K12 TITLE IX DECISION-MAKER AND APPEAL OFFICER TRAINING

September 17, 2026

2026-2027 Academic Year

Title IX Consult, LLC

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01

Title IX Fundamentals

Title IX Law | Title IX Regulations

Overview

- ✓ Title IX passed in 1972
- ✓ 37 words
- ✓ Interpreted extensively through regulations and in litigation

54

YEARS

TITLE IX

No person 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.

JUNE 23, 1972 — JUNE 23, 2026

20 U.S.C. § 1681 | Education Amendments of 1972

Title IX: Purpose and Impact

Purpose

- Provide educational opportunities to women, who were denied the ability to pursue educational programs, including law and medicine, due to limitations on admissions and quotas.

Impact

- Women sport programs proactively used the legislation to challenge the presence of comparable sports teams, scholarship opportunities, and facilities.
- In more recent years, Title IX has been used to require campuses proactively address sexual harassment in all its forms.

What is Covered Under Title IX

Any action taken by an educational institution receiving federal funding that violates the prohibition against sex discrimination in their educational programs and activities.

Programs and activities has been interpreted to include:

- Recruitment and admission
- Extra-curricular activities
- Access to courses
- Financial assistance
- Athletics
- Opportunities to join groups
- Internships/vocational opportunities
- And, many more…

Other Important Title IX Coverage

Pregnancy Protections

- Since 1972, Title IX has provided coverage to support pregnant students.

Athletics

- Title IX has had a tremendous impact on the athletic opportunities offered to women at the K12 and collegiate levels.

Employment – 2020 Title IX Regulations

Title IX 2020 Regulations explicitly state that Title IX provides coverage for employees of covered educational institutions.

Although employee rights and responsibilities are normally covered under human resource policies, this requirement caused institutions to alter their policies to ensure that Title IX protections were available to employees, even in employee-employee matters.

- Extending coverage to employee rights – i.e., benefits, leaves of absence

The US Supreme Court agreed to hear two important cases related to whether Title IX covers employees and are expected to hear arguments in October 2026.

The federal circuits are split on this topic:

- 8 circuits have allowed employment-based claims under Title IX
- 3 circuits have rejected employment-based claims under Title IX

Title IX enforcement related to employment claims may shift during 2026-2027 after the US Supreme Court issues its decision.

02

Title IX Regulations

Title IX Regulations

Department of Education, Office for Civil Rights is responsible for issuing guidance related to how to enforce Title IX.

Accomplished in a variety of ways:

- Investigating a complaint
- Issuing guidance documents, often through Dear Colleague letters that detail enforcement
- Adopting regulations through the administrative process known as “Notice and Comment”

Current Title IX regulations on Sexual Harassment took effect in 2020, following the required Notice and Comment period, and are in effect today.

Regulatory Timeline

1998–1999

Important Supreme Court decisions on Title IX allowing for private cause of action and damages

2001

OCR's regulations on Title IX enforcement at educational institutions

2011–2016

OCR issues multiple Dear Colleague Letters (DCL) on enforcing Title IX

2017

OCR rescinds DCLs under Obama

2020

OCR issues Final Rule on Title IX

2024

Regulations issued, effective August 1, 2024

2025

2024 Regulations vacated and 2020 Regulations return

2020 Regulations on Title IX

Develops a procedural framework required to be followed for Title IX Sexual Harassment matters

Mired in due process rights;	Unique compared to any other campus process; and,	Required to be used ONLY in Title IX Sexual Harassment matters.

Title IX Sexual Harassment under the 2020 regulations adopted new definitions for sexual harassment conduct, which limited most state definitions related to sexual harassment.

Defines jurisdiction and clearly explains the scope of the institution's educational program or activity – more limited for K12s.

03

Title IX Sexual Harassment

Overview of 2020 Regulations and Key Definitions

Deliberate Indifference Standard

Educational institutions must respond in a manner that is not **deliberately indifferent** when it has actual knowledge of sexual harassment occurring in the institution's education program or activity against a person in the United States.

