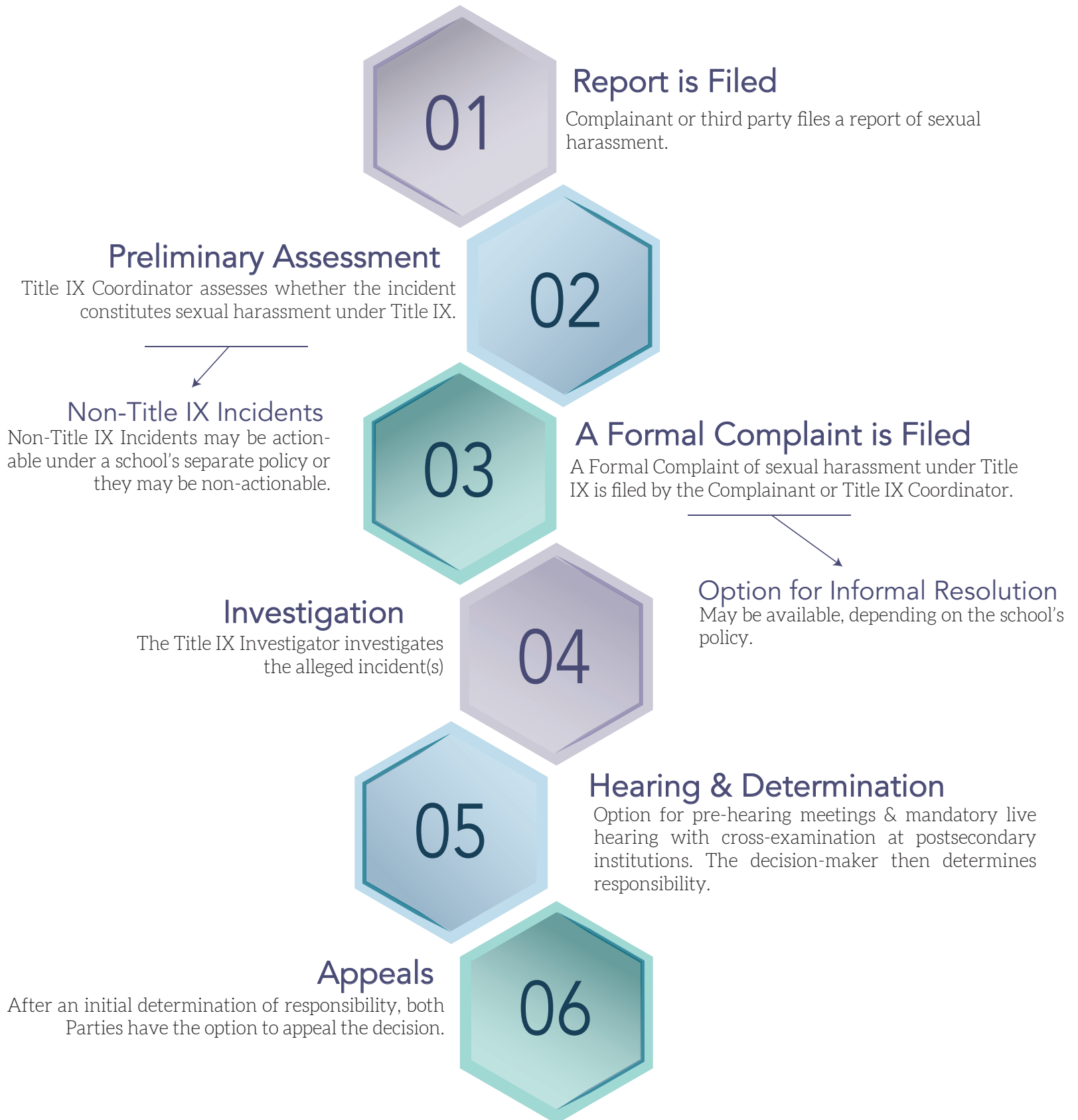


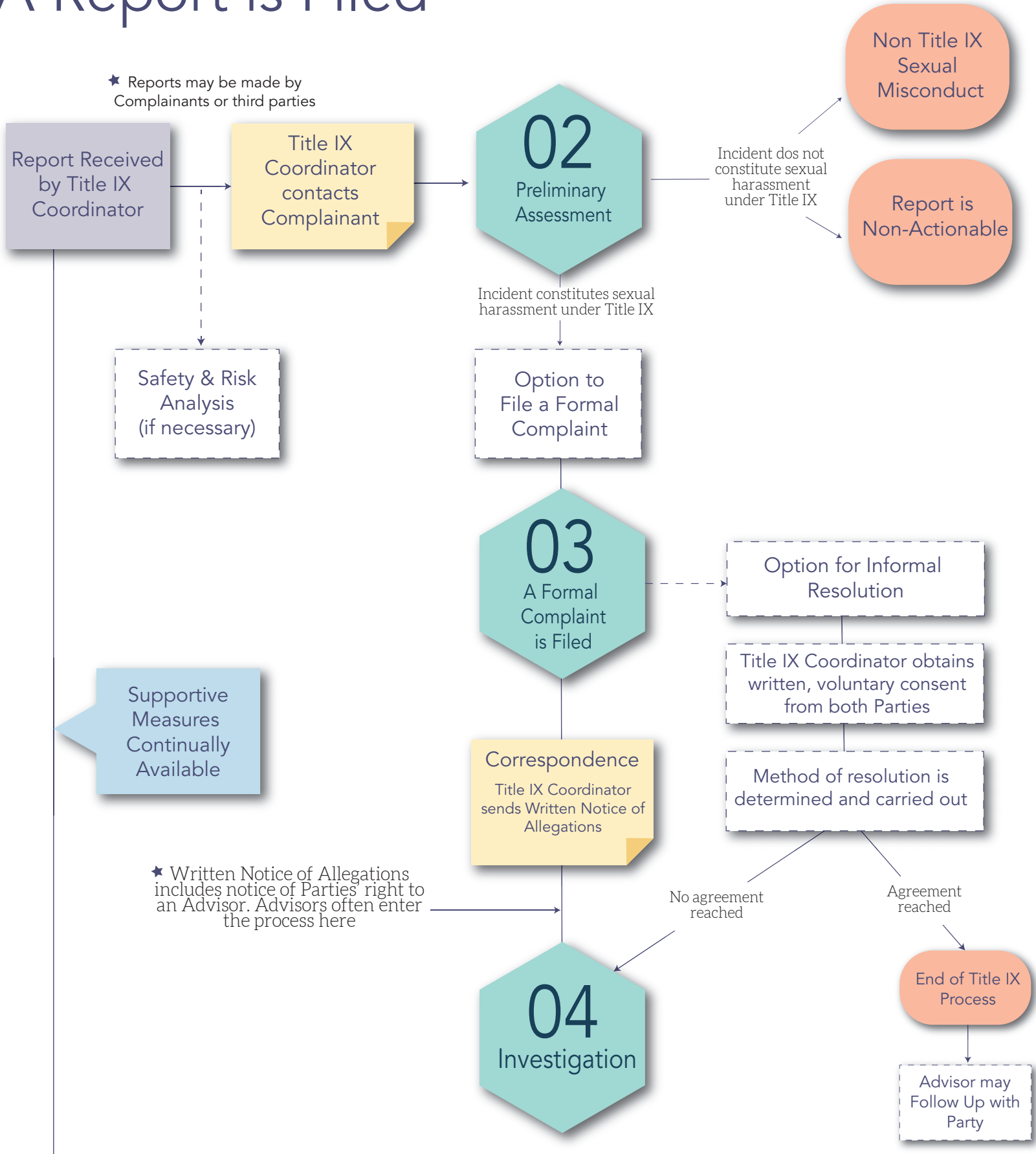
Title IX Process Map Overview

The following provides a simplified overview of the Title IX Grievance Process. For more details about a specific step of the process, click on the number in the hexagon diagram.



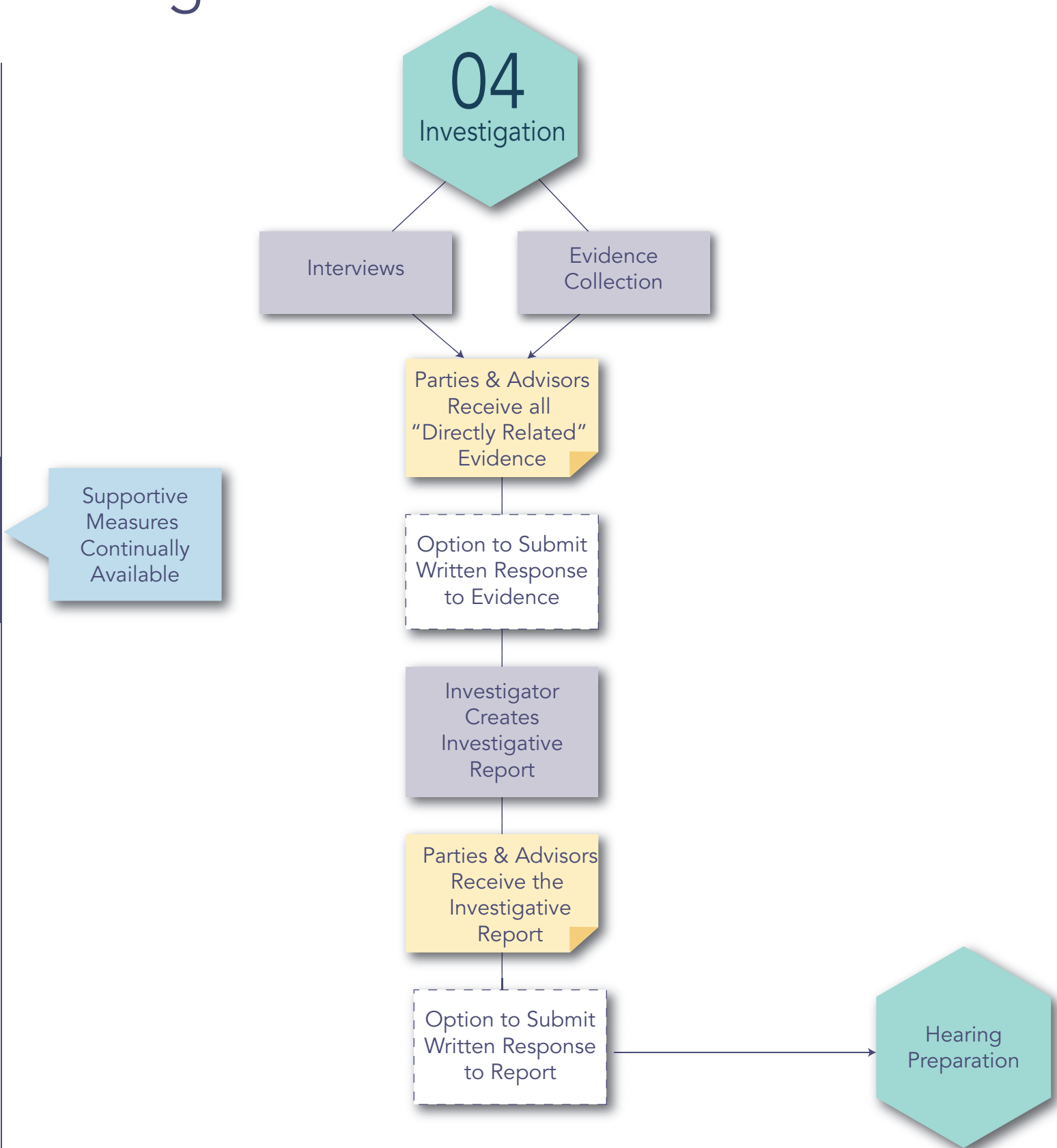


A Report is Filed



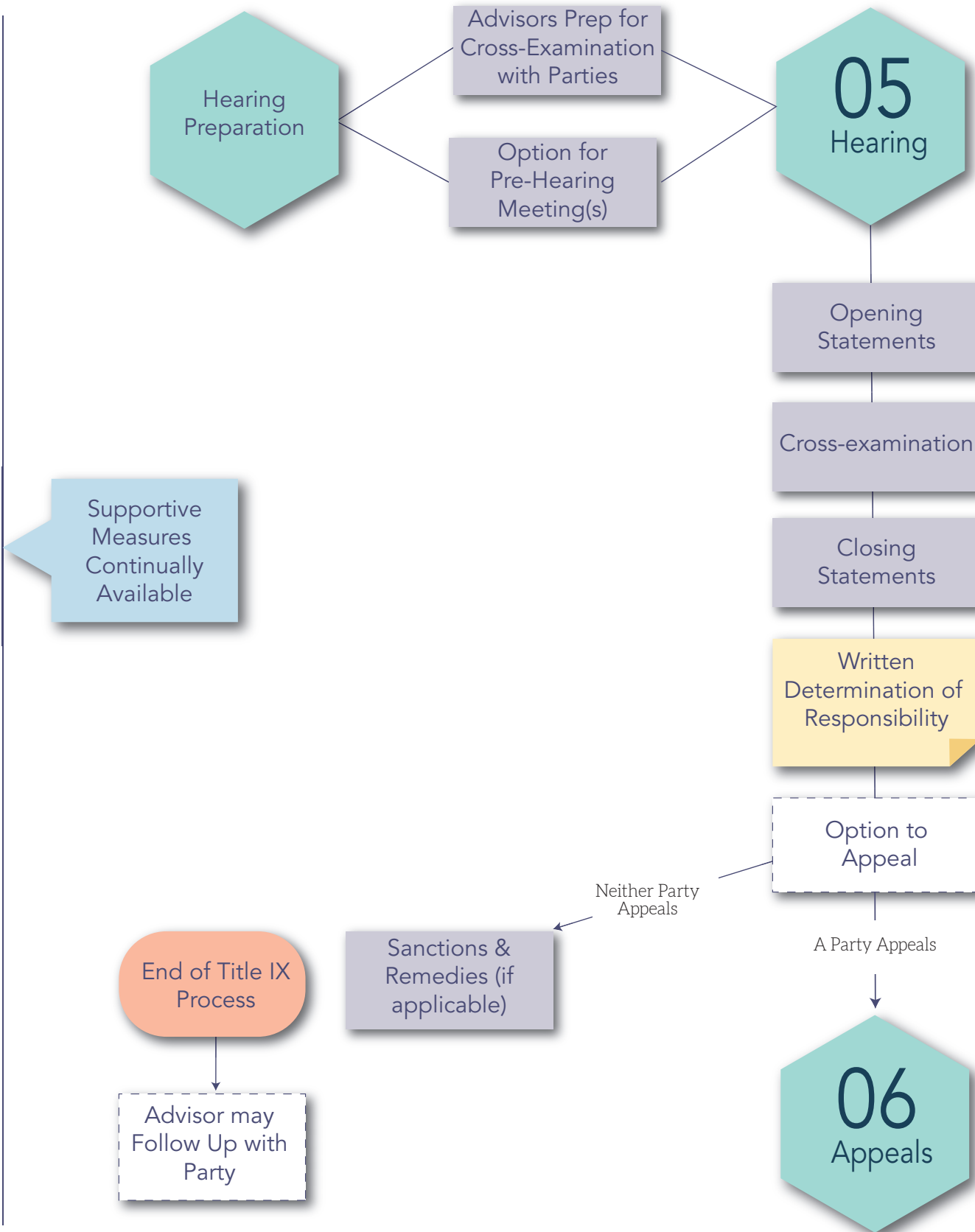


Investigation



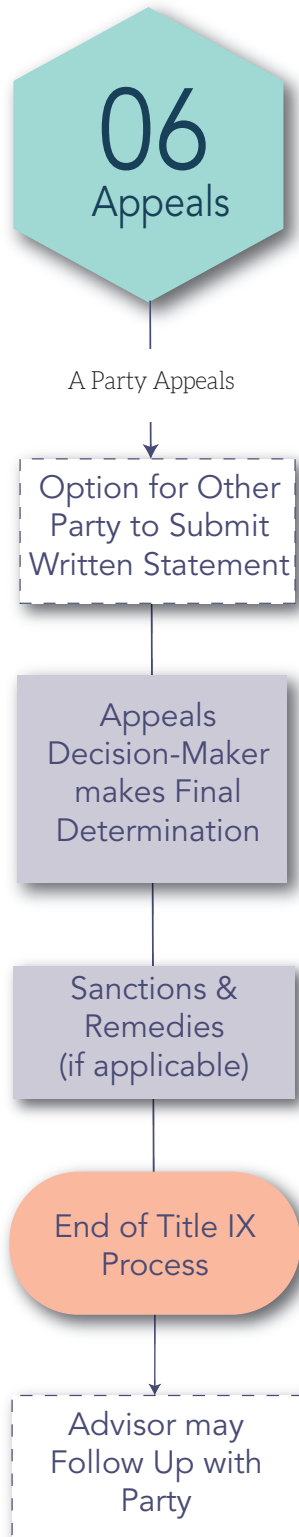


Hearing & Determination





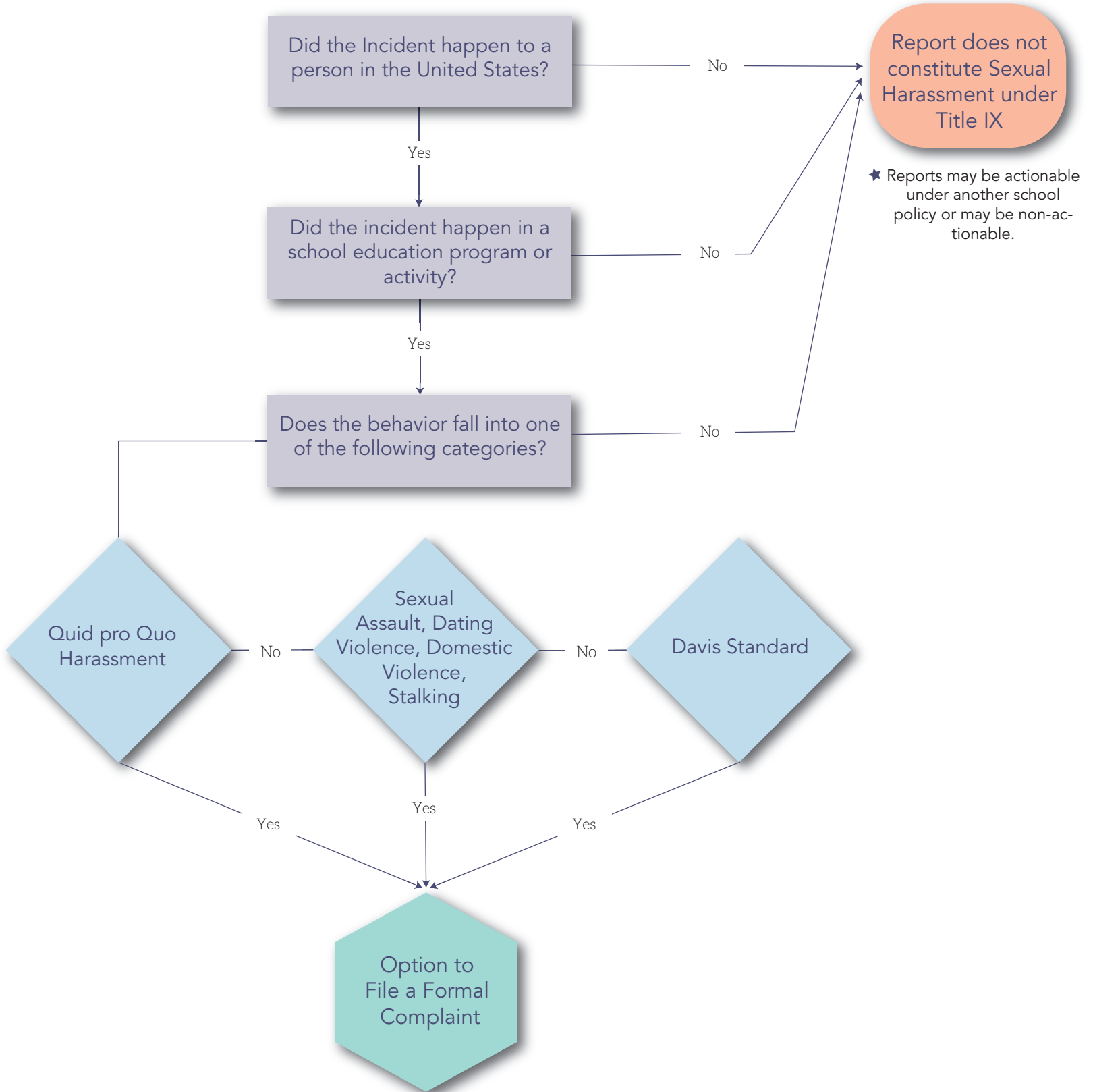
Appeals



Supportive Measures Continually Available



Preliminary Assessment Detail



Advisors & Title IX Hearings



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02	Steps to Prepare for the Hearing
02	Reviewing the School's Guidelines
03	Refuting or Supporting the Investigative Report
05	Preparing for Cross-Examination
08	Pre-Hearing Meetings
09	Participating in the Title IX Hearing

Introduction to Title IX Hearings

Why is there a Title IX hearing?

