX mandated policies must be applied equitably to all parties.

Dissemination:



Notes:

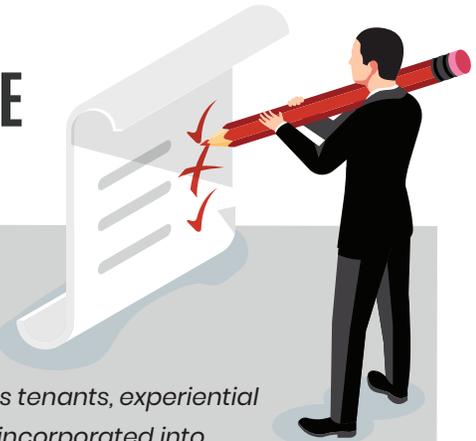
INSTITUTIONAL ASSESSMENT: BRIDGING COMPLIANCE AND BEST PRACTICE

WHAT IS YOUR INSTITUTION’S MISSION WHEN IT COMES TO TITLE IX?

Students and staff often assume the purpose admission of Title IX on campus based on how the news frames Title IX, what friends and colleagues have said, as well as past experiences with institutional systems. Below write down what your institution’s goal is for Title IX response and programs on campus. For example, is prevention an element of your mission? Creating better campus culture? Responding to incidences on campus? Intervening in behavior before it escalates or perpetuates into a pattern of behavior? Creating safe space for students to earn degrees?

WHAT INSTITUTIONAL VALUES DO YOU WANT TO SEE INCORPORATED INTO YOUR TITLE IX PROCESS?

Every institution has a unique mission and set of values that guide the work that it does. These specific values are what draw students and staff to your campus, and can be reflected to those who visit campus or partake in your programs. For example, some campuses focus on small community, diversity and inclusion, religious tenants, experiential based learning, etc. What values does your campus focus on, and how can those be incorporated into your Title IX process? How are they already reflected in your Title IX process? Title IX may be federally mandated, but how we go about meeting those mandates should reflect the campus.



WHAT IS YOUR DESIRED OUTCOME FOR EVERY TITLE IX CASE/REPORT?

How would we describe a case in which we would say that all the Title IX requirements were met AND we served our purpose on campus. What does an ideal outcome in a Title IX case look like? We often seen Title IX issues as a lose-lose situation, and disregard the question of what desired outcomes look like. Regardless of the incident that triggered the process, we have a wealth of control over how next steps and the path forward look for someone. What are ideal outcomes for a Title IX case for all parties involved, for the campus as a whole? What is an ideal experience through the Title IX process?



DAY 2



MARCH 10, 2021

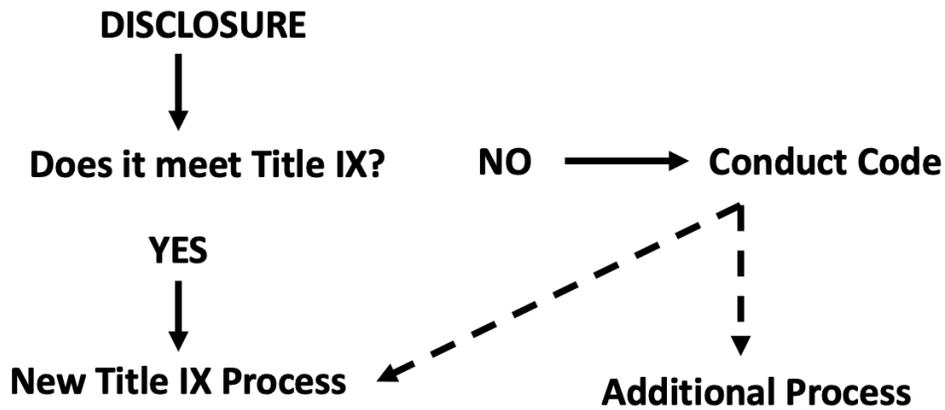


Knowing When Title IX is Triggered: Conduct, Jurisdiction, and Notice

An overview of what types of reports or notice trigger a district's responsibilities under Title IX including types of conduct, jurisdiction of Title IX and notice.

Learning Objectives:

- Define types of conduct that constitute sex discrimination under Title IX
- Identify jurisdictional requirements including defining "educational program or activity"
- Understand what constitutes "actual knowledge."



Notes:

Response Requirements:

- ✓ Offer supportive measures to complainant
- ✓ Contact complainant and process counsel
- ✓ Follow grievance process
- ✓ Determine if formal complaint filed
- ✓ Investigate all formal complaints
- ✓ Dismiss complaints that fall outside Title IX

Deliberate Indifference

Determining when Title is triggered:

1.