Failure to respond to a complaint following the Title IX process could be evidence of deliberate indifference.

Jurisdiction for Title IX Sexual Harassment

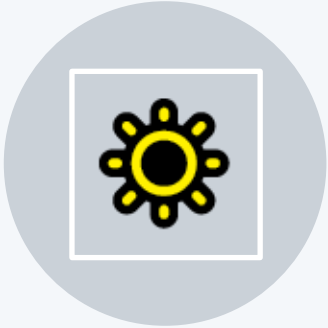
Locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution. Off-campus activities covered if one (1) of three (3) requirements are met:

1. The off-campus incident occurs as part of the school's operations;
2. The school exercised substantial control over the respondent and the context of alleged sexual harassment that occurred; or
3. The incident of sexual harassment occurs at an off-campus building owned or controlled by a student organization officially recognized by a college.

Notice and Required Reporting to Title IX Coordinator



All employees, except Confidential Employees, have an obligation to report to Title IX Coordinator upon notice about Title IX complaint.



Confidential employees are ONLY mental health professionals with a license.

Title IX Sexual Harassment

- Conduct on the basis of sex that constitutes sexual harassment based on the following definitions:
  - Quid Pro Quo
  - Hostile Environment Harassment
  - Sexual Assault
    - Rape, Incest, Statutory Rape
    - Criminal Sexual Contact
  - Dating Violence
  - Domestic Violence
  - Stalking

Title IX Quid Pro Quo Sexual Harassment

An employee of the school/district conditioning the provision of an aid, benefit, or service of the school/district on an individual's participation in unwelcome sexual conduct.

Important to note: Must be an employee who engages in quid pro quo behavior.

Title IX Hostile Environment Sexual Harassment



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/district]'s education program or activity.



Important to note: This definition of Title IX hostile environment is a more stringent standard than the definition found at state law.

Title IX Sexual Assault

Sexual Assault

- A sex offense is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
- **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

Criminal Sexual Contact (Important to Note: 2025 New Definition)

- The intentional touching of the clothed or unclothed body parts OR
- The forced touching by the victim of the actor's clothed or unclothed body parts;
- For the purpose of sexual degradation, sexual gratification, or sexual humiliation;
- Without consent of the victim;
- Including 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.

Title IX Dating Violence

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. The existence of such a relationship shall be based upon the reporting party's statement with consideration of the following factors:

(i) The length of the relationship	(ii) The type of relationship	(iii) The frequency of interaction between the persons involved in the relationship.

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

Important to note: Does not need to be sexual violence.

Title IX Domestic Violence

- Domestic Violence: A felony or misdemeanor crime 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 in which the crime of violence occurred; 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 in which the crime of violence occurred.

  - Important to note – Supportive measures may be required or are recommended for non-jurisdictional matters.

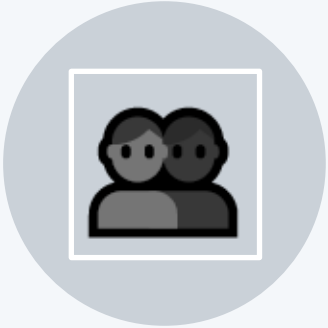
Title IX Stalking

- Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to
  - Fear for the person's safety or the safety of others; or
  - Suffer substantial emotional distress.

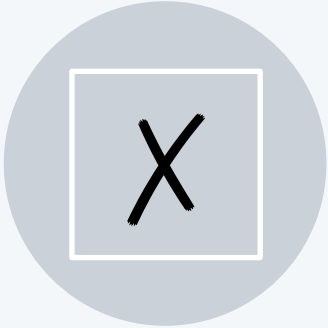
Important to note: Definition has been interpreted to require/include:

- Two or more acts;
- Directly, indirectly, or through third-party; and
- Significant mental anguish.

Title IX Prohibited Retaliation



Negative action taken against a party, witness, or other participant in the Title IX process as retribution for their participation in the Title IX process.