Under Title IX, the burden to determine responsibility is on the school. During the hearing, Advisors may demonstrate to the Decision-Maker that the allegations in the formal complaint, and the evidence presented in the Investigative Report, are true or untrue.

If advising a Complainant, Advisors present facts to support the Complainant's allegations & help the school determine that a policy violation did, in fact, occur.

If advising a Respondent, Advisors present facts to refute the allegations & help the school determine that their Party did not violate Title IX.

The hearing provides each Party the opportunity to challenge evidence included in the Investigative Report, particularly through challenging the credibility of witnesses and/or the other party.

What do Advisors do during the hearing?

During the hearing, the Advisor may support or refute the Investigative Report, depending upon the evidence reflected in the report.

If an Investigative Report supports the Respondent's denial of the allegations:

- ▶ Respondent's Advisor will present evidence & witnesses to support the Investigative Report
- ▶ Complainant's Advisor will present evidence & witnesses to refute the facts developed during the investigation.

If an investigative report supports the Complainant's allegations:

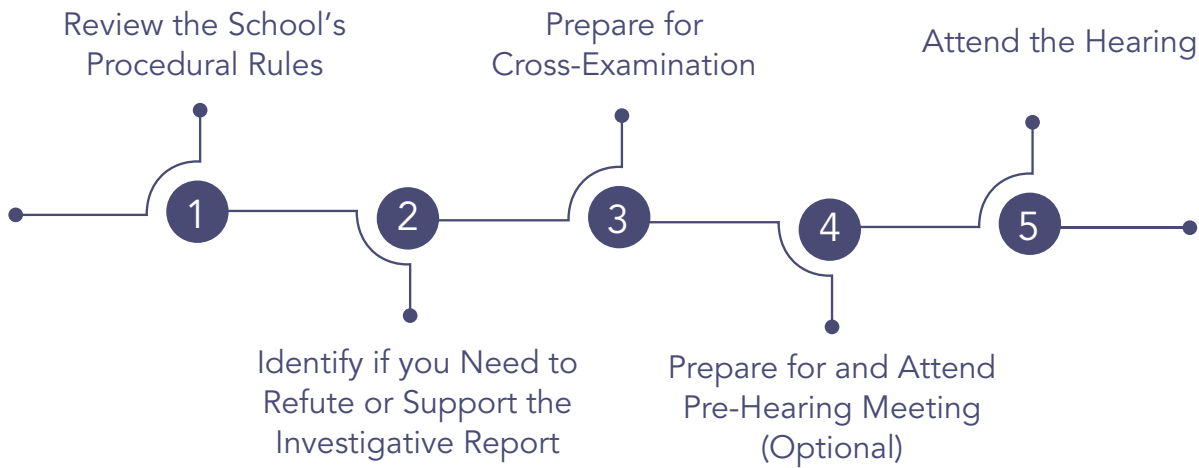
- ▶ Complainant's Advisor will present evidence & witnesses to support the Investigative Report.
- ▶ Respondent's Advisor will present evidence & witnesses to refute the facts developed during the investigation.

Why support or refute the Investigative Report?

All Parties, Advisors, and the Decision-Maker will have read the Investigative Report prior to the hearing. The hearing provides each party the opportunity to support or challenge evidence included in the Report, particularly through challenging the credibility of witnesses and/or the other party.

Depending on the case, you may not need to challenge evidence in the Investigative Report. Advisors are not required to present evidence or support or challenge the credibility of the other party or witnesses through cross-examination. Consider the evidence outlined in the Report, the need to present additional evidence through witnesses and, the benefit of, if any, cross-examination. Discuss this with your Party.

Steps to Prepare for the Title IX Hearing

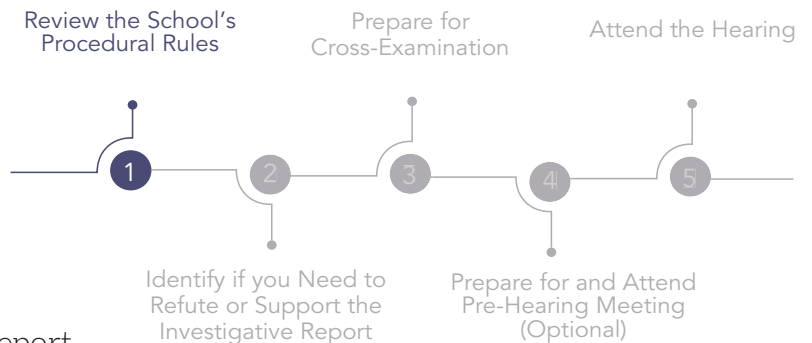


Reviewing the School's Guidelines

What to Expect

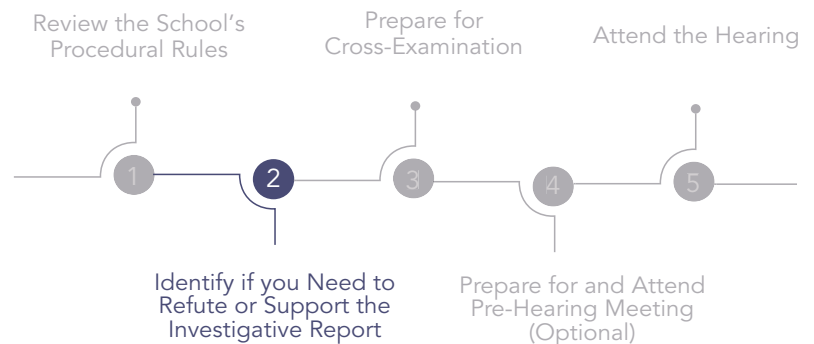
Schools may have their own guidelines regarding the logistics of the Title IX hearing. The school's rules may address the following:

- ▶ Written responses to the Investigative Report
- ▶ Pre-hearing briefs
- ▶ Pre-hearing meetings
- ▶ Opening and closing statements
- ▶ Acceptable & unacceptable conduct during the hearing
- ▶ Submission of an impact statement



Refuting or Supporting The Investigative Report

One of the most critical parts of the Title IX process for Advisors is the review and response to the Investigative Report. To determine whether to refute or support the Report, consider the following steps:



- ▶ Review the full Investigation File
- ▶ Compare the investigation file with the Investigative Report
- ▶ Outline what should be refuted or supported during the hearing
- ▶ Identify & prepare witnesses that will support your Party's statements
- ▶ Prepare your Party for the hearing
- ▶ Prepare cross-examination questions to challenge the other Party & their witnesses

Step 1: Review the Investigation File

The Investigation File should contain all “directly related” evidence, not just “relevant” evidence included in the Investigative Report. Potential Contents of the Investigation File include:

- ▶ Investigator's notes, summary of the investigation, etc.
- ▶ Interview transcripts (recordings may be available)
- ▶ Communication between the Parties
 - Text messages, emails, direct messages via social media, etc.
- ▶ Additional evidence such as security footage, call history, etc.

Step 2: Compare the Investigation File & Investigative Report

Because the Investigative Report may not contain all evidence from the Investigation File, Advisors should compare the two. Consider the following questions:

- ▶ Does the Investigative Report support or refute your Party's statements?
- ▶ Is the information in the Report consistent and fair to your Party?
- ▶ Do you agree about what has been included in the Report?
 - Does information from the Investigation File support your Party but is not included in the Investigative Report?
 - How might you support or refute this information during the hearing?
 - Does your party have additional evidence to submit?
 - Are there additional witnesses that you wish to include in the hearing?
 - How will information from the Investigation File that is not in the Investigative Report be presented to the Decision-Maker at a hearing? In a pre-hearing brief?

Step 3: Outline what can be Supported or Refuted

When determining what evidence from the Investigative Report can be supported or refuted, consider the following questions:

- ▶ Is any evidence included in the Report privileged and obtained without the Party's consent?
- ▶ Is any evidence or statement clearly irrelevant but included in the Report?
- ▶ Do witnesses' statements support or conflict with your Party's statements?
- ▶ Are witnesses' statements consistent or do they conflict? Why?
 - Such witnesses may need to have their credibility challenged at the hearing.
- ▶ What elements of the other party's statement do not align with your Party's statements?
 - Can you identify witnesses or evidence that support your Party and refute the other Party's statements?

Step 4: Identify and Prepare Supporting Witnesses

Your supporting witnesses may be included in the Investigative Report. If they are not, it is important to raise this issue with the Decision-Maker. When preparing supporting witnesses, consider the following:

- ▶ Who might be able to support your Party's statements?
 - Were they with your Party when the alleged incident occurred?
 - Did your Party see someone immediately before or after the alleged incident?
 - Would a character witness be appropriate?
- ▶ How will they support your Party's statements?
 - Practice questioning each witness
 - Tell the witness the exact questions you will ask at the hearing & ask them to respond
 - Prepare witnesses for Cross-Examination
 - Ask the witness potential questions & help them prepare responses
 - Explain the importance of only answering the question that is asked.

Preparation for the hearing is key. Avoid surprises from your own witnesses!

Step 5: Prepare your Party for the Hearing

Identify whether you or your Party will be expected to provide opening or closing statements at the hearing. Review the school's sexual harassment policy to see if opening or closing statements are mentioned. If not, ask the Title IX Coordinator.

Direct-Examination

Additionally, consider conducting direct-examination of your Party. Direct-examination is asking your own Party questions to clarify or refute elements of the Investigative Report. Depending on your Party's willingness and/or statements regarding the allegations, direct-examination may not always be necessary or appropriate. If it is appropriate, what specific questions should you ask to support your Party's statements? Prepare your Party for those questions.

Prepare your Party for Cross-Examination

Cross-examination can be one of the more difficult elements of the Title IX process for the Parties. As such, it is important for Advisors to answer their Party's questions about the process and listen to their fears and concerns. Strategies for preparing your party include:

- ▶ Brainstorming potential cross-examination questions from the other Party's advisor
- ▶ Helping your Party prepare responses to the other Party's questions
- ▶ Explaining their right to refuse to answer a question & the consequences

Preparing for Cross-Examination

Do you Need to Cross-Examine?

Under Title IX, Parties at postsecondary institutions have the right to cross-examine the other Party through an Advisor. However, Advisors are not required to challenge the credibility of the other Party or witnesses through cross-examination.

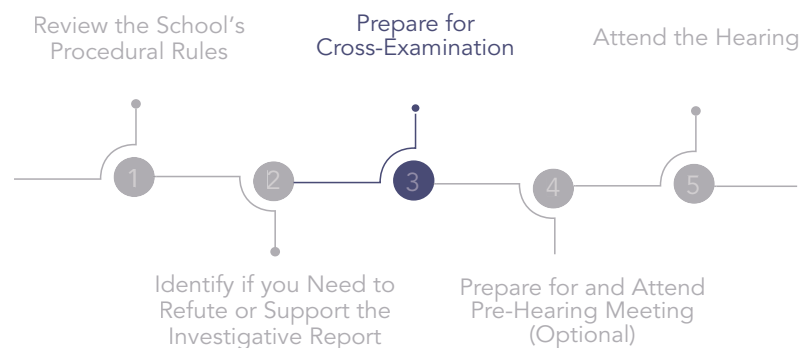
As such, ask yourself whether cross-examination will help you reach your goal of supporting or refuting the Investigative Report.

If you believe that cross-examination **will not** help you reach your goal, you are not obligated to cross-examine the other Party or witnesses. Cross-examination may not be useful under some circumstances. For example:

- ▶ If the individual has been untruthful and will continue to be untruthful
- ▶ If the Investigative Report provides adequate information
- ▶ If unpredictable responses may do more harm than good.

If you believe that cross-examination **will** help you reach your goal, be intentional about who you cross-examine & how.

Always consult with your Party about the benefits and risks of each option.



When preparing for cross-examination, first identify who you will cross-examine and then ask yourself why you are doing so. What element of their credibility do you need to challenge?

Additionally, consider how you plan to cross-examine the other Party or witness. What do you need to ask to reach your goal? Remember, this is not a courtroom and confrontation is not required. Treat all participants in a hearing respectfully.

Developing Questions

When developing cross-examination questions, consider the following questions:

- ▶ Why are you cross-examining the Party or witness?
- ▶ What specific information should you focus on while questioning the Party or witness?

The participants in a hearing are students or employees of your Party's community and any or all of them may be experiencing trauma as a result of the incident described in the allegations or the Title IX process itself. As you develop your questions, consider the following:

- ▶ Trauma experienced by the other Party or witness
- ▶ Trauma experienced by your Party as you cross-examine
- ▶ Potential for confrontational or adversarial moments during this time

Though Title IX cases are not court proceedings, understanding the following rules of evidence may be helpful for Advisors during Title IX hearings.

Leading Questions

A leading question is a question that implies a desired answer and prompts the witness or Party's response. In court cases, leading questions may not be asked during direct examination but may be asked during cross-examination of the other party or witness. Remember that Title IX hearings are not court cases, so you may consider a less confrontational manner of cross-examination.

Leading Question

"Is it true that you told John that you did not want to have sex?"

Non-Leading Question

"What did you say to John about having sex with him?"

Opinions & Conclusions

Do not ask witnesses or Parties for their opinions or conclusions about issues that are not within their personal scope of knowledge

Seeking Opinion

"Did John know that you did not want to have sex with him?"

Alternative

"What did you say to John about having sex with him?"

Hearsay

Generally, witnesses may not be asked about what other people have said about a topic if the purpose of the question is to prove that the other person's statement is true.

Example Hearsay Question

To roommate of Complainant (Mary):
 "What did Mary tell you about John's conduct on the night of the alleged incident?"

There are multiple exceptions to the Hearsay Rule and if you ask a question that the other Party's Advisor objects to as hearsay, the Decision-Maker may give you some leeway as this is not a court proceeding.

You may also want to object to a question posed by the other Party's Advisor if you believe it would result in a hearsay answer.

Understanding Relevance

The Decision-Maker is responsible for determining which evidence and cross-examination questions are relevant. During the hearing, only relevant questions may be asked. Before a witness or Party answers any question, the Decision-Maker must first determine whether the question is relevant. The Decision-Maker will then explain any decision to exclude a question as not relevant.

Logistically, schools may approach this requirement in various ways:

- ▶ Questions may be submitted to the Decision-Maker to review prior to the hearing.
- ▶ Decision-Makers may rule on each question before a witness or Party answers at the hearing.
- ▶ Decision-Makers may rule that questions are deemed relevant unless the Decision-Maker interjects to exclude question as not relevant.

Advisors may respectfully object to questions asked by the other party's advisor or by the Decision-Maker. Typically, Advisors object for one of two reasons:

- ▶ Advisors may respectfully object to questions asked by the other Party's Advisor or by the Decision-Maker. Typically, Advisors object for one of two reasons:
 - Relevance of the question: "That question is not relevant."
 - Type of question asked: "That question is leading, calls for an opinion, or calls for hearsay."

What is not relevant under Title IX?

- ▶ Questions about a Complainant’s sexual predisposition
- ▶ Questions about a Complainant’s prior sexual behavior, except when:
 - Questions are offered to prove someone other than Respondent committed the alleged conduct; or
 - Questions concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent are offered to prove consent.
- ▶ Medical and similar privileged records are not unavailable unless the Party (or parent) provide their written consent.

Character Witnesses

Character witnesses typically speak to the credibility of a party. You may consider calling character witnesses that speak to the credibility of your own Party. Additionally, you may challenge the credibility and/or scope of knowledge of the other Party’s character witnesses during cross-examination.

It is important to note that, while character witnesses may be relevant, their purpose in Title IX hearings is limited. The Decision-Maker will weigh the relevance of a character witness’s statement while reviewing the Investigative Report and/or during the hearing.

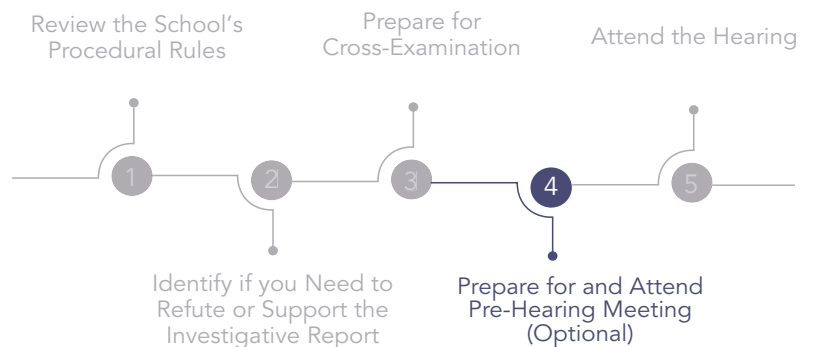
Remember:

1. Be thoughtful when preparing for the hearing.
2. Consider how can you further convince the Decision-Maker that your Party’s statements are true
3. Consider the “big picture” and the details.

Pre-Hearing Meetings

The Decision-Maker may invite the Parties and their Advisors to a pre-hearing meeting.

If the Decision-Maker does not call for a meeting, Advisors may request it.



What is a Pre-Hearing Meeting?

Pre-hearing meetings provide an opportunity to review the rules of the hearing, understand the expectations for the hearing, and finalize the hearing agenda. During the pre-hearing meeting, the Decision-Maker may also request preliminary information from the Parties and their Advisors.

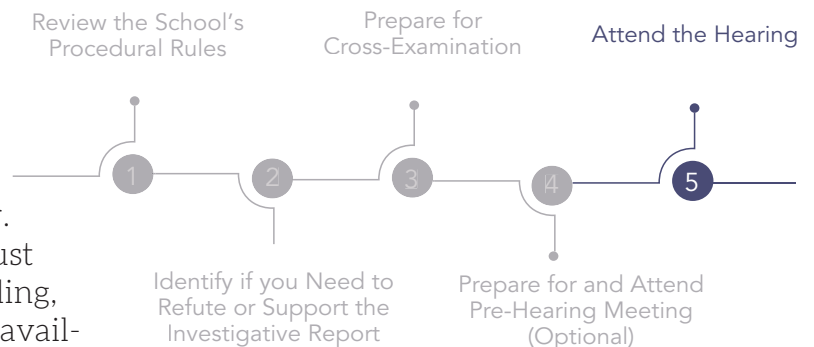
How to prepare for the pre-hearing meeting

Decision-Makers may invite the Parties & their Advisors to submit the following information at the pre-hearing meeting.

