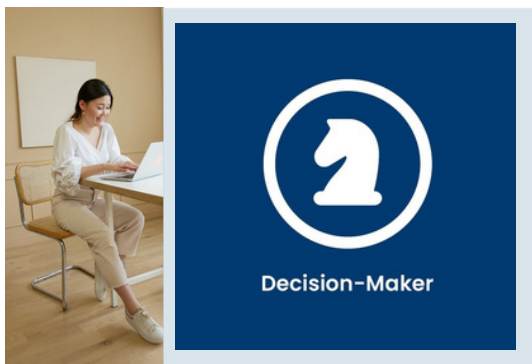


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TITLE IX DECISION- MAKER

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1


LESSON ONE

WELCOME AND REMINDERS





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AGENDA

- Lesson One Welcome and Reminders Role and
- Lesson Two Scope Overview
- Lesson Three Title IX Grievance Procedures
- Lesson Four Grievance Procedures (cont'd)
- Lesson Five Grievance Procedures (cont'd)
- Lesson Six Decision-Making Process
- Lesson Seven Decision-Making Process (cont'd)
- Lesson Eight Decision-Making Process (cont'd)
- Lesson Nine Wrap-Up and Assessment of Knowledge


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3



COURSE APPROPRIATE FOR:

- Title IX Decision-Makers
- Title IX Coordinators
- Deputies/Designees
- Title IX Investigators
- Others involved in Title IX matters

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COURSE OBJECTIVES

Understand the role and scope of the Title IX Decision-Maker(s)

Learn best practices for your role

Explain the grievance process and your role in it






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REMINDER!!!

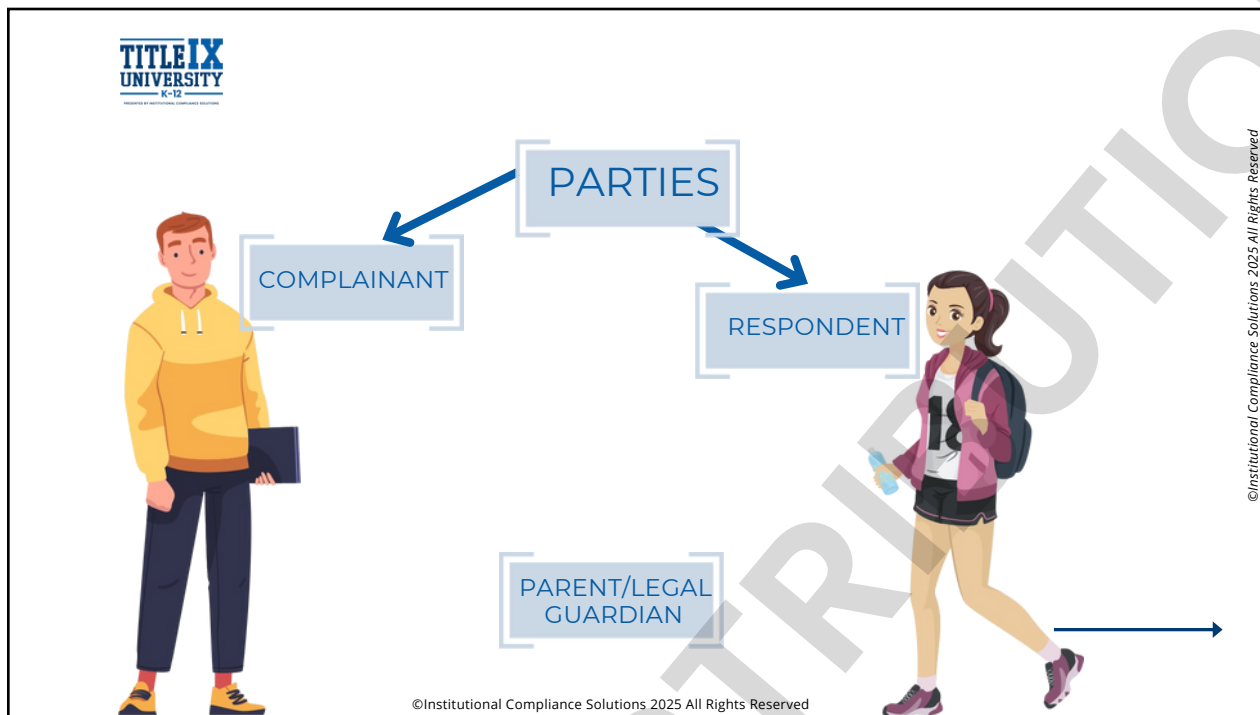


-  You must still receive training on your policies and procedures
-  Title IX Coordinator is your ultimate resource
-  Review definitions from Introduction and Overview Course



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7

A promotional slide for Lesson 2. A large blue banner with white text reads "SEE YOU IN LESSON 2!". Below the banner is a gold seal with a ribbon. The background shows a woman sitting at a desk with a laptop displaying the "TITLE IX UNIVERSITY" logo. The "TITLE IX UNIVERSITY K-12" logo is in the bottom left corner. A copyright notice "©Institutional Compliance Solutions 2025 All Rights Reserved" is at the bottom center. An arrow points to the right at the bottom right.

8

LESSON TWO

ROLE AND SCOPE OVERVIEW



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YOUR ROLE AND SCOPE



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NOT YOUR

ROLE:

Investigate

- "Prosecute"
- Make a determination for behavior outside of the scope of the investigation



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REMINDER!!!

👉 Investigator cannot serve as the Decision-Maker



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Note:

You are part of the Title IX Team at your school. Title IX Coordinator is leader of that team.