A retaliation-only allegation does not have to follow the Title IX investigation process.

04

Title IX Sexual Harassment Grievance Process

Overview and Responsibilities for Decision-Maker and Appeal Officer

Key Parties and Roles in Title IX Grievance Process

Parties

- **Complainant** – brings a complaint allegation of sexual harassment
- **Respondent** – allegations brought against this party for potential violation of Title IX sexual harassment policy
- **Advisors** – both parties may designate an advisor to provide support through the process

Title IX Roles*

- Title IX Coordinator
- Title IX Investigator
- Title IX Decision-Maker
- Title IX Appeal Officer
- Title IX Informal Resolution Officer

*All must receive Title IX training

Title IX Decision-Maker in Grievance Process

- Permitted to be:
  - Anyone trained but NOT
    - Title IX Coordinator - EVER
    - Title IX Investigator in the same matter
- Reviews:
  - All evidence collected in the investigation
  - Parties' responses to the final investigation report
- Permitted to engage in questioning of parties or witnesses
  - Credibility
  - Seeks answers to unanswered, relevant questions
- Determines
  - Policy violation
  - Discipline
- Respects parties' rights under the process

Title IX Appeal Officer in Grievance Process

- Appeals permitted in limited circumstances
  - Dismissal from Title IX
  - Outcome
- Upon receipt of an appeal, the matter will be forwarded to the appropriate Appeal Officer
- Both parties are notified of the appeal
- Appeal standard applied to the facts
- Decision shared with parties

Title IX Informal Resolution Officer in Grievance Process

- Trained facilitators.
- Offered after formal complaint is filed.
- Parties' participation cannot require a party to waive the right to an investigation and adjudication of a formal complaint.
- Obtains the parties' voluntary, written consent to the informal resolution process.
- Described to both parties.
- Parties agree in writing.
- Either party may end informal resolution before a formal agreement is accepted, and the matter returns to the Title IX investigation process.
- Never available when complainant is student and respondent is employee.

Title IX Advisor to a Party in Grievance Process

- Parties must be advised that they can have an advisor present for key meetings throughout the entire investigation including the party's interview.
- Parties select an "advisor of choice."
- Advisor may be, but need not be, an attorney.
  - Can select a potential witness in the investigation; may limit testimony of witness.
- Advisor provides advice and counsel to the party during the process.
- Advisor has a more active role in cross-examination if a hearing takes place.
  - K12s are permitted, but not required, to hold hearings.

Title IX Grievance Process – Fairness Requirements

Title IX grievance process must ensure any person with a Title IX role:

- Must not have a conflict of interest;
- Must be impartial; and,
- Must not engage in bias in decision-making process.

Responsibility to enforce these requirements falls to the Title IX Coordinator.

No Conflicts of Interest

Conflict between role in the Title IX process and personal/professional responsibilities.

Does the Title IX administrator have competing responsibilities?

Conflicts may arise because of professional or personal roles.

Always review the relationship to parties and/or witnesses.

Actual conflict may exist OR a party may perceive a conflict when one truly does not exist.

Does it matter?

Avoiding Bias in Title IX Process

- Bias Definition: Bias is a disproportionate weight or inclination in favor of or against an idea, thing, or group, usually in a way that is closed-minded, prejudicial, or unfair. It stems from personal opinions, cognitive shortcuts, or societal conditioning rather than objective facts.
- Conscious/Explicit
  - Discriminatory intent
  - Stated preferences
- Unconscious/Implicit
  - For the most part, most people are unaware of these drivers
  - Developed over a period of time and can influence many factors
  - Shortcuts developed by the brain and often play a role in:
    - Immediate response to conflict
    - Often mimics fear responses
    - Examples include confirmation bias, affinity bias, and stereotyping

Impartiality in Title IX Process



Be neutral – neither pro-Complainant nor pro-Respondent.



Consider all of the evidence as presented.



Maintain an open mind regarding potential conclusions.

