

The slide features a background image of a city skyline with a river. The text is centered and reads: "Illinois Institute of Technology" in a dark blue font at the top. Below that, "Title IX Regulations: Basic Compliance Training" is written in a larger, bold, dark blue font. Underneath the title, the date "August 16, 2021" and the presenter "Presented by Kendra Yoch" are listed in a smaller dark blue font. At the bottom center, the word "FRANCZEK" is enclosed in a dark blue rectangular box with a thin white border.

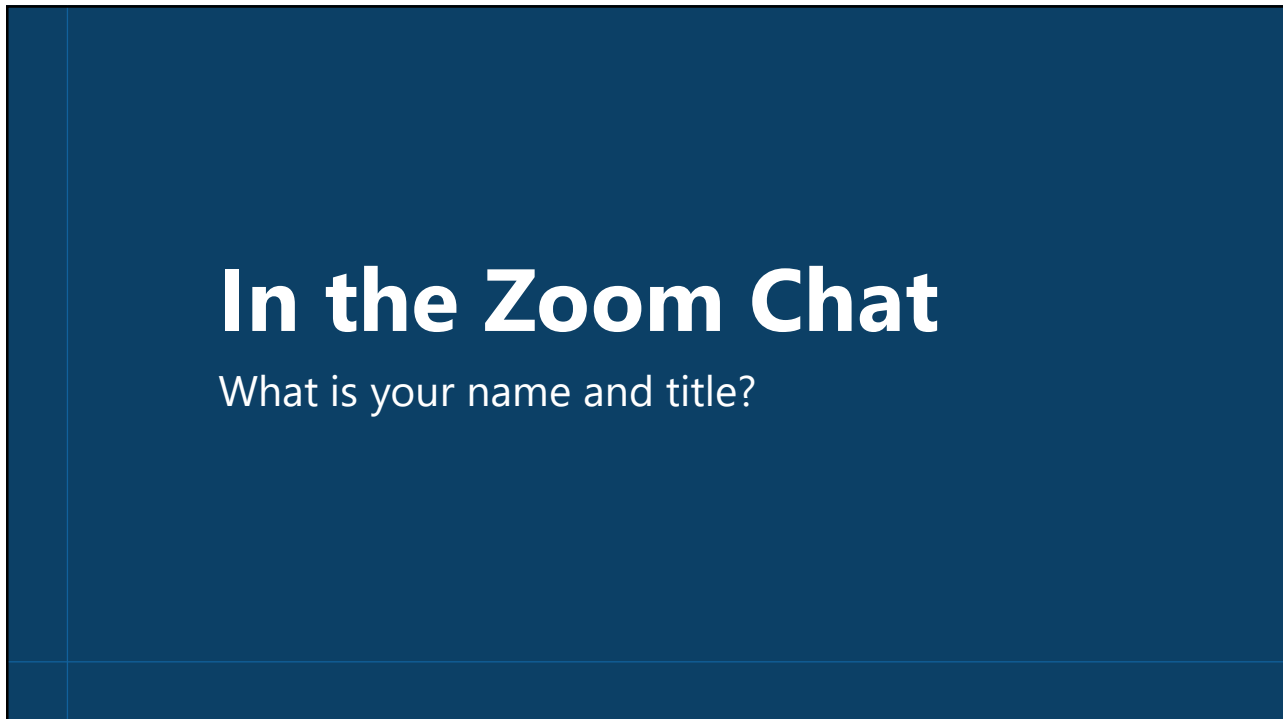
Illinois Institute of Technology

**Title IX Regulations:
Basic Compliance Training**

August 16, 2021
Presented by Kendra Yoch

FRANCZEK

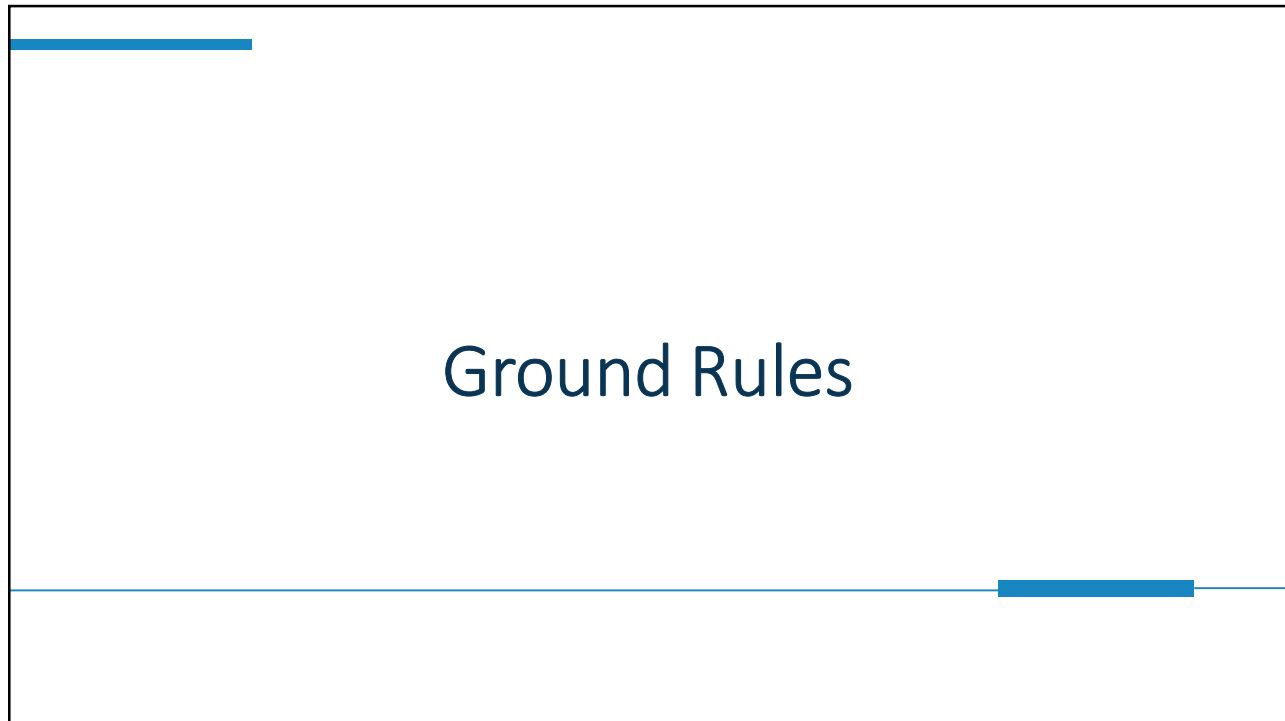
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The slide has a solid dark blue background. The text is white and centered. It reads: "In the Zoom Chat" in a large, bold font, followed by "What is your name and title?" in a smaller font.

In the Zoom Chat

What is your name and title?

2



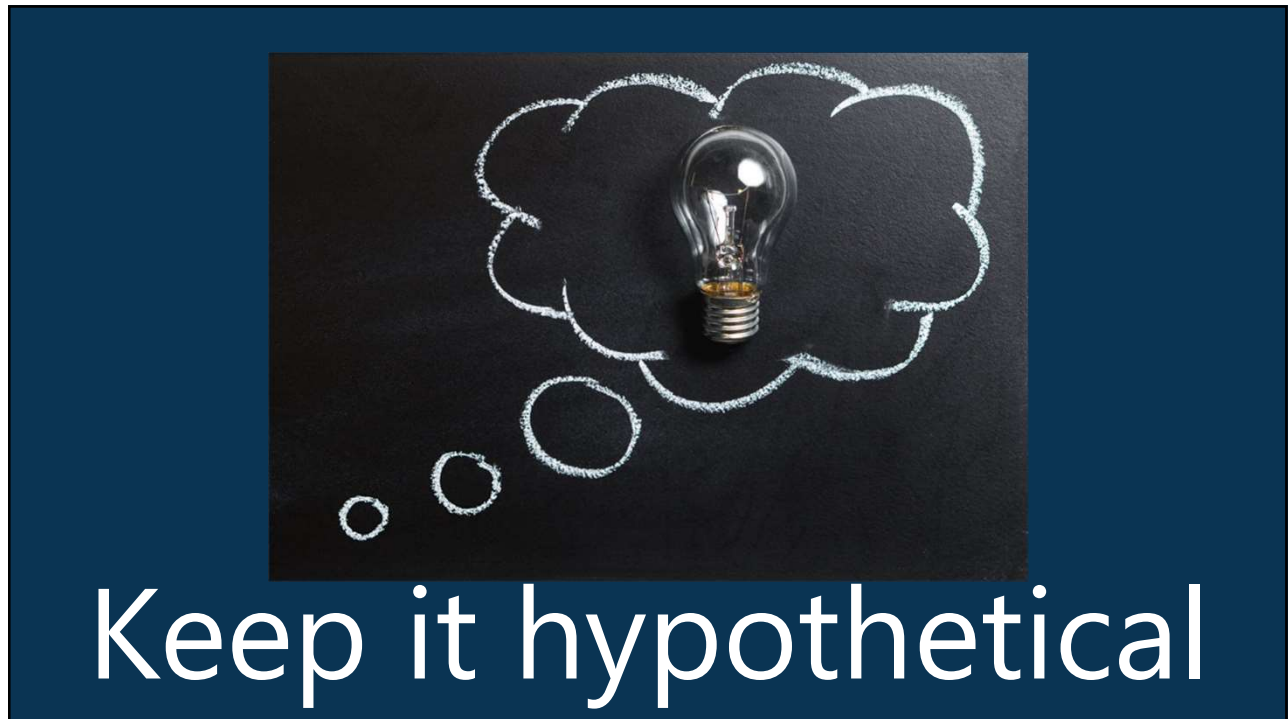
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6


Why Are We Here?

7

Know the Rules

SEXUAL HARASSMENT
complaint form

8



THE HILL
New Title IX regulations give expanded rights to those accused of sexual assault on campus |...

IHE Inside Higher Ed
New Title IX regulation sets location-based boundaries for sexual harassment...

FOX NEWS
Department of Education releases new Title IX regulations

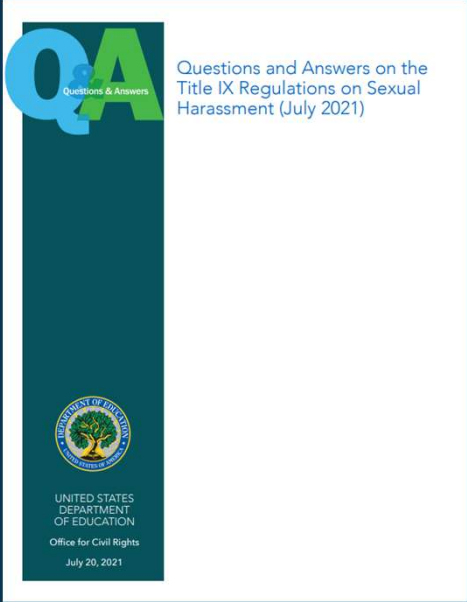
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Here for 2021-2022



This Photo CC BY

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Questions and Answers on the Title IX Regulations on Sexual Harassment (July 2021)

- Reiterates information in the preamble to the 2020 amendments
- OCR highlights

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U.S. Department of Education Confirms Title IX Protects Students from Discrimination Based on Sexual Orientation and Gender Identity

JUNE 16, 2021

Contact: Press Office, (202) 401-1576, press@ed.gov

The U.S. Department of Education's Office for Civil Rights today issued a [Notice of Interpretation](#) explaining that it will enforce Title IX's prohibition on discrimination on the basis of sex to include: (1) discrimination based on sexual orientation; and (2) discrimination based on gender identity. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any education program or activity offered by a recipient of federal financial assistance.