- ▶ Questions or topics the parties wish to ask or discuss at the hearing
 - Decision-Maker may rule on relevance at this time
- ▶ A list of witness to be called at the hearing
- ▶ A list of questions the Advisor plans to ask their own witnesses at the hearing
- ▶ A list of questions the Advisor plans to ask while cross-examining the other party
- ▶ A response to the Investigation Report

Participating in the Title IX Hearing

Title IX hearings are run by the Title IX Decision-Maker. The Decision-Maker cannot be the same person as the Title IX Coordinator, Investigator, or Informal Resolution Facilitator. The hearing must be live, and the school must create an audio recording, audio-visual recording, or transcript of the hearing, which will be made available to the parties for inspection & review.



The following content is based on the Title IX Solutions Decision-Makers' experiences & procedural rules. Schools may have their own guidelines regarding the hearings. Advisors must refer to the school's own rules and guidelines when participating in a Title IX hearing.

Hearing Agenda

The hearing agenda may be confirmed during the pre-hearing meeting, if any.

Otherwise, the Decision-Maker may present the agenda at the beginning of the hearing.

Example Agenda

- ▶ Opening of the Hearing (Decision-Maker)
- ▶ Opening Statements (Party or Advisor)
- ▶ Introduction of Testimonial Evidence
 - Complainant's case
 - Respondent's case
 - Decision-Maker's Examination of Parties & Witnesses
- ▶ Closing Arguments or Statements (Party or Advisor)
- ▶ Closing of the Hearing

Opening of the Hearing

To begin the hearing, the Decision-Maker will:

- ▶ Call the hearing to order
- ▶ Announce the date & time, type of case, and names of the parties & their advisors
- ▶ State the specifics of the allegations related to the alleged incident of sexual harassment
- ▶ Announce the Standard of Evidence used at the School to be used during the hearing (Preponderance of the Evidence or Clear & Convincing Standard)
- ▶ Reiterate that only relevant questions may be asked during direct or cross-examination

Opening Statements

The Decision-Maker may ask the Parties or their Advisors to provide an opening statement. Opening statements may:

- ▶ Outline the issues that the Party & their Advisor would like to address
- ▶ Provide an overview of the facts & evidence
- ▶ Describe the evidence that supports their statements (or their Party's statements)
- ▶ Describe the evidence that they dispute
- ▶ Present what the Party and their Advisor expect to prove during the hearing

Typically, the Complainant gives the first opening statement, followed by the Respondent. Parties may choose to waive their opening statement.

Testimonial Evidence: Direct & Cross-Examination

1. The Complainant's Case

Typically, the Decision-Maker will ask the Complainant's Advisor to provide testimonial evidence first. The Complainant's Advisor will have the opportunity to present witnesses and their Party for direct examination, and present new evidence (if any). Then, the Respondent's Advisor will have the opportunity to cross-examination the Complainant and their witnesses.

2. The Respondent's Case

The Respondent's Advisor will then have the opportunity to present witnesses and their Party for direct examination, and present new evidence (if any). The, the Complainant's Advisor will have the opportunity to conduct cross-examination of the Respondent and their witnesses.

If a Party or witness does not testify during a Party's presentation at the hearing, the other Party's Advisor may wish to call them for cross-examination in order to refute their prior statements or other evidence in the Investigative Report.



Advisor Tip: Be alert watch for irrelevant questions asked of your Party or witnesses.

3. Decision-Maker's Examination of Parties & Witnesses

The Decision-Maker will then have the opportunity to ask questions of any Party or witness.

Note: Refusal to submit to cross-examination conducted by the other Party's Advisor means that Decision-Maker may not rely on any statement given by that party or witness in reaching a determination of responsibility

Closing Statements

The Decision-Maker may ask the Parties or their Advisors to provide a closing statement. Closing statements may:

- ▶ Provide a final statement by the Party or their Advisor to the Decision-Maker
- ▶ Summarize the relevant evidence & arguments
- ▶ Ask the Decision-Maker to find that the evidence will support the determination in that Party's favor

Typically, the Complainant gives the first closing statement, followed by the Respondent. Parties may choose to waive their closing statement.

Closing of the Hearing

To complete the hearing, the Decision-Maker will:

- ▶ Announce that the Parties have completed the submission of all evidence
- ▶ State the time
- ▶ Announce the hearing is closed
- ▶ Leave the hearing & prepare the written determination of responsibility

An Introduction to the Title IX Grievance Process



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01	Introduction to Title IX
02	Title IX and Sexual Violence on College Campuses
03	Title IX Definitions
09	Participants in the Title IX Process
14	A Brief Overview of the Title IX Process
17	What is Sexual Harassment under Title IX

Introduction to Title IX

No person shall 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.

- U.S. Department of Education,
Title IX of the Education Amendments of 1972

Where does it apply?

- ▶ Title IX applies to local school districts, postsecondary institutions, charter schools, for-profit schools, libraries & museums.

What does it apply to?

- ▶ Title IX applies to recruitment, admissions, and counseling; financial assistance; athletics; sex-based harassment; treatment of pregnant & parenting students; discipline; single-sex education; and employment. Additionally, the Biden Administration considers “sex” to include sexual orientation and gender identity.

In this guide:

- ▶ Though the scope of Title IX is broad and includes all the items listed above, this guide will focus specifically on the Title IX grievance process related to allegations of sexual harassment.

Title IX and Sexual Violence on College Campuses

1 2011: “Dear Colleague” Letter

In 2011, the Obama administration issued the “Dear Colleague” letter which explained that “school’s responsibility to take immediate and effective steps to end sexual harassment and sexual violence,” particularly in the college and university environments. (U.S. Department of Education, 4 April 2011, p.2)

2 2020: Final Title IX Regulations

On May 6, 2020, the Department of Education released the Final Title IX Regulations, which went into effect on August 14, 2020. The Final Regulations apply to a all schools receiving any type of federal funding. This includes:

- ▶ Primary, secondary, and postsecondary institutions
 - Including undergraduate, graduate, vocational & professional schools
- ▶ Private elementary and secondary schools receiving any form of federal funding

i The majority of the Title IX regulations processes apply equally to both postsecondary schools as well as elementary and secondary schools. However, select provisions differentiate the requirements imposed upon each type of institution.

Under the Title IX Regulations, all schools are required to:

- ▶ Publish a Sexual Harassment policy that adheres to the 2020 Final Regulations on the school’s website (if they have one) or in the appropriate handbook
- ▶ Train all Title IX Personnel in accordance with the requirements outlined in the Final Regulations

3 The Biden Administration

The Biden Administration will likely revise the Title IX Regulations. However, since Title IX now offers “formal regulations” rather than “guidance,” it will take some time for the Biden Administration to revise the Regulations.

Be sure to bookmark Title IX Solutions’ website: www.titleixsolutions.com to stay up to date on the latest Title IX news.

Title IX Definitions

1 Actual Knowledge

The term “actual knowledge” refers to notice of sexual harassment or allegations of sexual harassment delivered to:

- ▶ A school’s Title IX Coordinator or any school official who has authority to institute corrective measures on behalf of the school (postsecondary); or
- ▶ Any employee of an elementary and secondary school.

i This term is especially important in the K-12 environment because a school has “actual knowledge” and is therefore obligated to respond when any employee becomes aware of an incident, regardless of whether a report was “filed” or not.

Such notice includes reports sent to the Title IX Coordinator in person, by mail, by telephone, by email, or any other means that results in the Title IX Coordinator receiving a person’s written or verbal report.

2 Report vs. Formal Complaint

Both reports and formal complaints are a means for a school to obtain “actual knowledge” of sexual harassment.

Report	vs.	Formal Complaint
<ul style="list-style-type: none"> Alleges sexual harassment, sexual misconduct, or sex discrimination Written or oral Submitted by any person (not just the alleged victim) Can be anonymous, made at any time, and by mail, phone, email or any other means 		<ul style="list-style-type: none"> Alleges Title IX sexual harassment Must be filed and signed by the Complainant (or Title IX Coordinator in certain instances) Cannot be filed anonymously or by a third-party Required to initiate the Title IX grievance process

At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in an education program or activity at the school.

At many schools, complainants or third parties may file a “report,” which is informal. Then, based on the information provided in the report, the Title IX Coordinator will contact the Complainant, who will then decide if they would like to proceed with a formal complaint to initiate the Title IX grievance process.



Advisor Tip: You will only be called in to serve as a Title IX Advisor if a formal complaint under Title IX has been filed. If the school has non-Title IX procedures, a different type of complaint may be filed to start the alternative complaint resolution process.

Reports and formal complaints are NOT equivalent to filing charges with local law enforcement. However, there are some important differences between the two:

3 Supportive Measures

What are Supportive Measures?

Supportive measures are non-disciplinary, non-punitive individualized services offered to the Complainant or Respondent.

Why are Supportive Measures Offered?

Supportive measures are designed to restore or preserve equal access to the school’s education program or activity without unreasonably burdening the other party.

When are Supportive Measures Offered?

Supportive measures must be available before or after filing a formal complaint or where no formal complaint has been filed. This includes when only a report has been filed and throughout the Title IX grievance process.

How are Supportive Measures Offered?

The Title IX Coordinator is responsible for offering and providing supportive measures. Supportive measures are offered without fee or charge to the Complainant or Respondent, as appropriate & reasonably available.



Ask your party if they need to request supportive measures during the Title IX grievance process.

Exaples of Supportive Measures

- Counseling
- Extensions of deadlines or other course related adjustments
- Modifications of work or class schedules
- Campus escort services
- No-contact orders between the parties
- Changes in work or housing locations
- Leaves of absence
- Increased security of certain areas on campus

4 Amnesty Provision

Many school policies include an amnesty provision. Though not required under Title IX, it is often included to encourage reporting. Amnesty means that schools may not subject an individual who reports an alleged incident of sexual harassment to disciplinary action for that person's minor violation of other school policies (e.g., underage consumption of alcohol).



Advisor Tip: Remind your party of the amnesty provision if it is referenced in the school's policy.

5 Confidentiality

In accordance with Title IX, the school will keep confidential the identity of any individual who has made a report of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness (except as may be permitted by the FERPA statute or regulations, 20 U.S.C. 1232g and 34 CFR part 99, or required by law, or to carry out the purposes of Title IX, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.)



Advisor Tip: Keep an eye out for confidentiality agreements or something similar from the Title IX Coordinator. You may need to sign this document. Be sure to read the details of the agreement and comply with it during and after the investigation. If you have questions about the confidentiality agreement, ask the Title IX Coordinator or the school's general counsel.


6 Retaliation

Title IX requires schools to prohibit retaliation. Retaliation means intimidating, threatening, coercing, or discriminating against any individual for either of the following reasons:

- ▶ Intention to interfere with the individual's rights under Title IX; or
- ▶ Because an individual has submitted a report or formal complaint, testified, assisted, participated in, or refused to participate in the investigation, proceeding, or hearing under Title IX.

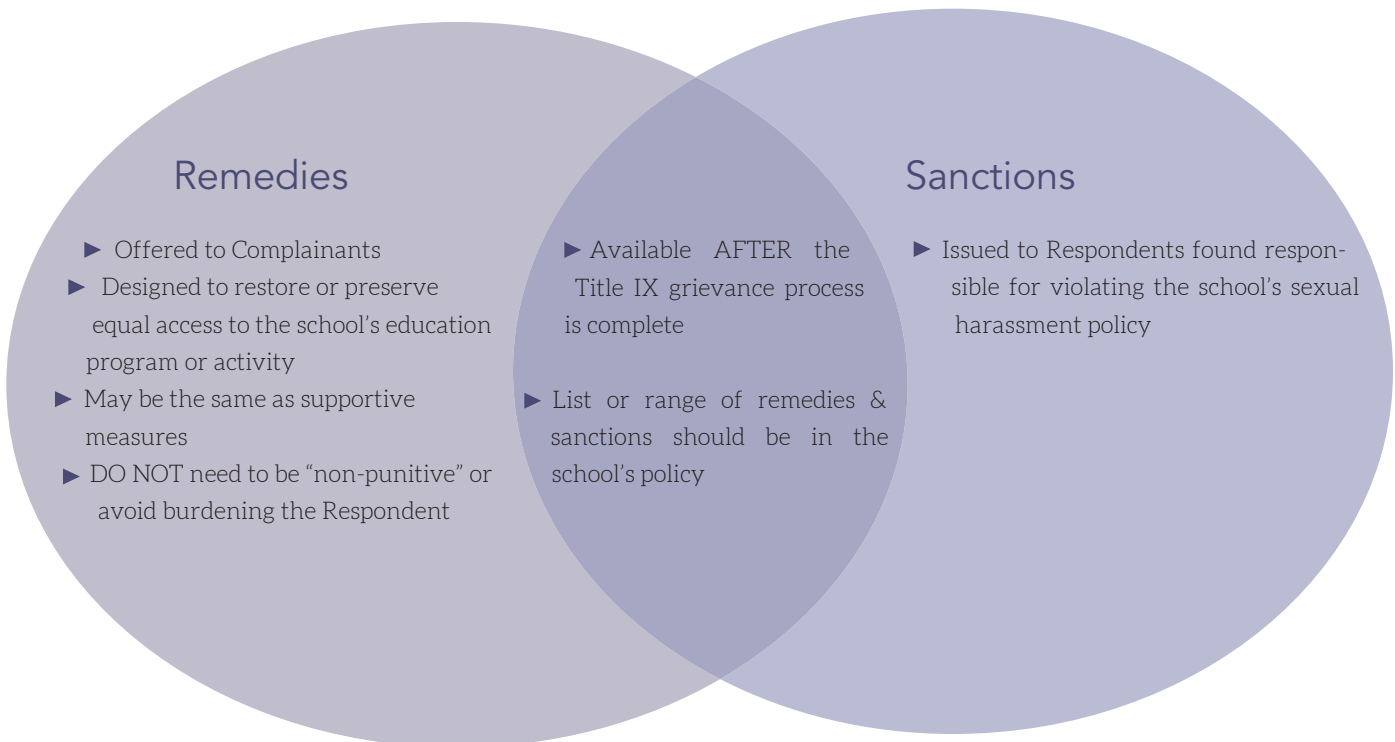
All persons are prohibited from retaliating against reporting parties, Complainants, Respondents, witnesses, and others who participate in the Title IX process.

- ▶ Example 1: Friends of the Complainant intimidating the Respondent, or vice versa.
- ▶ Example 2: School personnel discriminating against an individual for refusing to participate in the Title IX process.

 **Advisor Tip:** Listen to your party. Have they experienced retaliation? Do they feel that their friends (witnesses) are being forced, coerced, or threatened?

6 Remedies & Sanctions

At the conclusion of the Title IX grievance process, the Decision-Maker will issue a determination of responsibility. In that document the Decision-Maker may list remedies that the school will provide to the Complainant and sanctions that the school may issue to the Respondent.



7 Education Program or Activity

In order for an incident to be considered sexual harassment under Title IX, the incident must have occurred within the school's own education program or activity. This includes:

- ▶ All of the operations of the school
 - Locations, events, or circumstances in which the school exercises substantial control over both:
 - The Respondent, and
 - The context in which an incident of sexual harassment occurs.
 - May be on or off campus
- ▶ Any building owned or controlled by student organizations which are officially recognized by the school
 - Includes fraternity & sorority houses
- ▶ Computer & internet networks, digital platforms & computer hardware or software owned or operated by, or used in the operations of the school

Education programs or activities that do not take place in the United States (such as study abroad programs) do not fall under Title IX.

If a formal complaint is filed, and the investigation uncovers that the incident actually **did not** occur in the school's own education program or activity, the complaint may be dismissed under Title IX.

However, the school may choose to address the incident under an alternate complaint resolution process.



Advisor Tip: Understanding *WHERE* an incident occurred is critical in Title IX cases because schools are only required to respond to incidents that occurred in the school's own education program or activity under Title IX.

8 Standard of Evidence

Schools must establish a standard that will be used to determine if a sexual harassment policy violation has occurred. Schools must adopt one of the following standards:

Preponderance of the Evidence

- Evidence demonstrates that it is “more likely than not” that the alleged conduct or policy violation occurred
- Greater than 50% chance that a policy violation occurred

vs.

Clear & Convincing Standard

- Evidence is highly and substantially more likely to be true than untrue
- A higher standard of evidence to meet when compared to the “preponderance of the evidence” standard



Advisor Tip: Identify the standard of evidence used in Title IX cases in the school’s sexual harassment policy.

Participants in the Title IX Process


Overview

All Title IX personnel are prohibited from having a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent participating in the process.

i Except for the Title IX Coordinator, the remaining Title IX personnel may be internal (from the campus community) or external (local attorneys, consultants, contractors, etc.)

As the Title IX Advisor, you may be the only person “on your Party’s side” during the Title IX process. It is important to remember that:

- ▶ You will likely be the only person permitted to attend all interviews & meetings.
- ▶ You will be the only person to accompany your Party during the hearing & conduct cross-examination.
- ▶ You are the only person permitted under Title IX to be “partial” to your Party.

 **Advisor Tip:** Be aware of potential conflicts of interest or biases for or against your Party from Title IX personnel during the process.

Note: The term “Party” refers to the Complainant or the Respondent in the Title IX process.

Roles in the Title IX Process


- Title IX Coordinator
- Complainant
- Respondent
- Title IX Investigator
- Decision-Maker
- Appeals Decision-Maker
- Informal Resolution Facilitator
- Advisor

1 Title IX Coordinator

Every school is required to have a Title IX Coordinator who is responsible for receiving and responding to reports of sexual harassment and facilitating the Title IX Process. Title IX Coordinators duties include, but are not limited to:

- ▶ Explaining the process to the involved parties
- ▶ Managing correspondence
- ▶ Coordinating and schedule interviews
- ▶ Ensuring that the school’s sexual harassment policy is being followed
- ▶ Offering & coordinating the implementation of supportive measures
- ▶ Coordinating the implementation of remedies & sanctions

Title IX Coordinators	
CAN	CANNOT
<ul style="list-style-type: none"> • Serve as the Title IX investigator • Serve as the Informal Resolution Facilitator • Have other roles on campus <ul style="list-style-type: none"> ↳ Dean of Students, Director of Human Resources 	<ul style="list-style-type: none"> • Serve as the Title IX Decision-Maker • Serve as the Appellate Decision-Maker

 **Advisor Tip:** The Title IX Coordinator will be your point of contact for all questions related to the Title IX process

2 Complainant

A Complainant is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. Complainants may be:

- ▶ Students
- ▶ Employees
- ▶ Other community members

Complainants must be participating in or attempting to participate in the school’s education program or activity with which the formal complaint is filed. While the Complainant may not be the person who filed an initial report, the Complainant may not remain anonymous when filing a formal complaint of sexual harassment under Title IX.

3 Respondent

A Respondent is the person reported to be the perpetrator of conduct that could constitute sexual harassment. Respondents may be:

- ▶ Students
- ▶ Employees
- ▶ Other community members
- ▶ Non-community members

i The school's ability to respond to incidents perpetrated by non-community member Respondents may be limited.

Depending on the school, different safety measures and/or resolution options may be available or unavailable when the Respondent is an employee.

