

Virtual Certified Informal Resolution Facilitator Training

APRIL 20, 2023



MEET OUR LEADERSHIP TEAM



Betsy Smith
Director Title IX Services



Courtney Bullard
CEO



Celeste Bradley
Director DEI/EEO Services

Housekeeping



- Chat bar
- Breaks
- Materials
- K12 and Higher Ed

Agenda

Session
#1

Title IX Overview

Session
#2

Facilitator's Role

Session
#1

Informal Resolution
Process -Notice(s)

Session
#2

Serving Impartially

Session
#1

Break

Session
#2

Types of Informal
Resolution

Session
#2

Outcome Options

Purpose of ICS Training



Not Legal Advice

Designed to provide you with options so that you can make the decisions that make the most sense for you/your school.



We Are All In This Together!

We love when our participants bring information to us and provide their perspectives.



This is Still Very New!

Most decisions will be school specific and the regulations allow for some flexibility.

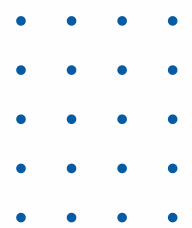


INSTITUTIONAL
COMPLIANCE SOLUTIONS



WHAT IS TITLE IX?

"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."

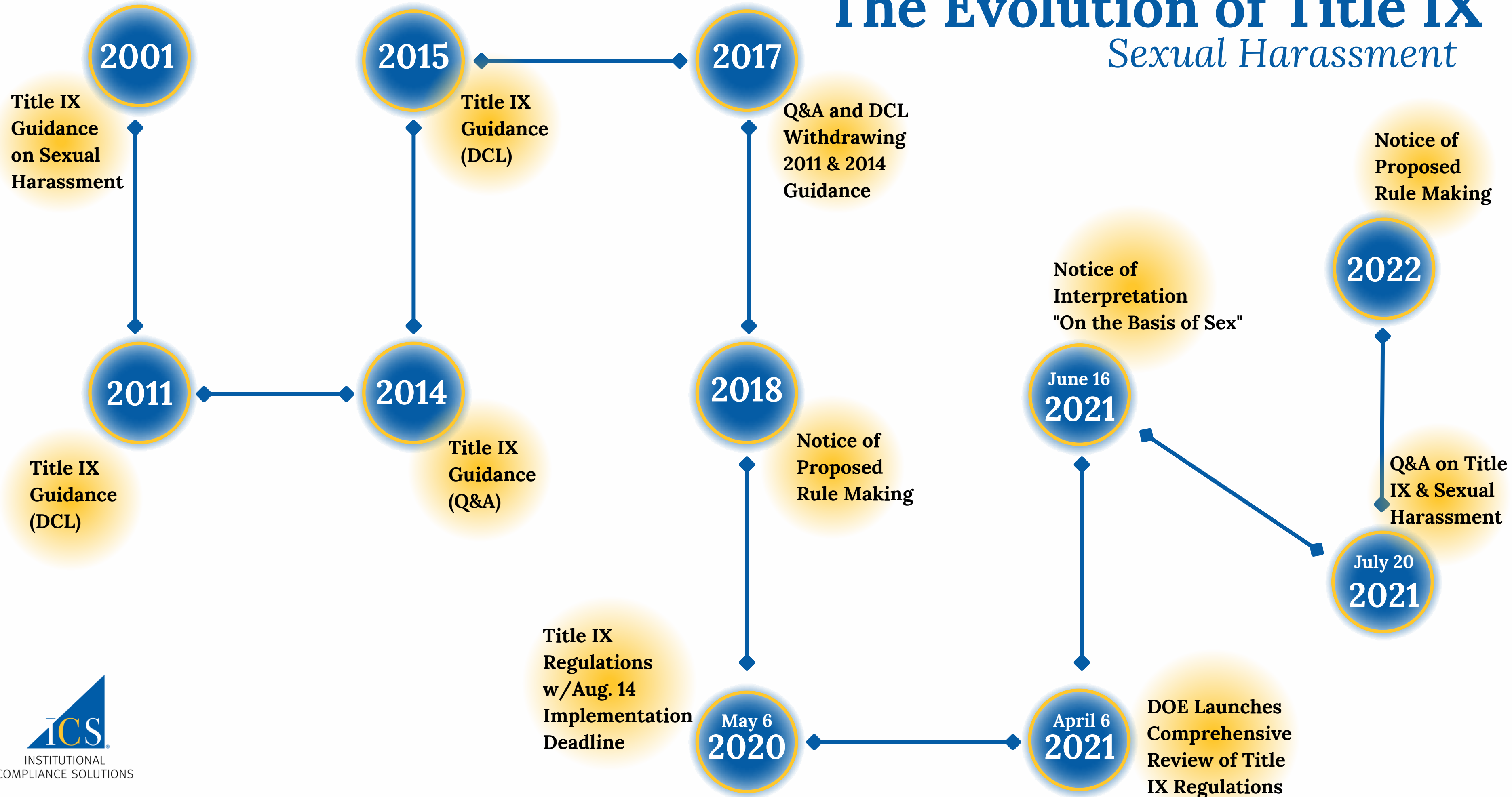


Title IX Applies To:

- Student on Student
 - Employee on Employee
 - Student on Employee
 - Employee on Student

The Evolution of Title IX

Sexual Harassment



Changes & Requirements Overview



Prescriptive
Title IX Process



Officials
with Authority



Policies &
Procedures

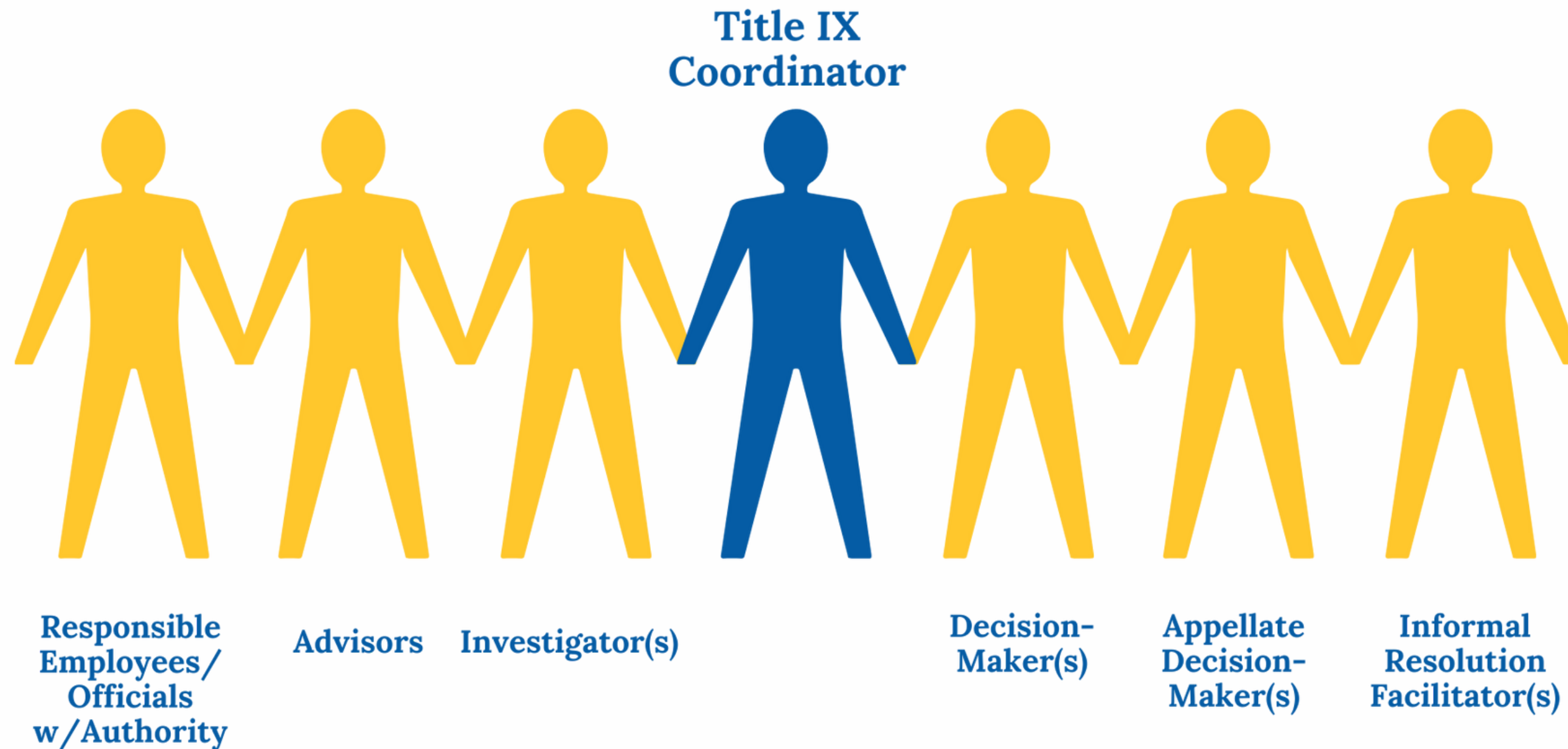


Team & Training



Coordinator
with Authority

TITLE IX TEAM



Conduct on the basis of sex that satisfies one or more of the following:

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

Unwelcome conduct determined by a reasonable person to be so severe, pervasive, AND objectively offensive that it effectively denies a person equal access to the recipient's education program or activity, or...

"Sexual Assault," "Dating Violence," "Domestic Violence," or "Stalking" as defined in the Clery Act.

SEXUAL HARASSMENT

Sexual Assault is:



An offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI's Crime Reporting system. 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.

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 incapacity.

Incest

Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

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.

Statutory Rape

Sexual intercourse with a person who is under the statutory age of consent.

Domestic Violence

A FELONY OR MISDEMEANOR CRIME OF VIOLENCE COMMITTED BY A:

- current or former spouse or intimate partner of the victim
- person with whom the victim shares a child in common
- person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
- 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 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.



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:

- The length of the relationship
- The type of relationship
- 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.



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.

For purposes of this definition:

- ▶ Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.
- ▶ Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- ▶ Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.