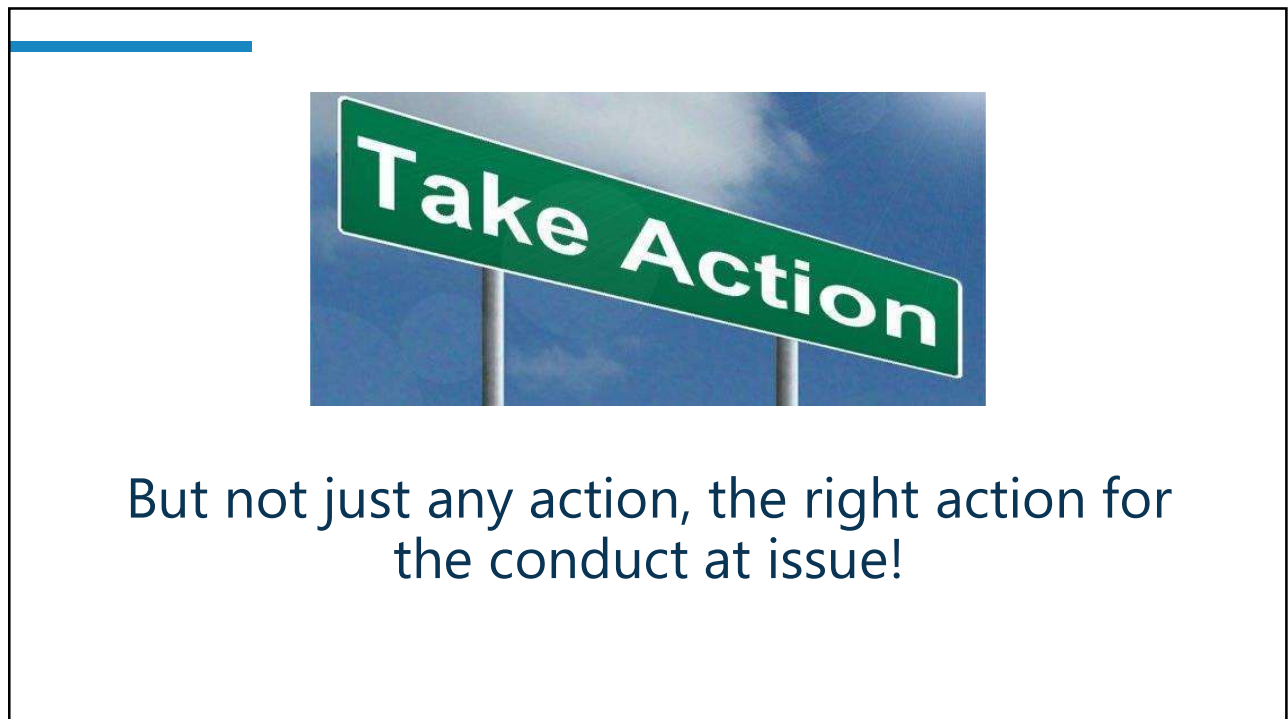
The Department's interpretation stems from the landmark U.S. Supreme Court decision in *Bostock v. Clayton County*, issued one year ago this week, in which the Supreme Court recognized that it is impossible to discriminate against a person based on their sexual orientation or gender identity without discriminating against that person based on sex.

"The Supreme Court has upheld the right for LGBTQ+ people to live and work without fear of harassment, exclusion, and discrimination – and our LGBTQ+ students have the same rights and deserve the same protections. I'm proud to have directed the Office for Civil Rights to enforce Title IX to protect all students from all forms of sex discrimination," said U.S. Secretary of Education Miguel Cardona. "Today, the Department makes clear that all students—including LGBTQ+ students—deserve the opportunity to learn and thrive in schools that are free from discrimination."

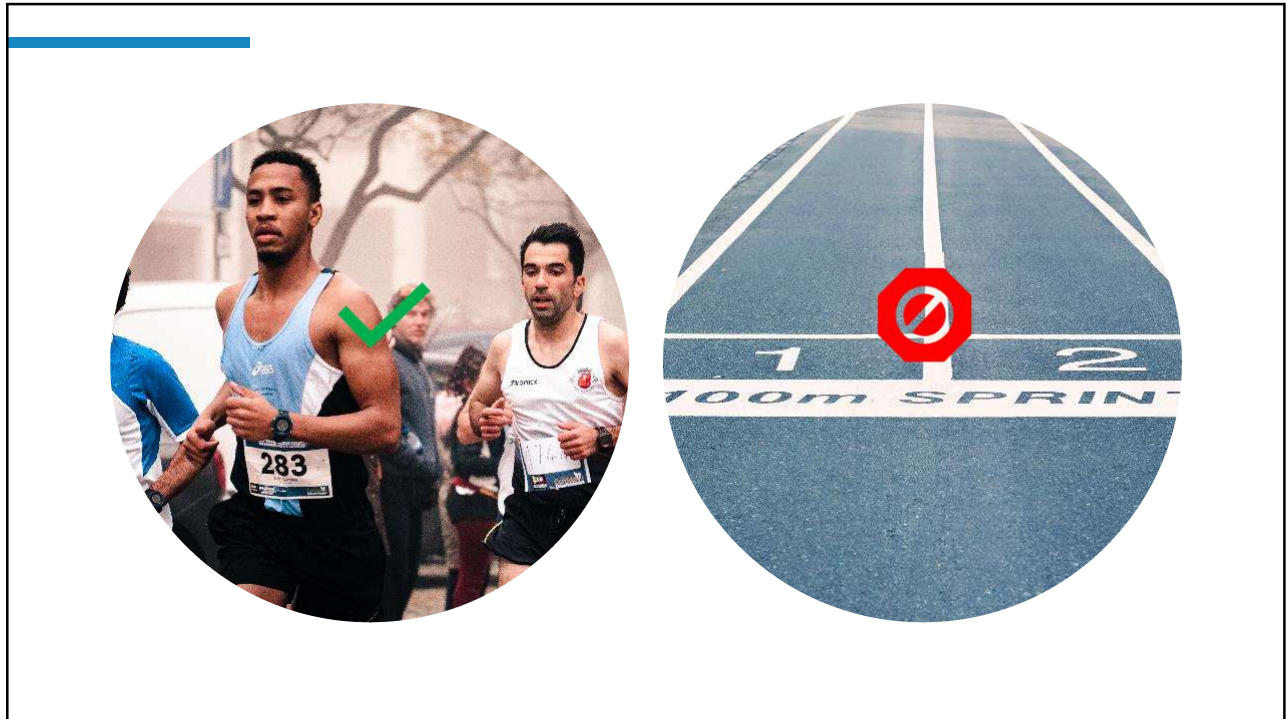
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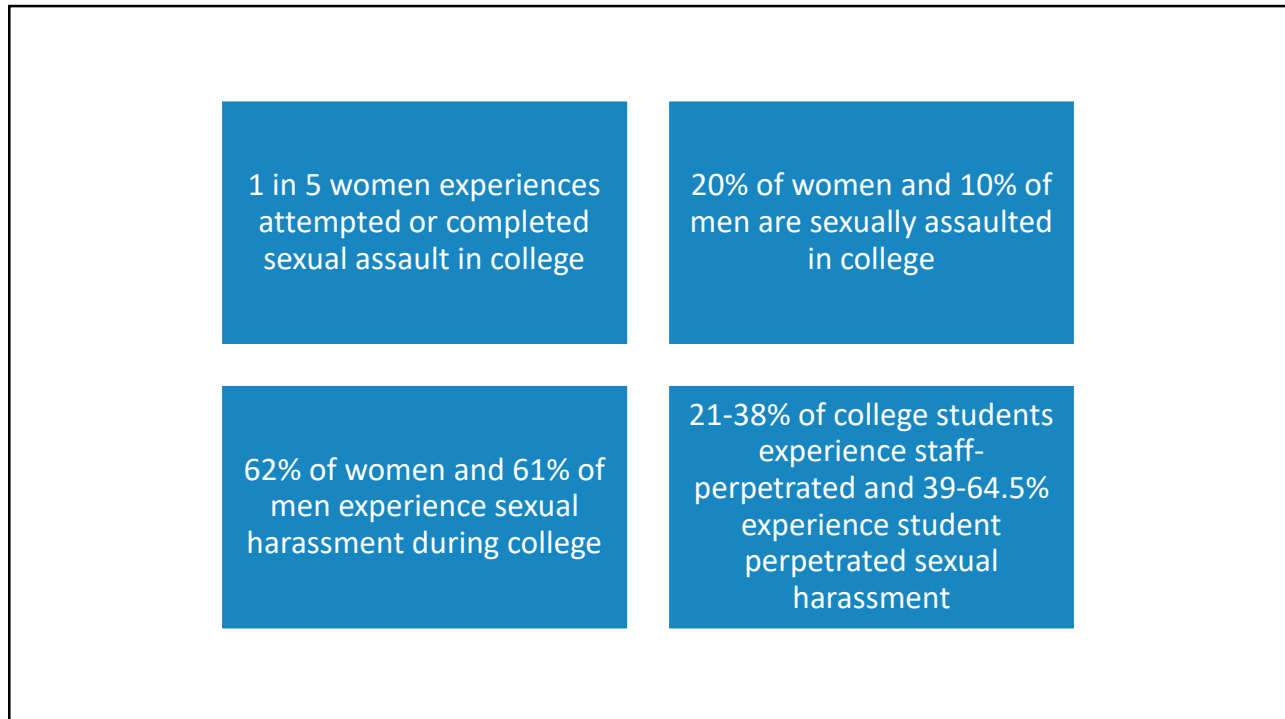
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According to a **2017 report from the Justice Department**, only

23 percent

of all sexual assaults are reported to the police.

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*Harassment
and assault can have
long lasting,
detrimental effects on
victims (Trauma)*

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Effects on Individuals

Poor performance in school

Stress Disengagement Fear

Distraction Anger Mistrust Conflict

Acting out Absenteeism Drop-out

Suicide ANXIETY PTSD

DEPRESSION

Lost Opportunities

20

Effects on Teams

Decreased focus
Lost productivity
Withdrawal
Neglect
Absenteeism
Malingering
Lack of trust in leadership
Turnover



21

*Unfair processes can
have
long lasting,
detrimental effects on
the accused*

22

Mattress Protest and Its Aftermath

Case of alleged rape at Columbia first yielded much sympathy for the accuser and her unusual protest, but ends with the university apologizing to the accused. The case has had a lasting impact on the discussion of sexual assault on campus.

By [Jeremy Bauer-Wolf](#) // July 24, 2017

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Harassment Is Illegal
Including Sexual Harassment

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ED Office for Civil Rights (OCR)

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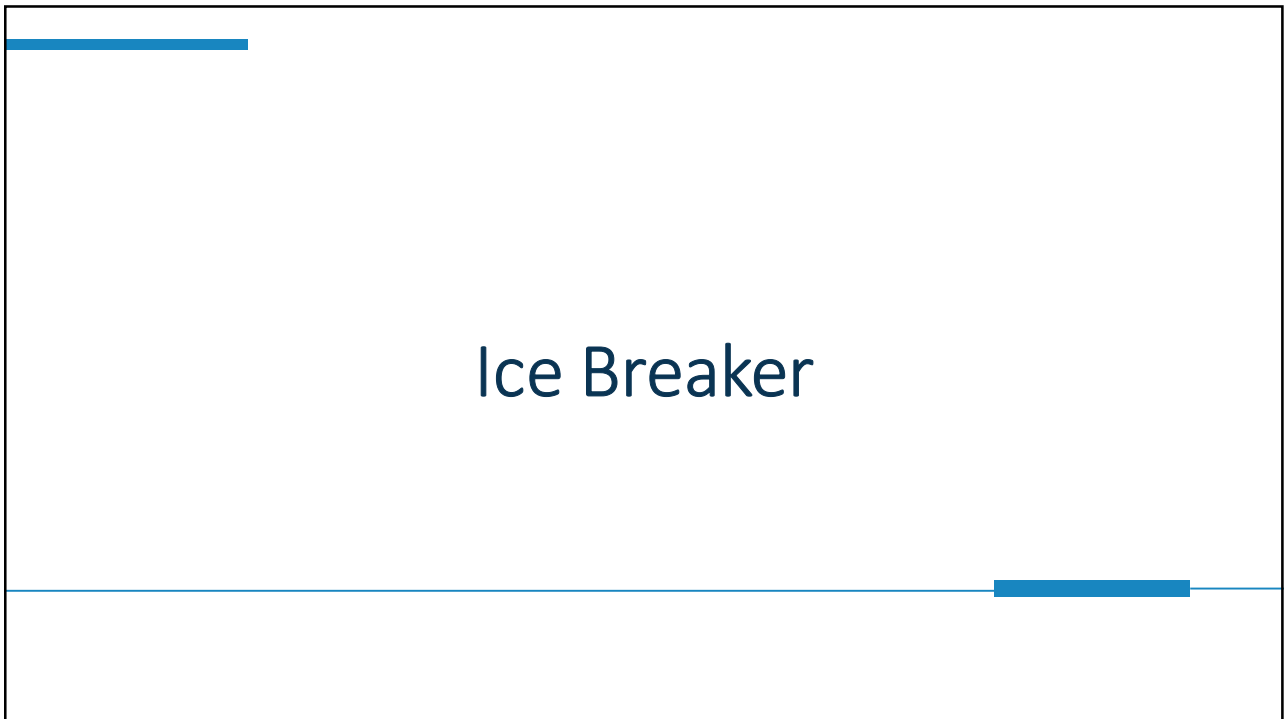
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Thumbs Up or Down

Have you been directly involved in a Title IX complaint during your time at the Institution?