Also on the team:

- Deputies/Designees
- Investigator
- Appellate Decision-Maker
- Informal Resolution Facilitator



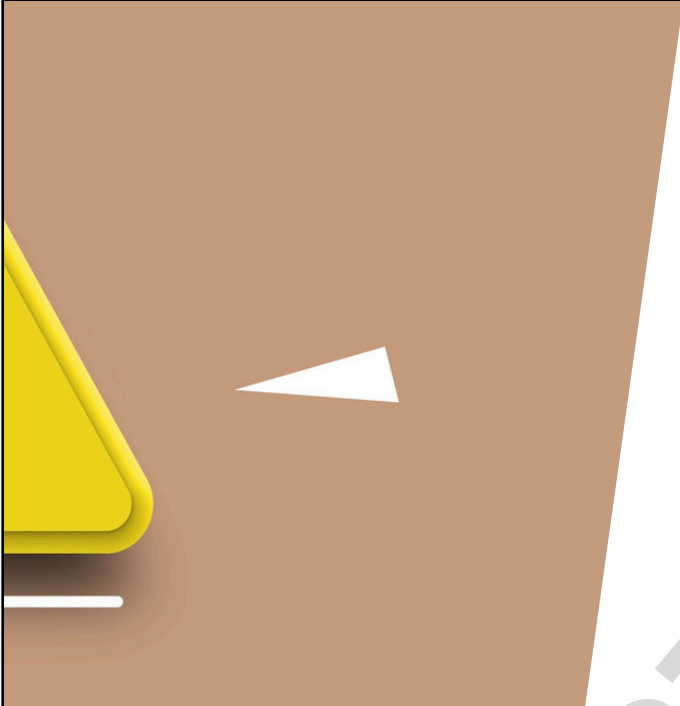
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Avoiding Conflicts of Interest and Bias




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REMINDER!!

K-12: If an employee is on notice of sexual harassment, the school is deemed on notice. Make sure you get information to your Title IX Coordinator if you have knowledge of or suspect sexual harassment.



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SEE YOU IN LESSON 3!



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LESSON THREE

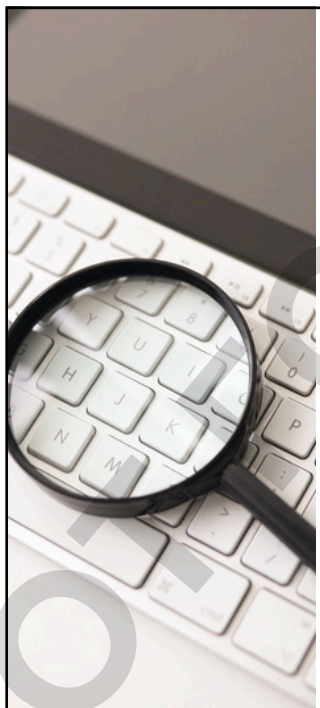
REWARD PROCEDURES



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WHAT TYPES OF CASES?

- Who are the parties involved?
- What is the conduct at issue?



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PARTIES INVOLVED:



01

Student on student

02

Employee on employee

03

Student on employee

04

Employee on student

*WILL YOU BE ONLY HANDLING STUDENT CASES OR ONLY EMPLOYEE CASES?



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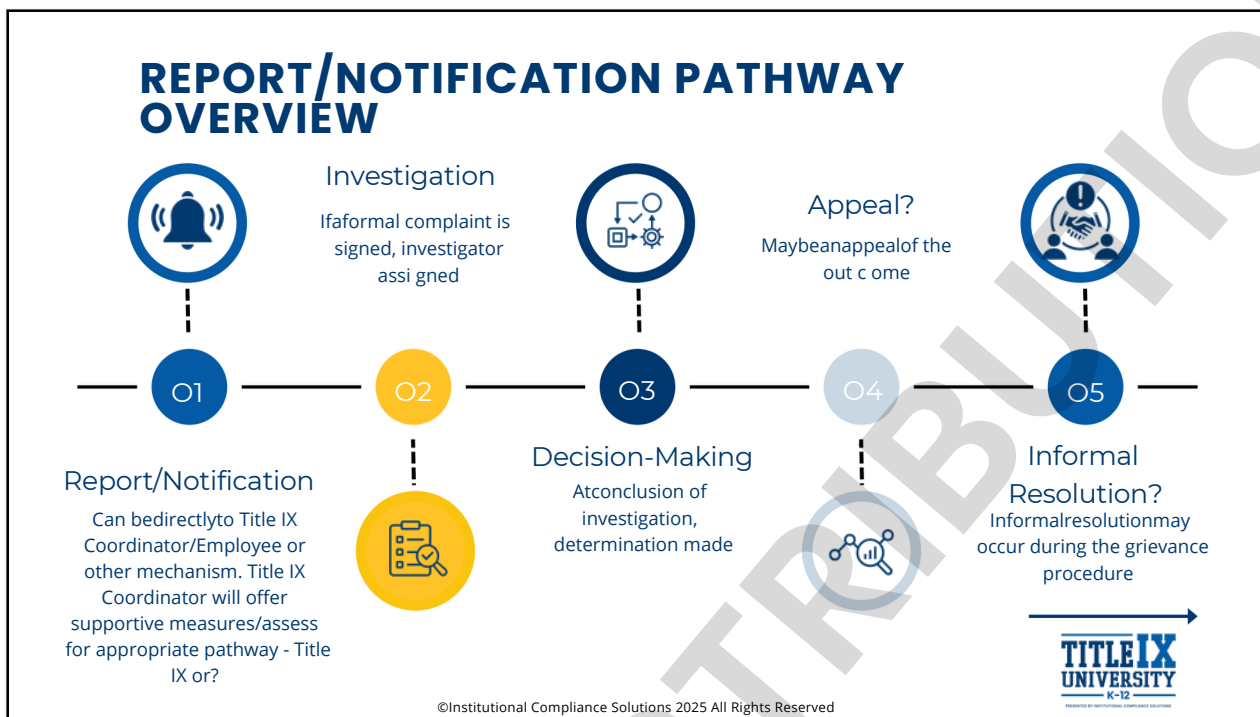
19