2

Types of conduct:



Sexual Harassment:

1. Sexual harassment
2. "Quid pro quo" harassment
3. Sexual assault

Sexual Harassment:

“Unwelcome conduct that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies person’s equal access to education.”

Reasonable person standard:

Pervasive:

Effective denial

"Quid Pro Quo" Harassment:

“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.”

Notes:

Sexual Assault:

“[M]eans an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the [FBI]”

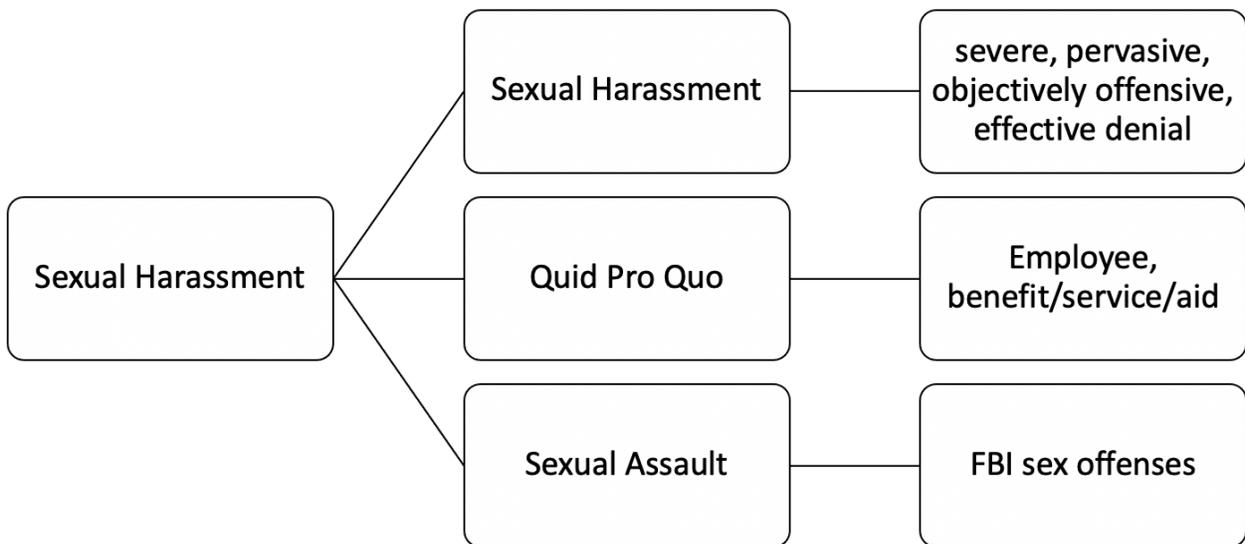
- | | |
|----------------------------------|-------------------|
| 1. Rape | 4. Fondling |
| 2. Sodomy | 5. Incest |
| 3. Sexual assault with an object | 6. Statutory rape |

FBI definitions:

Attempted Rape:

“FBI has stated that the offense of rape includes attempts to commit rape.”

VAWA Offenses:



Free Speech:

Jurisdiction:

1. educational program or activity
2. person in the United States

Educational Program or Activity:

1.

AND

2.

Employees:

“At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the school with which the formal complaint is filed.”

Notes:

Person in the United States:

Actual Knowledge:

“[A]ctual knowledge means notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient”



SEXUAL HARASSMENT:

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;
or
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).

SEXUAL ASSAULT:

"[M]eans an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting [UCR] system of the Federal Bureau of Investigation [FBI]." 20 U.S.C. § 1092(f)(6)(A)(v)

****NOTE:** FBI switch from SRS to NIBRS January, 2021

FBI SEX OFFENSES (NIBRS)

Rape: The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Sodomy: Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault With An Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or 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 his/her age or because of his/her temporary or permanent mental or physical incapacity.

FBI SEX OFFENSES (NIBRS) Continued

Incest: Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape: Nonforcible sexual intercourse with a person who is under the statutory age of consent.

VAWA OFFENSES:

Dating violence 34 U.S.C. § 12291(a)(10)

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant; where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) The length of the relationship (2) The type of relationship (3) The frequency of interaction between the persons involved in the relationship.

VAWA OFFENSES Continued

Domestic Violence 34 U.S.C. § 12291(a)(8)

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

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.