29

WJ2

In the Zoom Chat

What is the most important question you would like answered today?

30

Slide 30

WJ2 Wernz, Jacqueline, 7/23/2020

What is Title IX?

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What falls under Title IX?

Recruitment, Admissions, and Counseling

Financial Assistance

Athletics

Sex-Based Harassment

Treatment of Pregnant & Parenting Students

Discipline

Single-Sex Education

Employment

Retaliation

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Title IX Statute

(20 U.S.C. §§ 1681–1688)

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

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Title IX Regulations

(34 C.F.R. Part 106 – Amended as of 8/14/2020)

- Prohibit discrimination on the basis of sex
- Establish procedural requirements
 - Policy
 - Detailed Grievance procedure
 - Designation of Title IX coordinator(s)
 - Many many requirements

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Other Applicable Laws

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The diagram consists of two rectangular boxes, one above the other, each with a title bar and a list of laws. The top box has a blue title bar labeled 'Employment' and contains a bulleted list: Illinois Human Rights Act, Title VII, Title IX, and Clery Act/Violence Against Women Act. The bottom box has a dark grey title bar labeled 'Students' and contains a bulleted list: Illinois Human Rights Act, Preventing Sexual Violence in Higher Education Act, Title IX, and Clery Act/Violence Against Women Act.

Employment

- Illinois Human Rights Act
- Title VII
- Title IX
- Clery Act/Violence Against Women Act

Students

- Illinois Human Rights Act
- Preventing Sexual Violence in Higher Education Act
- Title IX
- Clery Act/Violence Against Women Act

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The slide features a blue header bar with the title 'How Does Clery/VAWA Relate to Title IX?'. Below the header is a bulleted list of points. At the bottom left is the logo 'FRANCZEK' and at the bottom right is the website 'franczek.com'.

How Does Clery/VAWA Relate to Title IX?

- Contains policy and procedural requirements for addressing complaints of domestic violence, dating violence, sexual assault, and stalking
 - Timely warnings, emergency notifications
 - Requirements following a report
 - Broader AND narrower than Title IX
- ASR and other reporting
- Prevention requirements

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What Does VAWA Require?

- Specific requirements for policies and procedures, including:
 - Description of disciplinary proceedings
 - Steps, anticipated timelines, and decision-making process
 - How to file a complaint
 - Standard of evidence
 - List of all possible sanctions and description of protective measures
 - Prompt, fair and impartial process
 - Conducted by individuals who receive annual training
 - Advisor of choice
 - Various written notification requirements, including:
 - Written notification about options for accommodations and protective measures
 - Simultaneous notification to parties of certain results

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Required Programming Under VAWA

- Primary prevention and awareness programs for all incoming students and new employees
- Ongoing prevention and awareness campaigns for students and employees
- Range of topics, including definitions of prohibited conduct, resolution procedures, possible sanctions and protective measures, and available resources and options

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Illinois Preventing Sexual Violence in Higher Education Act

- Comprehensive policy and procedure concerning sexual violence, domestic violence, dating violence and stalking
 - Several required components
- Written explanation of rights and options to survivors
- Confidential Advisors to survivors
- Training requirements

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Additional Requirements

- Offer students options to make reports in various ways, including anonymously
- Respond to electronic report within 12 hours
- Define consent in policy
- Participate in campus-wide or regional task force
- Annually report data

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When Must the Institution Respond to Sexual Harassment?

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**It Depends
Who [Well,
Which Law]
You Ask**

Employment

- Illinois Human Rights Act
- Title VII
- Title IX
- Clery Act/Violence Against Women Act

Students

- Illinois Human Rights Act
- Preventing Sexual Violence in Higher Education Act
- Title IX
- Clery Act/Violence Against Women Act

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When must a school respond to Title IX sexual harassment?


A recipient with actual knowledge of [Title IX] sexual harassment in an education program or activity against a person in the United States must respond promptly and in a manner that is not deliberately indifferent.

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Notice

ACTUAL knowledge

To Title IX Coordinator or "official with authority"



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Title IX Actual Knowledge

1. Sense
2. Report

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Reporting Sexual Harassment: Who, How and When?

- Any person may report sex discrimination, regardless of whether the person is the alleged victim of the reported conduct
- Reports can be made by mail, by telephone, or by email, using the contact information listed for the Title IX Coordinator
- Or by any means that results in the Title IX Coordinator receiving the person's report
- Such a report may be made at any time, including during non business hours, by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator

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Key Word: "Allegation"

Once a school has notice of an **allegation** that, **if true**, would constitute sexual harassment, it must respond

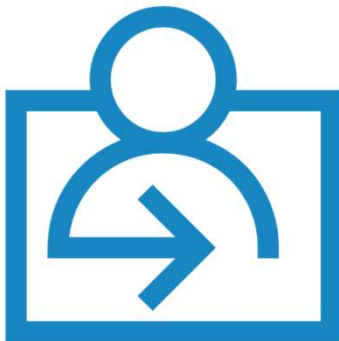
"Well, we didn't believe there was enough evidence it happened" does not get you past your responsibility to use your Title IX procedures

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Official with Authority



- Title IX Coordinator
- Any other officials who have been given authority to institute corrective measures on behalf of the recipient

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Straight Talk

Who are "Officials With Authority" Here?

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What about VAWA/Clery Act?

- CSA = "campus security authority"
 - Special designation under Clery Act
 - Designed to facilitate crime reporting in annual report
- WHO?
 - Anyone with responsibility for campus security
 - Anyone to whom crimes can be reported
 - Anyone with "significant responsibility for student and campus activities" (housing, discipline)
 - Excludes pastoral/professional counselors
- CSA *may* be considered an "official with authority" under Title IX such that notice to that person constitutes actual knowledge

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Campus Security Authority

The relevant titles and capacities are:

President, Provost and those designated to serve in the role of Associate or Assistant Vice Presidents/Provosts; academic deans, directors and department chairs, including those serving in associate or assistant roles; student affairs directors; residential life personnel, including resident advisors; Greek life coordinators; athletic administrators, including directors, assistant directors, coaches, assistant coaches and trainers; student activities coordinators; faculty and staff advisors to IIT recognized student organizations; academic advisors; and Public Safety staff.

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Key Roles in Responding to Reports

- Medical providers
- Law enforcement
- Community/outside agencies

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Involvement of Law Enforcement

- Complainant has the option to involve law enforcement, including:
 - Notifying law enforcement, including on-campus and local police
 - Request assistance from campus authorities
 - Decline to notify law enforcement or campus authorities
- Orders of protection, no contact orders, restraining orders

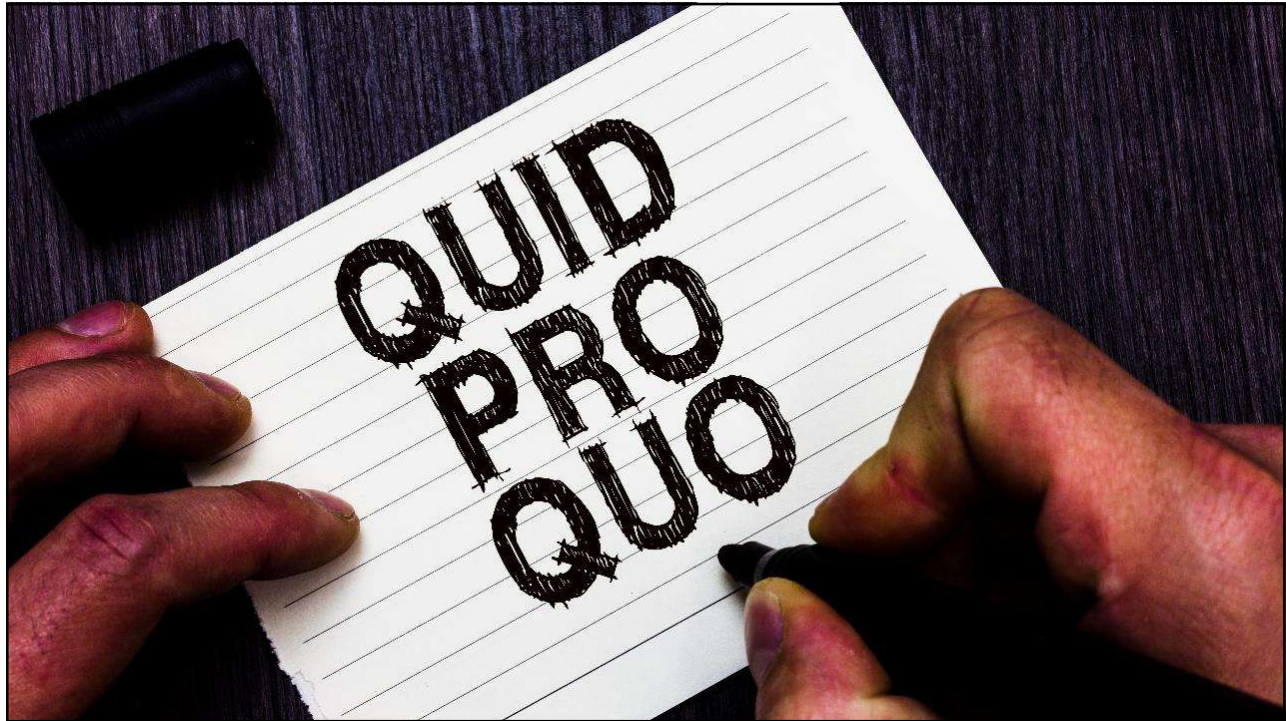
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What is Sexual Harassment?

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Quid Pro Quo

Quid = Something

Pro = For

Quo = Something

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Title IX Quid Pro Quo

Definition: An employee of the recipient conditioning an aid, service, or benefit of the recipient on an individual's participation in unwelcome sexual conduct

New: Only an employee (not a volunteer, another student, etc.)

Codified: Severity and harm presumed

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Clery/VAWA

Sexual Assault 20 U.S.C. 1092(f)(6)(A)(v)

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

Dating Violence 34 U.S.C. 12291(a)(10)

Stalking 34 U.S.C. 12291(a)(30)

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Title IX – What is Sexual Harassment?