Schools may dismiss the complaint if the Respondent is no longer enrolled or employed by the school.

4 Title IX Investigator

The Title IX Investigator may be the same person as the Title IX Coordinator, other school employee, or external consultant.

Title IX Investigator Responsibilities

- ▶ Collect evidence
- ▶ Interview parties & witnesses
- ▶ Provide all evidence to the Parties & their Advisors for inspection & review
- ▶ Create an investigative report that fairly summarizes relevant evidence
- ▶ Send the investigative report to the Complainant, Respondent & Advisors

During the investigation, Complainants & Respondents have the equal opportunity to:

- ▶ Gather & present relevant evidence & witnesses (including fact & expert witnesses)
- ▶ Discuss the allegations
- ▶ Have others present during interviews
- ▶ Inspect, review, and respond to any evidence obtained as part of the investigation

At the conclusion of the investigation, but before the investigative report is written, the investigator must provide all directly related evidence to the Complainant, Respondent and Advisors. The Parties and their Advisors will then have at least 10 days to prepare and submit a written response to the evidence to the investigator. The investigator will consider the Parties' responses as they finalize the investigative report.

Similarly, the investigator must provide the investigative report to the Parties & their Advisors at least 10 days prior to any hearing. The Parties and their Advisors will then have 10 days to draft and submit a written report to the investigative report.

5 Decision-Maker

Schools may use a single Decision-Maker or have a Hearing Panel. Decision-Makers may be internal employees or external contractors, but they CANNOT be the same person as the Title IX Coordinator or Investigator.

Decision-Maker Responsibilities

- ▶ Oversee the Title IX hearing
- ▶ Supervise the conduct of the involved Parties & their Advisors
- ▶ Determine the relevance of questions posed during the hearing
 - Explain reasoning behind decisions to exclude questions as irrelevant during cross-examination
- ▶ Draft & issue the written determination regarding responsibility

Depending on the school's policy, the Decision-Maker may also facilitate a pre-hearing meeting.

6 Appellate Decision-Maker

Schools may choose to use a single Appellate Decision-Maker or have an Appeal Hearing Panel. Appellate Decision-Makers may be internal employees or external contractors, but they CANNOT be the same person as the Title IX Coordinator, Investigator, or the original Decision-Maker for the case.

Appellate Decision-Maker Responsibilities

- ▶ Review the appeal & the other party's response (if any)
- ▶ Draft and issue the final determination
- ▶ Additional responsibilities as defined in the school's policy

7 Informal Resolution Facilitator

The Informal Resolution Facilitator may be the same person as the Title IX Coordinator, and they may be an internal employee or external contractor.

Informal Resolution Facilitator Responsibilities

- ▶ Provide information to the Parties & Advisors about the informal resolution process
 - Various forms of informal resolution may be available
- ▶ Facilitate the informal resolution process
- ▶ Draft informal resolution settlement agreements at the conclusion of the process (if the complaint is resolved)

8 Advisor

Both the Complainant & Respondent have the right to an Advisor of their choice. An Advisor may be, but is not required to be, an attorney. Additionally, an Advisor may be a party's friend, family member, teacher, or any other individual of the party's choice.

Schools may not limit the choice or presence of the Advisor for either Party in any meeting. Parties have the option to include the Advisor in any meeting or investigative interview. Schools may, however, set specific expectations or provide guidelines for Advisors to follow during meetings, investigative interviews, and the hearing.

If a party does not have an advisor present in the live hearing, the school is required to provide one for the party. Some schools may choose to provide an advisor before the hearing as well.

Advisor Responsibilities

- ▶ Support their Party during interviews, meetings, the hearing, and after the Title IX grievance process
- ▶ Accompany their Party throughout the Title IX grievance process
- ▶ Review the investigative report and all evidence
- ▶ Participate in the hearing & conduct cross-examination

A Brief Overview of the Title IX Process

1 Title IX Requirements

Under Title IX, schools are required to

- ▶ Respond to all reports of sex discrimination & sexual harassment
- ▶ Offer & coordinate supportive measures
- ▶ Determine whether an alleged incident constitutes sexual harassment under Title IX
- ▶ Apply all school rules & procedures equally to Complainants & Respondents
- ▶ Treat Complainants & Respondents equitably by:
 - Offering supportive measures to the Complainant, and
 - Following the grievance process before imposing sanctions on the Respondent

2 Leading up to the Title IX Process

A Report is Submitted to the Title IX Coordinator

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment)

Responsible Employees are people who have been given the duty of reporting incidents of sexual harassment or any other sexual misconduct by members of the school community (students, staff, faculty, guests, visitors) to the Title IX Coordinator or other appropriate school designees.

At elementary and secondary institutions, all employees are considered responsible employees.

Many colleges & universities appoint “Responsible Employees.”

Upon Receipt of a Report, the Title IX Coordinator Will:

- ▶ Contact & Meet with the Complainant (if known)

The Title IX Coordinator will provide information about supportive measures, campus-based and local resources, and the right (but not the obligation) to report to local law enforcement.

- ▶ Conduct a safety & risk analysis

Depending on the details of the report, the school may conduct a safety and risk analysis to determine whether there is an immediate threat to physical health or safety of any student or other individual arising from the allegations of sexual harassment that justifies the emergency removal of the respondent.

If the results of the analysis justify removal, the school will notify the Respondent and give them the opportunity to challenge the removal.

Additionally, if the Respondent is a non-student employee of the school, administrative leave may be considered.

- ▶ Assess the information from the report & conversation with the Complainant to determine if alleged incident would be considered sexual harassment under Title IX.

If the alleged incident is preliminarily determined to violate Title IX:

If the incident is preliminarily determined to violate Title IX, if true, then the Complainant or Title IX Coordinator may file a formal complaint.

If the Complainant files a formal complaint, they are encouraged, but not obligated, to participate in the Title IX grievance process. The Complainant is not required to file a formal complaint.

Once a formal complaint is filed (either by the Title IX Coordinator or the Complainant), the Title IX grievance process begins.

3 Overview of the Title IX Grievance Process

Note: more detail of each element of the Title IX grievance process is provided in “The Role of the Advisor in the Title IX Process”

➤ Notice of Allegations is Sent to Both Parties

This written notice will outline the allegations at issue, inform the Parties to expect an interview with the investigator, and explain the Party’s rights during the grievance process, including the right to an Advisor throughout the process.



Advisor Tip: This is when Advisors will likely join the process. You will want to ask your party what has already happened in the process. For example, has your party been offered supportive measures and received proper written notice of allegations?

➤ Investigation

The Parties and their Advisors will have the opportunity to participate in the investigation. In addition to gathering and presenting evidence and witnesses, the Parties will have the opportunity to review of all directly related evidence and the investigative report.

➤ Hearing

Colleges and universities will conduct a live hearing in accordance with Title IX. Hearings are not mandated for elementary and secondary schools.

➤ Written Determination of Responsibility Issued to the Parties

This document includes the determination of whether or not the Respondent has been found responsible for violating the school’s sexual harassment policy. The determination will outline sanctions and remedies, if applicable.

➤ Opportunity to Appeal

The Parties have the right to appeal the written determination of responsibility. The Title IX grievance process concludes when the appeal decision is issued, or when the time period to submit an appeal lapses and neither party has appealed the original determination of responsibility.

➤ Optional: Informal Resolution

If available, the parties may decide to try an informal resolution process such as mediation, arbitration, or restorative justice in an attempt to resolve the case without the formal investigation and hearing.

What is Sexual Harassment Under Title IX?

Sexual harassment is a form of sex discrimination. For an incident to be considered sexual harassment under Title IX, the Title IX Coordinator and the Complainant must consider the following:

- ▶ Type of incident
- ▶ Location of the incident

1 Type of Incident

For allegations to constitute sexual harassment under Title IX, the allegations must include conduct on the basis of sex that satisfies one or more of the following three types of behavior:

- ▶ Quid Pro Quo Harassment
 - Occurs when an employee of the school conditions provision of an aid, benefit, or service of the school on an individual's participation in unwelcome sexual conduct.
 - For example, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature by a person having power or authority over another is considered sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development or performance.
 - Includes when submission to such conduct would be a condition for access to receiving the benefits of or opportunities in any educational or employment program.
 - Can be express or implied.
 - Does not need to be "severe" or "pervasive" (as described later in this section) because a single incident is inherently "offensive" and jeopardizes equal educational access.

▶ 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 school’s education program or activity.
- No “concrete injury” is required to conclude that serious harassment would deprive a reasonable person in the Complainant’s position of the ability to access the school’s education program or activity on an equal basis with persons who are not suffering such harassment.

▶ Sexual Assault, Dating Violence, Domestic Violence & Stalking

This includes:

- Rape, Sodomy, Sexual Assault with an Object, Forcible Fondling
 - Understanding consent is especially important in these instances
 - These forms of sexual harassment are also considered sexual violence, because they occur when victim does not consent to the activity. This includes instances in which the victim is incapable of giving consent.
 - Consent cannot be given by someone who is incapacitated for any reason (i.e., because of a victim’s age, disability, consciousness, or use of drugs or alcohol.)
- Incest & Statutory Rape
 - Consent is still important, but these forms of sexual violence do not rely upon consent (or the lack thereof) because minors are under the statutory age of consent and therefore unable to give consent.

Consent

Title IX does not define consent, but it does require schools to adopt a definition of consent.



Advisor Tip: Advisors need to review the school’s definition of “consent” in the sexual harassment policy.

- Definitions of consent vary and are often influenced by state laws
- Lack of consent or inability to give consent is important
- Evidence or witness statements supporting or refuting the parties’ statements about consent are important

Questions to Ask Yourself Regarding Consent

Was the Complainant incapacitated?

- ▶ Consent cannot be given by someone who is incapacitated for any reason
- ▶ Incapacitation because of victim's age, disability, consciousness, or use of drugs or alcohol

Why is consent perceived to be present or absent in this case?

- ▶ In some definitions, consent cannot be implied by silence, the absence of resistance, or past consent with the same or another person, even if a person has given their consent to engage in sexual activity in the past.

Was consent given under coercion, force, or threats?

2 The Location of the Incident

For Title IX to apply, the incident must have occurred in both:

- ▶ The school's own education program or activity as defined in the school's policy, and
- ▶ The United States.

Non-Title IX Incidents

Incidents of a sexual nature that do not fall under Title IX are often referred to by schools as sexual misconduct.

These incidents may consist of the same conduct that would constitute "sexual harassment" but did not take place in the United States (i.e., on study abroad) or not in the school's education program or activity. Alternatively, alleged inappropriate conduct of a sexual nature may have occurred in the school's own education program or activity but may not be considered sexual harassment under Title IX. However, the conduct may be "sexual misconduct."

Schools may address these incidents using a parallel Title IX grievance process or a different process (perhaps referenced in the Code of Conduct, Employee Handbook, or a completely separate process).



Advisor Tip: Advisors may be included in these processes. You must clearly understand which grievance process is taking place and the Parties' rights under each process.

CERTIFICATE OF COMPLETION

This is to certify that

Robin Maras

— On June 22, 2022 —

Successfully completed 6 hours of training during

Stepping Up: Becoming an Effective Title IX Advisor

Hosted by Title IX Solutions, LLC

Learning Objectives:

- Gain an understanding of the definition of sexual harassment under Title IX
- Gain an understanding of the Title IX Grievance Process, including reporting, investigation, hearing and informal resolution processes, as well as the Advisor's role during such processes
- Learn strategies for effectively supporting Complainants and Respondents during the Title IX Grievance Process



TAWNY ALONZO

Director of Training
Title IX Solutions, LLC

The Advisor's Role in the Title IX Grievance Process



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Top 5 Tasks to Complete as a Title IX Advisor



Clarify which Grievance Process will Take Place

Was a formal complaint filed to start the Title IX Grievance Process?

Does the school use an alternate complaint resolution process for non-Title IX sexual harassment or sexual misconduct?



Review the School's Sexual Harassment Policy

Do you fully understand the procedures?

Are you familiar with your Party's rights under Title IX & under the school's policy?



Review the School's Expectations of the Advisor

Schools may establish guidelines regarding the Advisor's role in the Title IX process. These guidelines are typically provided by the Title IX Coordinator. If they are not provided, Advisors may ask the Title IX Coordinator to direct you to this resource.

In some cases, Title IX Investigators may only permit Advisors to speak when directly asked a question during an investigative interview. Some schools may even prohibit Advisors from speaking during the interviews. This guideline is often implemented to encourage Parties to share their perspectives in their own words. Advisors will need to explain this to their Party.



Communicate with your party

Advisors should meet with their Party prior to any meeting or interview to understand their perspective, concerns, etc., if possible. You will want to discuss the following:

- Where are they in the Title IX process?
- Have they met with the Title IX Coordinator?
- Have they been interviewed by the Title IX Investigator?

Advisors are encouraged to take this opportunity to set expectations, boundaries, and establish how your Party would like case-related information to be shared with you.

Be sure to communicate with your Party throughout the process. Remember that supporting your Party doesn't need to end when the Title IX process concludes. Stay in touch with them after the grievance process is complete, if appropriate.



Communicate with The Title IX Coordinator

Ask questions about the Title IX Grievance Process. The Title IX Coordinator will not only have an understanding of Title IX, but they will also be able to share more information about the school's own policies and procedures.

Advisors may be asked to review & sign Non-Disclosure, Confidentiality and/or FERPA agreements.

Additionally, Advisors may be asked to review & sign waivers allowing the school to copy them on emails sent to the party (notices of interviews, meetings, hearings, etc.), if available.

Be sure to keep your party informed about the agreements you've signed or are being asked to sign so you can both know what is expected throughout the process.

Advisor's Guide to the Investigative Process



Once the Title IX Coordinator issues the Notice of Allegations to the parties, the Title IX Investigation will begin. Advisors often enter the Title IX grievance process just before the investigation, and they play a particularly important role when the time comes to review and respond to the Investigation File and Investigative Report.

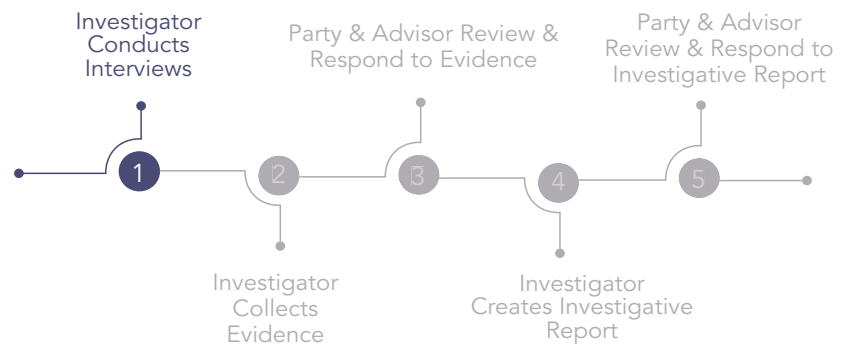
Elements of the Investigation Process



Investigative Interviews

Preparing for the Interview

Advisors, are allowed to accompany their party to the investigative interviews but are not required to do so. Therefore, it is important to talk to your Party beforehand to confirm whether or not they would like you to attend any interviews.



An invitation to the investigative interview will be sent to each Party several days before the scheduled interview. Title IX requires that parties receive this invitation with sufficient time to prepare to participate in the interview. The invitation will include the following:

- ▶ Date & Time of Interview
- ▶ Location of Interview
- ▶ Participants, including the name & title of the Title IX Investigator
- ▶ Purpose of the Interview



Advisor Tip: If you or your Party foresee a conflict of interest or a potential bias on behalf of the Investigator involved in the investigation, notify the Title IX Coordinator immediately in writing before participating in an interview.

To help prepare your Party for the interview, consider the following:

- ▶ Review potential questions that may arise during the investigative interview
- ▶ Ask about and listen to your Party's story
- ▶ Provide feedback to their story (particularly if asked)
- ▶ Mention that you may not be permitted to speak during the interview
 - Be sure to review any school guidance regarding Advisors' participation in interviews

During the Interview

If the school does not provide guidance to Advisors regarding participation in investigative interviews, the Investigator may set expectations at the start of the interview. Regardless of the specific guidelines provided by the investigator or in the school's policy, remember that it is important to let your Party speak. Advisors should not speak on behalf of their Party or interrupt the proceedings.

However, it is also important to recognize if your Party is struggling during the interview and needs support. Check to see if they need a break or drink of water. You can ask your Party if they need to clarify information that they misstated during the interview, but refrain from coaching your Party in any way.

Additionally, if you or your Party feel that the investigation should conclude and resume at another time, tell the investigator.

Evidence Collection

Note: During a Title IX Investigation, the Investigator typically conducts interviews and collects evidence concurrently.

Rights of the Parties

The Investigator's role and responsibility is to collect and compile evidence for the Investigation File and, ultimately, the Investigative Report.

Under Title IX, both the Complainant and Respondent must have an equal opportunity to:

- ▶ Present witnesses
 - Including fact or expert witnesses
- ▶ Gather & present evidence
 - Both inculpatory & exculpatory
- ▶ Discuss the allegations under investigation



Burden of Proof

In Title IX cases, the burden of gathering evidence sufficient to reach a determination lies with the school, not the Parties or their Advisors. Remember, Title IX processes are not civil or criminal cases, and Advisors are neither prosecutors nor defense attorneys.

Prohibited Evidence

The school cannot access, consider, disclose, or otherwise use a Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party, unless the school obtains that Party's voluntary, written consent to do so for the Title IX grievance process.

Reviewing the Investigative File

The Investigation File

The Title IX Investigator must provide both Parties & their Advisors an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the school does not intend to rely in reaching a determination regarding responsibility as well as inculpatory and exculpatory evidence. Title IX Solutions refers to this information as the “Investigation File.” Some schools may refer to this information as the “Preliminary Investigative Report.”



Reviewing the Investigation File

Advisors should carefully inspect the Investigation File within the time frame provided by the school, which must be at least 10 days. Advisors and Parties may provide a written response to the Investigation File within that same timeframe.

Remember that all evidence must be made available to the Parties, but not all evidence may be “relevant.” Reviewing the Investigation File provides you and your party the opportunity to argue if certain evidence is relevant or not.

Parties and their Advisors are also invited to thoroughly examine the Investigation File and all existing evidence related to the allegations so that they are able to recognize if certain evidence has been excluded from the Investigative Report or destroyed during the Grievance Process.

Questions to Ask Yourself When Reviewing the Investigative File

?

Does the file contain evidence of past sexual misconduct?

?

Does the file contain evidence of consent?

?

Does the file contain evidence of past behavior? Does this evidence directly relate to the allegations or is is character evidence?

?

Were all relevant witnesses interviewed?

?

Were all documents submitted and considered?

Relevant vs. Directly Related Evidence

Directly related evidence is a broader term than relevant evidence. All directly related evidence is included in the Investigation File. Only relevant evidence, however, is included in the Investigative Report.

The Investigative Report

The Investigative Report

The Title IX Investigator creates the Investigative Report to fairly summarize relevant evidence. In doing so, they will consider the Parties' (and Advisors') responses to the Investigation File.