Conduct + Education Program or Activity

It's more than the behavior...
Must evaluate location/
Jurisdiction as well



Jurisdiction



Education Program or Activity

Locations, events, or circumstances (operations) over which the school exercised substantial control over both the respondent AND the context in which the sexual harassment occurs.

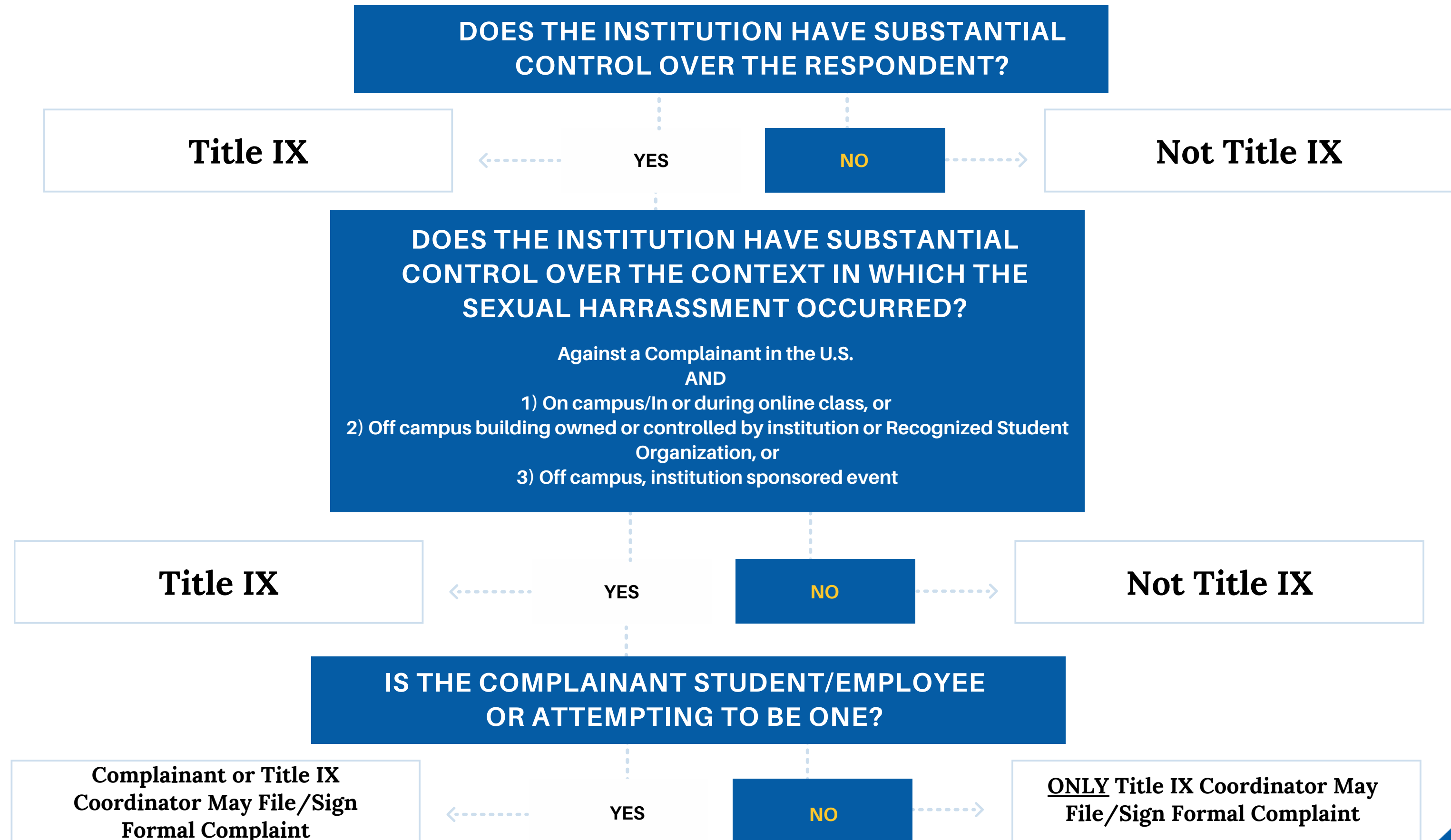


Includes online sexual harassment but it must be analyzed to determine if it occurs in education program or activity.

Does not create or apply a geographic test, does not draw a line between “off campus/property” and “on campus/property,” & does not create a distinction between sexual harassment occurring in person vs online.