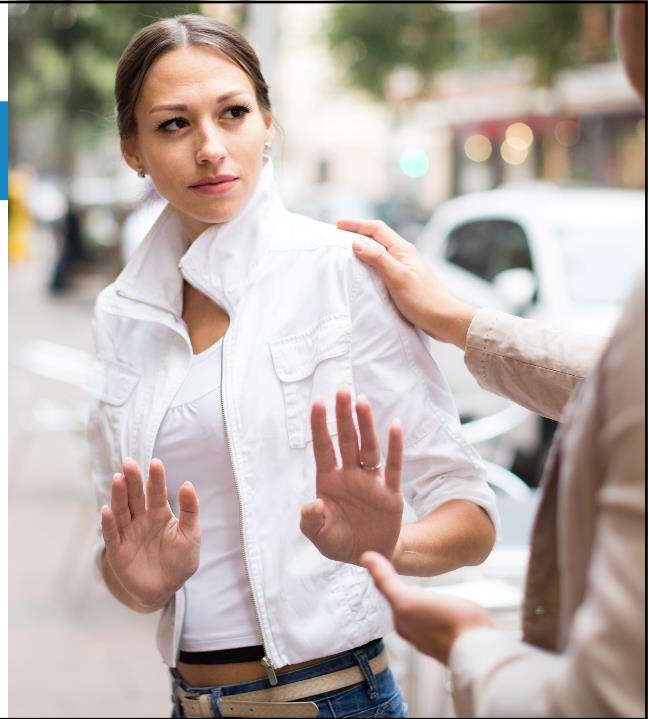
<p>Old Definition Unwelcome conduct determined by a reasonable person to be severe, pervasive or persistent as to interfere with or limit a student's ability to participate in or benefit from school services, activities, or opportunities</p>	<p>New Definition (8/14) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person's equal access to the recipient's education program or activity</p>
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Unwelcome Conduct

- Not **Consent**
- Not **Participation**
- Not **Silence**
- Age Matters
- Intoxication Matters
- Culture Matters
- Ability Matters

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Unwelcome vs. Consent

- Consent under Illinois law
- Consent under your Institution's policy
 - Article IV, Section N of Student Code of Conduct
- Role of drugs and alcohol on ability to consent

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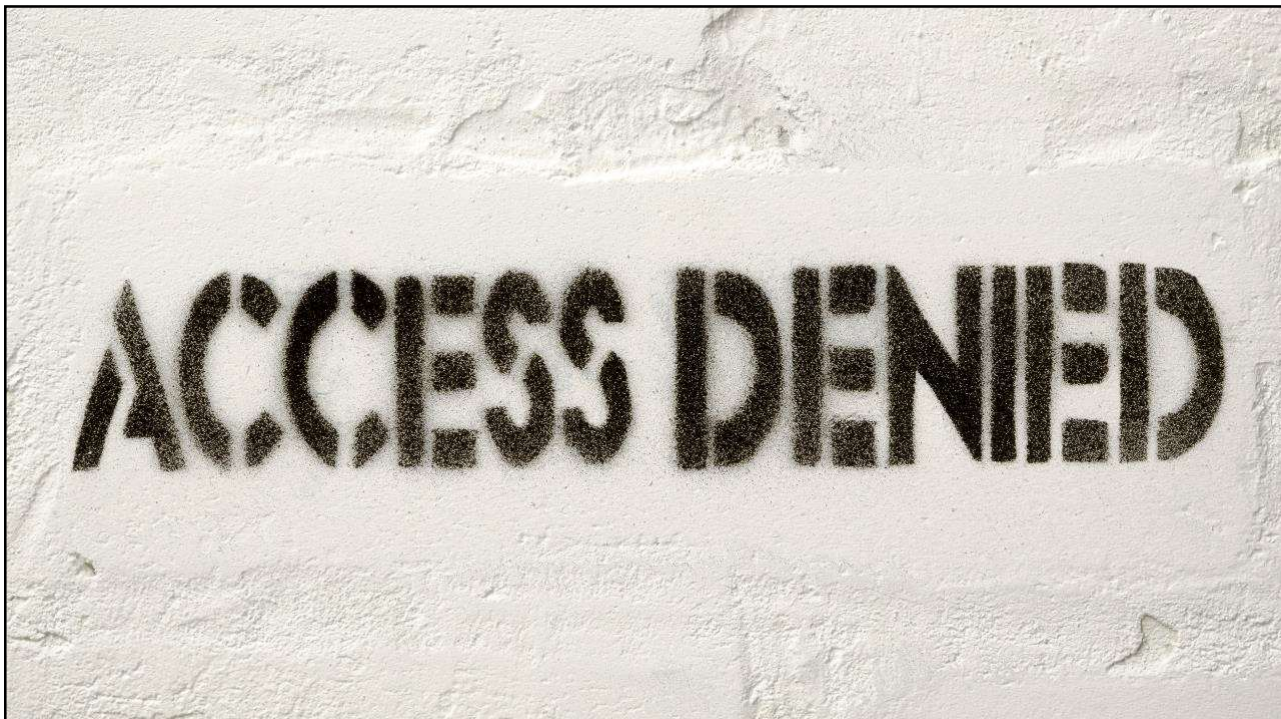
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- Severe, pervasive, and objectively offensive
- Constellation of surrounding circumstances, expectations, and relationships
- Reasonable person standard

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Hostile Environment Factors

Context, Nature, Scope, Frequency,
Duration, and Location of the Incidents

Identity, Number, Ages, and
Relationships of the Persons involved

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**What
about....
casual or
isolated
comments
or conduct?**



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Thumbs Up or Down

Is this severe, pervasive, and objectively
offensive?

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When poll is active, respond at pollev.com/franczek
Text **FRANCZEK** to **22333** once to join

**Male students photographed themselves outside the
student center holding a sign that read "We Love IIT Sluts."**

Yes, TIX Sexual Harassment
Not severe
Not pervasive
Not objectively offensive
Other

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

72

When poll is active, respond at pollev.com/franczek
Text **FRANCZEK** to **22333** once to join

A report is circulated among athletic teams ranking freshman women by how drunk you would have to be to hook up with them.

Yes, TIX Sexual Harassment
Not severe
Not pervasive
Not objectively offensive
Other

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

73

When poll is active, respond at pollev.com/franczek
Text **FRANCZEK** to **22333** once to join

A female professor repeatedly tells a male student how good he looks after losing weight.

Yes, TIX Sexual Harassment
Not severe
Not pervasive
Not objectively offensive
Other

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

74

When poll is active, respond at pollev.com/franczek
Text **FRANCZEK** to **22333** once to join

Male students held a "march" chanting "No means yes; yes means anal."

Yes, TIX sexual harassment
Not severe
Not pervasive
Not objectively offensive
Other

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

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When poll is active, respond at pollev.com/franczek
Text **FRANCZEK** to **22333** once to join

A professor tells a student he will give her a good grade if she gives him a backrub alone in his office after class.

Yes, TIX sexual harassment
Not severe
Not pervasive
Not objectively offensive
Other

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

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When poll is active, respond at pollev.com/franczek
Text **FRANCZEK** to **22333** once to join

A female student attempts to grab another student's breasts during a soccer game.

Yes, TIX sexual harassment

Not severe

Not pervasive

Not objectively offensive

Other

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When poll is active, respond at pollev.com/franczek
Text **FRANCZEK** to **22333** once to join

A group of students incessantly taunts another student, calling her a slur used for lesbians and mocking her "boy" hair.

Yes, TIX sexual harassment

Not severe

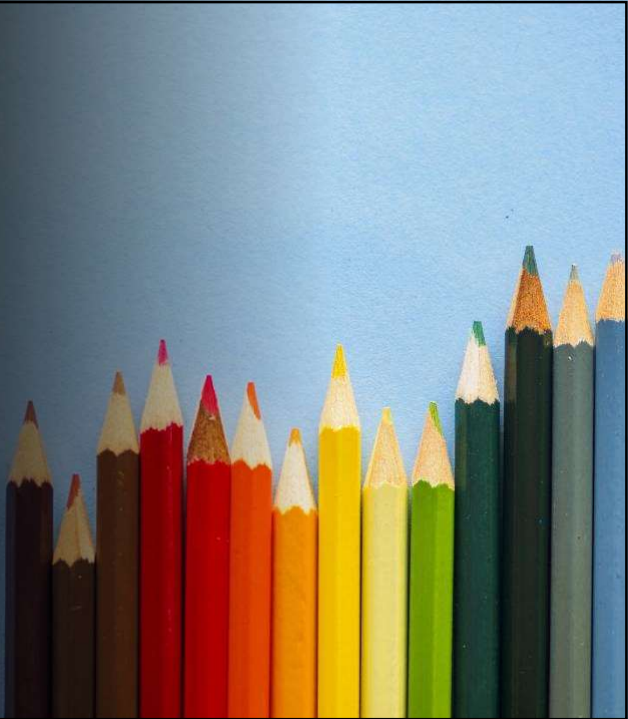
Not pervasive

Not objectively offensive

Other

Start the presentation to see live content. For screen share software, share the entire screen. Get help at pollev.com/app

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Title IX Sexual
Harassment
Must Be “In a
Program or
Activity”

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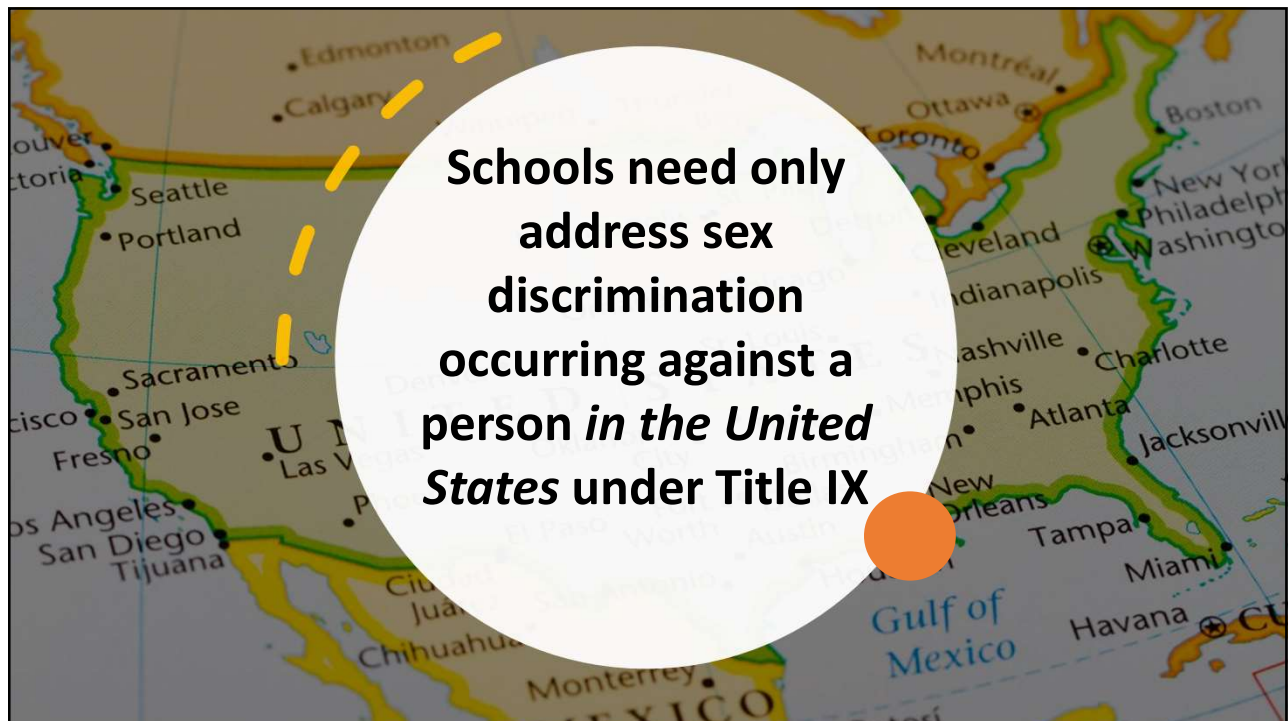


Program or Activity: Any location, events, or circumstance over which the recipient exhibits substantial control over both the alleged harasser and the “context” in which the harassment occurred

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TIX DISMISSALS

Mandatory if conduct alleged:

Not TIX sexual harassment if true
Did not occur in the school's program or activity
Did not occur in the United states

**can still address under non-Title IX policy

Permissive if:

Complainant requests to withdraw in writing
Respondent's enrollment or employment ends
Specific circumstances prevent recipient from gathering evidence sufficient to reach a determine (e.g., passage of time, lack of cooperation by complainant)

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Policies on Harassment

- Sexual Harassment Policy
- Title IX Grievance Procedure
- Code of Conduct
- Employee Handbooks etc.