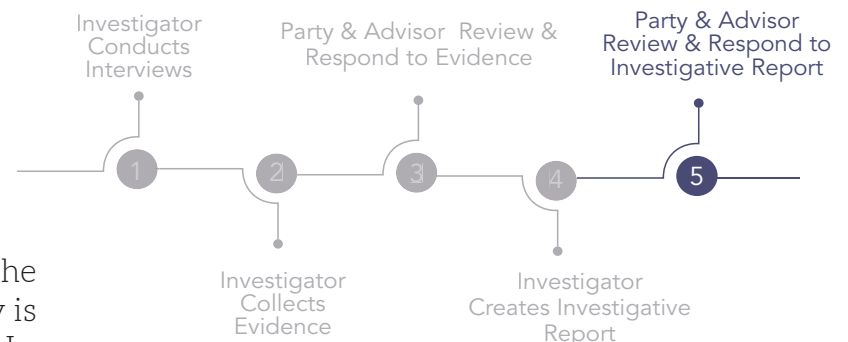
If hearing is required, the Investigator must send the report to the Parties and Advisors at least 10 days prior to the hearing. If a hearing is not required, the Investigator must send the report to the Parties and Advisors at least 10 days prior to the determination of responsibility.



Reviewing the Investigative Report

Parties (and their Advisors) have an equal opportunity to review the Investigative Report.

The Parties may disagree with an Investigator's determination of relevance and decision to include or exclude evidence in the Investigative Report. Therefore, each Party is invited to submit a written response to the Investigative Report, which may argue for or against the inclusion of such evidence. The Parties can also raise such arguments regarding relevance to the Decision-Maker during the hearing.



What is never relevant under Title IX?

- ▶ Evidence about a Complainant's sexual predisposition
- ▶ Evidence about a Complainant's prior sexual behavior, except when:
 - Questions & evidence are offered to prove someone other than Respondent committed alleged conduct; or
 - Questions & evidence concern specific incidents of the Complainant's prior sexual behavior with respect to
 - the Respondent are offered to prove consent.

Live Hearing & Cross-Examination at Postsecondary Institutions



After the investigation is complete and the Parties have had the opportunity to review the Investigation File and Investigative Report, the Parties and their Advisors will be invited to attend the live hearing. Advisors are required to accompany the Party to the hearing and only Advisors may conduct cross-examination of witnesses and the other Party.

Invitation to the Hearing

An invitation to the hearing is sent to the Parties several days before the scheduled hearing so that each Party has sufficient time to prepare to participate in the hearing. The invitation will include the following information:

- ▶ Date & Time of Hearing
- ▶ Location of Hearing
- ▶ Participants, including the name & title of the Title IX Decision-Maker
- ▶ Purpose of the Hearing



Advisor Tip: If you or your Party foresee a conflict of interest or a potential bias on behalf of the Decision-Maker named in the invitation, notify the Title IX Coordinator immediately in writing before participating in the hearing.

What to Expect

At postsecondary institutions, the Title IX Grievance Process must include a live hearing which may occur either in-person or virtually. The Title IX Coordinator and/or Decision-Maker may circulate procedural rules or guidelines as well as Rules of Decorum.

Advisors should review the school's policy and note if a pre-hearing meeting is included in the Title IX Grievance Process. Then determine if you are required or invited to prepare a pre-hearing brief for the Decision-Maker prior to or during the pre-hearing meeting.



Advisor Tip: If you do not receive Rules of Decorum or Hearing Guidelines, ask the Title IX Coordinator for this information.

Rights of Your Party

At the request of either party, the school must allow the live hearing to take place with the Parties located in separate rooms, using technology to allow the Decision-Maker & Parties to simultaneously see & hear cross-examination of parties and witnesses. Similarly, the hearing may be conducted with all parties physically present in the same geographic location or, at the school's discretion, any or all Parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

A recording (audio or audiovisual) or a transcript of the hearing will be made available to the parties for their inspection & review.

Each Party has the right to cross-examine the other party & witnesses during the hearing, but cross-examination must be conducted directly, orally, and in real time by the Advisor.

Cross-Examination

Who conducts cross-examination?

Advisors are permitted to question witnesses & the other Party. If a party does not have an Advisor present, the school must provide an Advisor without fee or charge to the Party. The Advisor will be of the school's choice. Parties themselves may not conduct cross-examination.

Why is cross-examination included in the grievance process?

Cross-examination provides an opportunity to establish facts and/or challenge the credibility of witnesses and the Parties.

How will cross-examination be conducted?

Cross-examination must take place directly, orally, and in real time by the Party's Advisor. Only relevant questions may be asked of a Party or witness, and the Decision-Maker will determine the relevancy of questions before the Party or witness answers. Decisions to exclude a question as irrelevant will be explained by the Decision-Maker.

What if a party or witness does not submit to cross-examination?

Title IX states that a Decision-Maker must not rely on any statement from a Party or witness in reaching a determination regarding responsibility if that individual does not submit to cross-examination.

However, the Decision-Maker cannot draw an inference about the determination based solely on the individual's absence from the hearing or refusal to answer questions.

Do I have to cross-examine witnesses and the other party?

Title IX provides the "opportunity" for each Party (through the Advisor) to conduct cross-examination. However, cross-examination is not required.

Additionally, Advisors are not required to conduct cross-examination "to the fullest extent possible." If a Party chooses not to conduct cross-examination or chooses to ask some but not every possible cross-examination question of another Party or witness, that other Party or witness cannot be said to have submitted or not submitted to cross-examination. So, the Decision-Maker is NOT precluded from relying on that Party's or witness's statements.

While cross-examination is not required, Parties and witnesses cannot select which questions to answer during cross-examination. Refusal to answer one question is considered a refusal to submit to cross-examination, and that person's statements cannot be relied upon by the Decision-Maker.

Post-Hearing Impact Statements

Some schools invite the Parties to submit written statements to the Decision-Maker after the hearing. These are known as post-hearing impact statements.



Advisor Tip: Review the school's policy to find out if this an option for your party. If it is, note when the statement should be submitted to the Decision-Maker. Then, review the expectations of the Advisor to understand your role in this process. Drafting the impact statement will likely be the responsibility of the Party, but they may ask you to proofread their statement.

Tips to Help Your Party Prepare for the Hearing

1

Ensure that your Party understands when and where the hearing is taking place.

2

Relay all information about the format of the hearing to your Party.

3

Discuss potential questions that may be asked of your Party during cross-examination & help prepare responses.

4

Explain their right to submit or not submit to cross-examination & the consequences of each option.

Primary and Secondary Institutions



Determination of Responsibility

At elementary and secondary institutions, the Title IX process may, but is not required to, include a live hearing. With or without a hearing, the school must send the Investigative Report to the Parties for their review and response. Before reaching a determination of responsibility, the Decision-Maker must:

- ▶ Provide each Party the opportunity to submit written, relevant questions that a Party wants asked of any party or witness
- ▶ Provide each party with the answers; and
- ▶ Allow for additional, limited follow-up questions from each party.

What is never relevant under Title IX?

- ▶ Evidence about a Complainant's sexual predisposition
- ▶ Evidence about a Complainant's prior sexual behavior, except when:
 - Questions & evidence are offered to prove someone other than Respondent committed alleged conduct; or
 - Questions & evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent are offered to prove consent.

After the final determination regarding responsibility is issued, the Parties have the right to an appeal.

Determination of Responsibility & Appeals



Determination of Responsibility

At the conclusion of the hearing (if any) the Decision-Maker must issue a written determination regarding responsibility by applying the standard of evidence referenced in the school's policy.

Under Title IX, the decision must be provided to the parties simultaneously. If an appeal is not filed, the determination is final when submission of an appeal is no longer considered timely. If an appeal is filed, the determination is final when the determination in response to the appeal is issued to the Parties. Title IX Coordinator is responsible for effective implementation of remedies.

The determination must include the following information:

- ▶ Identification of the allegations potentially constituting sexual harassment under Title IX;
- ▶ A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the Parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- ▶ Findings of fact supporting the determination;
- ▶ Conclusions regarding the application of the school's code of conduct to the facts;
- ▶ A statement of, and rationale for, the result of each allegation, including:
 - A determination regarding responsibility;
 - Any disciplinary sanctions the school imposes on the Respondent; and
 - Whether remedies designed to restore or preserve equal access to the school's education program or activity will be provided by the school to the Complainant; and
 - The school's procedures and permissible bases for the Complainant and Respondent to appeal the outcome.

After a Determination of Responsibility

After the written determination of responsibility has been issued, Advisors should read through the document, confirm that it contains all necessary information, and consider if the determination should be appealed.

Step 1: Review the Determination & Consider the Bases for Appeal:

Complainants and Respondents may file an appeal on the following bases:

- ▶ Procedural irregularity that affected the outcome of the matter;
- ▶ New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter; and
- ▶ The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
- ▶ Additional bases of appeal provided in the school's policy

The same bases of appeal apply to Parties filing an appeal in response to the dismissal of a formal complaint.

Step 2: Ask your party if they want to appeal the determination

If your party does not wish to appeal the determination, ask yourself the following questions:

- ▶ Has the Title IX coordinator communicated with your Party to explain how sanctions or remedies will be implemented?
- ▶ Has the other Party appealed? If so, should you and your Party respond?

Right to Appeal

Parties have an equal opportunity to appeal the determination of responsibility. Reference the school's policy to learn about how to file an appeal. Parties are often required to submit a written appeal to the Title IX Coordinator within a specific number of days following the issuance of the written determination.

If an appeal is filed, the school will notify the other Party in writing, implement appellate procedure equally for both parties, and give parties a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome. The Appellate Decision-Maker will review the appeal, the other Party's response (if any), and other case information before issuing a written decision to the Parties. Then, the Title IX Grievance Process is complete.

Sanctions & Appeals

After the conclusion of the Grievance Process, check on your Party. You may want to ask them if the sanctions have been clearly explained & issued, and if the remedies are in place.

Optional Elements of The Title IX Process

Informal Resolution

Title IX permits Informal Resolution but both Parties must agree to participate voluntarily. Schools must Informal resolution cannot be required as a condition of enrollment, continuing enrollment, employment, or continuing employment, and a school cannot require the Parties to participate. Additionally, a school may not offer informal resolution unless a formal complaint is filed.

Schools cannot offer or facilitate an informal resolution process to resolve allegations that an employee sexual harassed a student.

Informal Resolution Reminders:

- ▶ Informal resolution may be facilitated at any time after the formal complaint is filed and prior to reaching a determination regarding responsibility.
- ▶ The school must obtain the parties' voluntary, written consent to the process.
- ▶ The school must provide written notice including the following:
 - The allegations;
 - Requirements of the informal resolution process;
 - Preclusion from resuming a formal complaint arising from the same allegations;
 - Right to withdraw from the informal resolution process prior to agreeing to a resolution and resume the grievance process; and
 - Consequences resulting from participating in the process (records).

Dismissal of a Formal Complaint

Schools are required to investigate the allegations in a formal complaint. However, the investigation may uncover new information about the incident.

Under Title IX, a school must dismiss a formal complaint of sexual harassment under Title IX if at any point during the investigation or hearing process it is determined that the alleged conduct:

- ▶ Would not constitute sexual harassment under Title IX, even if proven;
- ▶ Did not occur in the school's own education program or activity; or
- ▶ Did not occur against a person in the United States.

A school may dismiss a formal complaint of sexual harassment under Title IX if at any point during the investigation or hearing process the following occurs:

- ▶ The Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the formal complaint or any allegations therein;
- ▶ The Respondent is no longer enrolled or employed by the school; or
- ▶ Specific circumstances prevent the school from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If a complaint is dismissed, the school is required to send written notice of dismissal to the Parties simultaneously and provide the reason(s) why the case was dismissed as well as information about the Parties' right to appeal the dismissal. The school may also provide alternate complaint resolution procedures, if applicable.

How to Respond to the Dismissal as an Advisor


If your Party's case is dismissed, be sure to communicate with your Party. Consider asking:

- ▶ If your party is a Complainant, did they request the dismissal?
- ▶ Would they like to appeal the dismissal? On what basis?
- ▶ Would they like the incident to be addressed under a different school policy?
- ▶ Would they still like supportive measures?

Contact the Title IX Coordinator to better understand the dismissal, if necessary.

Consolidation of Formal Complaints

Consolidation occurs when the allegations of sexual harassment arise out of the same facts of circumstances. The Title IX Coordinator may consolidate formal complaints when allegations of sexual harassment are made against more than one Respondent, by more than one Complainant against one or more Respondents, or by one Party against another Party.



Title IX Advisor's Guide to Providing Trauma-Informed Support for Parties

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01	Introduction to Trauma
03	Recognizing Personal Bias
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Introduction to Trauma

Why is trauma-informed support important for Title IX Advisors to understand?

As an Advisor, you have the opportunity to support your Party in a way that no one else involved in the school's Title IX Grievance Process is permitted. Therefore, your Party will likely look to you, their Advisor, for emotional support during the process because you:

- ▶ May be the only person present during meetings, interviews, hearings, etc. that is "on your Party's side." In accordance with Title IX, the school's Title IX Personnel are required to remain impartial during the grievance process. However, this requirement does not apply to the Advisor.
- ▶ Will accompany your Party during the most stressful and potentially re-traumatizing moments of the Title IX process.
- ▶ May be the only person who knows the details of the case other than the Title IX Personnel. Your Party may feel too afraid, embarrassed, or traumatized to share their story with friends or family.

1 What is trauma?

- ▶ Trauma is a real OR perceived threat to somebody's safety or wellbeing. Remember that:
 - Trauma is subjective.
 - Trauma manifests differently in each person.
 - There is not one "normal" reaction to trauma.

2 Consider Your Party's Experiences

- ▶ Remember that one or all Parties have likely already experienced trauma. This trauma may occur:
 - Prior to the incident (childhood experiences, family history, collective memory, etc.);
 - During the incident;
 - As a result of being accused of the alleged incident; or
 - Through a combination of these experiences.
- ▶ Additionally, one **or all** Parties may be currently experiencing trauma during the Title IX grievance process.

i You might not want to ask specifically about your party's past but keep in mind that past trauma may be impacting them

3 Healing from Trauma

- ▶ Empowerment
 - Trauma represents a loss of control.
 - Advisors can help their Party identify aspects of the Title IX process that they can control.

- ▶ Community
 - The shame and guilt of trauma magnifies in isolation.
 - The support of others can be extremely healing and Advisors are one of those support systems.
 - Advisors should communicate to their Party that they care about the Party's well-being, regardless of the outcome of the case.

Recognizing Personal Bias

1 What is a personal bias?

A personal bias is a tendency, inclination, or prejudice toward or against something or someone.

- ▶ Biases are universal. We all have them.
 - We are all products of our own personal histories. Our cultures along with many other factors shape the ways in which we see the world.
- ▶ Biases are not always bad!
 - We may use them to categorize things or make decisions (ie. bias against unhealthy foods).
- ▶ Biases can be based on stereotypes or inaccurate information.
- ▶ It is crucial that Advisors understand their biases in order to best serve their Party.

i While not all biases are inherently bad, those based on stereotypes or misinformation may hinder you from effectively supporting your party

2 Bias vs. Conflict of Interest

Advisors should reflect on their own possible biases and conflicts of interest when taking on a Title IX case. It is important to know the difference between the two.

Bias	Conflict of Interest
<ul style="list-style-type: none"> • Having a personal history with sexual misconduct (either as survivor or accused) • Holding stereotyped gender beliefs about sexual violence (i.e. perpetrators are always-males) • Internalization of rape culture (often leads to skepticism or blaming of the Complainant/survivor) 	<ul style="list-style-type: none"> • Having a personal relationship with the other Party • Holding multiple relationships with your Party (i.e. they are in one of your classes) • There is a way in which you could benefit from or be harmed by the outcome of the case

Is personal bias affecting your ability to connect with your party?

► Introspection

An important step in deciding whether or not personal bias is affecting your ability to connect with your Party is identifying which biases may be at play. Some techniques you may wish to use include:

- Journaling & reflection
- Talking with a friend (be conscious that others also have biases that may or may not match yours)

- Implicit Bias Tests

<https://implicit.harvard.edu/implicit/selectatest.html>



Remember:

Having implicit bias does **not** make you a bad person. We all have it! However, managing your implicit biases **will** make you a more effective Advisor to your Party.

► Ask yourself:

What does the information at hand cause you to believe about those involved? Why?

You may find it helpful to write your answer in the space below if you are currently acting as an Advisor on a Title IX Case.

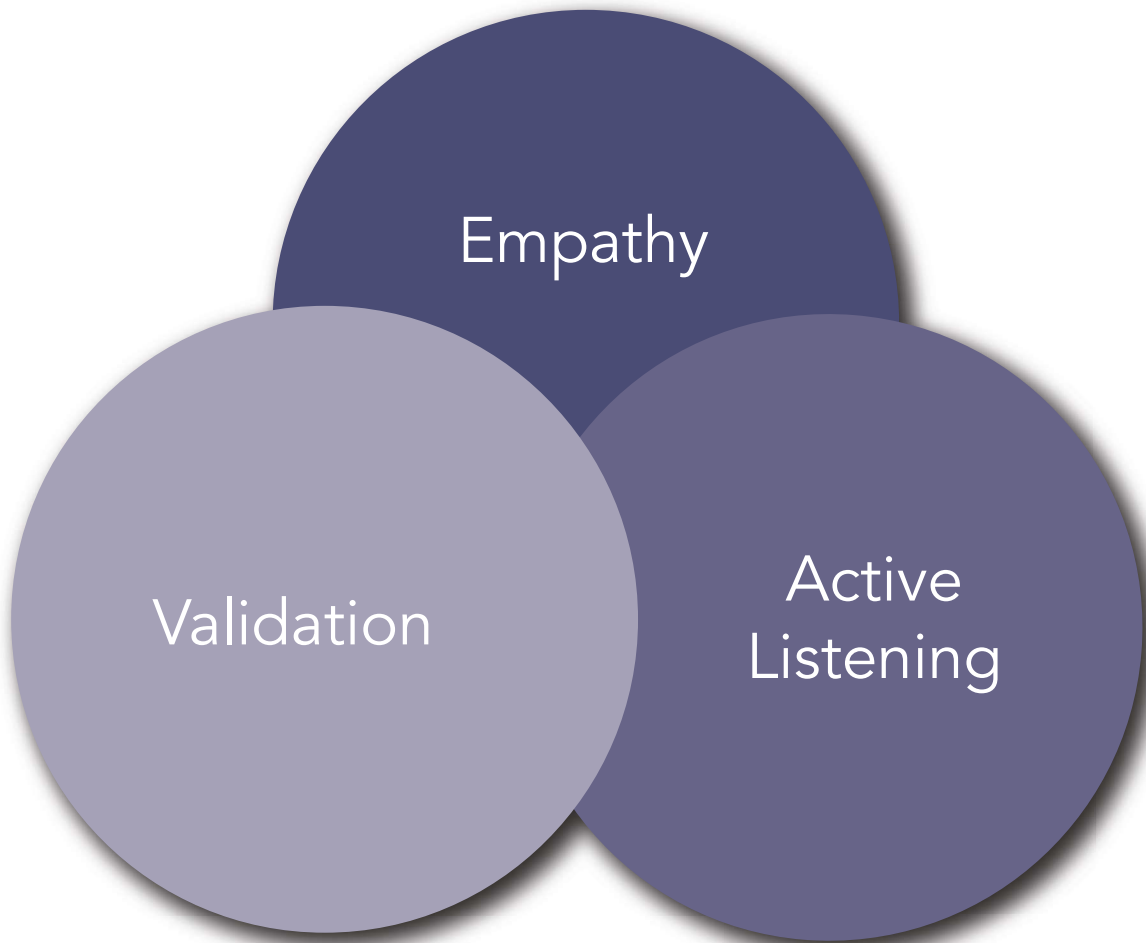
► Should you recuse yourself?