OVERVIEW OF THE PROCESS

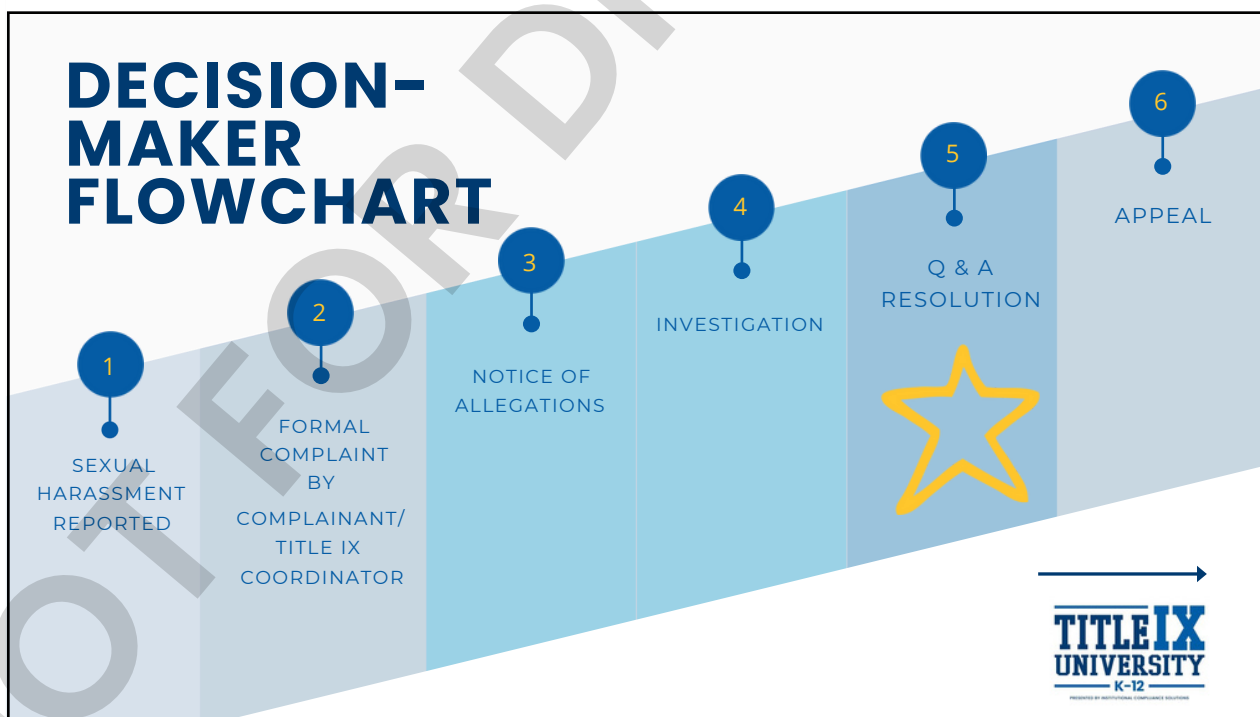


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BEFORE A DETERMINATION IS MADE....

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TITLE IX COORDINATOR WILL:

- Offer Supportive Measures
- Triage/evaluate conduct for Title IX
- Determine if initiating a Formal Complaint
- Consider Emergency Removal/Admin Leave of Respondent

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IF A COMPLAINANT/PARENT/ LEGAL GUARDIAN DOES NOT WANT TO INITIATE A COMPLAINT:

- Title IX Coordinator may sign a Formal Complaint
- Title IX Coordinator does not become the Complainant/a party
- Provide all notices as DM as if Complainant is participating

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CONSOLIDATION OF COMPLAINTS

School MAY consolidate:

- Complaints related to more than one Respondent.
- Complaints related to or more than one Complainant against one or more Respondents.
- Complaints by one party against another party.

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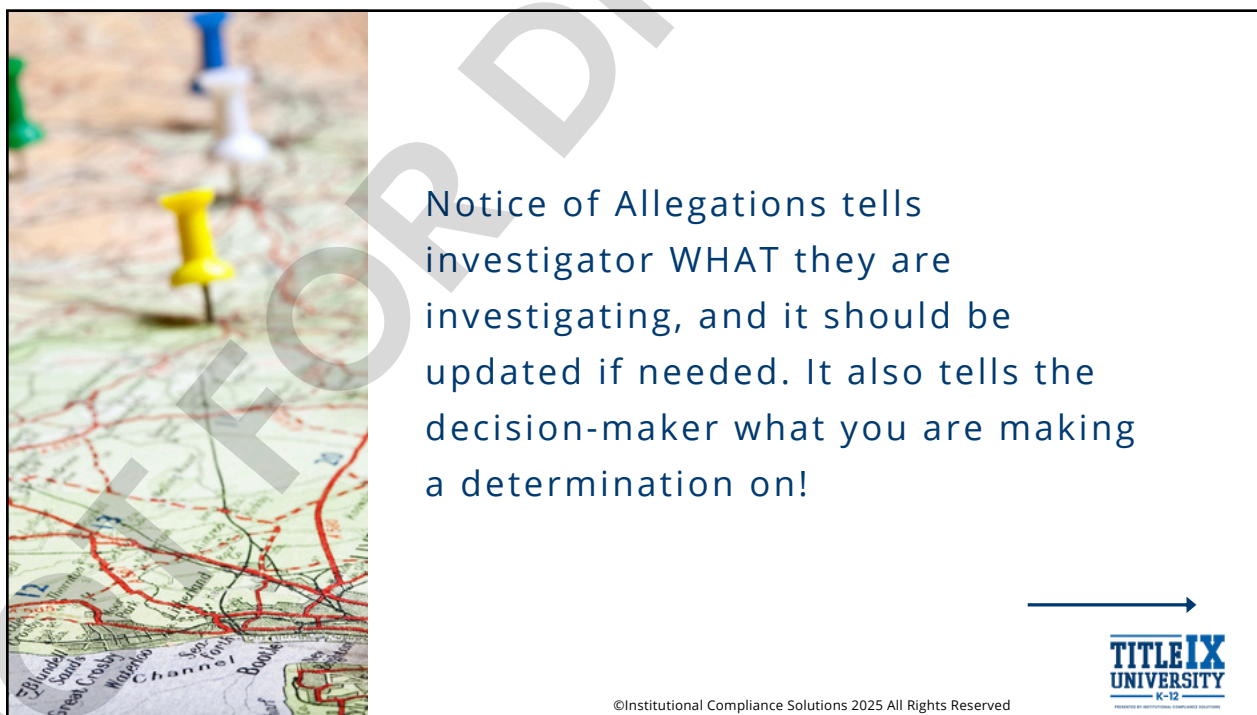
If a Formal Complaint is signed, an investigator and decision-maker will be assigned, and an investigation will begin.