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Compare to Clery

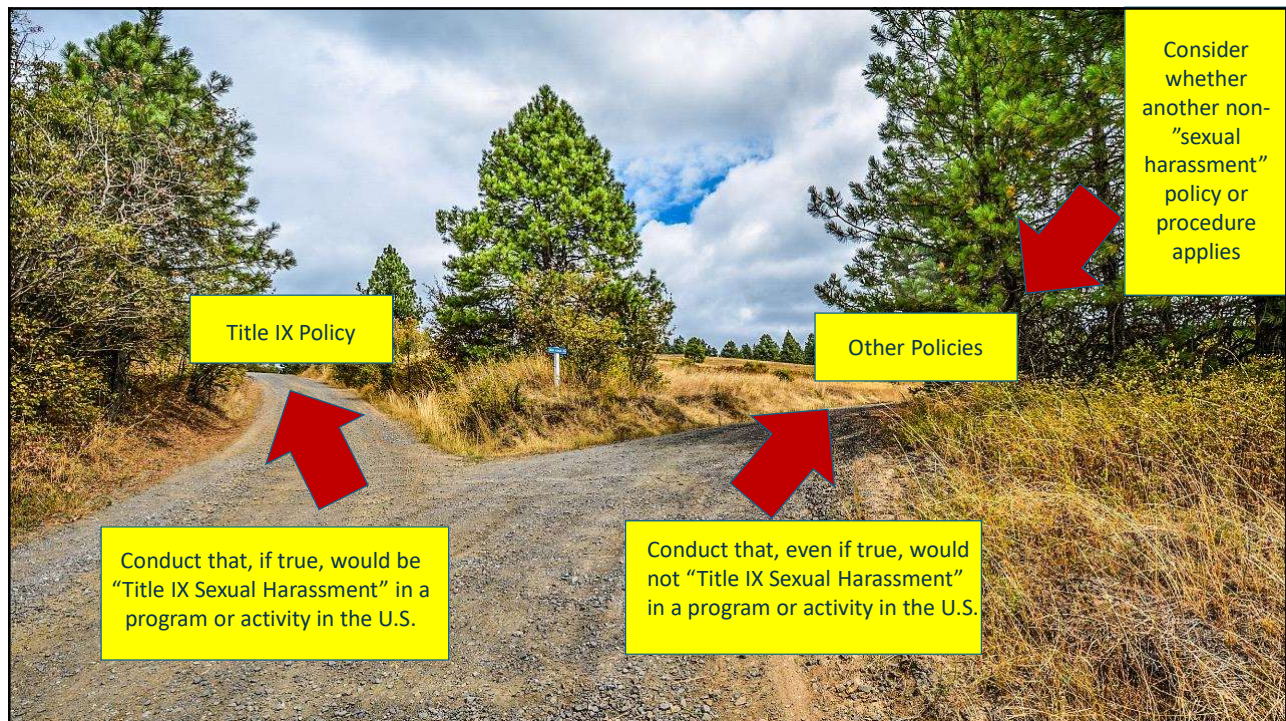
- Clery geography
 - On campus (slightly different reporting requirements for on campus housing)
 - Public property within or immediately adjacent to campus
 - In or on non-campus buildings or property that your college owns or controls

<https://www.campussafetymagazine.com/clery/clery-act-geography-definitions-clery-map-examples/>

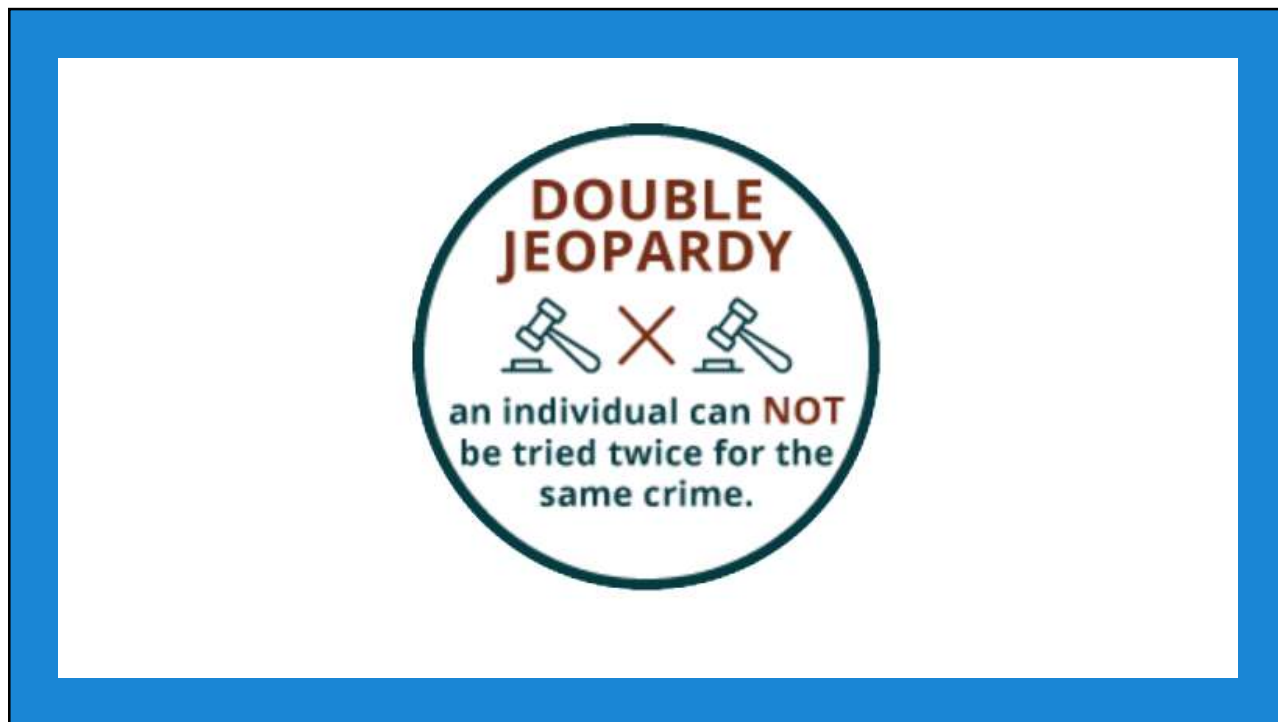
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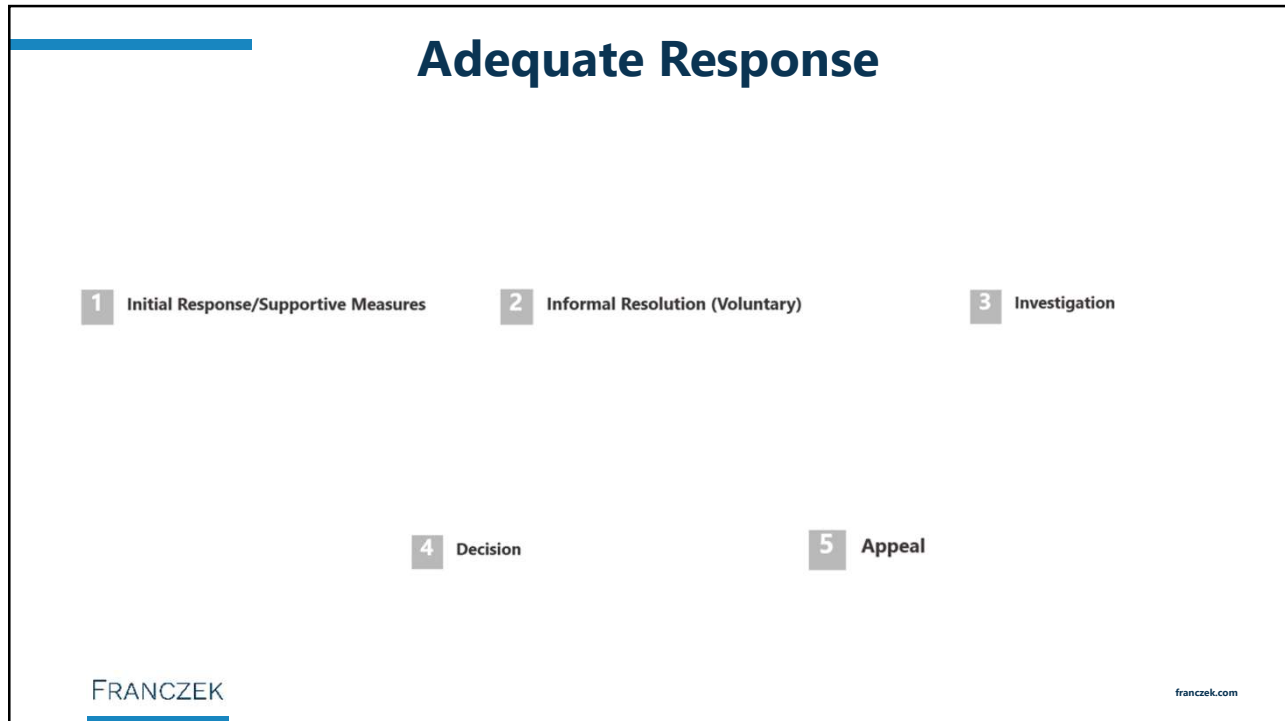
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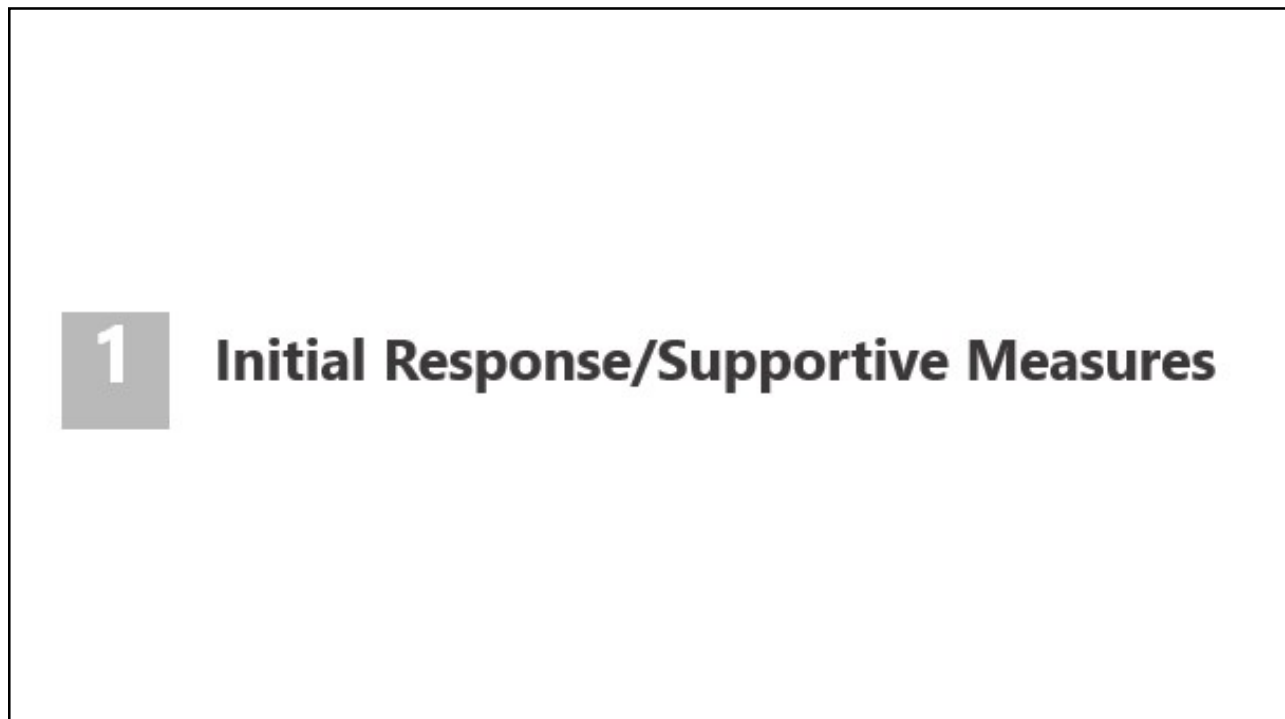
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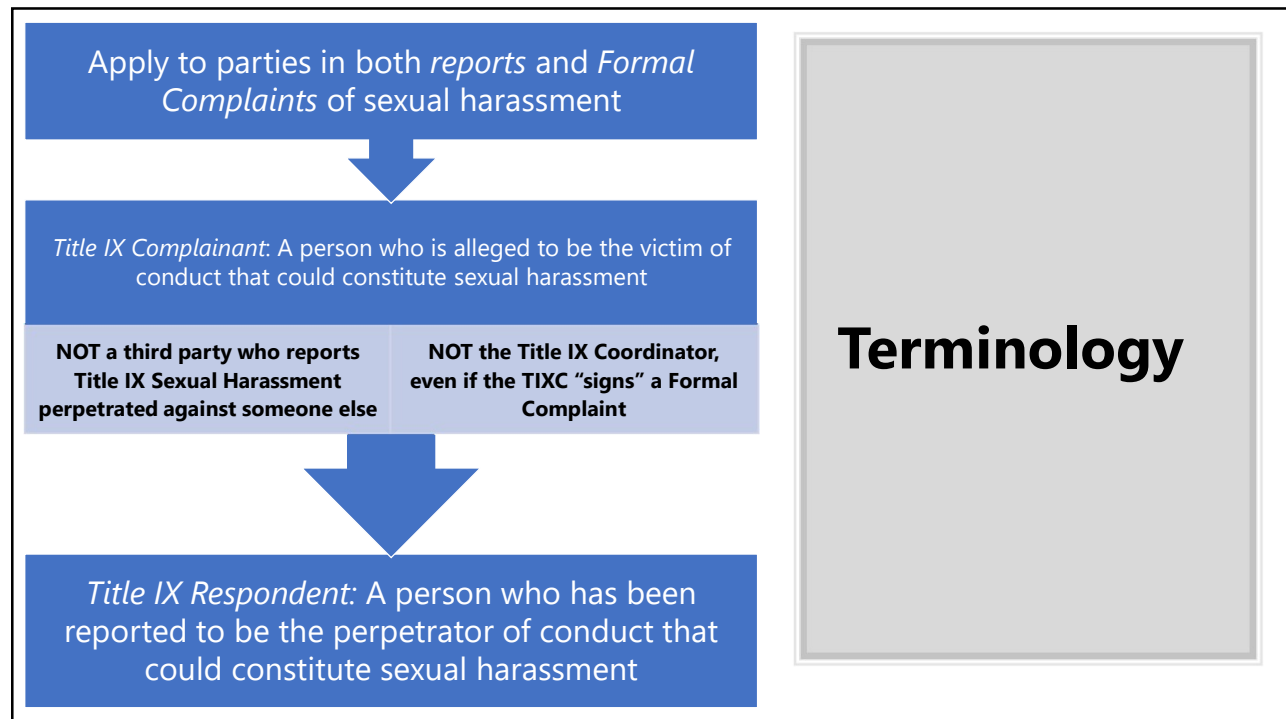
Title IX Coordinator