There may be instances where your personal bias or a potential conflict of interest means that you might not be able to serve effectively as an Advisor, and that is fine.

Recognizing your bias and removing yourself from a case will ultimately serve your Party better than participating in the Title IX grievance process when you don't feel that your participation is appropriate.

- i Learning how to recognize bias can help you recognize when a bias or conflict of interest on behalf of other Title IX Personnel might be affecting the Title IX grievance process

Trauma-Informed Communication



Trauma-informed communication skills are incredibly important for Advisors to effectively supporting their party. These tools can help Advisors minimize the trauma experienced by their party during the Title IX process.

1 Empathy

► What is empathy?

Empathy is the ability to understand and share the feelings of another person, but it does not mean that you fully feel what the other person is feeling.

- You may want to conceptualize empathy as “putting yourself in the other person’s shoes” and trying to think about how you would feel in a given situation.
- Empathy is not the same as sympathy.
 - Sympathy can be defined as feelings of pity, sorrow, or “feeling bad” for someone.

Empathy	vs.	Sympathy
<ul style="list-style-type: none"> • Understanding and sharing someone else’s feelings • Putting yourself in another’s shoes • Can help Advisors connect with and better support their Party 		<ul style="list-style-type: none"> • Understanding and acknowledging that someone else is suffering • Feeling bad or pitying another person • Can be damaging and may exacerbate feelings of shame or embarrassment

► How can I communicate empathy?

Try to reflect the emotion you’re seeing in the other person. Communicate that you understand what they are feeling and that you care.

“I can see how painful this is for you to talk about.”

“That sounds incredibly scary.”

“I am here to support you through this,”

2 Validation

► What is validation?

Validation is the recognition or affirmation that a person or their feelings, opinions, and experiences are real or worthwhile.

When validating your Party:	
Do	Don't
<ul style="list-style-type: none"> • Share your own similar reactions, if you have them: "I would feel really angry too." <ul style="list-style-type: none"> ↳ As long as these feelings are genuine, communicating them can be validating • Validate why they are feeling a certain way: "It makes sense that you would feel that way." 	<ul style="list-style-type: none"> • Tell your party how they should feel: "You shouldn't let this bother you so much." <ul style="list-style-type: none"> ↳ This sends the message that what they feel is somehow wrong or bad • Question their story: "Are you sure that's what happened?"

Others in the Title IX process will be questioning your Party and their story. That is their job, not yours. As an advisor, you have a unique opportunity to support your party by validating that their experiences as well as the Title IX process are difficult.

3 Active Listening

► What is active listening?

Active listening is a communication technique that serves the following purposes:

- Ensures that you accurately understand what the other person is saying
- Communicates to the other person that you are listening

► Strategies for Active Listening

Some strategies for active listening include:

- Avoiding distractions such as cell phones, emails, knocks on the door, etc.
- Using frequent brief paraphrases of what you heard: "So you were feeling..."
- Using nonverbal cues: nodding, smiling or frowning, leaning forward
- Remaining neutral and nonjudgmental
- Using phrases to communicate your desire to understand: "Did I understand that correctly?" "I want to make sure I am hearing you."
- Asking open-ended questions: "Can you tell me more about..."

4 Additional Strategies

▶ Consider the Environment

When speaking with your Party, you may want to consider the following:

- Allowing your Party to choose the meeting place (promotes empowerment)
- Finding comfortable seating, tissues, water, privacy, etc.

▶ Keep the Focus on the Party and Their Needs

Letting your party know that **they** are your focus will help them to feel supported by you. Strategies for doing so include:

- Refraining from sharing your own stories & experiences
 - Though this often comes from a good place, too much discussion of your own experiences with a certain difficult theme might communicate to the Party that their needs are not the focus.
- Creating an open space for them to talk and avoid judgement
- Aiming to understand your Party's perspective
- Communicating: "I really want what is best for you."

▶ Keep a Healthy Emotional Distance

The Title IX process may bring up some difficult emotions for you, personally. This is normal, but it is important to both recognize when this happens and manage these emotions. Remember:

- Self-care is crucial
- Boundaries are okay (and even healing!)
 - Think about what boundaries work for you & clearly and compassionately communicate them to your Party
- Direct your Party to campus resources that can also provide support
 - You are not the only support system available to your Party

i Remember to educate yourself about campus, local, and national resources available to your paPrty.

5 Be Careful

Advisors should avoid the following:

▶ Working to “solve the problem”

- You most likely don't have the power to actually solve the problem at hand.
- Listening is key and you are better able to do so when you are not focused on solving problems for your party.
- Your job is to understand and provide support.

▶ Providing Unsolicited Advice

Though often well-intentioned, some Parties may have trouble disagreeing with your advice.

Instead, be collaborative with your Party and try to create an environment that promotes empowerment. This may look like:

- Asking your Party what they need
- Brainstorming options with your Party, which may include solicited suggestions.

6 De-Escalation

▶ Confrontation is Possible

Title IX processes may be intense, and emotions may run high. Know that confrontation may occur between your Party & the other Party, the other Party's advisor, you, or any combination thereof.

▶ Strategies for De-escalation

Strategies for de-escalation may include:

- Keeping your personal emotions in check
 - Know that having an emotional reaction is normal, but managing your reaction will be helpful for de-escalation and supporting your Party
- Creating physical space
 - Think about ending the meeting early, taking a break, etc.
- Allow for silence & patience for decisions
- Always practice empathy, validation, and active listening

Promoting Empowerment

1 Empowerment = Voice + Choice

▶ Voice

Giving your Party an opportunity to speak their truth, advocate for themselves, and have their side of the story heard, listened to, and validated is important. Advisors can help create a space for their party to have a voice.

▶ Questions to ask yourself:

- What could empowerment look like for your Party?
- How can you, as a Title IX Advisor, identify resources to help empower your Party?
 - Think outside of the Title IX process (community resources etc.)
- What might your Party consider to be possible obstacles to empowerment? How can you address those obstacles?

▶ Choice

There are many aspects of the Title IX Grievance process over which both Advisors and their Parties will have little to no control. Any opportunity for choice, no matter how small, can be an effective tool for empowering your Party.

2 Tools for Empowering a Party



Ask your Party:

- How are you feeling?
- Do you feel safe?
- How can I help you feel safer?
- What do you need right now?
- What do you need throughout the duration of the Title IX process?
- How do you feel about participating in the Title IX process?
- What steps of the Title IX process concern you?



As an Advisor, remember:

- Validation, Empathy, and Active Listening
- Always ask yourself: How can I best support my Party & address their needs?


3 Decrease Dependence

▶ Importance of choice

- Provide your Party with choices & the space to make their own decisions.
- Be consistent with allowing them to make decisions.
- Respect their decisions, even if you do not agree (although you can express your concern).
- Step in to provide guidance or clarify choices, if asked.

▶ Be familiar with other resources

- Remember, you are not the only source of support available to your party
- Refer your Party to relevant campus resources: counseling services, health education, tutoring, student groups, etc.



Title IX Advisors and Informal Resolution

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4	Communicating With Your Party
6	Concluding the Title IX Process
7	Participating in Informal Resolution

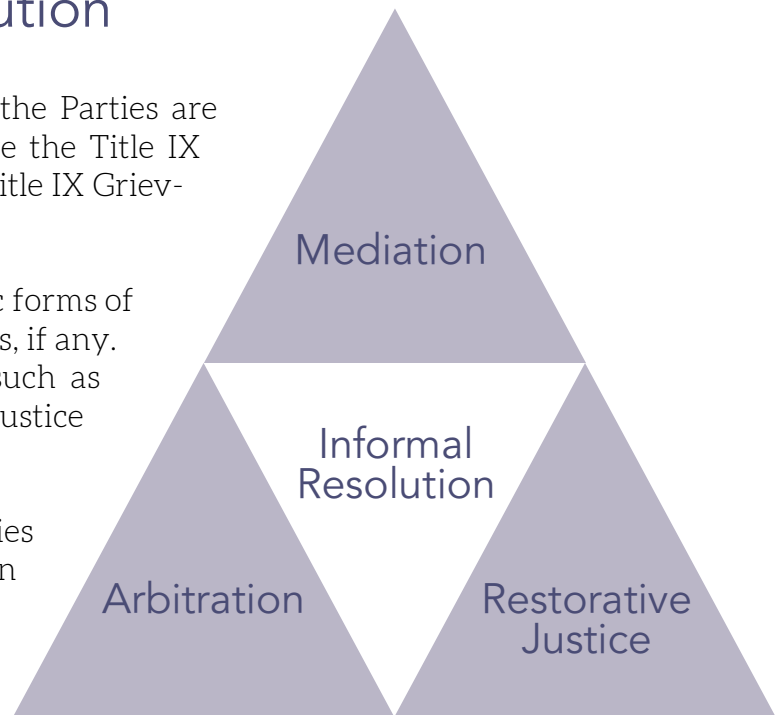
Introduction to Informal Resolution

1 Forms of Informal Resolution

During the informal resolution process, the Parties are presented with an opportunity to resolve the Title IX case without participating in the formal Title IX Grievance Process.

The school's policy will outline the specific forms of informal resolution available to the Parties, if any. Common forms of informal resolution such as mediation, arbitration, and restorative justice may be described in the policy.

Regardless of the method used, both parties must voluntarily agree & provide written consent to participate in the informal resolution process.



Mediation

Mediation is a very informal process that allows the Parties to discuss the alleged incident, explain its impacts and decide on an outcome.

- ▶ Mediation requires the presence of a mediator.
 - A mediator is a neutral facilitator who will 1. create an environment in which the Parties feel safe and comfortable and, 2. help the Parties to communicate effectively.
- ▶ Mediation is informal.
 - This means that rules that would apply in the formal Title IX grievance process (such as rules of evidence) don't necessarily apply.

- ▶ In mediation, the power to determine a final resolution lies with the Parties.

The mediator will facilitate the conversation and may provide recommendations or suggestions, if appropriate. However, the mediator does not make any decisions regarding the outcome.

Arbitration

Arbitration is a more formal process than mediation and is much more like a formal hearing.

- ▶ In arbitration, Parties provide evidence to the arbitrator.
- ▶ The arbitrator then decides the final resolution of the case.

Restorative Justice

The restorative justice process looks and feels a lot like mediation, and it is often a component of mediation. Restorative justice is similar to mediation because the Parties have the power to determine the final resolution, and the facilitator is there to support the Parties with effective communication. Restorative justice, however, focuses on the following questions:

- ▶ Who was harmed?
- ▶ What was the harm?
- ▶ What needs to be done to repair the harm?
- ▶ Who needs to take steps to repair the harm?

This can be used as a tool to help students understand the implications of an incident. It is also an opportunity for students to become more aware of the broader effects of the incident on the parties' and school's community. The outcome of a restorative justice process may range from sanctions or disciplinary action to an apology and emotional healing.

2 Pre-Meeting Brief

As an Advisor, you have the opportunity to play a key role in preparing your party for informal resolution. You will want to work with your party to develop a short "pre-meeting brief" to give the facilitator. Pre-meeting briefs typically contain:

- ▶ Your Party's perspective on what happened during the alleged incident; and
- ▶ Your Party's desired outcome(s) from the informal process.

3 Invitation to the Informal Resolution Process

Parties should receive an invitation to the informal resolution process. The invitation to informal resolution will include the following:

- ▶ The form of informal resolution
- ▶ The allegations at hand
- ▶ The requirements of the informal resolution process, including
 - Circumstances precluding Parties from resuming the formal complaint process
 - Right to withdraw from the informal resolution process
 - Records maintained or shared as a result of the process
 - Requirement to obtain written, voluntary consent from parties
 - Date, time, location, participants & purpose of process
 - Name & title of informal resolution facilitator
- ▶ The procedural guidelines for the informal resolution process

i Advisor Tip: Do you or your Party foresee a potential conflict of interest or bias by the facilitator? Be sure to raise that issue with the Title IX Coordinator or other appropriate school official.

Communicating with Your Party

1 The Role of the Advisor

Understanding the informal resolution process will enable the Advisor to explain the process and what to expect to their party. Advisors can help Parties make an informed decision about which form of informal resolution to engage in, if any.

2 Questions to Ask Your Party

As an Advisor, it is important to have an in-depth conversation with your Party before the informal resolution process begins. Some questions you may want to ask include:

- ▶ Is your Party voluntarily participating in the informal resolution process?
- ▶ What form of informal resolution is your Party willing or not willing to participate in?
- ▶ What are the advantages and disadvantages of each of the informal processes?
- ▶ What does your Party want the other Party to know before the conclusion of the informal resolution process?
- ▶ What does your Party want to know from the other Party before the conclusion of the informal resolution process?

3 Prepare Your Party to Tell Their Story

Your Party will need to talk about the incident throughout the process. Advisors can prepare their Party for this element of the informal resolution process in an effort to help their Party effectively communicate their story:

Before the informal resolution process, Advisors should ask their Party if they would like to communicate face to face with the other Party, have the process take place with the Parties in separate rooms, or a combination of both options. Face-to-face communication should only occur if both parties feel safe and comfortable doing so.

Discuss with your party the following:

- What happened during the alleged incident
- How the incident has impacted them
- What proposals your Party would like to make for resolution
- The importance of speaking to be heard & understood

- i** Advisor Tip: Remind your Party that the informal resolution process is a time to explain and converse - not argue. They should do their best to maintain a conversational tone during the process. However, clarify that it is normal for emotions to run high during the process and that you will be there to support them in managing those emotions.

3 Additional Discussion Points

Ask your Party what they think the other Party might say. How might your Party feel about that? How might your Party respond? For example, how might your Party react if the other Party denies all wrongdoing in a case?

4 Hopes & Expectations

A benefit of the informal resolution process is the flexibility of the terms defined in the settle agreement. While agreements cannot violate any school policies or local or federal laws, they can include a variety of terms. Discuss with your Party their expectations of the informal resolution process. For example:

- Does your Party prefer an informal setting?
- Does your Party want to discuss how they have been impacted either by the alleged incident or the Title IX process?
- Does your Party want to discuss or agree upon outcomes for the informal process?
- Does your Party wish to remain in school and graduate?
- Does your Party want disciplinary action to take place?
- Would your Party like an apology or for the alleged incident to be acknowledged?
 - Discuss what a “good” apology looks like to them.

4 What Will be Your Role?

Discuss with your Party their expectations of **your** involvement in the informal resolution process. Advisors are not required to participate in the informal resolution process.

Under Title IX, the focus of the informal process should be the Parties (especially during mediation and restorative justice processes). Additionally, the school’s policies may restrict the Advisor’s participation in informal resolution. Clarify the school’s expectations of Advisors and prepare your party for that process.

Concluding the Informal Resolution Process

The informal resolution process will conclude for one of two reasons:

- 1 A party decides to stop the informal resolution process and resume the formal Title IX grievance process

Under Title IX, Parties have the right to stop the informal resolution process at any time. However, they must stop the process before an agreement is reached and signed by the parties. The parties will then resume the formal Title IX grievance process.

- 2 The Parties may reach an agreement

In mediation and restorative justice processes, a settlement or resolution agreement signed by both parties will conclude the process. In arbitration, the arbitrator will make the final decision.

Even if you cannot participate during the informal resolution process or attend the meetings, remember that you are still your Party's Advisor.

Overall, as an Advisor, it is your job to support your party. The Title IX process (whether formal or informal) is a difficult process for all involved parties. Be sure to:



Answer any questions your Party may have about the process.



Address any concerns or fears your Party may have about the process.



Seek clarification from the Title IX Coordinator, if necessary.



Participating in Informal Resolution as a Title IX Advisor

1 Introductions

The Complainant, Respondent, and School may be present for the informal resolution process, which may happen in person or virtually. Additionally, the process may take place with parties in the same room, separate rooms, or a combination of the two.

It is important for all participants in the informal resolution process to introduce themselves before starting the process. As an Advisor, if you notice that this does not happen, you may ask the Informal Resolution Facilitator for this opportunity.



Advisor Tip: Ask to have a private conversation with your Party if you see a need.

2 Signing Agreements

Your party will be asked to sign a document agreeing to participate in the informal resolution process. Remember, informal resolution can only happen if the school obtains written, voluntary consent from both parties.

You and your party may also be asked to sign confidentiality agreements specific to the informal resolution.

3 Initial Caucus

The initial caucus is a private meeting with the Informal Resolution Facilitator that provides the opportunity for the party and their advisor (if present) to:

- ▶ Learn about the process from the facilitator
- ▶ Ask questions about the process
- ▶ Clarify terms used during the process
- ▶ Understand potential outcomes



Advisor Tip: Don't hesitate to ask clarifying questions. The Facilitator should be available to ensure that you and your Party understand the process.

4 Opening Statement

As an Advisor, consider whether you or your Party would like to make an opening statement. This five to ten-minute statement describes your Party's perspective in a noncombative way.



Advisor Tip: You may wish to thank the other party for taking part in this voluntary process.

5 Be Open to All Ideas

Listen carefully & help your Party navigate the informal resolution process.

- ▶ Ask to speak to your Party privately, if necessary
- ▶ Manage your party's expectations
- ▶ Is your Party's desired outcome possible? How might they need to compromise?
- ▶ Take notes during the process
- ▶ All Parties and Advisors need to put aside their egos
- ▶ What is holding back a resolution?



Advisor Tip: Listen with an open mind and an open heart.

6 Settlement Agreements

If an informal resolution process is successful, both Parties will be asked to sign a settlement agreement, which will bring an end to the informal resolution process. It is important for you and your party to understand all of the terms outlined in the agreement because, once signed, the agreement is binding.

Generally, parties should sign the agreement on the day of the resolution. However, if you are not a lawyer, you may request to include language which makes the agreement subject to review by an attorney within a specific timeframe.

Title IX Glossary

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Title IX Regulations

Title IX Refers to Title IX of the Education Amendments of 1972. Title IX prohibits discrimination on the basis of sex in education programs or activities that receive Federal financial assistance. Sexual harassment of students is a form of sex discrimination prohibited by Title IX.

Recipient An organization receiving Federal financial assistance covered by Title IX, including elementary and secondary schools as well as postsecondary institutions.

Actual Knowledge Notice of sexual harassment or allegations of sexual harassment are delivered to:

1. The school's Title IX Coordinator or any school official who has authority to institute corrective measures on behalf of a postsecondary school; or
2. Any employee of an elementary or secondary school.

Such notice includes reports sent to the Title IX Coordinator in person, by mail, by telephone, by email, or any other means that results in the Title IX Coordinator or any employee of an elementary or secondary school receiving a person's written or verbal report.

Deliberate Indifference Title IX requires that a school with actual knowledge of allegations of sexual harassment respond in a way that is not "deliberately indifferent." A school acts with deliberate indifference when it responds to sexual harassment in a manner that is "clearly unreasonable in light of the known circumstances." Should a school with actual knowledge to respond in a clearly unreasonable manner, their response could constitute the school committing intentional discrimination.

Dept. of Education The U.S. Department of Education (DoE) describes itself as the agency of the federal government that establishes policy for, administers, and coordinates most federal assistance to education. It assists the president in executing his education policies for the nation and in implementing laws enacted by Congress.

Office for Civil Rights

The Office for Civil Rights (OCR) is a sub-agency of the U.S. Department of Education (DoE). The OCR enforces Federal civil rights laws that prohibit discrimination in programs or activities that receive Federal financial assistance from the Department of Education. These laws include:

- **Title IX of the Education Amendments of 1972**, which prohibits sex discrimination
- **Title VI of the Civil Rights Act of 1964**, which prohibits discrimination on the basis of race, color, and national origin
- **Section 504 of the Rehabilitation Act of 1973**, which prohibits discrimination on the basis of disability
- **The Age Discrimination Act of 1975**, which prohibits discrimination on the basis of age

Title IX Roles

Complainant An individual who is alleged to be the victim of conduct that could constitute sexual harassment under Title IX. A Complainant may be a student, employee, or other community member.