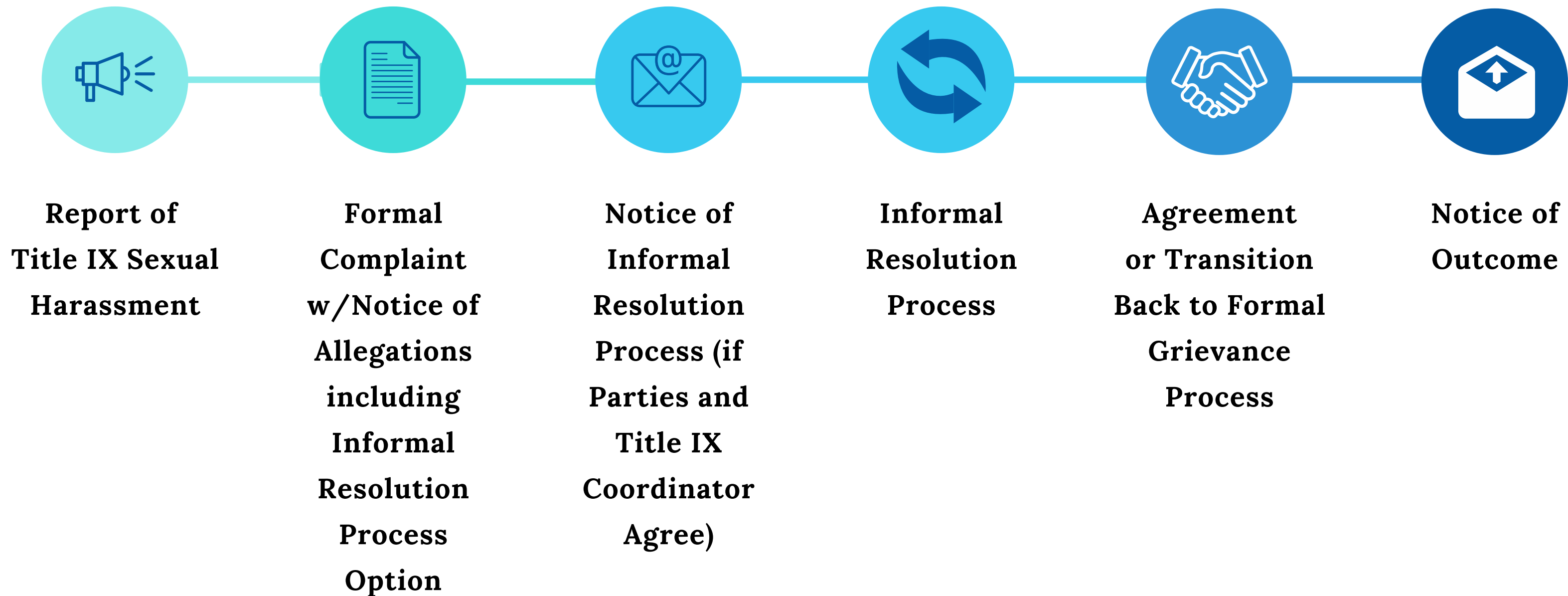


Education Program or Activity/Jurisdiction



INSTITUTIONAL
COMPLIANCE SOLUTIONS

TITLE IX INFORMAL RESOLUTION PROCESS



*Informal Resolutions may not be used when the Respondent is an employee and the Complainant is a student.



**Informal
Resolution
CANNOT be used
when the
Respondent is an
Employee and the
Complainant is a
Student**



Report of Title IX Sexual Harassment to Official with Authority

- Supportive measures
- Options explained
- No option for informal resolution YET

Formal Complaint

✓ In Writing

- Hard copy
- Electronic
- Online submission

✓ Signed by:

- Complainant (or Parent/Guardian- K-12)
- Title IX Coordinator

✓ Alleging Sexual Harassment

✓ Requesting an Investigation





Notice of Allegations (Complainant)



DEAR **INSERT NAME**,

You have alleged that **INSERT RESPONDENT NAME** engaged in Sexual Harassment in violation of the Title IX Sexual Harassment Policy. The allegations specifically include that on **INSERT DATE/TIME** at **INSERT LOCATION** the following occurred: **INSERT NARRATIVE**.

INSTITUTION NAME takes reports of alleged Sexual Harassment seriously. Thus, there is a formal process for investigation and resolution of such allegations. A copy of the entire **INSTITUTION** Title IX grievance process can be found **here: INSERT LINK**. Allegations of Sexual Harassment can also be resolved through an informal resolution if there is agreement by the parties and the Title IX Coordinator. The informal resolution process can be found **here: Insert LINK**.

Throughout the entire grievance process, you are entitled to have an advisor of your choice, who may be, but is not required to be, an attorney. This advisor may attend meetings with you and inspect and review evidence provided during the grievance process. More information about the role of an advisor in the grievance process can be found **here: INSERT LINK Directly to section of policy re: advisor's role.**

INSERT RESPONDENT is presumed not responsible for the alleged Sexual Harassment. A determination regarding responsibility is made at the conclusion of the grievance process.

The **INSTITUTION** Employee/Student Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process. Applicable Code of Conduct sections can be found **here: LINK TO CODE SECTIONS**. The entire Title IX Policy and a document with your rights and responsibilities as a Complainant are attached to this email as a PDF file for your review.

You have been prescheduled to attend an investigation meeting related to these allegations on **INSERT DATE TIME AND LOCATION**. Title IX investigator (**INSERT NAME**) will be present during that meeting. As noted previously, you are permitted to bring an advisor of your choice to all meetings in the Title IX process.

Please notify me if you have any questions. You may reach me at **INSERT CONTACT INFO**.

Thank you,

SIGNATURE
Title IX Coordinator



Notice of Allegations (Respondent)



Dear **INSERT NAME**

It has been alleged that you engaged in Sexual Harassment against **INSERT NAME** in violation of the Title IX Sexual Harassment Policy. The allegations specifically include that on **INSERT DATE/TIME** at **INSERT LOCATION** the following occurred: **INSERT NARRATIVE**.