→

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Notice of Allegations tells investigator WHAT they are investigating, and it should be updated if needed. It also tells the decision-maker what you are making a determination on!

→


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NOTICE OF ALLEGATIONS

- Notice of Grievance Process (including informal resolution process if one exists)
- Allegations potentially constituting Sexual Harassment
 - Identities of the parties
 - Conduct constituting Sexual Harassment
 - Date of incident
 - Location of incident
- Statement: Respondent presumed not responsible and responsibility is determined after Grievance Process
- Right to Advisor of choice
- Code of Conduct provision(s) prohibiting false statements or false information in process





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Notice of Allegations Checklist

- Notice of Grievance Process; Including Informal
- Allegations Potentially Constituting Sexual Harassment
 - Identities of the Parties
 - Conduct Constituting Sexual Harassment
 - Date of Incident
 - Location of Incident
- Statement: Respondent Presumed Not Responsible/Responsibility Determined After Process
- Right to Advisor of Choice
- Code of Conduct Provision Prohibiting False Statements or False Information in Process




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What if there is something the investigator doesn't know related to the allegations that is required?	↔	<ul style="list-style-type: none">•Provide as much as possible•Update and send to both parties if/when you know•Example: dates or specific locations
What if they learn something was wrong in the Notice?	↔	Fix it and re-send to both parties
What if you learn about additional allegations?	↔	Add them and re-send to both parties

Big Take-Away
Notice MUST be updated. As a DM, provide checks and balances and assist with curing if an issue is identified.



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SEE YOU IN LESSON 4!



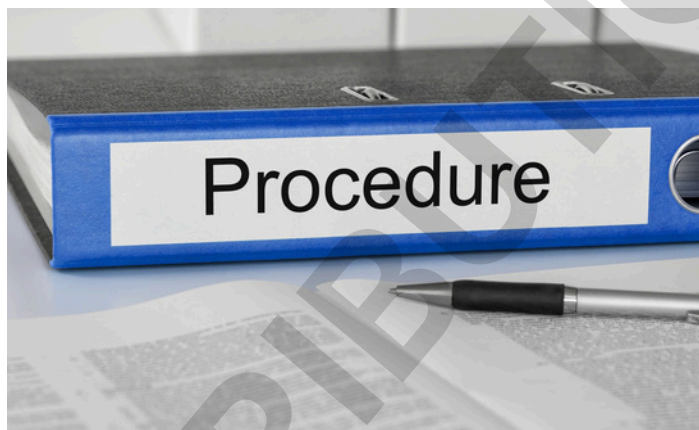
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LESSON FOUR

GRIEVANCE PROCEDURES CONTINUED



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CONDUCT AT ISSUE



- *Review definitions from Introduction and Overview Course and your policies and procedures
- *Reminder that you need a definition of consent in your policies and procedures



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OTHER TITLE IX CONDUCT SUBJECT TO GRIEVANCE PROCEDURES



Discrimination based on "sex"

Failure to provide pregnancy accommodations

Discrimination based on pregnancy

Gender-equity in athletics

Big Take-Away:
Gain clarity now and in each case on your role if there are multiple policies at issue and/or whether you will be a DM on matters outside of Title IX Sexual Harassment.

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INVESTIGATION



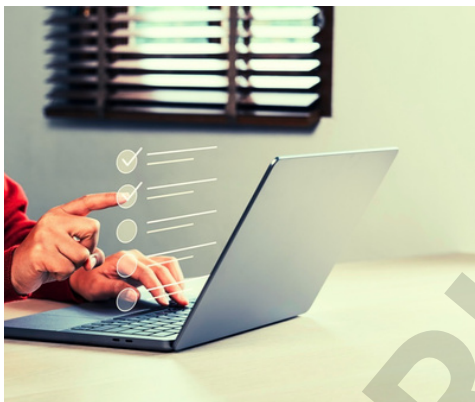
DECISION-MAKING



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WHEN YOU ARE ASSIGNED AS A DECISION-MAKER, CONSIDER:

- 1 Student/Employee?
- 2 What policies may be implicated?
- 3 Capacity
- 4 When did the conduct occur?
- 5 Add IEP/ADA involvement?
- 6 Notice of Allegations
- 7 Conflict of interest/bias?
- 8 Timeframes outlined in your policies/procedures