Respondent An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment under Title IX. A Respondent may be a student, employee, community member, or non-community member.

Title IX Coordinator An employee designated and authorized by the school to coordinate the school's Title IX responsibilities. Title IX Coordinator responsibilities include, but are not limited to:

- Receiving required training on relevant state and federal laws, including Title IX
- Responding to reports and complaints of sex discrimination, including reports and formal complaints of sexual harassment
- Informing Complainants of the availability of supportive measures and the process for filing a formal complaint under Title IX
- Providing supportive measures to the Complainant and Respondent throughout the Title IX Grievance Process, as appropriate
- Facilitating the Title IX Grievance Process, which includes notifying the Parties of their rights under Title IX as well as all upcoming meetings, interviews, hearings, etc.
- Coordinating effective implementation of remedies and sanctions imposed at the conclusion of the Title IX Grievance Process

Title IX Investigator Investigates the alleged incident(s) of sexual harassment referenced in the formal complaint. Title IX Investigator responsibilities include:

- Interviewing Parties and witnesses
- Collecting all evidence directly related to the allegations
- Preparing the investigation file for the Parties and their Advisors for their review and response
- Drafting of the investigative report for the Parties and their Advisors for their review and response

The Title IX Investigator may also be the Title IX Coordinator. The Title IX Investigator cannot be the Title IX Decision-Maker or Appeals Decision-Maker. Investigators may be employees of the school or external professionals.

Title IX Decision- Maker

Determines the outcome of the Title IX case. Responsibilities include:

- Overseeing the Title IX hearing
- Supervising the conduct of the involved parties and their advisors
- Determining the relevance of questions posed during the hearing
- Drafting and issuing the written determination regarding responsibility

Decision-Makers cannot be the Title IX Coordinator or the Title IX Investigator, or Appellate Decision-Maker. Depending on the school's policy, schools may use a single decision-maker or a Hearing Panel. Decision-Makers may be employees of the school or external professional.

Title IX Appeals Decision- Maker

Reviews any appeals filed by the Parties and issues the final decision. Specific appellate procedures vary at each school.

The Appeals Decision-Maker cannot be the Title IX Coordinator, Title IX Investigator, or original Decision-Maker in a case. Appeals Decision-Makers may be employees of the school or external professionals.

Informal Resolution Facilitator

Facilitates an informal resolution process (such as restorative justice, mediation, etc.). The Informal Resolution Facilitator may be the Title IX Coordinator, another employee of the school, or an external professional.

Advisor

Supports the Party during the Title IX grievance process. All Parties have the right to an Advisor of their choice to accompany them during any related meeting or proceeding. Therefore, an Advisor may be a friend, parent, attorney, faculty member, or other person of the Party's choice. Schools cannot limit the choice or presence of an Advisor for either the Complainant or Respondent in any meeting or proceeding. However, the school may establish restrictions regarding the extent of the Advisor's participation in the process, as long as the restrictions apply equally to both parties.

Advisors must conduct cross-examination on behalf of their Party during the live hearing. The school must provide the Party an Advisor of the school's choice without fee or charge to the Party to conduct cross-examination if a Party does not have an Advisor present during the live hearing. Additional Advisor responsibilities may include, but are not limited to attending interviews and meetings, review of and response to the Investigation File and Investigative Report, and review of the Written Determination of Responsibility.

Sexual Harassment Under Title IX

Sexual Harassment

Sexual harassment is a form of sex discrimination. Conduct is considered sexual harassment under Title IX if it meets **ANY** of the definitions listed below **AND** it occurs against a person in the school’s own education program or activity, in the United States.

Quid Pro Quo Harassment

A school employee conditioning provision of an aid, benefit, or service of the school on an individual’s participation in unwelcome sexual conduct. For example, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual’s educational or employment progress, development, or performance.

This includes when submission to such conduct would be a condition for access to receiving the benefits of or opportunities in any educational or employment program. Quid pro quo harassment does not need to be severe and pervasive as required under the *Davis* standard (see below), because the abuse of authority in the form of even a single instance is inherently offensive and serious enough to jeopardize equal educational access.

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 school’s education programs or activities. No concrete injury is required to conclude that serious harassment would deprive a reasonable person in the Complainant’s position of the ability to access the school’s education programs or activities on an equal basis with persons who are not suffering such harassment.

Sexual Assault

Forcible or non-forcible sex offenses under the FBI’s Uniform Crime Reporting program (U.C.R.). Various forms of sexual assault include:

Sex Offences, Forcible

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

Sexual Harassment Continued

Forcible Rape	(Except Statutory Rape) The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.
Forcible Sodomy	Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth 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, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
Forcible Fondling	The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
Sex Offences, Non-Forcible	(Except Prostitution Offenses) Unlawful, nonforcible sexual intercourse. including:
Incest	Nonforcible 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. The age of consent may vary by state.

Sexual Harassment Continued

Dating Violence 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 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,

Domestic Violence 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, by 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.

Stalking 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.

Education Program or Activity

In order for an incident to constitute sexual harassment under Title IX, it must take place in the school's own education program or activity. This includes all operations of the school including locations, events, and circumstances over which the school exercises control over both:

1. The respondent, AND
2. The context in which an incident of sexual harassment occurs

This definition includes locations on and off campus. It also includes any building owned or controlled by student organizations which are officially recognized by a postsecondary institution (e.g. sororities and fraternities). Additionally, this definition includes computer & internet networks, digital platforms & computer hardware or software owned or operated by, or used in the operations of the school.

Reporting Incidents of Sexual Harassment under Title IX

Report

Notice, either written or oral, provided to the Title IX Coordinator of an alleged incident of sex discrimination or sexual harassment. Any person may report sex discrimination or sexual harassment, regardless of whether or not the person reporting the alleged incident is the person alleged to be the victim.

Reports may be made at any time, including during non-business hours, in person, by mail to the office address listed for the Title IX Coordinator, by telephone, by email, or any other means that results in the Title IX Coordinator receiving a person's written or verbal report. A report is different than a formal complaint under Title IX.

Formal Complaint

A document filed by the Complainant or signed by the Title IX Coordinator against a Responding alleging sexual harassment under Title IX. A formal complaint is required to initiate the Title IX Grievance Process. At the time of filing a formal complaint, the Complainant must be participating in or attempting to participate in the school's own education programs or activities. The formal complaint must contain the Complainant's physical or digital signature, or otherwise indicate that the Complainant is the person filing the complaint.

Amnesty Provision

Though not required under Title IX, many schools choose to include an amnesty provision in their sexual harassment policy. To encourage reporting, schools may choose not to subject an individual who reports an alleged incident of sexual harassment to disciplinary action for that person's minor violation of other school policies (e.g. underage consumption of alcohol).

Confidentiality

In accordance with Title IX, the school must keep confidential the identity of any individual who has made a report of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the FERPA statute or regulations, 20 U.S.C. 1232g and 34 CFR part 99, or required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Supportive Measures

Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

These measures are designed to restore or preserve equal access to the school's education program or activity without unreasonably burdening the other party. This includes measures designed to protect the safety of all parties or the school's educational environment, or deter sexual harassment. Examples of supportive measures include:

- 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

Preliminary Assessment

Upon receipt of a report of sexual harassment, the Title IX Coordinator will make a preliminary assessment as to whether or not the facts included in the report would constitute sexual harassment under Title IX, if proven (see: Sexual Harassment Under Title IX). The Coordinator must advise the complainant (if known) of the preliminary assessment and provide them with proper reporting avenues.

For example, if the Title IX Coordinator finds that the conduct described in a report of sexual harassment would constitute sexual harassment under Title IX, the Title IX Coordinator must offer the Complainant the option to file a formal complaint under Title IX. Schools may offer the Complainant the opportunity to appeal this decision.

Retaliation

Intimidating, threatening, coercing, or discriminating against any individual for either of the following reasons:

- Intention to interfere with the individual's rights under Title IX; or
- Because an individual has submitted a report or formal complaint, testified, assisted, or participated or refused to participate in the investigation, proceeding, or hearing under Title IX.

All persons are prohibited from retaliating against reporting parties, Complainants, Respondents, witnesses, and others who participate in the Title IX process.

False Statements

Title IX requires that schools include in the written notice of allegations any provision in the school's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

Schools may charge an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance process, and this would not constitute retaliation on the school's behalf. However, a determination that finds the Respondent not responsible for a violation of the school's sexual harassment policy alone would not be sufficient to prove that a Complainant has made false statements in bad faith.

The Title IX Grievance Process

Written Notice of Allegations

Once a formal complaint of sexual harassment has been filed by the Complainant or the Title IX Coordinator, the Title IX Coordinator will send a written notice of allegations to the Complainant and Respondent, if known, simultaneously. This correspondence outlines the allegations, informs parties to expect an interview with the investigator, and explains the rights of the Parties under Title IX, including their right to an Advisor.

Safety & Risk Analysis

Based on the details of the report, a safety & risk analysis may or may not be necessary. If a school 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, it will provide the Respondent with notice of emergency removal. The Respondent will be provided with the opportunity to challenge the decision immediately following the removal.

Title IX Investigation

A required part of the formal Title IX grievance process. The investigation is conducted by the Title IX Investigator within a prompt timeframe, which will be defined in the school's policy.

Directly Related Evidence

All evidence collected during the Title IX investigation that is directly related to the allegations. Directly related evidence is a broader category than relevant evidence. Therefore, evidence may be directly related, but not relevant. All directly related evidence must be included in the Investigation File.

Investigation File

Title IX Solutions term to refer to the documents containing all directly related evidence in a case, including all inculpatory & exculpatory evidence. Additionally, this term includes evidence upon which the school does not intend to rely. The Title IX Investigator must provide this file to Parties & their Advisors. The Parties will then have 10 days to inspect & review the Investigation File and submit a written response before the creation of the Investigative Report.

Relevant Evidence

Evidence that is deemed relevant to the allegations in a case. Only relevant evidence is included in the Investigative Report. Relevant evidence is subject to rape shield protections and legally recognized privilege exemptions (see definitions below).

Title IX Investigation Continued

Investigative Report	Created by the Title IX Investigator to fairly summarize relevant evidence. In order to create the report, the Investigator will consider the Parties' (and Advisors') responses to the Investigation File. Similarly to the Investigation File, the Investigator must provide the Investigative Report to Parties and Advisors at least 10 days prior to the title ix hearing or other time of determination regarding responsibility to inspect & review. Parties may submit a written response to the Investigative Report.
Rape Shield Protection	Questions and evidence about a Complainant's sexual predisposition are not relevant. Questions and evidence about a Complainant's prior sexual behavior would be deemed not relevant unless they meet one of the following narrow exceptions: <ul style="list-style-type: none">• Exception 1: Questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant• Exception 2: 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
Privilege	The school cannot access, consider, disclose, or otherwise use a Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party, unless the school obtains that Party's voluntary, written consent to do so for the Title IX grievance process.
Inculpatory Evidence	Indicates the guilt of the accused. It indicates that the Respondent is responsible for a policy violation.
Exculpatory Evidence	Indicates the innocence of the accused/Respondent. It indicates that the Respondent is not responsible for a policy violation.
Burden of Proof	The burden of proof and burden of gathering evidence sufficient to reach a determination rest on the school, not the Parties or their Advisors. This means that the school, not the Parties, are responsible for conducting an investigation, collecting evidence, and carrying out the grievance process.

Pre-Hearing Meeting

Occurs before a live hearing and is allowed, but not required, under Title IX. The Decision-Maker may invite the parties and their advisors to a pre-hearing meeting. If the Decision-Maker does not call for a meeting, an Advisor may request it.

During the pre-hearing meeting, the Parties and their Advisors may have the opportunity to review the rules of the hearing, understand the expectations for the hearing, and finalize the hearing agenda. The Decision-Maker may request preliminary information from the Parties and their Advisors prior to or during this meeting.

Live Hearing

The Title IX grievance process at postsecondary institutions requires a live hearing. During the hearing, Advisors may ask the other Party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

Hearings may occur with Parties in the same room or with Parties in separate rooms with technology that allows all Parties to see and hear the Party or witness answering questions simultaneously. The school must create an audio recording, audio-visual recording, or transcript of the hearing, which will be made available to the Parties for inspection & review.

Standard of Evidence

Title IX requires schools to adopt a standard of evidence that will be used to determine if a sexual harassment policy violation has occurred. Schools must adopt one of the standards listed below. The school must apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty. The school must also apply the same standard of evidence to all formal complaints of sexual harassment.

Preponderance of the Evidence Demonstrates that it is more likely than not that the alleged conduct or policy violation occurred. The facts convince the decision-maker that there is greater than a 50% chance that the incident/policy violation occurred.

Clear and Convincing Standard Evidence is highly and substantially more likely to be true than untrue; the Decision-Maker must be convinced that the alleged policy violation is highly probable. This is a more rigorous (higher) standard to meet than the preponderance of the evidence standard.

Live Hearing Continued

Rules of Decorum

In the preamble to the Final Rule, the Department of Education states that schools may reserve the right to “[enforce] rules of decorum that ensure all participants, including Parties and Advisors, participate respectfully and non-abusively during a hearing.” As such, schools may adopt rules of decorum to provide guidance regarding proper participation in a hearing.

Cross-Examination

Under Title IX, Parties at a postsecondary institution have the opportunity to cross-examine the other Party and relevant witnesses through an Advisor. The Parties themselves may not conduct cross-examination. Only relevant questions may be asked during cross-examination. The Decision-Maker will decide which questions are relevant and explain the reasoning behind excluding any questions as not relevant. Though cross-examination provides an opportunity for Advisors to challenge the credibility of the other party or witnesses, they are not required to do so.

Refusal by a Party or witness to submit to cross-examination conducted by the other Party’s Advisor means that Decision-Maker may not rely on any statement given by that Party or witness in reaching a determination of responsibility. However, the Decision-Maker 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.

Opening Statements

At the beginning of a hearing, the Decision-Maker may ask parties or their Advisors for opening statements. Opening statements may outline the issues that the Party & their Advisor would like to refute, provide an overview of the facts & evidence and describe the evidence that supports each Party’s statements, and present what the Party and their Advisor expect to prove during the hearing.

Leading Questions

Suggest a desired answer or prompt the witness or Party’s response. An example of a leading question would be: “Is it true that you told John that you did not want to have sex?”

Character Witness

Typically speak to the credibility of a Party. While character witnesses may be relevant, their purpose in a Title IX case is limited.

Live Hearing Continued

Heresay Generally, witnesses may not be asked about what other people have said about a topic (heresay) if the purpose of the question is to prove that the other person's statement is true. An example of a question relying on heresay would be: "What did Mary tell you about John's conduct on the night of the alleged incident?"

Closing Statements At the conclusion of the live hearing, the Decision-Maker may ask the Parties or their Advisors for closing statements. This gives parties or their advisors the opportunity to make a final statement to the Decision-Maker before the case is decided. Closing statements should summarize the relevant evidence & arguments. They also may ask the Decision-Maker to find that the evidence will support the determination in that party's favor. Typically, the Complainant gives the first closing statement, followed by the Respondent, but the parties may waive their closing statement.

Dismissal of a Formal Complaint

Schools are required to investigate the allegations in a formal complaint. However, the investigation may uncover new information about the incident, and this information may result in the dismissal of a formal complaint.

Under Title IX, a school **must** dismiss the formal complaint of sexual harassment if at any point during the investigation or hearing process it is determined that the alleged conduct:

- Would not constitute sexual harassment under Title IX, even if proven;
- Did not occur in the school's own education program or activity; or
- Did not occur against a person in the United States.

A school **may** dismiss a formal complaint of sexual harassment under Title IX if at any point during the investigation or hearing process:

- The Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the formal complaint or any allegations therein;
- The Respondent is no longer enrolled or employed by the school; or
- Specific circumstances prevent the school from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Dismissal Continued

If a case is dismissed, the school is required to send written notice of dismissal to the Parties simultaneously and provide the reason(s) for dismissal and information about the parties' right to appeal the dismissal. The school may also provide alternate avenues for complaint resolution, if applicable.

Determination of Responsibility

After the live hearing, the Decision-Maker will issue the written determination of responsibility. Under Title IX, the determination must include specific information, such as findings of fact that support the determination, results regarding each allegation, and imposed sanctions and remedies, if any. See the Title IX Regulations (34 CFR §106.45(b)(7)) for full Title IX requirements of the written determination of responsibility.

Disciplinary Sanctions

Imposed upon Respondents who have been found to be responsible for violating the school's sexual harassment policy. The school's policy must provide a list or range of possible disciplinary sanctions.

Remedies

Provided to a Complainant at the conclusion of the Title IX grievance process and are designed to restore or preserve equal access to the school's education program or activity. Remedies may be the same as supportive measures but they do not need to be "non-punitive" or avoid burdening the Respondent. Remedies are only available after the Title IX grievance process. The school's policy must provide a list or range of possible remedies.

Appeals

Parties have the right to appeal the determination of responsibility. The school's policy should outline the appeals process. Parties are often required to submit a written appeal to the Title IX Coordinator within a specific number of days following the issuance of the written determination.

If an appeal is filed by either Party, the school will notify the other Party in writing, implement appellate procedure for both Parties equally, and give Parties a reasonable, equal opportunity to submit a written statement. Then, the Appellate Decision-Maker will review the appeal, the other Party's response (if any), and other case information. The Appellate Decision-Maker will issue a written decision to the Parties, concluding the Title IX grievance process.

Record Keeping

Title IX prescribes specific record keeping requirements for schools. Under Title IX, schools are required to maintain a record for at least 7 years of the following:

- Each sexual harassment investigation, including any determination regarding responsibility, the audio recording, audiovisual recording, or transcript of the hearing, any disciplinary sanctions imposed on the Respondent, as well as any remedies provided to the Complainant designed to restore or preserve equal access to the school's education program or activity;
- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom;
- Records of actions (e.g. Supportive Measures) for every report or formal complaint, including a basis for its conclusion that the school's response was not deliberately indifferent;
- Documentation of the school's reasons why a Complainant was not provided Supportive Measures and why such a response was not clearly unreasonable in the light of the circumstances;
- All materials used to train Title IX Coordinators, Investigators, Decision-Makers, and Informal Resolution Facilitators. The school must also make these training materials publicly available on its website.

See the Title IX Regulations (34 CFR §106.45(b)(10)) for full Title IX requirements of the written determination of responsibility.

Informal Resolution

Informal Resolution

An alternative to the formal Title IX grievance process and live hearing. Schools will outline the specific informal resolution process(es) available to their community in its sexual harassment policy.

Regardless of the method used, both parties must voluntarily agree & provide written consent to participate in the informal resolution process. Informal resolution cannot be required as a condition of enrollment, continuing enrollment, employment, or continuing employment. Schools cannot require the parties to participate in an informal resolution process.

A school may not offer informal resolution unless a formal complaint is filed, and informal resolution is not an option when the Respondent in a case is an employee and the Complainant is a student.

Informal resolution may conclude when a resolution or settlement agreement has been drafted and signed by the Parties. However, at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the Title IX grievance process.