INSTITUTION NAME takes reports of alleged Sexual Harassment seriously. Thus, there is a formal process for investigation and resolution of such allegations. A copy of the entire **INSTITUTION** Title IX grievance process can be found **here: INSERT LINK**. Allegations of Sexual Harassment can also be resolved through an informal resolution if there is agreement by the parties and the Title IX Coordinator. The informal resolution process can be found **here: INSERT LINK**.

Throughout the entire grievance process, you are entitled to have an advisor of your choice, who may be, but is not required to be, an attorney. This advisor may attend meetings with you and inspect and review evidence provided during the grievance process. More information about the role of an advisor in the grievance process can be found **here: INSERT LINK Directly to section of policy re: advisor's role.**

You are presumed not responsible for the alleged Sexual Harassment. A determination regarding responsibility is made at the conclusion of the grievance process. The **INSTITUTION** Employee/Student Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process. Applicable Code of Conduct sections can be found **here: LINK TO CODE SECTIONS**. The entire Title IX Policy and a document with your rights and responsibilities as a Respondent are attached to this email as a PDF file for your review.

You have been prescheduled to attend an investigation meeting related to these allegations on **INSERT DATE TIME AND LOCATION**. Title IX investigator (**INSERT NAME**) will be present during that meeting. As noted previously, you are permitted to bring an advisor of your choice to all meetings in the Title IX process.

Please notify me if you have any questions. You may reach me at **INSERT CONTACT INFO**.

Thank you,

Signature
Title IX Coordinator

Notice of Informal Resolution Process

- When:
 - Requested by one or both parties and/or recommended by Title IX Coordinator (cannot be coerced, forced or required by Institution) AND
 - Agreed by all parties
 - After Formal Complaint and before determination regarding responsibility
- Includes:
 - Allegations
 - Requirements of informal resolution process including circumstances under which it precludes parties from resuming Formal Complaint from the same allegations
 - Right to withdraw
 - Consequences including records that will be maintained or could be shared
 - Voluntary written consent to the informal resolution process

Reasons a Title IX Coordinator May Choose Not to Agree to Informal Resolution



- Severity of the allegations
 - Some policies/institutions prohibit IR when Sexual Assault (Rape) is alleged
- Multiple allegations against the same Respondent
- Multiple Respondents in the same allegations
- Use of a weapon
- **MUST** not allow when Respondent is employee and Complainant is a student



Signed Agreement to Enter Informal Resolution Process



INSERT COMPLAINANT NAME and **INSERT RESPONDENT NAME** agree to participate in the Informal Resolution Process to attempt to resolve the allegations against **INSERT RESPONDENT**.

The allegations include **(INSERT NARRATIVE** including parties, date, time, location and allegations).

The requirements of the Informal Resolution Process can be found **(INSERT LINK or Section number of Policy and link to full policy)**.

If a resolution is reached through the Informal Resolution Process, parties may not appeal the agreement, or resume the Formal Grievance Process related to the same allegations. However, either party, at any time prior to the resolution may withdraw from the Information Resolution Process and resume the Formal Grievance Process with respect to the Formal Complaint.

Records from the Informal Resolution Process will be maintained by **INSERT INSTITUTION** for seven **(or more)** years but will not be used as part of the investigation or resolution if the Formal Grievance Process is resumed. Records will be shared between the parties during the Informal Resolution Process as determined and communicated by the informal resolution facilitator.

_____	_____	_____	_____
Complainant	Date	Respondent	Date
_____	_____		
Title IX Coordinator	Date		



Informal Resolutions



→ Cannot be offered as a condition of enrollment or continued employment

→ Cannot be offered to resolve employee on student allegations

→ After a Formal Complaint is filed

→ Prior to decision regarding responsibility

→ Parties cannot be required to participate

Recipient Must:

- Provide written notice disclosing allegations, requirements of the informal resolution process including circumstances under which it preclude the parties from resuming a Formal Complaint arising from the same allegations.
- Allow any party the right to withdraw from the informal resolution process and resume grievance process with respect to Formal Complaint.
- ***Provides consequences resulting from informal resolution process including records maintained or shared.***
- Obtain both parties voluntary, written consent to the informal resolution process.



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Informal Resolution Agreement

- Can include anything as long as agreed to by the parties, up to and including expulsion
- Remedies
- Impact statements
- Apologies
- Acceptance of responsibility
- Restorative justice practices
- Etc.





Signed Agreement Informal Resolution



INSERT COMPLAINANT NAME and **INSERT RESPONDENT NAME**, after agreeing to participate in the Informal Resolution Process have reached an agreement. The parties agree to the following resolution:

INSERT RESOLUTION

Requirements

Sanctions

Remedies

This agreement is final and there is no appeal. Failure for the Respondent to complete the requirements of this agreement will be considered a violation of the Code of Conduct **(or handbook)** and may result in discipline under the **INSTITUTION** conduct process.

Records from the Informal Resolution Process will be maintained by **INSERT INSTITUTION** for seven **(or more)** years.