TIXGP: Burden of Proof



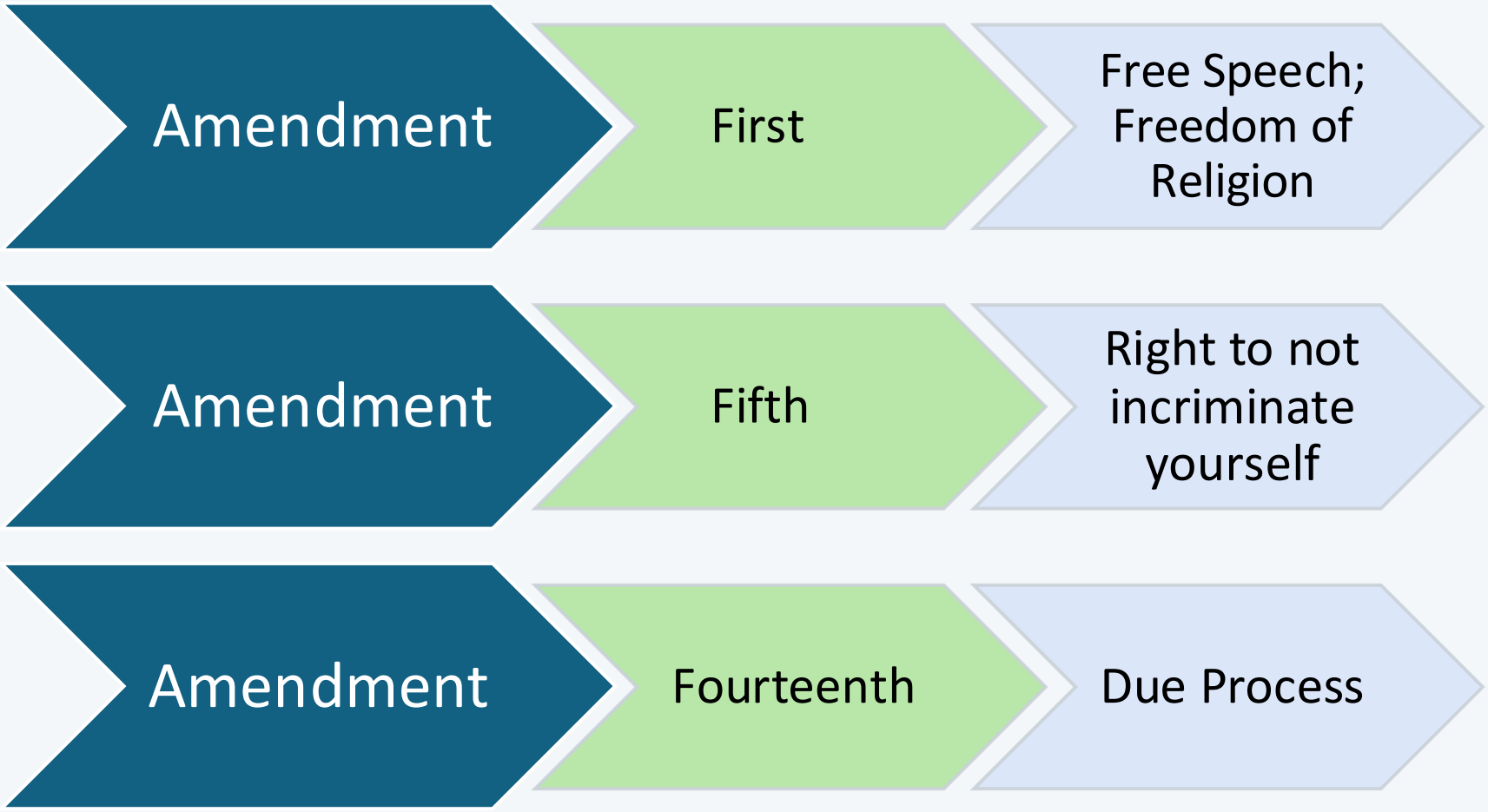
Preponderance of the evidence



Clear and convincing

Constitutional Protections

Title IX process may not limit or restrict constitutional protections



05

Title IX Sexual Harassment Grievance Process

Key Steps in the Grievance Process

Overview of the Title IX Grievance Process

Initial Complaint Receipt

- Notice of sexual harassment to Title IX Coordinator
- Supportive measures offered to Complainant
- Offer of formal complaint, explaining the options on how to proceed
- Institute emergency removal, if appropriate
- Prepare and deliver the Notice of Allegations letter sent to parties to initiate the investigation process
- At the initiation of the process, the presumption is that respondent did not violate policies and duty is on District to investigate

Investigation Process

- Interviews of parties and witnesses and gather other information that is relevant to the investigation
- Sharing of investigation file – 10-day review period
- Draft investigation report – and then 10-day review period
- Finalize investigation report

Decision-Maker Process

- Evaluate final investigation report
- Request input from parties – 10 days to provide
- Engage in necessary follow-up
- Issue outcome letter with policy violation and discipline decisions

Review of Formal Complaint and Potential Dismissal

Is this matter truly Title IX or not?

Mandatory dismissal

- Would not constitute sexual harassment as defined in regulations;
- Did not occur in education program or activity; or,
- Did not occur against a person in the U.S.

Permissive dismissal

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

Impact of Jurisdictional Differences

- Dismissal from Title IX does not automatically dismiss matters from state law policies (definitions, process)
- Most states have a more expansive jurisdiction and even off-campus behavior can require investigation
- Practically speaking, on-campus behavior after an off-campus event could result in applicable jurisdiction under both Title IX and state laws

Decision-Maker Role After the Investigation Concludes and Appeal (if necessary)

- Delivery of the final investigation report to parties
- Coordinator/Investigator sends proper documentation to Decision-Maker who does outreach to the parties for any comments/questions/inquiries
  - 10-day review period
- Delivery of the Outcome Letter, including proper appeal language

- Designation of an Appeal Officer, if necessary
- Delivery of Appeal Outcome letter, if necessary

06

Title IX Decision-Maker Role