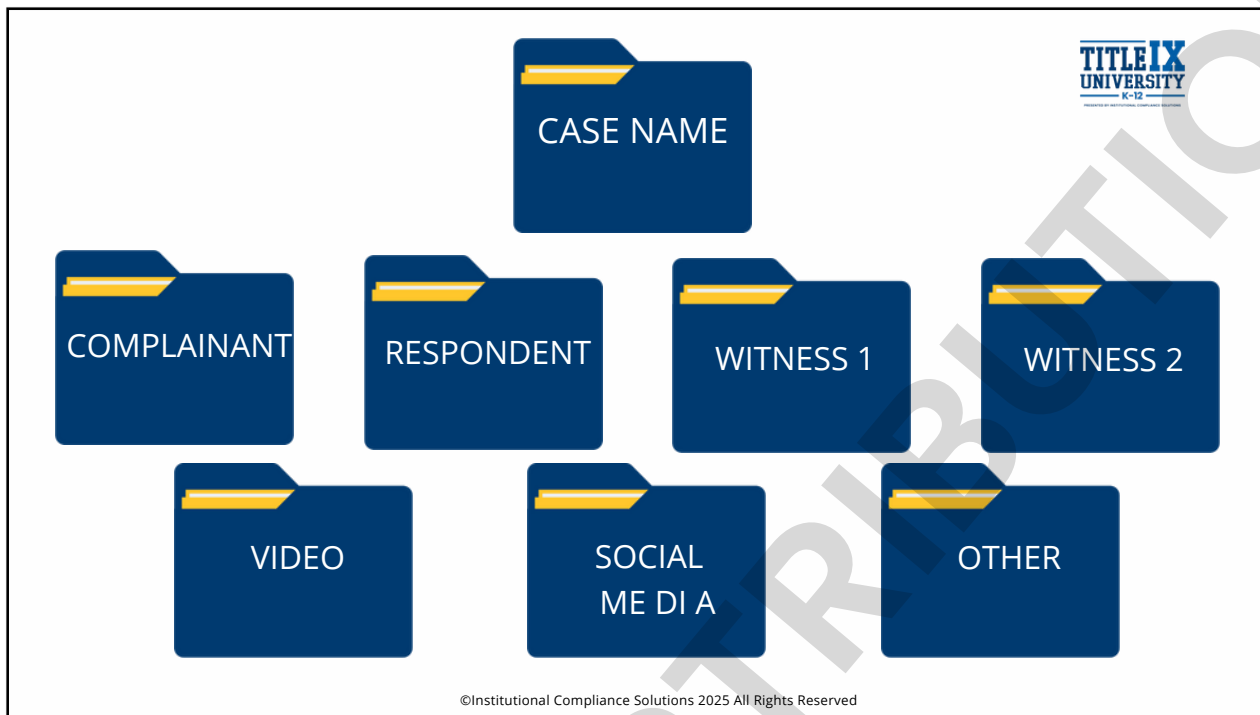


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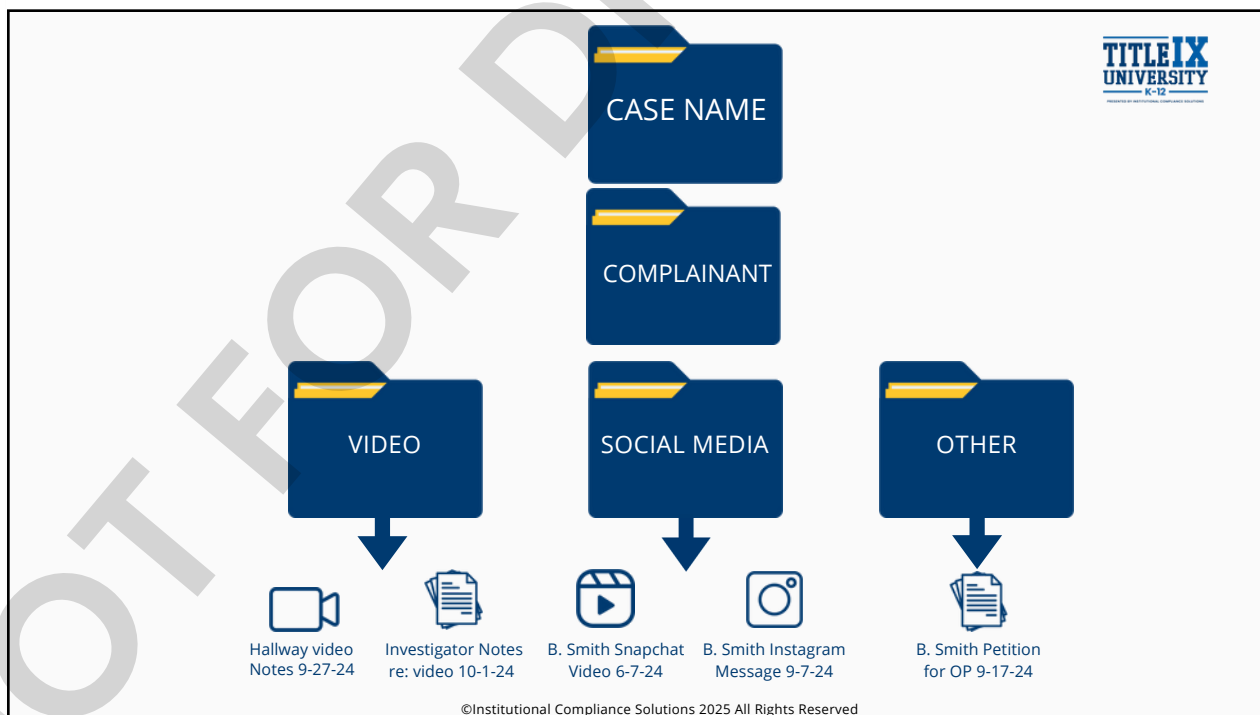
THE CONTENTS OF AN INVESTIGATOR FILE