- Virginia Foster
- Must be called Title IX Coordinator
- Must meet with alleged victims of sexual harassment (the Title IX Complainant) covered by the new Title IX regulations (can delegate)

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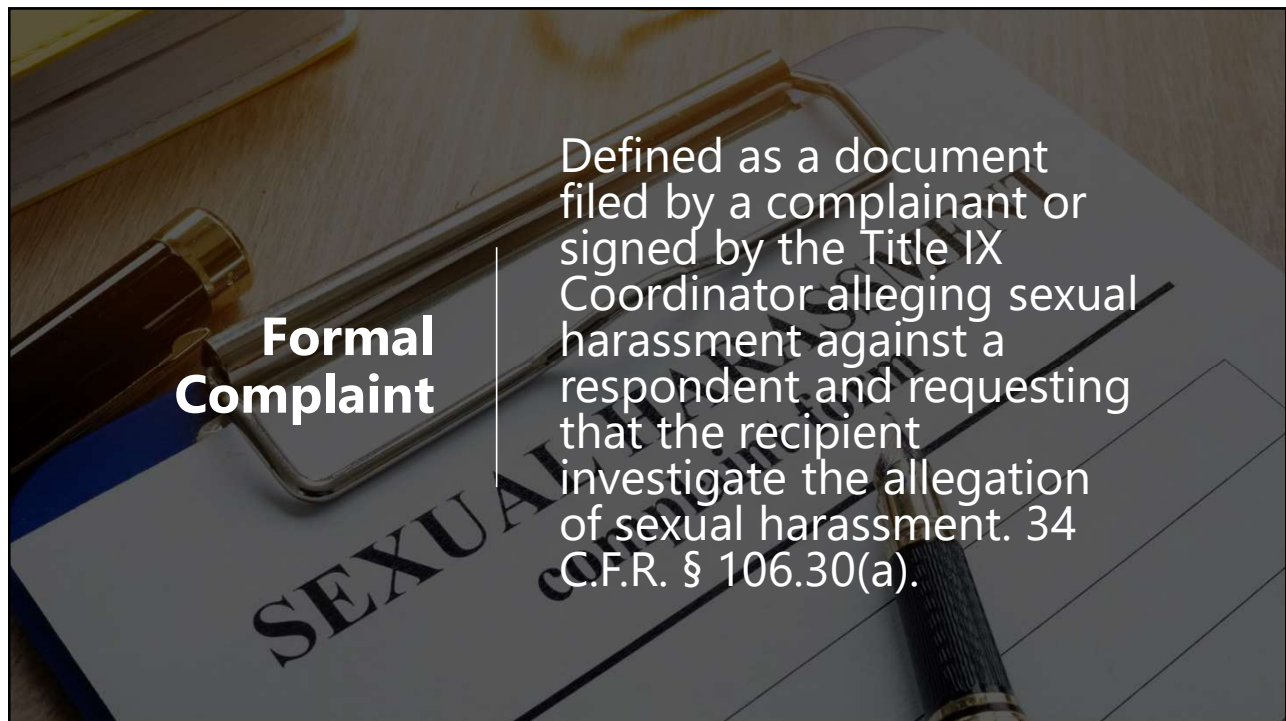
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Title IX Coordinator must promptly, **even if no Formal Complaint is filed:**

- Contact the Title IX Complainant to discuss the availability of “supportive measures”
- Consider the Title IX Complainant’s wishes with respect to supportive measures
- Inform the Title IX Complainant of the availability of supportive measures with or without the filing of a formal complaint
- Explain the process for filing a Formal Complaint

New:
**Initial
Response**

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<p>Supportive Measures</p> <p>What Changed?</p>	<p>OLD TERM (OCR Guidance)</p> <ul style="list-style-type: none">• Used terms such as “interim measures” or “interim steps” to describe measures to help a complainant maintain equal educational access• Implied only available during pendency of investigation, did not mandate offering them, not clear if could be punitive or disciplinary, and did not clarify if available to respondents	<p>NEW TERM (Final Rule)</p> <ul style="list-style-type: none">• Non-punitive, individualized services, offered as appropriate and without charge to a complainant or a respondent before or after the filing of a formal complaint, or where no complaint has been filed (34. C.F.R.106.30(a)).• Should be designed to restore or preserve equal access to the education program or activity without “unreasonably” burdening the other party
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Examples of Supportive Measures

- Counseling
- Course modifications
- Schedule changes
- Increased monitoring or supervision

A supportive measure that completely removes a respondent from an activity would likely be considered punitive, except for "emergency removals" for students and "administrative leaves" for employees

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Clery Act Accommodations vs. Supportive Measures

- Complainant/victim must receive notification of existing and available options for available assistance in and how to request changes to:
 - Academic, living, transportation, and working situations
 - Protective measures
 - Legal and advocacy assistance
 - Visa and immigration resources

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Clery/VAWA

- Notify Parties *in writing* of various items:
 - ✓ Standard of evidence
 - ✓ Steps survivors should follow after covered crime
 - ✓ Available rights and options internally and externally
 - ✓ How confidentiality will be preserved
 - ✓ Available resources on- and off-campus
 - ✓ Finding and sanctions (and rationale)

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Emergency Removal/ Admin Leave

Student immediate emergency removal

(34 C.F.R. 106.44(c))

- Based on an individualized safety and risk analysis
- Necessary to protect a student or other individual from **immediate threat to physical health or safety**
- **Notice, opportunity to challenge** provided "immediately" provided the removal
- Consider other laws

Employee administrative leave

(34 C.F.R. 106.44(d))

- Not prohibited
- Consider state law, board policy, handbooks, and bargaining agreements

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Confidentiality

- Not required to maintain anonymity of Complainant after formal complaint is filed
- Both parties must be identified (if identity is known) in written notice of allegations
- Using party initials or withholding Complainant's identity is insufficient

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2

Informal Resolution (Voluntary)


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Informal Resolution

INFORMAL RESOLUTION IS NOT REQUIRED	NOT ALLOWED FOR EMPLOYEE -STUDENT	TIMING
<ul style="list-style-type: none">• Cannot condition enrollment, employment, or any right on waiver of right to investigation and adjudication of formal complaints under grievance procedure• Both parties must voluntarily consent in writing	<ul style="list-style-type: none">• Not available to resolve allegations that employee sexually harassed a student	<ul style="list-style-type: none">• Cannot offer informal resolution process until formal complaint is filed• Any time prior to reaching a determination, either party may request informal resolution• Any party has a right to withdraw prior to agreement

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Informal Resolution Facilitators

- We do not recommend using the Title IX Coordinator or investigator(s) or decisionmakers (complaint and appeal)

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Written Notice: Required

- To both parties
- In writing
- Allegations
- Requirements of informal resolution process (including circumstances under which the party cannot resume a formal complaint arising from the allegations)
- Resulting consequences of participating (e.g., records)

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3

Investigation

106

New: Formal Complaint Response

34 C.F.R. 106.45(b)

- Requires a number of specific steps for investigating, dismissing, and determining responsibility in formal complaint
- Major shift from previous, more deferential stance toward specific policies and practices for complaint resolution

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ANATOMY OF AN INVESTIGATION

Written notice to the parties

Choosing an investigator

Required elements of an investigation

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- Written notice to known parties “upon receipt of written complaint”
- In sufficient time to allow respondent to prepare a response before any **initial** interview
- Must include:
 - Notice of grievance process, including any informal resolution process
 - Notice of allegations, in sufficient detail to allow respondent to prepare a response (names of known parties, conduct alleged, date and location of conduct, if known)

**More
Steps:
Written
Notice**

109

- Must include:
 - Statement that respondent presumed not responsible and that responsibility determined at conclusion of grievance process
 - Notice of parties’ rights to have an attorney or non-attorney advisor and to inspect and review evidence
 - Notice of any provision in the code of conduct that prohibits knowingly making false statements or providing false evidence during the grievance process
- Must be supplemented if new allegations opened for investigation

**More
Steps:
Written
Notice**

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Written Notice: Required

- Informal resolution notice
- Notice at start of investigation
- Dismissal notice
- Interview notices
- Report
- Written determination and notice of appeal rights

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Written Notice: Recommended

- Document information to complainant at initial meeting, including supportive measures requested/provided
- Document that review of evidence provided to both parties
- Notice of party's written response to investigative report
- Etc.

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Who should investigate?

- Can be the Title IX Coordinator
- But should it?

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Who should investigate?