Mediation Mediation is a very informal process that allows the parties to discuss the alleged incident, explain its impacts, and decide on an outcome. During mediation, a neutral facilitator known as the mediator will work to create an environment in which the parties feel safe and comfortable and help them communicate effectively. In mediation, the parties have the ultimate power to determine a final resolution.

Arbitration Arbitration is a more formal process than mediation and is much more like a formal hearing. In arbitration the parties present evidence to the arbitrator and the arbitrator is responsible for determining a final resolution.

Restorative Justice Similar to mediation in that the Parties have the power to determine the final resolution, and the Facilitator is present to support the Parties with effective communication. Restorative justice, however, focuses on the following questions:

- Who was harmed?
- What was the harm?
- What needs to be done to repair the harm?
- Who needs to take steps to repair the harm?

Pre-Meeting Brief Parties may provide a pre-meeting brief to their Informal Resolution Facilitator. This is a short document that includes 1) the Party's perspective on what happened during the alleged incident and 2) the Party's desired outcome(s) from the informal process.



Dear Current or Future Title IX Advisor:

Thank you for purchasing *Stepping Up: Become an Effective Title IX Advisor*, Title IX Solutions' self-paced Title IX Advisor Training Course.

This course contains over six hours of training videos, during which our experts thoroughly explain the Title IX Grievance Process, share their own experiences as Title IX professionals, and address elements of the Title IX process that seem particularly challenging or unfamiliar for many Title IX Advisors. This course also addresses the emotional aspects of serving as a Title IX Advisor because the process may be stressful, and even traumatic, for your Party.

In addition to the training videos, this course also includes nearly 100 pages of handouts for you to download and use as you navigate the Title IX process. Keep an eye out for these handouts as you complete each module, download them, and use them as guides when you serve as an Advisor.

Upon completion of the course, you will be asked to complete a brief course evaluation. You will also receive a Certificate of Completion via email. As a reminder, you are the only person permitted to take this course, so please contact Title IX Solutions if a friend or colleague would like to complete this training course as well.

Finally, we understand that the Title IX grievance process can seem complex and you may feel nervous or overwhelmed by this task. Therefore, we encourage you to keep in mind that your ultimate goal is to support your Party. By taking the initiative to complete this course, you are already taking a step in the right direction. Preparing yourself for what's to come by better understanding the Title IX process and acknowledging the emotional stress that your Party may be experiencing will assist you in serving as a more effective and confident Title IX Advisor.

If you have any questions about the content of the course, would like to contact one of the presenters, or need assistance navigating the course portal, please contact us.

Again, thank you for taking *Stepping Up: Become an Effective Title IX Advisor*, and we wish you well as you advise your Party during the Title IX process.

Sincerely,

Adrienne Mathis

Program Director

Title IX Solutions, LLC

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Course Curriculum

Module One: An Introduction to Title IX

Speakers: [Emma Davis, JD](#) & [Patrick B. Mathis, JD LLM MBA](#)

To navigate the Title IX Grievance Process, Advisors must understand the foundational elements of Title IX. In this module, Title IX experts Emma Davis and Patrick B. Mathis address common questions such as: “What is Title IX?” “Who is involved in the Title IX Process?” and “What is sexual harassment under Title IX?” Emma and Pat also outline the steps of the Title IX Grievance Process and explain key terminology relevant to the process.

Module Two: Role of the Advisor in the Title IX Grievance Process

Speakers: [Emma Davis, JD](#) & [Patrick B. Mathis, JD LLM MBA](#)

Advisors play a unique role in the Title IX Grievance Process, and in this module Title IX experts Emma Davis and Patrick B. Mathis explain what that role will likely entail when advising a Complainant or Respondent. Emma and Pat first share their Top 5 Tips for preparing to participate in the Title IX process. They then provide an in-depth explanation of every step of the Title IX Grievance Process, including investigation procedures, hearings and cross-examination, determinations of responsibility, appeals, and informal resolution options. Emma and Pat also explain how and why an Advisor will participate during each step of the Title IX process and share tips for effectively serving your Party as a Title IX Advisor.

Module Three: FAQ with Professional Title IX Advisors

Speakers: [Elizabeth Abdnour, JD](#) & [Susanna Murphy, JD](#)

Professional Title IX Advisors and experienced Title IX Investigators Elizabeth Abdnour and Susanna Murphy leverage their own experiences to answer commonly asked questions about the Title IX Grievance Process. They also discuss their responses to particularly challenging situations that may arise for Title IX Advisors. Finally, as career attorneys, Liz and Susanna share their perspectives on the difference between serving as a Title IX Advisor and attorney for a Party.

Module Four: Providing Trauma-Informed Support as an Advisor

Speaker: [Dr. Jessica Groleau](#)

In Title IX cases, providing emotional support to a Party can be just as important for the Title IX Advisor as providing procedural support. Therefore, in this module licensed psychologist Dr. Jessica Groleau provides an overview of trauma as well as strategies for building rapport with Parties to minimize trauma experienced during the Title IX Grievance Process. Dr. Groleau also explains recognizing personal bias, trauma-informed communication, and promoting empowerment.

Module Five: Title IX Hearings – Expert Analysis

Speakers: [Kenneth M. Chackes, JD](#) & [Judge Michael T. Jamison](#)

Title IX Hearings can be stressful for Parties and their Advisors, often because the Hearing Process contains many procedures that are unfamiliar in a school environment. To address this issue, in this module professional Decision-Makers Kenneth M. Chackes and Judge Michael Jamison thoroughly explain what to expect during the Hearing Process. In addition to sharing best practices, they also explain how to review the Investigative Report, craft cross-examination questions, understand relevance, and prepare to effectively participate in the Title IX Hearing.

Module Six: Informal Resolution – Expert Analysis

Speakers: [Kim L. Kirn, JD](#) & [James W. Reeves, JD LLM](#)

Informal Resolution may be an option for your Party, and it is important to understand the Advisor's role during this process. In this module, professional Informal Resolution Facilitators James W. Reeves and Kim L. Kirn first introduce various forms of informal resolution such as mediation, arbitration, and restorative justice. They then explain what to expect; how to prepare your Party; and the Advisor's role before, during, and after the Informal Resolution Process.

LEARNING OBJECTIVES

General Objectives:

- Gain an understanding of the Title IX Grievance Process, including reporting, investigations, and hearing processes
- Gain an understanding of the Advisor's role throughout the Title IX Grievance Process
- Learn strategies for effectively supporting Complainants & Respondents during the Title IX Grievance Process

Procedural Objectives:

- Review key Title IX definitions, including of the definition of sexual harassment and other terms outlined in the Federal Title IX Regulations
- Understand the roles of Title IX Personnel involved in the Title IX Process
- Learn strategies to prepare to participate in the formal Title IX Grievance Process as an Advisor
- Learn strategies to prepare to participate in an Informal Resolution Process as an Advisor
- Gain an understanding of relevant evidence and questions under Title IX
- Identify steps to appropriately review and respond to evidence collected during the Title IX Investigation and Investigative Report
- Gain an understanding of the Title IX Hearing Process, including the role of the Advisor, Parties, and Decision-Maker
- Gain an understanding of cross-examination under Title IX
- Identify various forms of informal resolution

Interpersonal Objectives:

- Gain a general understanding of trauma and its impact on Parties involved in the Title IX process
- Learn strategies to effectively communicate with Parties during the process
- Recognize opportunities to minimize trauma experienced by the Parties during the Title IX Grievance Process

SPEAKERS

Elizabeth Abdnour, JD

*Professional Investigator & Advisor
Title IX Solutions, LLC*



Elizabeth (Liz) Abdnour is an experienced civil rights and employment attorney representing students and provides investigative, consulting, and training services to educational institutions, groups, and nonprofits of all sizes.

After a career in legal services, where she learned how to advocate for underserved clients from a trauma-informed perspective and supervised a law school practice clinic, Liz transitioned into higher education where she spent three years in the civil rights office at a large land grant university. Liz then opened her own law and consulting practice where she now serves both individual and institutional clients.

The combination of Liz's legal experience and her years as an investigator and equity coordinator give her unparalleled expertise regarding educational institutions' obligations with respect to civil rights and Title IX response.

Education: New York University School of Law (J.D) and Michigan State University (B.A.)

Kenneth M. Chackes, JD

*Independent Decision-Maker & Informal Resolution Facilitator
Title IX Solutions, LLC*



Ken Chackes has served as a mediator in over 175 cases over the last 20 years, primarily in the areas of education, employment and civil rights. He also has represented parties in more than 100 additional mediations as part of his litigation practice. Ken is a Qualified Mediator for the Missouri Department of Elementary and Secondary Education; the U.S. Equal Employment Opportunity Commission; the U.S. District Court, Eastern District of Missouri; and the Circuit Court for the City of St. Louis.

Ken also has significant litigation experience, specializing in employment discrimination, disability law, education law, civil rights, sexual abuse, and other civil matters.

Ken has been a frequent speaker and author regarding legal rights and civil litigation for numerous organizations including Eighth Circuit Judicial Conferences; the American Bar Association; the Missouri Bar; the Bar Association of Metropolitan St. Louis; Washington University School of Law; St. Louis University School of Law; University of Missouri-Kansas City School of Law; Legal Services Attorney Training Programs in Missouri and Illinois; and numerous community organizations.

Education: USA&M Advanced Mediator Training (2017, 2019); Member of Training Faculty for Master Class in Civil Mediation, Washington University School of Law (2004) and Two-Day Civil Mediation Training (2004); Mediation Training for Civil Cases, University of Missouri School of Law (1999); Full-time Visiting Assistant Professor at Washington University School of Law as a (1984-1988), teaching Trial Practice, Pre-trial Practice and Procedure (including settlement negotiations and ADR), and in the Civil Litigation Clinic; St. Louis University School of Law (J.D. cum laude 1976); Tulane University (B.A. Psychology 1971)

Emma Davis, JD

*Associate
Baker Donelson*



Emma Davis is a senior Associate in Baker Donelson's Memphis office. Ms. Davis practices primarily employment law but has made a secondary practice out of Title IX work. Ms. Davis has advised schools on Title IX policies and procedures, has conducted training for Title IX teams, and has served as an advisor, investigator, and a decision-maker on Title IX matters. Ms. Davis has Title IX litigation experience and experience responding to OCR requests.

Education: University of Memphis Cecil C. Humphreys School of Law (J.D.) *summa cum laude* and Rhodes College (B.A.)

Dr. Jessica Groleau

*Psychologist, Coordinator of Clinical Services and Training
Davidson College*



Dr. Groleau earned a Ph.D. in Clinical Health Psychology from the University of North Carolina at Charlotte, where she worked as a staff psychologist in the Center for Counseling & Psychological Services before joining the Center for Student Health and Well-Being at Davidson College in the fall of 2019. She has conducted research on the impact of trauma in college students, with an emphasis on positive psychology and post-traumatic growth. Her clinical interests include young adult development, working with survivors of sexual abuse and intimate partner violence, LGBTQ issues, relationship concerns, and anxiety.

Education: University of North Carolina at Charlotte (Ph.D.) and Boston College (B.A.)

Judge Michael T. Jamison

*Independent Decision-Maker & Informal Resolution Facilitator
Title IX Solutions, LLC*



Michael T. Jamison retired as a Circuit Judge for the State of Missouri in December 2019 after twenty-two years on the bench. He is a mediator with United States Arbitration & Mediation. Mr. Jamison is an Adjunct Professor for St. Louis Community College. He has taught Business Law, Employment Law, Contracts and Administrative Law, as well as Economics.

Mr. Jamison previously engaged in the corporate practice of law as an Associate General Counsel in the Labor Law Section of the Legal Department of Anheuser-Busch Companies from 1994 to 1997.

Mr. Jamison was employed as a Field Attorney, Trial Specialist with the National Labor Relations Board from 1976-1992, where he handled numerous unfair labor practice investigations and litigation.

Mr. Jamison was a senior associate with the Law Firm of Lashly & Baer, P.C. for two years after leaving the federal government. His practice consisted of labor and employment law, governmental law, and education law on behalf of the St. Louis Public Schools.

Education: USA&M Advanced Mediation Training; Civil Mediation Training University of Missouri School of Law and Supplemental Mediation Training for the United States District Court, Eastern District of Missouri. Bachelor of Arts degree in Political Science, 1973, from Washington University; and a Juris Doctors degree, 1976, from St. Louis University School of Law.

Kim L. Kirn, JD

*Independent Decision-Maker & Informal Resolution Facilitator
Title IX Solutions, LLC*



Kim Kirn is a full-time mediator and arbitrator with hundreds of completed cases relating to education including special education, American with Disabilities Act, housing, affirmative action, tenure, sexual harassment and employment. Kim frequently acts as a Fact-Finder for the Illinois State Universities Civil Service System and previously served as a Hearing Board Member for the Illinois Attorney Registration and Disciplinary Commission (ARDC) Her work with the Civil Service System requires that she act as a mediator to see if resolution is possible before beginning the hearing. This unique experience in conducting mediation-arbitrations, sometimes referred to as Med-Arb can be cost effective and very attractive to the parties looking to resolve disputes in one

day or less.

She mediates disputes through the Missouri Department of Elementary and Secondary Education (DESE); and the Illinois State Board of Education as well as United States Arbitration & Mediation (USA&M); the Equal Employment Opportunity Commission (EEOC); the Greater Gateway Association of Realtors (GGAR); the Realtor Association of Southwestern Illinois; She arbitrates cases through the American Arbitration Association (AAA); USA&M and the Financial Industries Regulatory Authority (FINRA). Her web site is www.kimkirnlaw.com and her “Mediation Under the Arch” blog addresses the serious, and not-so serious, side of ADR at <http://kimmediation.blogspot.com>.

Prior to joining USA&M, Kim served as legal counsel for Southern Illinois University Edwardsville (SIUE) and the Illinois State Comptroller. She was the recipient of the Kimmel Leadership Award while working at SIUE. Additionally, she has taught college level Business Law and Ethics courses. Earlier in her career, Kim practiced law with Lord, Bissell and Brook in Chicago.

She has written numerous legal articles on education, sexual harassment, privacy in the workplace, published in the St. Louis Lawyer, Illinois Bar Journal, GGAR Outlook publication and American Jurisprudence Proof of Fact. In addition, she has taught many continuing legal education classes for the Association of Attorney Mediators (AAM) nationally and locally, Fastcase webinars, the St. Louis, Missouri and Madison County bar associations and USA&M.

Kim is an honors graduate of University of Missouri-Columbia and Notre Dame Law School; she and her husband, David George, have two adult sons and a dog, all of whom are frequent targets of her mediation skills. She served two terms as a publicly elected Glen Carbon Library Trustee.

Patrick B. Mathis, JD LLM MBA

*Co-Founder & Managing Member
Title IX Solutions, LLC*



Patrick B. Mathis is the Co-Founder & Managing Member at Title IX Solutions, LLC as well as a founding shareholder of Mathis, Marifian & Richter, Ltd. (MM&R), a law firm based in Southern Illinois and St. Louis, Missouri.

With over 30 years of legal experience, Pat has an extensive background in providing legal counsel related to business mergers, sales and acquisitions, shareholder litigation, trusts and wills, probate, federal and state tax audits and appeals, Tax Court litigation, and criminal tax defense. He has written several definitive articles on various aspects of each area.

As Managing Member of Title IX Solutions, LLC (“TIXS”), Pat brings his extensive legal experience to TIXS clients and investigators. Having advised clients on a wide variety of legal issues, he has a developed awareness of the broad implications of incidents which may affect complainants, respondents, and educational institutions. With that understanding, he is able to work with colleges, Title IX Coordinators, school counsel, and TIXS investigators to develop a comprehensive understanding and approach to addressing the issues which arise in incidents of alleged sexual assaults to ensure prompt and equitable resolutions.

Pat also coordinates the training of Title IX Solutions investigators regarding the legal aspects of Title IX, DOE guidelines, state law issues, and related areas.

Pat has conducted numerous seminars and educational programs for IICLE and the American, Illinois State and Metropolitan St. Louis Bar Associations. Pat has been named to Illinois’ Leading Lawyers and Illinois Super Lawyers for several consecutive years, as well as to Who’s Who in American Law. He is also a member of the Board of Trustees at Illinois College in Jacksonville, Illinois.

Education: Washington University in St. Louis – LL.M. in Taxation 1979, J.D. 1978, M.B.A. 1978; Saint Louis University – B.A. in Chemistry 1973

Susanna Murphy, JD

*Professional Investigator & Advisor
Title IX Solutions, LLC*



Susanna Murphy began her work as an independent Title IX advisor and investigator after 20 years of legal experience, first as a trial attorney and then as an investigator, in the criminal justice system.

Ms. Murphy has served as an advisor for complainants, as an advisor and/or a defense investigator for respondents, and as an independent investigator. She has also testified as an expert witness on Title IX investigations and provided educational prevention programming to private secondary schools and organizations.

Throughout her career, Ms. Murphy has put respect, discretion, objectivity, attention to detail and professionalism as her top priorities in every Title IX case. She is mindful of the sensitive nature of these kinds of allegations and is skilled at making parties and witnesses as comfortable as possible while discussing topics of a very sensitive nature.

Ms. Murphy has lectured and critiqued at Massachusetts Continuing Legal Education on a variety of topics, including presenting at the “Trying Sex Offense Cases” Program on the topic of Investigating Sexual Assault Cases. She also served as a staff attorney with the training unit of CPCS.

She is a member of both the Massachusetts and Maryland Bars and fluent in the language and most recent requirements of the Clery Act and Title IX.

James W. Reeves, JD LLM

*Independent Decision-Maker & Informal Resolution Facilitator
Title IX Solutions, LLC*



James (Jim) Reeves has been a mediator for almost 30 years. He mediates business and legal disputes involving employment and workplace, general tort liability, medical malpractice, products liability, condemnation, family business issues, partnership disputes, and general business and commercial disputes. Jim also has expertise convening multi-party processes to resolve legal, organizational, community, and public policy disputes. Jim was a litigation attorney for over 20 years and has operated his own firm providing mediation, facilitation, and conflict management services to individuals, businesses, and not-for-profit organizations. He has also held executive management positions in corporate and small business environments. He is a

Lecturer in Law at Washington University in St. Louis where he teaches several ADR courses, including Mediation Theory & Practice, and Multi-Party and Public Policy Dispute Resolution. He was also an adjunct professor of law at St. Louis University where he taught Civil Practice and Negotiation.

Jim has served on the mediation panels of United States Arbitration & Mediation, the Equal Employment Opportunity Commission, the United States Veterans Administration, the National Archives and Records Administration, the Missouri Department of Elementary and Secondary Education, St. Louis Volunteer Lawyers and Accountants for the Arts, and various federal and state courts. He is also a volunteer facilitator in the Victim-Offender Dialogue Program in the St. Louis County (Missouri) Family Court, Juvenile Division. He is a member of the Missouri Bar ADR Committee former Chair; Bar Association of Metropolitan St. Louis ADR Committee former Chair; Association of Missouri Mediators former President, Human Resource Management Association, and the St. Louis Organization Development Network. He is licensed to practice law in Missouri, Illinois, and Colorado.

Education: Jim received his LL.M. (Master of Laws) degree from the University of Missouri-Columbia in 2004, where he focused on conflict resolution and organizational leadership and change, his J.D. from St. Louis University in 1984, and his B.S. from the University of Central Missouri in 1980. Jim received training in mediation from CDR Associates in Boulder, CO in 1991 and returned to CDR Associates for training in conflict management systems design in 1995. He has also received advanced mediation training from United States Arbitration & Mediation in 1996, 2001, 2002, 2004, and 2005.