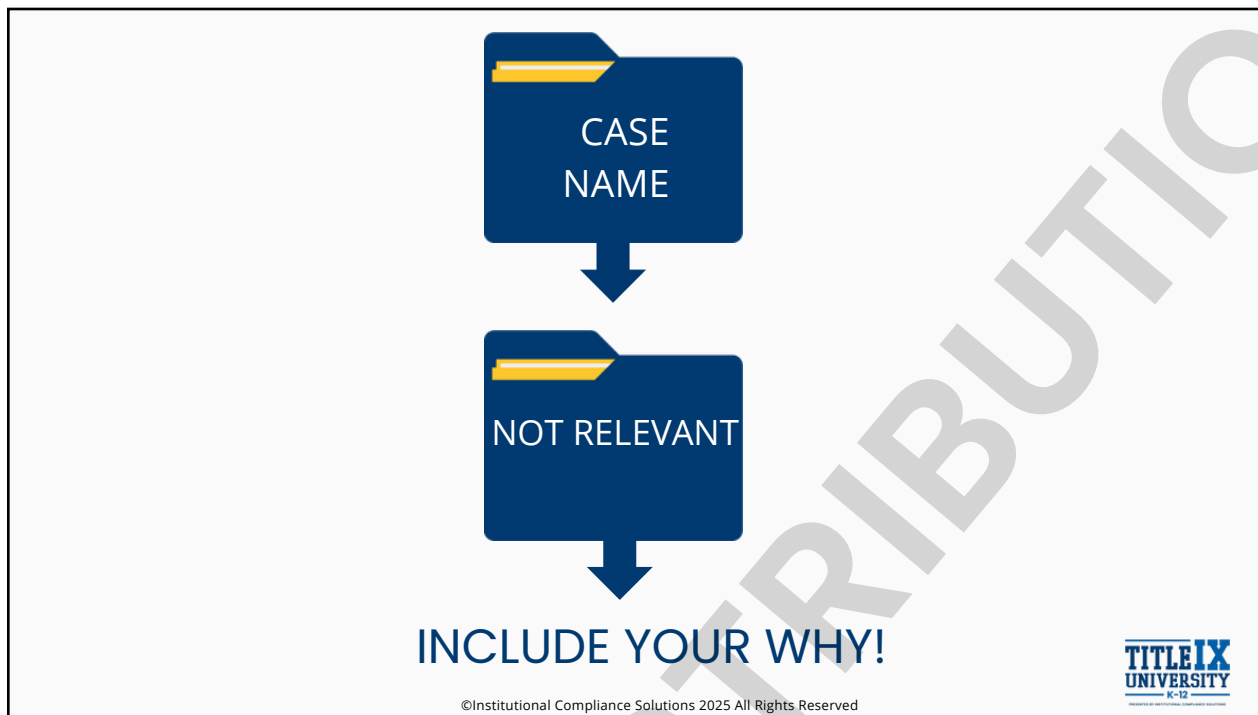
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The image is split into two main sections. On the left, a magnifying glass is positioned over a white evidence bag label. The word "EVIDENCE" is printed in large, bold, black letters. Below it, smaller text reads "TO BE OPENED BY AUTHORIZED AGENTS ONLY" and "DO NOT USE THIS BAG WITH EVIDENCE THAT IS WET OR DAMP". There are also fields for "Item #:", "of Enclosed Evidence:", and "PRINT NAME:". On the right side, the text "EVIDENCE REVIEW: THE IMPORTANCE OF ACCESS TO INFORMATION" is written in a bold, blue font, with a blue horizontal bar underneath. In the bottom right corner, the Title IX University logo is shown, with an arrow pointing to it from the left.

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MUST: PROVIDE BOTH PARTIES AN EQUAL OPPORTUNITY TO INSPECT AND REVIEW ANY EVIDENCE OBTAINED AS PART OF THE INVESTIGATION THAT IS DIRECTLY RELATED TO THE ALLEGATIONS INCLUDING:



The evidence upon which the school does not intend to rely in reaching a determination



Inculpatory or exculpatory evidence

The purpose is so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.



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REMINDER!!!

👉 How Long?

10days
(business or calendar)
Define in policy




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SEE YOU IN LESSON 5!



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LESSON FIVE

GRIEVANCE PROCEDURES CONTINUED



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THE INVESTIGATIVE REPORT

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A TITLE IX REPORT IS A SUMMARY OF RELEVANT EVIDENCE

THIS IS NOT A DUMP OR COPY OF INVESTIGATOR NOTES.



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WHAT YOU SHOULD RECEIVE...



Easy to Follow, Clear, Concise

Can the reader follow the report and understand who reported/said what?



Roadmap for the Decision-Maker

This report will guide the decision-maker, help them ask questions, and provide a roadmap for their process



Includes the Basics
Assume the reader knows NOTHING



Reviewed by Colleague
Trusted counterpart



Consistent but Not Identical
There is room for a little flexibility



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BEFORE YOU START... THE IMPORTANCE OF PREPARATION



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ARE YOU MAKING A DETERMINATION ON MORE THAN JUST TITLE IX?

Title IX

Title VI

Title VII

Code of Conduct

Other ?











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WHAT INFORMATION DO YOU HAVE?



-  Is there anything missing?
-  Were procedures followed?
-  Reminder: You are a check on the process




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CHECK YOUR BIASES

- Where are your potential biases in the case?
- Can you overcome any biases that exist?
- Is your mind in a neutral position?


→




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INTRODUCTION



- Who are you?
- What is your responsibility?
- What policy/policies & procedures are you using?
- Something to connect you with the party or witness



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MAKE SURE YOU ARE USING:

The name they prefer

Their correct title

Their correct pronouns--example some names could be used for both males and females (Jordan)

Their correct email addresses

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DEVELOPING A PLAN

- 1 Review materials
- 2 Email for Q & A
- 3 Receive questions/answers
- 4 Draft Determination responsibility/sanction(s)
- 5 Send Determination to both parties, guardians, and advisors

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SEE YOU IN LESSON 6!



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LESSON SIX

DECISION-MAKING PROCESS



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- Parties **MAY** submit **WRITTEN** questions to the Decision-Maker
- Questions **MAY** be posed for other party(s) and/or witnesses
- Questions **MUST** be **RELEVANT**
- Decision-Maker **MUST** determine whether relevant
- If relevant, Decision-Maker **MUST** submit the question to party or witness
- If **NOT** relevant, Decision-Maker **MUST** notify the party who asked the question why it is not relevant
- Must allow time for participants to answer question(s)
- Must provide responses to the party who asked the question(s)
- MAY** allow limited follow up (discretion of Decision-Maker)

QUESTION & ANSWER

???

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RELEVANT

related to the allegation of sex discrimination


*From 2024 Regulations but still appropriate

- Questions are relevant when they seek evidence that may aid in showing whether the alleged sexual harassment occurred.
- Evidence is relevant when it may aid a Decision-Maker in determining whether the alleged sexual harassment occurred.