Complainant Date

Respondent Date

Title IX Coordinator Date



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Withdraw From Informal Resolution Process and Return to Formal Grievance Process

- Requested by either party
- Any time prior to agreement
- No explanation necessary
- What records can be used in formal process when transitioning back?
- Written notice when resuming formal process



Outcome

Notice of Outcome

- Includes signed agreement
- Expectations of parties
- Deadlines
- Follow up requirements
- Appeal options (if any)
- How records will be maintained
- Who to contact if questions





Informal Resolution Outcome (Respondent)



Dear **INSERT NAME**

Attached to this email you will find the signed Informal Resolution Agreement. As we have discussed, this agreement is final. You must complete all requirements within the agreement or be subject to discipline under the **INSTITUTION** Code of Conduct.

Please let me know if you have any questions.

Thank you,

Signature
Title IX Coordinator



Informal Resolution Outcome (Complainant)



Dear **INSERT NAME**

Attached to this email you will find the signed Informal Resolution Agreement. As we have discussed, this agreement is final. The Respondent will complete all requirements within the agreement or be subject to discipline under the **INSTITUTION** Code of Conduct.

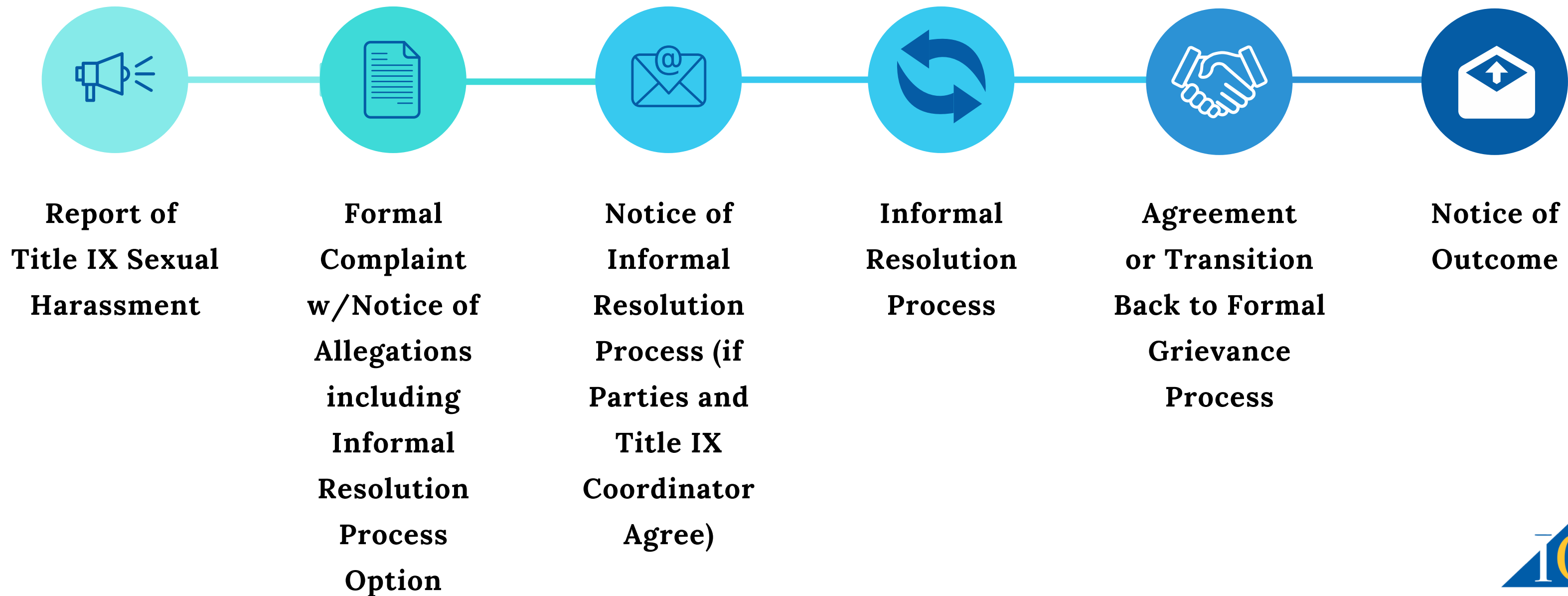
The supportive measures for you will remain in place and the following remedies have been instituted. (Include them in the body of the email).

Please let me know if you have any questions.

Thank you,

Signature
Title IX Coordinator

REVIEW: TITLE IX INFORMAL RESOLUTION PROCESS



*Informal Resolutions may not be used when the Respondent is an employee and the Complainant is a student.



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Questions?



Attendance Link

Informal Resolution Facilitator's Role



What is Your Role?

- Establish expectations
 - For you
 - For the parties
- Define goals/objectives
- Listen
- Document
- Receive permission before sharing
- Stay flexible
- Remain neutral
- Serve as the "go between"



Informal Resolutions Will Take Significant Time

- Discussion between parties
 - through you
 - in person
 - in writing
- Be patient, don't rush
- Set deadlines

PUT IN THE EFFORT



**CHALLENGES
AHEAD**

- If parties request and agree to this process they will have to put in the work...and so will you.
- Every outcome will look different.
- It may get messy.
- Give breaks during meetings with either or both parties.
- Parties may put up walls- therefore, you may have to resume the Formal Grievance Process.