DAY 3



MARCH 11, 2021



TITLE IX INVESTIGATIONS

Look at response starting with notice to finding, what is required in a Title IX investigation and what are the different models and practices for accomplishing them.

Learning Objectives:

- understand what stages of Title IX investigation are from disclosure to factual findings
- identify rights of parties and requirements under Title IX
- look at role of investigator, Title IX Coordinator and other actors within an investigation

INSTITUTIONAL RESPONSE:

1. Title IX Coordinator must reach out to a "complainant" every time the district is on notice.
- 2.
2. District must investigate ALL formal complaints.

Investigation Models:



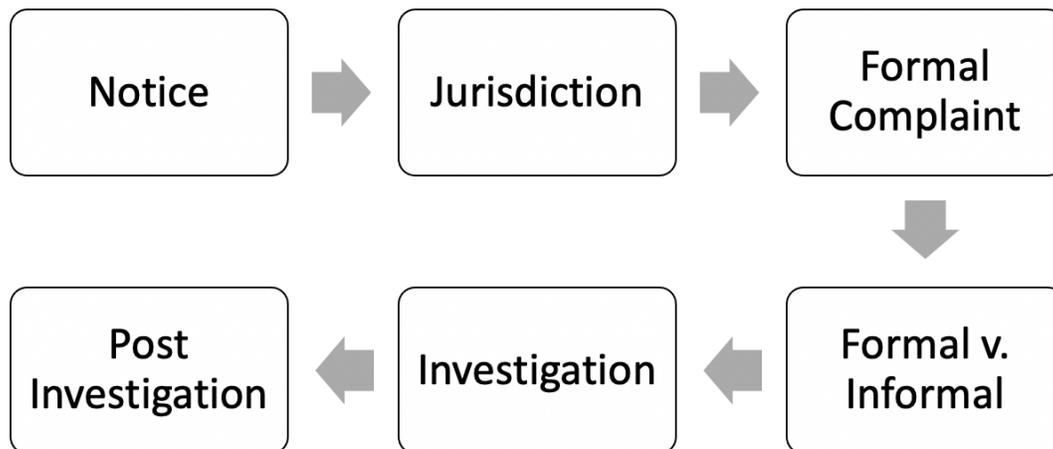
Regional Centers & Consortia:

Required Training:

- Title IX Coordinator
- Decision-maker(s)
- Investigator(s)
- *Third-party contractors and regional centers

Equity & Rights:

How do we investigate instances of sexual harassment?



School on notice:

notice = Title IX response responsibilities

Jurisdiction:

Title IX Coordinator must make contact with the complainant and process counsel them about their options and support measures available.

Process counseling & support measures:

Formal Complaint:

Formal versus informal process:

- complainant wishes
- serial perpetration
- student/staff

Title IX Coordinator determines that initiating an investigation over the wishes of the complainant is not clearly unreasonable in the light of know circumstances.

Informal Process:

Investigation:

Must Dismiss:

- If conduct definition or jurisdiction not met
- If complainant no longer accessing educational program or activity

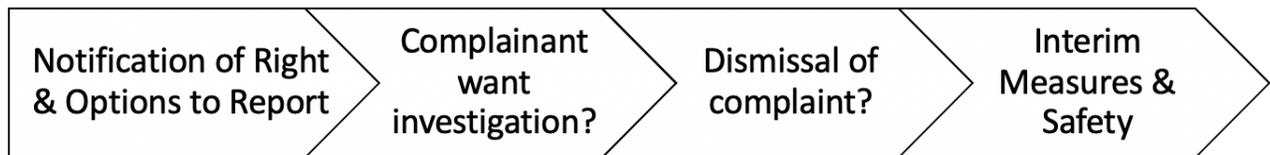
May Dismiss:

- If complainant desires to withdraw complaint
- If respondent no longer enrolled or employed
- If school can't gather sufficient evidence to reach determination

Consolidation of Complaints:

Appeals:

- Procedural irregularity
- Newly discovered evidence
- Conflict of interest or bias
- Other*



Interim Measures:

No-Contact Orders:

School can not implement sanctions or punitive actions until grievance procedure executed. ex: transcript hold or graduation.