Investigation Report Contents

- Regulations do not articulate what must be in the investigation report.
- However, the Title IX Decision-Maker must issue an outcome that includes:
  - written determination regarding responsibility with:
    - findings of fact;
    - conclusions about whether the alleged conduct occurred;
    - rationale for the result as to each allegation;
    - any disciplinary sanctions imposed on the respondent, and
    - whether remedies will be provided to the complainant.

Evidentiary Review

- RELEVANCE – Applying to the matter in question; affording something to the purpose (Black's Law Dictionary)
- NOT permitted:
  - Sexual history of Complainant (see Rape Shield exception)
  - Privileged communications
  - Medical documentation
- Not repetitive

Exception to Relevance: Rape Shield Exception

Sexual behavior questions and evidence are IRRELEVANT except if they are:

1) offered to prove that someone other than the respondent committed the conduct alleged by the complainant;
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.

Other Evidence Issues

- Hearsay
- Documents (paper, digital) no longer exist
- No one has admitted the behavior
- Not “convinced” this happened
- Credibility and honesty
  - Investigator or Decision-Maker assessment
- Expert testimony
  - Policy will advise whether experts are permitted
  - Expert testimony will require unique preparation
    - Qualifications, Expected Testimony, Reliance/Challenges

Credibility

- In Title IX investigations, the Decision-Maker has ultimate responsibility for credibility determinations and may explore credibility issues with parties after your investigation report is complete
- However, in the course of an investigation, investigators are gathering important information that may impact credibility determinations, including:
  - Corroboration
  - Feasibility
  - Motivation for truthfulness/untruthfulness
  - Consistency
  - Reviewed/coached testimony

Credibility Considerations

1. Inherent plausibility
2. Motive to lie (based on the existence of a bias, interest, or other motive)
3. Corroboration
4. Extent a witness was able to perceive, recollect or communicate about the matter
5. History of honesty/dishonesty
6. Habit/consistency
7. Inconsistent statements
8. Manner of testimony
9. Demeanor

https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-Workplace-Harassment-Guide.pdf

REMEMBER –

Decision-Maker holds ultimate responsibility for credibility determinations and can challenge any conclusions/recommendations made by the Title IX Investigator.