- Trained, unbiased investigator
 - No actual or perceived conflict of interest
 - Check “institutional interests”
 - Presumption that Respondent is not responsible

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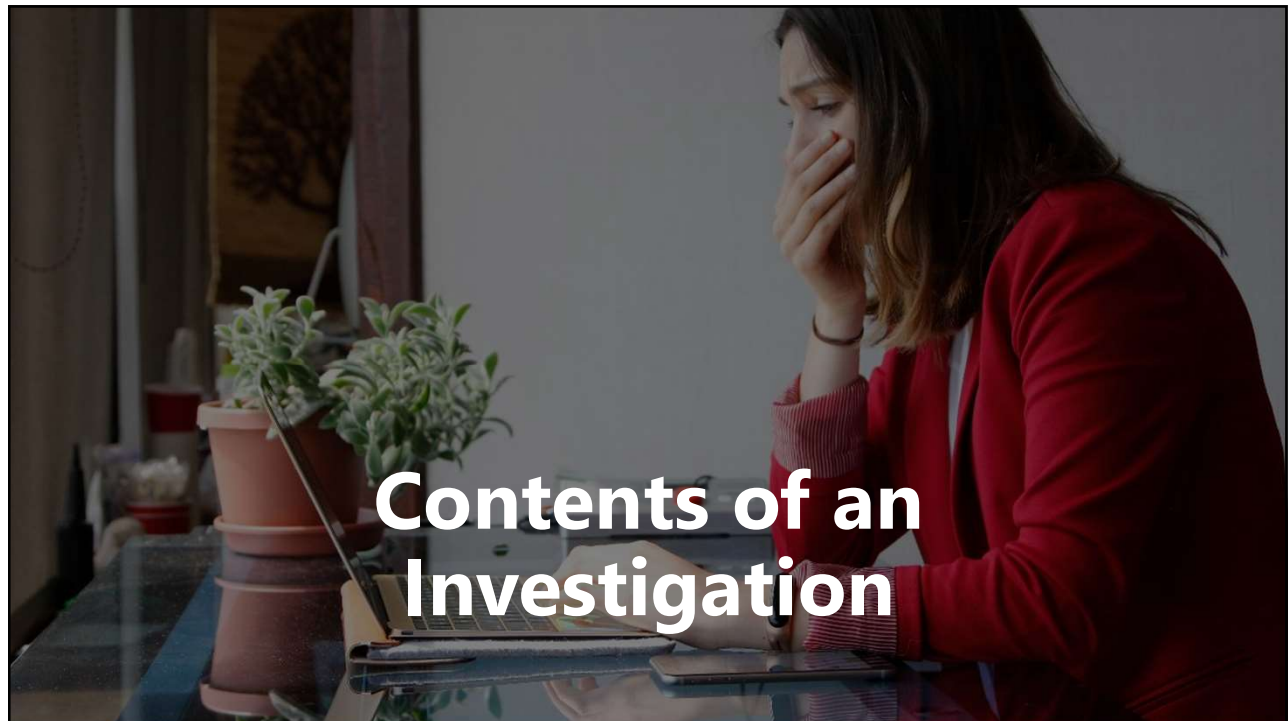
114

Who should investigate?

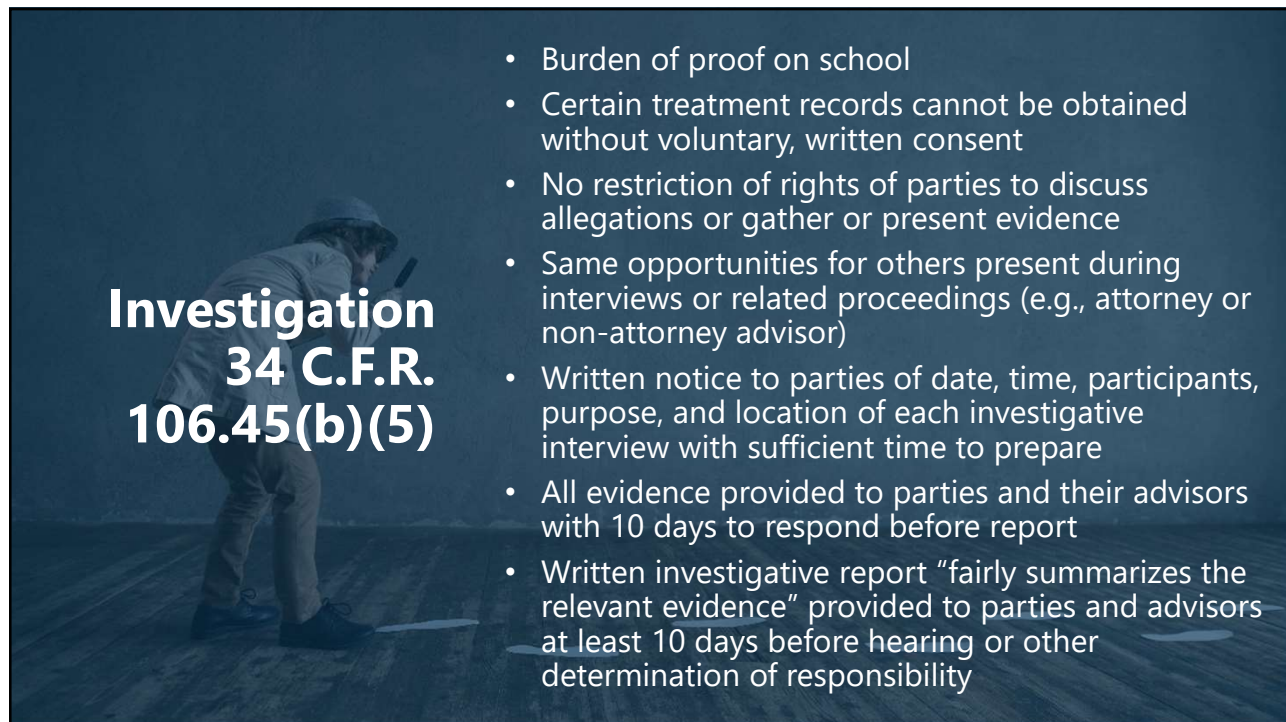
- No “one size fits all” approach
- May need to designate
- Consider the perception of bias
 - Friendship or other relationship with the accused or their family
 - Sex/gender identity
 - Personal conflicts (even if just perceived)
 - Personality conflicts

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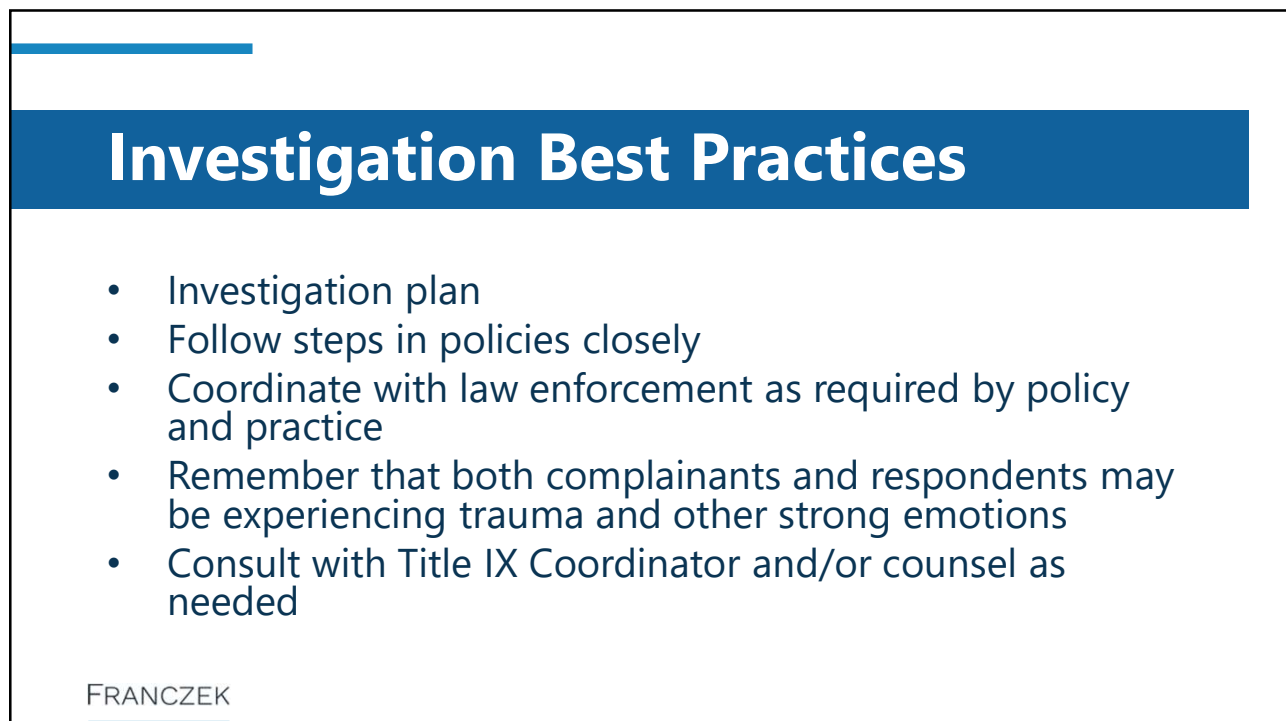
116

A slide with a dark blue background. On the left, there is a silhouette of a person in a white protective suit and mask, looking down at the ground. To the right of the silhouette, the text "Investigation 34 C.F.R. 106.45(b)(5)" is written in white. Further to the right, there is a list of seven bullet points in white text.

Investigation
34 C.F.R.
106.45(b)(5)

- Burden of proof on school
- Certain treatment records cannot be obtained without voluntary, written consent
- No restriction of rights of parties to discuss allegations or gather or present evidence
- Same opportunities for others present during interviews or related proceedings (e.g., attorney or non-attorney advisor)
- Written notice to parties of date, time, participants, purpose, and location of each investigative interview with sufficient time to prepare
- All evidence provided to parties and their advisors with 10 days to respond before report
- Written investigative report “fairly summarizes the relevant evidence” provided to parties and advisors at least 10 days before hearing or other determination of responsibility

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A slide with a white background. At the top, there is a blue horizontal bar with the text "Investigation Best Practices" in white. Below this bar, there is a list of five bullet points in blue text. At the bottom left, the word "FRANCZEK" is written in blue.