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Require objective evaluation of ALL RELEVANT evidence	Relevant	Exclude the following types of evidence (Impermissible evidence)
Include inculpatory and exculpatory evidence.	Questions are relevant when they seek evidence that may aid in knowing whether the alleged sexual harassment occurred.*	Evidence protected under privilege as recognized by Federal or State law OR evidence provided to a confidential employee – unless the person with whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
Credibility determinations MUST NOT be based on status as Complainant, Respondent, or witness.	Evidence is relevant when it may aid a decision-maker in determining whether the alleged sexual harassment occurred.*	A party's or witness' records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with treatment to the party or witness - unless the school obtains the party's or witness' voluntary, written consent for use in the grievance procedures.
	<p>*Specific to vacated 2024 regulations but still instructive</p> <p>©Institutional Compliance Solutions 2025 All Rights Reserved</p>	<p>Evidence that relates to the COMPLAINANT'S prior sexual conduct – UNLESS:</p> <ul style="list-style-type: none"> ◦Evidence about the Complainant's prior sexual conduct is offered to prove that someone OTHER than the Respondent committed the alleged conduct OR ◦Evidence about specific incidents of the Complainant's prior sexual conduct WITH THE RESPONDENT that is offered to PROVE CONSENT to the alleged sexual harassment. <ul style="list-style-type: none"> ▪Prior consensual sexual conduct between the parties does NOT, by itself, demonstrate or imply consent to the alleged sexual harassment OR preclude determination that sexual harassment occurred.

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IN REAL LIFE (IRL)

No one asks questions

OR

One party asks 17 pages worth of questions

OR

No one asks questions

→

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SET PARAMETERS ON THE Q & A

Do

Do & Don't RULES

Don't

→

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- How many days to ask questions?
- How many days to respond?
- What follow up will you permit?
- How will you incorporate answers in your determination?

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As the Decision-Maker, you can also ask questions of the parties or any witnesses.



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DETERMINATIONS






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BURDEN



The burden is on the district...NOT the parties.

-  No ONE has to “prove” anything
-  Does the information you have SUPPORT a finding of responsibility
-  Be careful with your language





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LANGUAGE MATTERS




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Decision-Maker Determination Regarding Responsibility Checklist

- Identification of the Allegations
- Description of Procedural Steps Taken
 - Notifications to the Parties
 - Interviews with Parties and Witnesses
 - Site visits
 - Methods used to gather other evidence
 - Hearings held
- Findings of Fact Supporting Determination
- Conclusions Regarding the Application of the Code of Conduct to the Facts
- Result of Each Allegation Including Rationale
 - Determination Regarding Responsibility
 - Disciplinary sanctions
 - Whether remedies designed to restore or preserve equal access to education program or activity provided to the Complainant
- Procedures and Permissible Bases for Appeal



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DROP IN YOUR TIMELINES:

- You should have them from the investigative report (procedural steps taken)



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SEE YOU IN LESSON 7!



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LESSON SEVEN

DECISION-MAKING PROCESS - CONTINUED








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USE THE ALLEGATIONS

-  WHAT DO THEY SAY?
-  DROP THEM IN THE REPORT
-  INCLUDE THE DEFINITIONS
-  BREAK THEM INTO ELEMENTS
-  THEN- PUT THE PIECES TOGETHER



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EXAMPLE:



Allegation: On January 7, 2025 Laura grabbed Phil's genitals over his shorts and squeezed while making a sexual comment.


Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacitation.

- Elements:
- Touching
 - Of private body part
 - Of another person
 - For the purpose of sexual gratification
 - Consent




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IMPORTANT UPDATE



In June 23, 2025, the FBI issued its annual update to the National Incident-Based Reporting System (NIBRS) User Manual. This update broadens the Title IX definition of “fondling” to “criminal sexual contact”. The new definition is:

- The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
- The forced touching by the victim of the actor’s clothed or unclothed body parts, without consent of the victim, for the purposes of sexual degradation, sexual gratification, or sexual humiliation.
- This includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

****Talk with your Coordinator and review your policies and procedures regarding your school's response to this change****







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DEVELOPING FINDINGS OF FACT:

- What is uncontested?
- What is a fact that has developed through consistencies and inconsistencies despite being contested?
- What is still unclear despite ALL of the information?



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USE THE EVIDENCE

USE THE SUMMARIES IN THE REPORT AND NOTES FROM THE INVESTIGATOR



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Evaluating Evidence



Don't just rely on the description of a video, audio recording, or other evidence