07

Reviewing the Final Investigation Report

Typical Investigation Report Sections

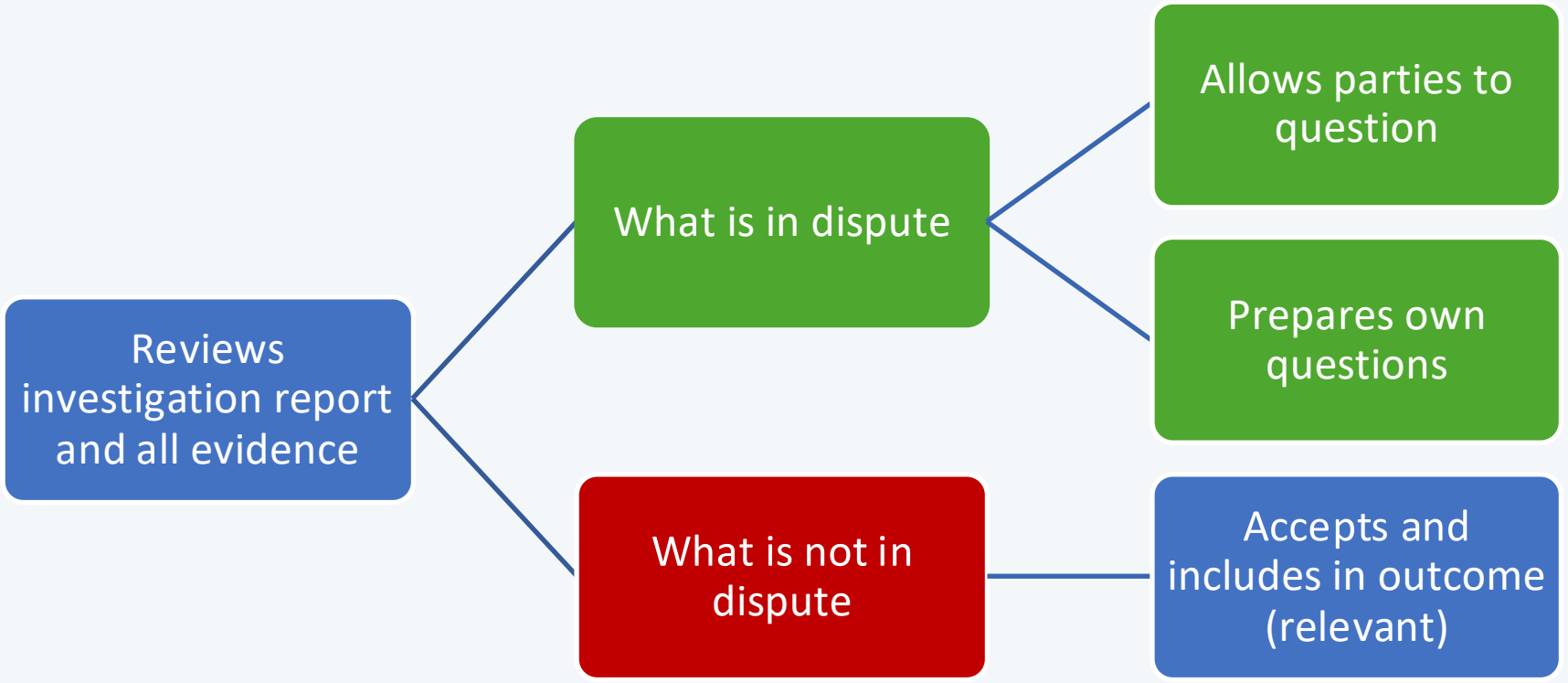
- Allegations
- Applicable Policies
- Procedural History
- Interview Summaries
- Factual Findings/Recommended Factual Findings (might be allowed/required, check policy)
- Recommended Findings of Policy Violation (might be allowed/required, check policy)