Investigation Best Practices

- Investigation plan
- Follow steps in policies closely
- Coordinate with law enforcement as required by policy and practice
- Remember that both complainants and respondents may be experiencing trauma and other strong emotions
- Consult with Title IX Coordinator and/or counsel as needed

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Notice to Parties in Interviews

- What to expect about future contact (timing, updates, encourage follow-up to you)
- Written copy of policies/procedures
- Notify of retaliation rights – provide specific examples
- No “Gag” order but can warn of retaliation risks

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Interviewing Best Practices

- Explain your role as a neutral
- Open-ended questions followed by more tailored follow up
- Allow ample time, don't interrupt or rush
- Ask “Is there anything else?”
- Ask for other witnesses, evidence, incidents

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Interview Notes

- Include: Facts + Statements (consider quotes, but be careful)
- Don't Include: Conclusions + Judgements
- Label: Name of Witness, Date, Time, Interviewer, Location, Method, Those Present

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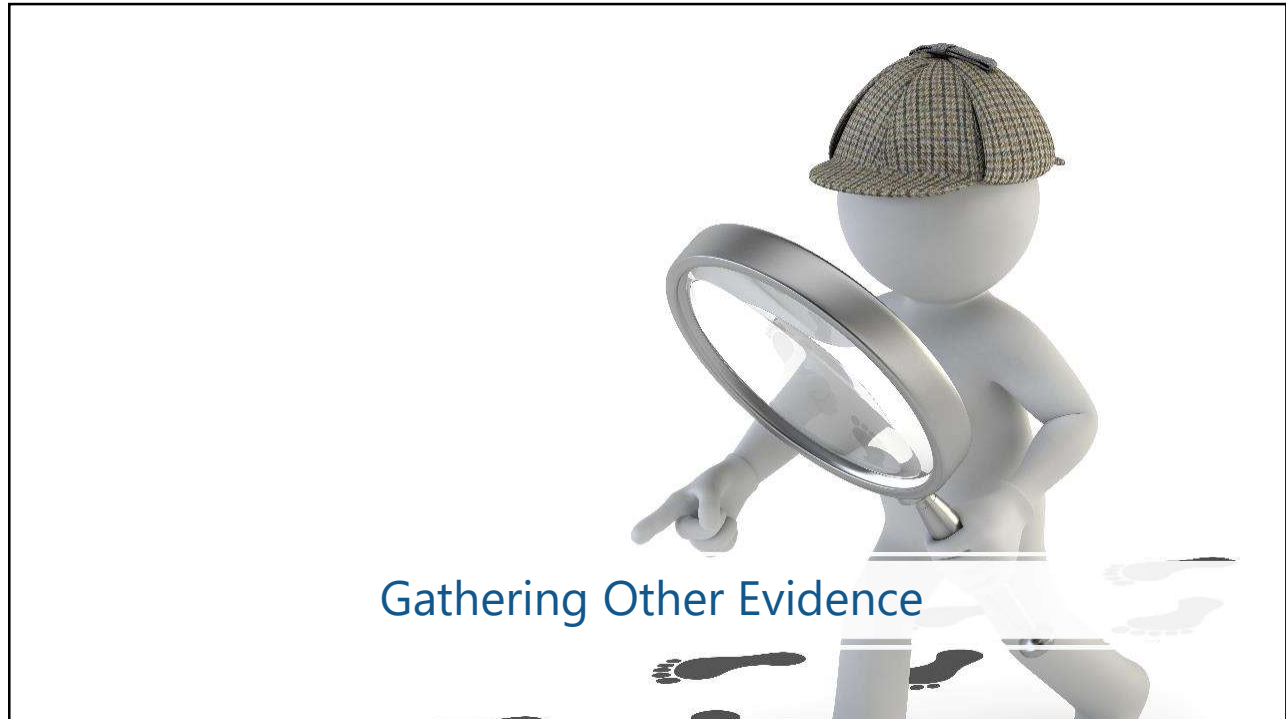
Investigation Plans Aren't Static

Reassess plan for
investigation
frequently



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Warning! Medical Records

- Notice of allegations should not divulge either party's medical information
- Prohibited from accessing or using medical, psychological, or similar records in grievance process without a party's (or parent's) voluntary, written consent

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Opportunity to Review Evidence

- Before the investigatory report is completed, evidence directly related to the allegations must be sent to each party and advisor
- Includes both exculpatory and inculpatory evidence, and evidence that you do not intend to rely upon
- Parties have 10 days to provide a written response

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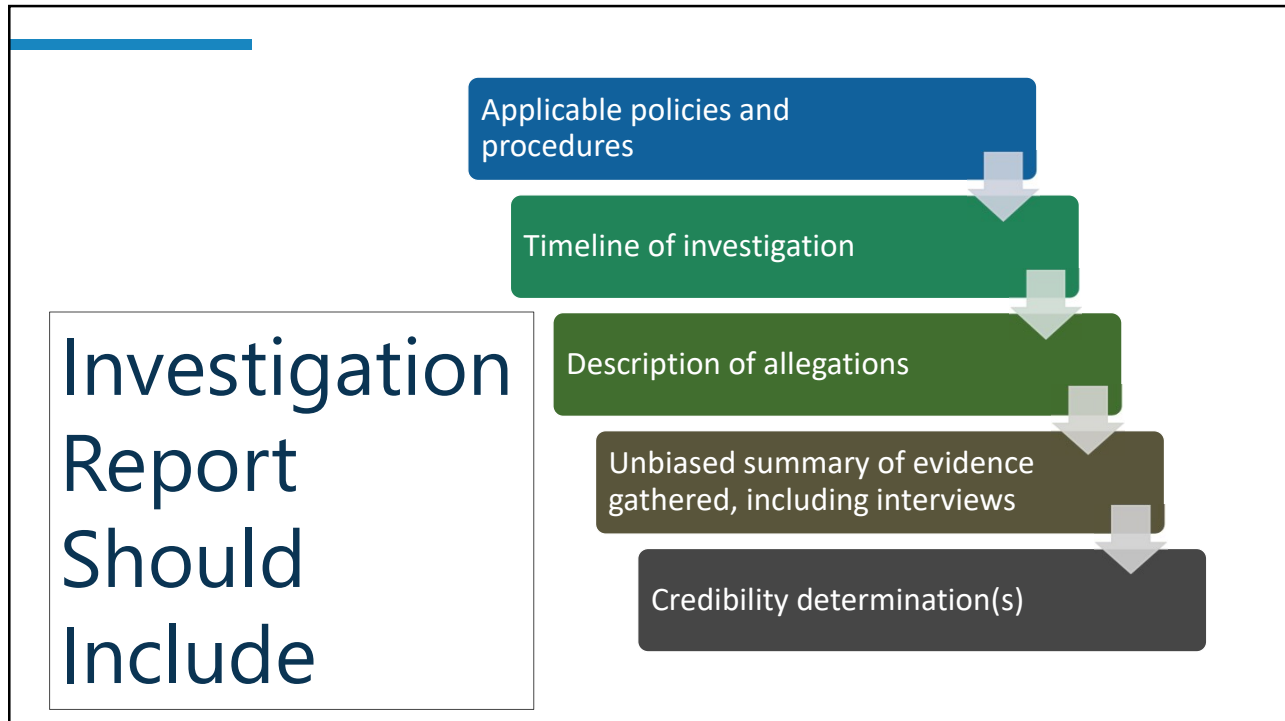
125

Investigation Report Writing

- Fairly summarizes the relevant evidence
- Provide the report to the parties and their advisors, if any, for their review and written response, at least 10 days before a hearing or other determination of responsibility

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Live Hearings

- Questioning
- Cross-examination
- Advisor(s)
- Virtual hearings

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Relevance

- Cross-Examination
- Provide reasoning for irrelevance
- Consider all relevant evidence
- Exceptions

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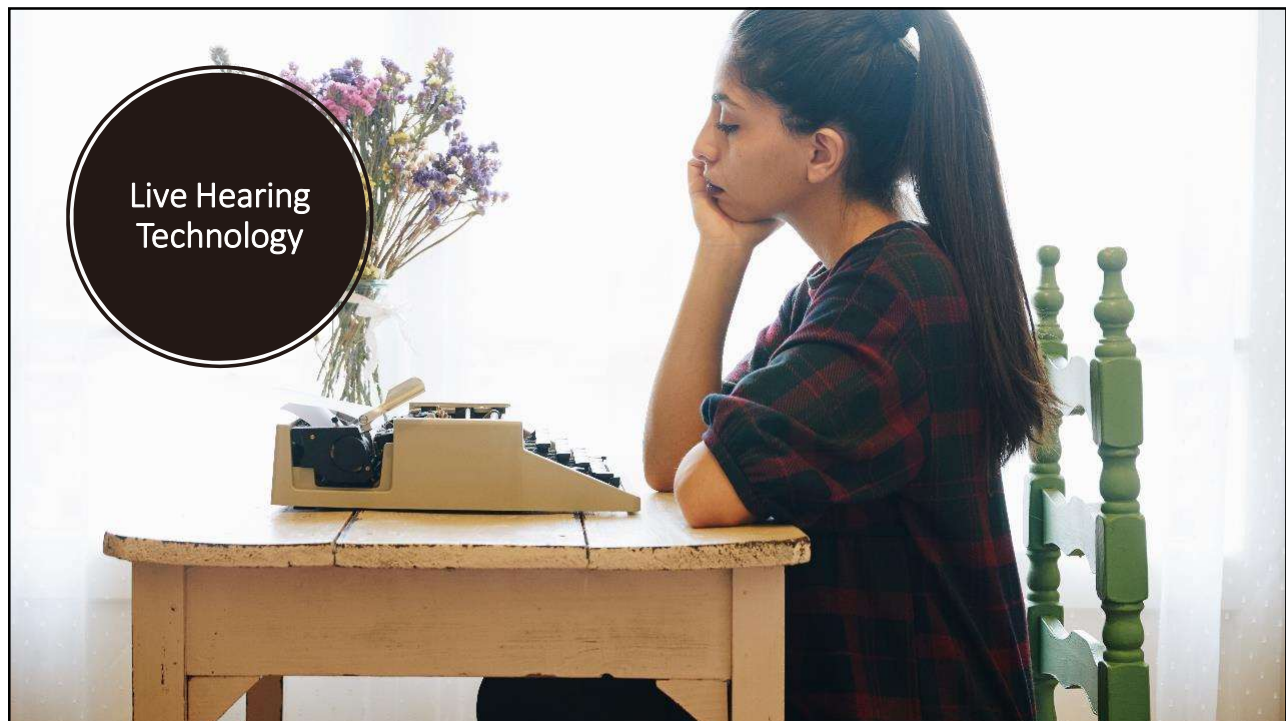
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Relevance

- Rape shield laws
- Treatment records
- Legally privileged information
- Improper inference
- Prior statements

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Live Hearing
Technology

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4 Decision

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Decisionmaker(s) (Complaint)

- Cannot be the Title IX Coordinator or the investigator(s)

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Written Determination

Identify	Identify the allegations
Describe	Describe procedural steps taken
Cite	Cite potential policy violations
Summarize	Fairly summarize all relevant evidence
Provide	Provide statement of result, with rationale, for each allegation
Appeal	Appeal procedures

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Factual Findings	Separate findings for each alleged policy violation
	Focus on material facts (i.e., those that affect outcome)
	Can describe undisputed and disputed facts separately
	For any facts in dispute, show your work and reasoning

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	Remember the Standard of Proof
	Preponderance of the Evidence

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Remedies

- Disciplinary action against perpetrator
- Counseling for perpetrator/victim
- Changes to services or policies
- Remedies for complainant and others
- Etc.!!

139

5 **Appeal**

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Decisionmaker(s) (Appeal)

Cannot be the Title IX
Coordinator or the
investigator(s) or the
decisionmaker (complaint)

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Appeal Process

- Available to both parties
- Three bases for appeal
- Notify party of appeal in writing
- Apply procedures equally for both parties
- Opportunity to submit written statement
- Issue written decision to both parties

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Bias, Conflicts of Interest, and Other Fairness Concerns

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Bias

The Title IX Coordinator, investigator, decision-maker, or informal resolution facilitator must not have a conflict of interest or bias for or against Complainants or Respondents generally or for or against any individual Complainant or Respondent. And that they not prejudge any matter before them.

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In the Chat

What do these words mean to you:

Prejudgment

Conflict of Interest

Bias

145

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5 Min Guided Breakout

What steps can you take to avoid:

Prejudgment

Conflict of Interest

Bias

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Recordkeeping

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Recordkeeping

Must maintain the following for 7 years:

- Sexual harassment investigation documents, including:
 - Determination regarding responsibility
 - Recordings or transcripts of live hearing
 - Disciplinary sanctions imposed on Respondent
 - Remedies provided to Complainant
- Appeal and result
- Informal resolution and result
- Actions taken in response to a report of sexual harassment
- Actions taken in response to a formal complaint of sexual harassment

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Recordkeeping

Responses to formal and informal complaints and actions taken in response should include:

- The basis for the recipient's conclusion that its response was not deliberately indifferent
- Documentation that it has taken measures designed to restore or preserve equal access to the recipient's education program or activity
- Supportive measures or if no supportive measures are provided, document the reasons why such a response was not clearly unreasonable in light of the known circumstances

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Programming

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Clery/VAWA Programming

- Primary prevention and awareness programs for all incoming students and new employees
- Ongoing prevention and awareness campaigns for students and employees
- Range of topics, including definitions of prohibited conduct, resolution procedures, possible sanctions and protective measures, and available resources and options

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Questions



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