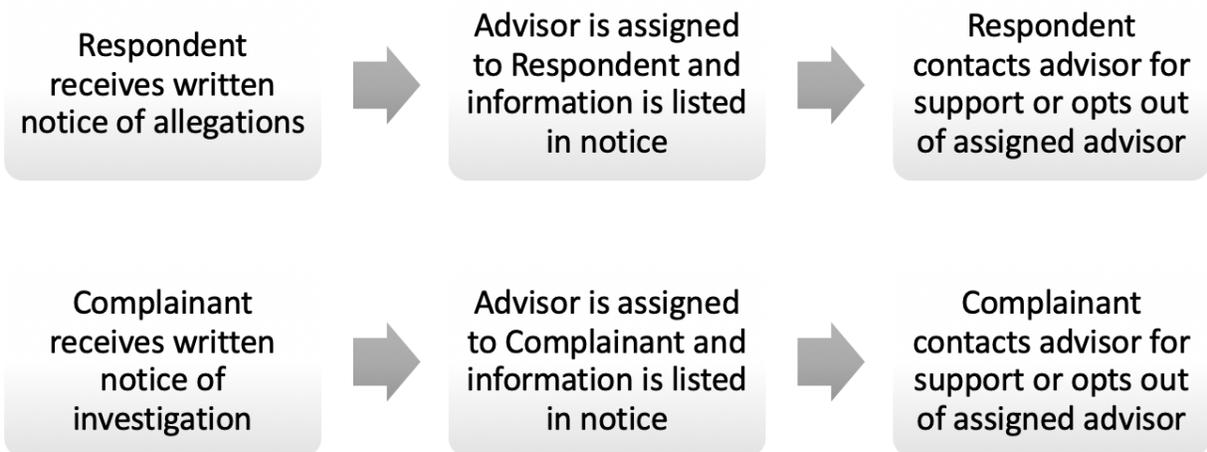
Notice of investigation:

- Not restrict ability of either party to discuss the allegations under investigation or to gather and present relevant evidence
- Written notice of any interviews, meetings, or hearings
- Must inform parties of any provision in the recipient's code of conduct that prohibits knowingly making false statements or providing false information
- All parties have a right to be free of retaliation
- Complainant has a right to be free of retaliation initiated by the district for making a report

Notice of investigation:

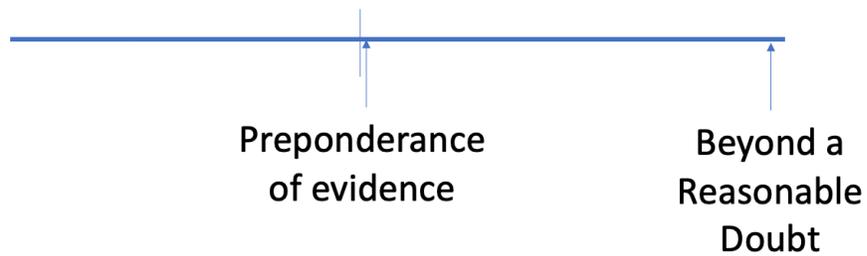
Advisor of Choice:

"Opt-Out" Approach:



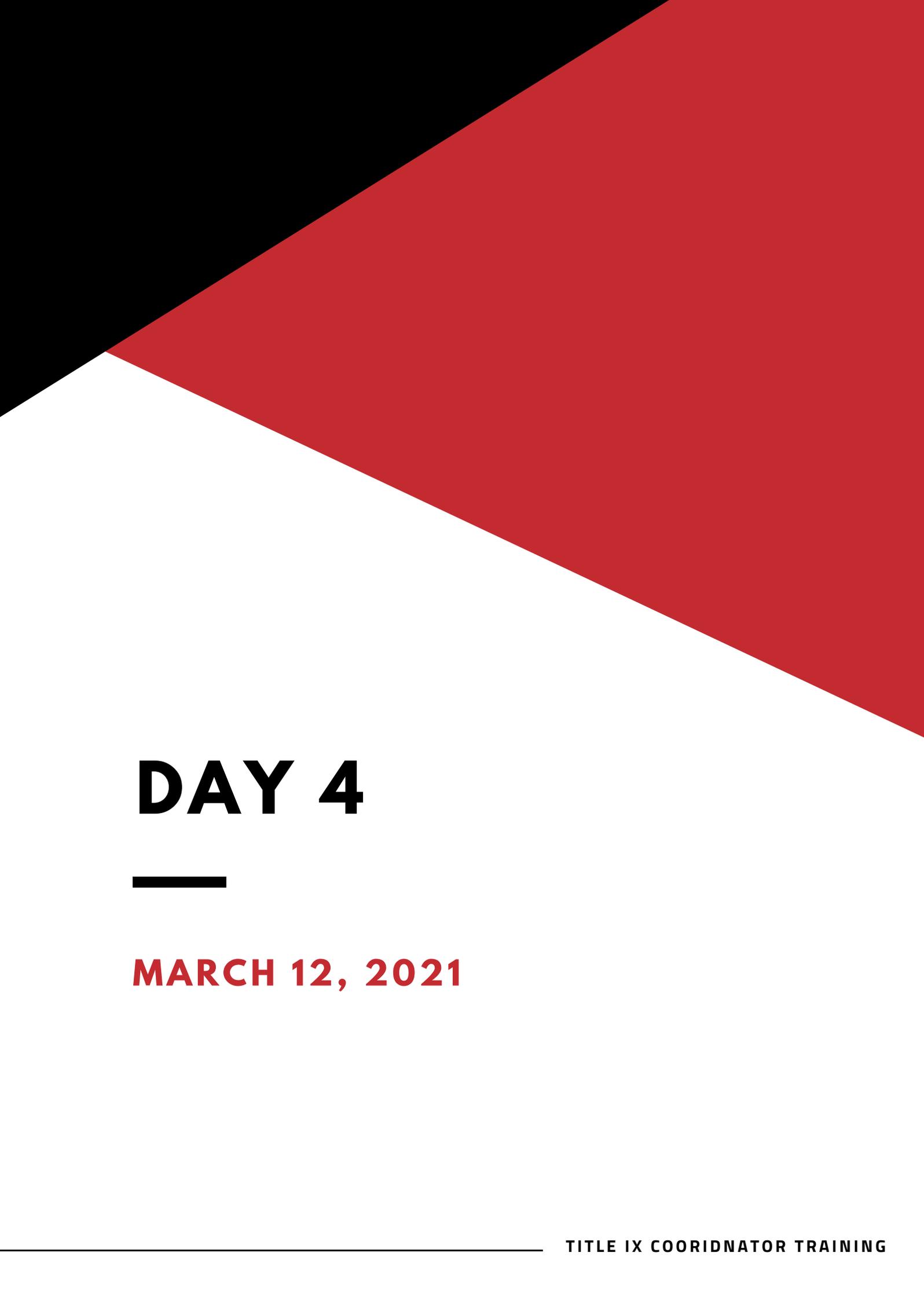
Investigative Interviews:

Standard of Evidence:



Investigative Report:

Post Investigation:



DAY 4



MARCH 12, 2021



TITLE IX HEARINGS

The role of a Title IX Coordinator in hearings as well as requirements for schools in conducting hearings including cross-examination and determining relevance and reaching determinations, remedies and sanctions.

Learning Objectives:

- determining relevance in cross-examination
- understand rights and options related to hearing
- identify roles and responsibilities

"LIVE" HEARINGS

CREATING A RECORDING:

- **VIDEO**
- **AUDIOVISUAL**
- **TRANSCRIPT**

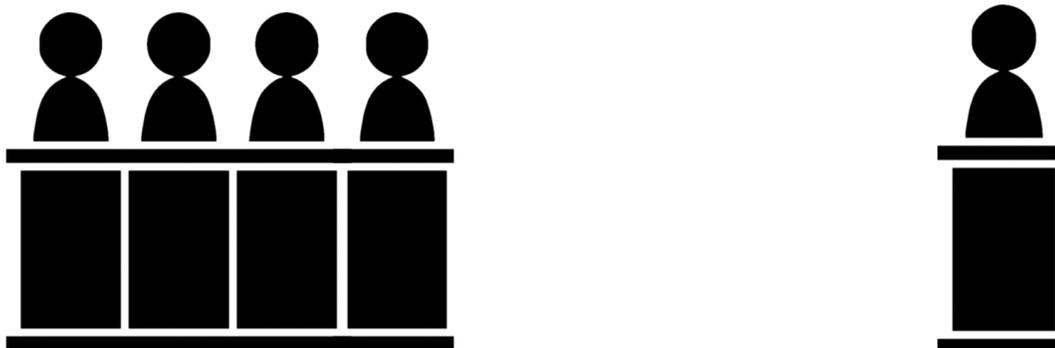
VIRTUAL HEARINGS:

NOTICE:

TIMELINE:



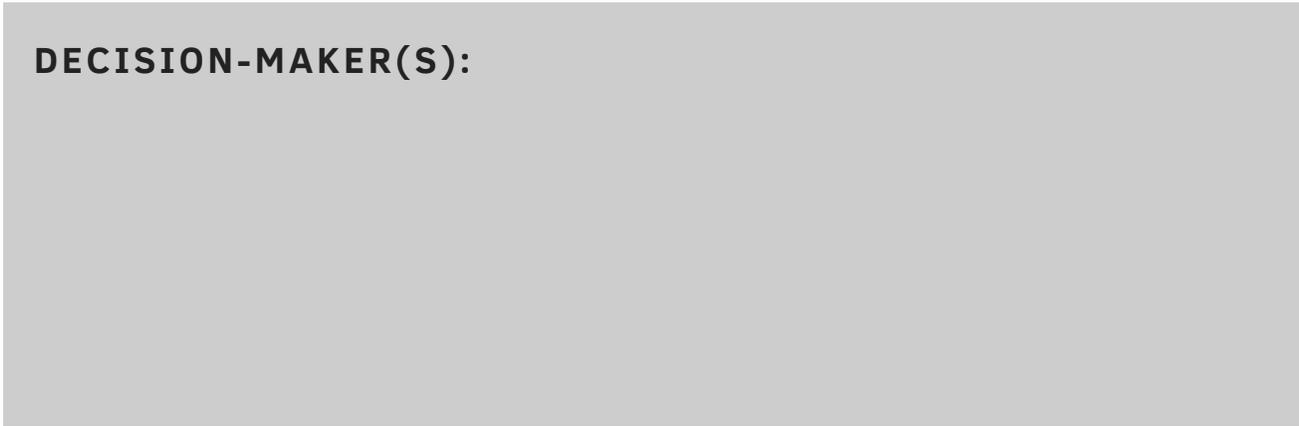
MODELS:



DECISION-MAKER(S):

- Can't be Title IX Coordinator
- Can't be investigator

DECISION-MAKER(S):



“[NOTWITHSTANDING THE DISCRETION OF THE RECIPIENT... TO OTHERWISE RESTRICT THE EXTENT TO WHICH ADVISORS MAY PARTICIPATE IN THE PROCEEDINGS.]”

ADVISOR OF CHOICE:

If party doesn't have advisor at hearing:

- Institution must provide free of charge
- advisor of institution's choice
- May be but does NOT need to be attorney
- Party can NOT waive having an advisor

EVIDENCE:

Make all evidence subject to the parties' inspection and review available at the hearing to give parties opportunity to refer to evidence during hearing.

EVIDENCE CONT'D:

“The Department notes... [the regs] contemplates parties’ equal right to cross-examine any witness, which could include an investigator and.... Grants parties equal opportunity to present witnesses including fact and expert witnesses, which may include investigators.”

CROSS-EXAMINATION:

“[A]ll relevant questions and follow-up questions, including those challenging credibility.”

- Question asked of parties and witnesses
- Directly, orally and in real time
- By party’s advisor of choice – NEVER by party
- “relevant, respectful and non-abusive”

RELEVANCE:

A question that goes to prove or disprove an outcome determinate fact.

REDUNDANCY:

"RAPE SHIELD":

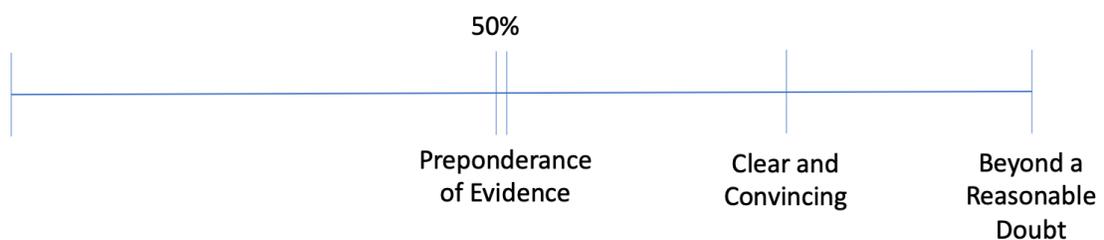
Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are offered to prove that:

- someone other than the respondent committed the conduct alleged (OR)
- complainant's prior sexual behavior with respect to the respondent and are offered to prove consent

DETERMINATION OF RESPONSIBILITY:

STANDARD OF EVIDENCE:

Standard of evidence:



DECISION-MAKER(S) REPORT:

- Allegations
- Procedural steps taken from receipt of complaint– determination
 - Notifications to parties
 - Interviews with parties
 - Methods used to gather evidence
 - Hearings held
- Findings of fact that support determination
- Conclusions regarding application of institution’s code of conduct to the facts
- Statement of rationale for result of each allegation
 - Sanctions
 - Remedies
- Permissible bases for appeal available