TIX Decision-Maker: Role and Timing

- Decision-Maker review of final investigation report
- Decision-Maker outreach to the parties for additional information
- Paper version of cross-examination
- 10 days to respond

- Outcome Letter issued by Decision-Maker
- Details Policy violation and discipline (if necessary)

Initial Analysis for Decision-Maker



Decision-Maker Steps

- Receipt of final investigation report
  - Is it finalized?
- Outreach to parties to determine if follow-up questions are requested
  - Some discretion about submitting
  - Limited follow-up – facilitated cross-examination
  - Articulate and document decisions restricting this process
- Decision-Maker discretion regarding about what follow-up is necessary
  - Decision-Maker can ALSO conduct follow-up
- Outreach to parties with follow-up, as designated by Decision-Maker
- Conclusion and outcome letter

TIXGP: Investigator in Decision-Maker Process and Beyond

- Parties may submit questions to Decision-Maker for Investigator.
- Decision-Maker may have independent questions for Investigator.
- Revisions and reviews to the report may be necessary, although unlikely.
- Future challenges to the investigation could be filed through DoE, California Department of Education, and/or litigation.

- REMEMBER: Keep adequate records and share all information with Title IX Coordinator for record-keeping purposes.

TIXGP: Decision-Maker Questions for the Parties or Witnesses

- Questions for just one party
  - Is this fair and equitable?
- Meetings and record-keeping
  - Organize, keep to specific questions
  - Advisors must be invited (not necessarily present)
  - Recording or transcript?
  - Response of other party
  - Provide clarity as to how this process will terminate
- REMEMBER: Keep adequate records and share all information with the other party.
  - Share records with Title IX Coordinator so file is complete.

08

Writing the Outcome Letter

Final Decision Requirements

Under Title IX regulations, Decision-Maker must issue a written determination regarding responsibility that has to include:

- Findings of fact
- Conclusions as to all allegations
- Rationale for reaching the decision
  - Sanctions if the Respondent is found responsible for Policy violations must be included in the written determination
- Right to appeal

- Others to consider:
  - Allegations and Procedural Steps
  - Categories that highlight compliance with state law

09

Title IX Appeal Process

TIXGP: Appeal Grounds

Procedural Review

Procedural irregularity in the Title IX grievance process that materially affected the outcome.

New Information

Newly discovered evidence that was not reasonably available at the time of the determination of responsibility or dismissal that could materially affect the outcome.

Conflict of Interest or Bias

Due to a bias or conflict of interest by the Title IX Coordinator, investigator, or decision-maker that materially affected the outcome.

Appeal Process

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.
2. Ensure that the Decision-Maker(s) for the appeal is trained in accordance with 34 CFR 106.45 and is not the same Decision-Maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
3. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.
4. Issue a written decision describing the result of the appeal and the rationale for the result.
5. Provide the written decision simultaneously to both parties.

Appeals

- An appeal shall be filed in writing within 10 calendar days of receiving the notice of the decision or dismissal, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

- A written decision shall be provided to the parties within 20 calendar days from the receipt of the appeal.

- Check your policy to confirm the timing, as some discretion does exist in the regulations.

Questions?

We're here to help.

megan@titleixconsult.com

TIXC Upcoming Training

Title IX Certificated Training

- **Informal Resolution Training – Complex Investigations: Title IX and Beyond,** Sept. 24, 2026 9AM-12PM PDT/PST

Title IX Special Topics

- **AI Approaches in Title IX Investigations,** Sept. 18, 2026, 9AM-10AM PDT/PST

- **Trauma-Informed Investigations of Sexual Misconduct – Title IX and Beyond,** Oct. 29, 2026, 9AM-1030AM PDT/PST

Thank You

Questions? We're here to help.

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