Watch it--Review it--Multiple times

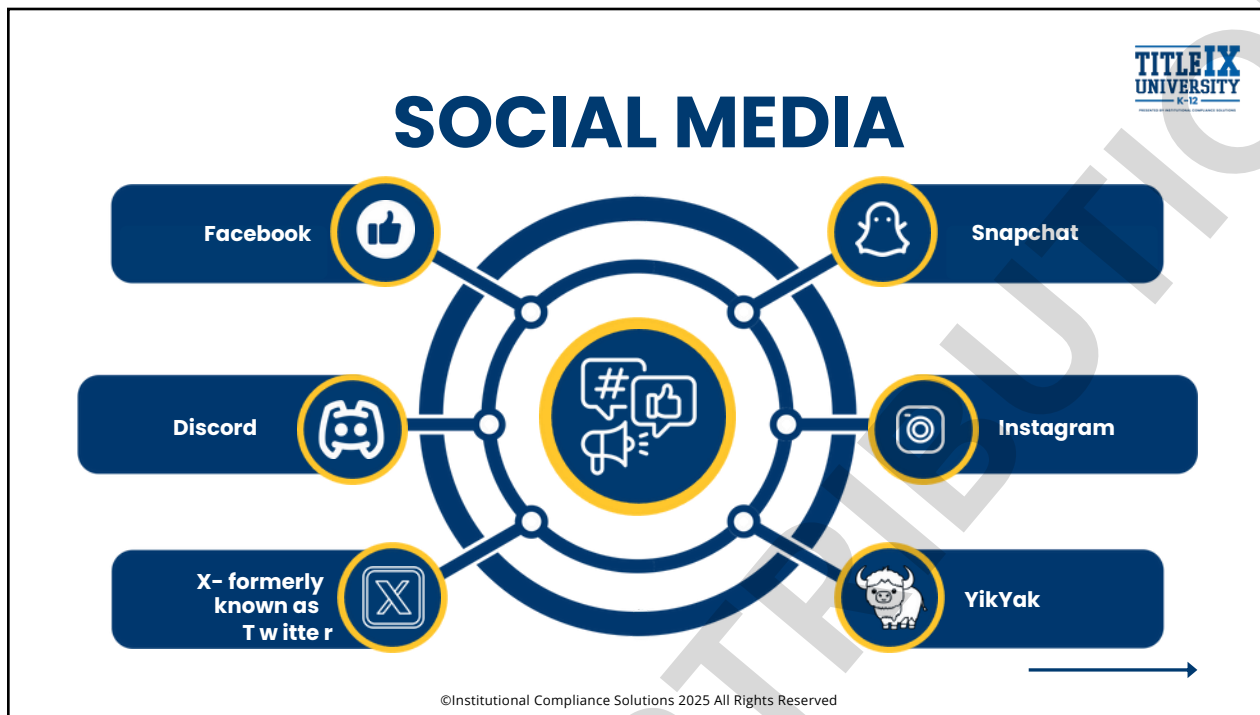


Look for consistencies and inconsistencies



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LESSON EIGHT


DECISION-MAKING PROCESS - CONTINUED



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Connect the facts to the elements


This is your opportunity to connect the dots...or... put the puzzle together.



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DETERMINE RESPONSIBILITY

Using Preponderance of the Evidence or Clear and Convincing

- ▶ Example Language: A preponderance of the evidence supports (or does not support) a finding of responsibility for fondling.
- ▶ NEVER: The Respondent did not prove...
- ▶ Make sure to include your WHY--summarize your rationale



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INCLUDE THE SANCTIONS IF THERE IS A FINDING OF RESPONSIBILITY

1

WITHIN THE PARAMETERS OF YOUR CODE

2

IF A FINDING, REVIEW PRIOR DISCIPLINE

3

DISCUSS WITH ADMINISTRATORS OR HUMAN RESOURCES TO ENSURE YOUR SANCTIONS CAN BE CARRIED OUT

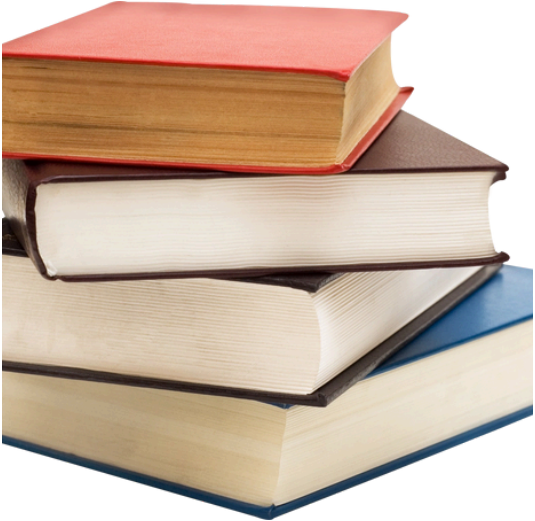
4

MAKE SURE TO BE EQUITABLE (WOULD YOU INCLUDE THE SAME SANCTION IF THE SEX OF THE RESPONDENT WAS DIFFERENT?)




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**CONSIDER MORE THAN PUNITIVE ACTIONS...
INCLUDE:**


- EDUCATIONAL OPPORTUNITIES
- RESTORATIVE PRACTICES



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Appeal Options



Need to be included in the determination

Link to policy, who to appeal to, etc.



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DETERMINATION MUST HAVES

Page

numbers

Footnotes?

- Investigation
- Timeline(s)
- Events



Appendix/Attachments
WITH PAGE NUMBERS

- Table of Contents for appendix/ attachments
-



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WHO IS YOUR AUDIENCE?



Judge



Family



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DELIVERY OF THE REPORT... THE IMPORTANCE OF SUPPORT

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THE DELIVERY OF THE REPORT CAN BE TRAUMATIC



Witnesses may say things that are surprising to the parties



Changing the trajectory of individual's lives



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CONSIDERATIONS



- ▶ WHAT IS THE BEST WAY TO DELIVER THE REPORT
- ▶ ARE THERE SUPPORT RESOURCES IMMEDIATELY
- ▶ AVAILABLE DO YOU NEED TO PROVIDE A HEADS UP
- ▶ THAT IT IS COMING NEXT STEPS APPEAL OPTIONS
- ▶



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WRAP AROUND SUPPORT



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APPEALS



Offered to both parties

Can appeal dismissal of Formal Complaint or any allegations therein or determination regarding responsibility

On the following basis:

- Procedural irregularity that affected the outcome of the matter
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter
- 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 if offered equally to both parties

Notify the other party in writing when an appeal is filed

Give both parties a reasonable opportunity to submit a written statement in support of or challenging the outcome

Written decision describing the result and rationale for the result

Provide written decision simultaneously to both parties

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SEE YOU IN LESSON 9!



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LESSON NINE

WRAP UP AND ASSESSMENT



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SUSTAINABILITY

PLANNING

If you were made director of a new role starting tomorrow, would the person picking up the file know what had been done and what is left to do?



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REMINDER!!!

 Information for case needs to be saved for 7 years





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COMMON DEFICIENCIES

- Failure to include appeal options in determination
- Not including advisors on communications
- Not documenting the "why" or rationale for decision
- Not assisting with curing procedural issues (i.e., no notice; NOA is inaccurate or not updated)



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FINAL THOUGHTS

Need to follow grievance procedures and policies/
procedures

Clarity on your role is critical

Written determination takes time - template

Presumption of not responsible - make sure clear
through entire process



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TRAINING PATHWAY

Title IX Decision-Maker




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REMINDER!!!

- 👉 Do not forget your course downloads and other resources within Title IX University
- 👉 Survival Kit



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QUESTIONS?

Title IX Coordinator
info@titleixu.com



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