- Be Kind
- Be Patient
- Be Understanding
- Include/Update Supportive Measures

Serving Impartially

- Avoiding Conflicts of Interest and Bias
- Reserving Judgment



Experiences



Media

Beliefs

Education

Biases



Automatic Thoughts

Feelings

Actions



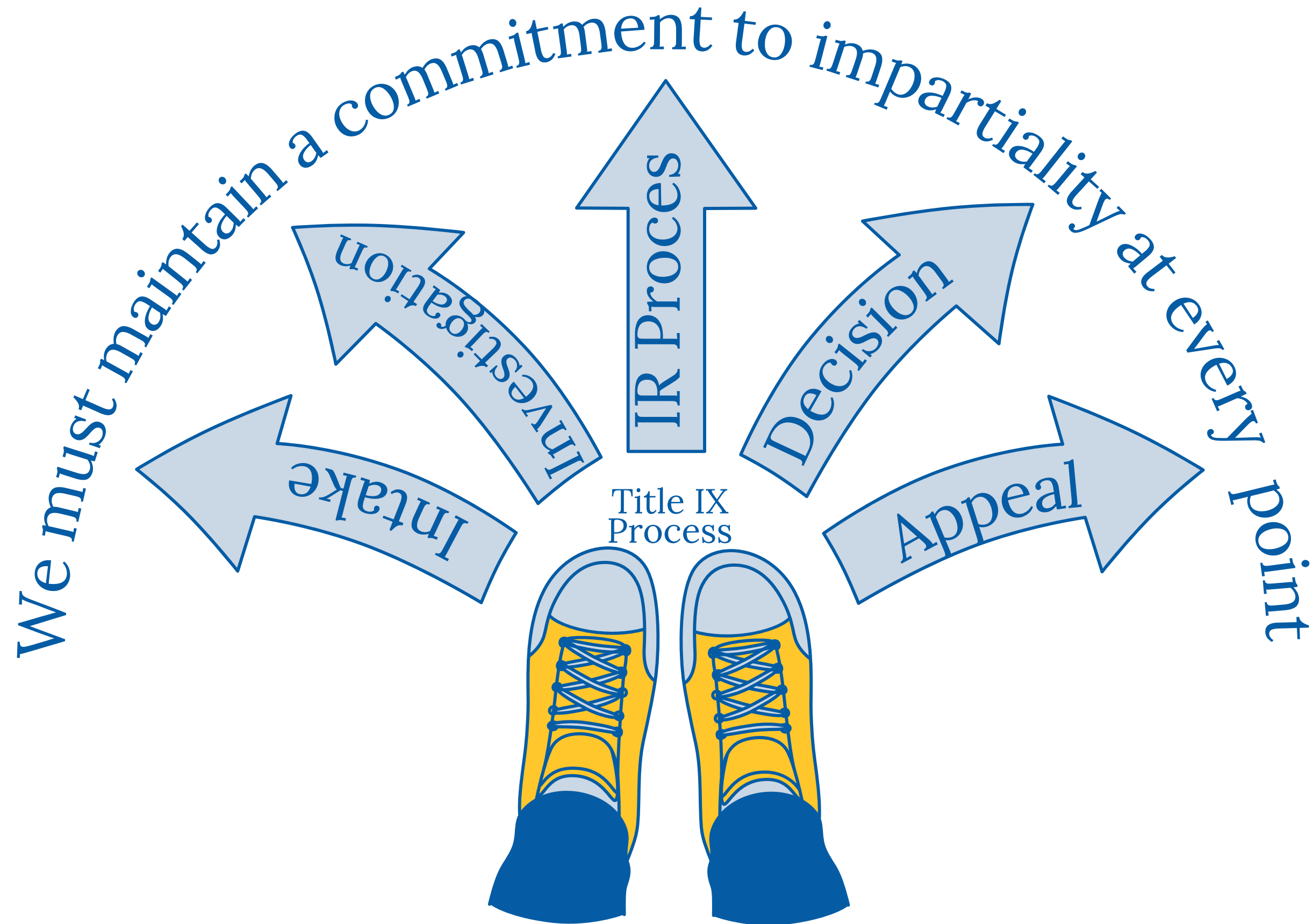
Discriminatory

Non-Discriminatory

Overt

Covert





Avoid Conflict of Interest/Bias



Generally toward Complainants/Respondents



Occurs when personal or private interests possibly can compromise one's judgment, decisions, or actions



Three types of COI:

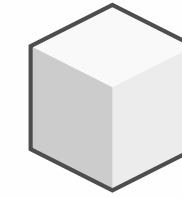
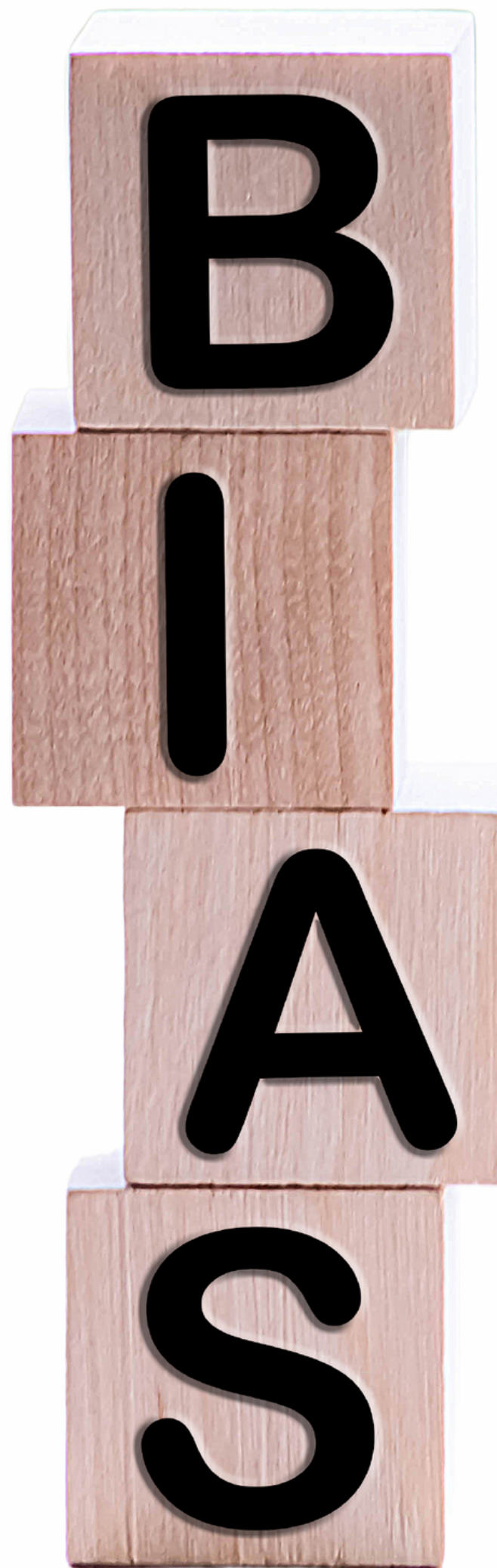
- **Actual**
- **Perceived**
- **Potential**



Implicit Bias

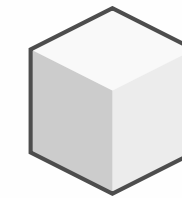
- **"Implicit bias" refers to the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner.**
 - **Expressed indirectly**
 - **Unaware of bias**
 - **Operates subconsciously**
- **Example: Assuming that a woman entering a hospital room is a nurse instead of a doctor because of her gender.**

Explicit Bias



“Explicit bias” refers to the attitudes and beliefs we have about a person or group on a conscious level.

- **Expressed directly**
- **Aware of bias**
- **Operates consciously**



Example: Statement- "I don't think a woman would make a good CEO... Women are too emotional."

Suspend Your Mind Withhold/Reserve Judgment



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TYPES OF INFORMAL RESOLUTION



RESOLUTION AGREEMENT

- Respondent accepts responsibility (check your policy)
- Title IX Coordinator recommends sanction and remedies
- Parties agree to sanctions and remedies as recommended





FACILITATED DIALOGUE

Structured conversation between the Complainant and Respondent led by a facilitator with the possibility of reaching an agreeable outcome



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MEDIATION

- Procedure in which the parties discuss disputes with the assistance or aid of an Informal Resolution Facilitator who helps them in reaching settlement.
 - Parties talk privately about their thoughts, feelings and experiences
 - Consider what actions could meaningfully resolve the situation
 - Explore mutually agreeable solution
 - Negotiate an agreement



SHUTTLE NEGOTIATION/ CONVERSATION

- Conversation that is indirect and facilitated by Informal Resolution Facilitator.



[illegible]

- [illegible]

CURRENT TRENDS FOR RESOLVING CONFLICT

OUTCOME CONSIDERATIONS

Are there
measurable
outcomes?

Who retains
control over
outcomes?

Additional
Documentation
needed?

Follow-up
Required?

PRACTICAL TAKEAWAYS

This is hard work.
The path to
resolution is never
a straight line.

Can be helpful to
start with needs
vs. wants for each
party.

Have
forms/templates
ready before IR.

What does your
policy state?

Questions?





Attendance Link

FREE Webinars

Upcoming Trainings


Webinar Wednesdays



PREGNANCY
DISCRIMINATION AND
ACCOMMODATIONS
UNDER TITLE IX

Free  Webinar

TITLE IX
WEBINAR
WEDNESDAYS


Courtney Bullard
ICS CEO

504s, IEPs,
& THE
OVERLAP
WITH
TITLE IX

FREE
WEBINAR


INSTITUTIONAL
COMPLIANCE SOLUTIONS

K-12 

INSTITUTIONAL
COMPLIANCE SOLUTIONS



LIVE WEBINAR

TITLE IX CONSIDERATIONS WITH
FAITH BASED SCHOOLS

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- Institutional Compliance Solutions
- Courtney Bullard
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- Celeste Bradley



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