

Title IX Compliance Training Certification

Train the Trainer

Oregon School Personnel Administrators Fall 2023 Conference

Thompson & Horton

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Join the K-12 Title IX Leadership Alliance

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OSPA Title IX Training Fall 2023

Yesterday	Today
8-9 a.m.	9:30-11:30 a.m.
Compliance Certification Part 1	Decision-Maker Training
10:15 a.m.-Noon	Noon-1:30 p.m.
Compliance Certification Part 2	Informal Resolution Training
2:30-3:45 p.m.	
Investigation Training	
3:45-5 p.m.	
Coordinator Training	



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Ground Rules


- ✓ Ask questions/share perspective
- ✓ Not legal advice/keep it hypothetical
- ✓ Materials will be available for website posting

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Handouts!


bit.ly/OSPA2023





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Polling Access



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Option Two

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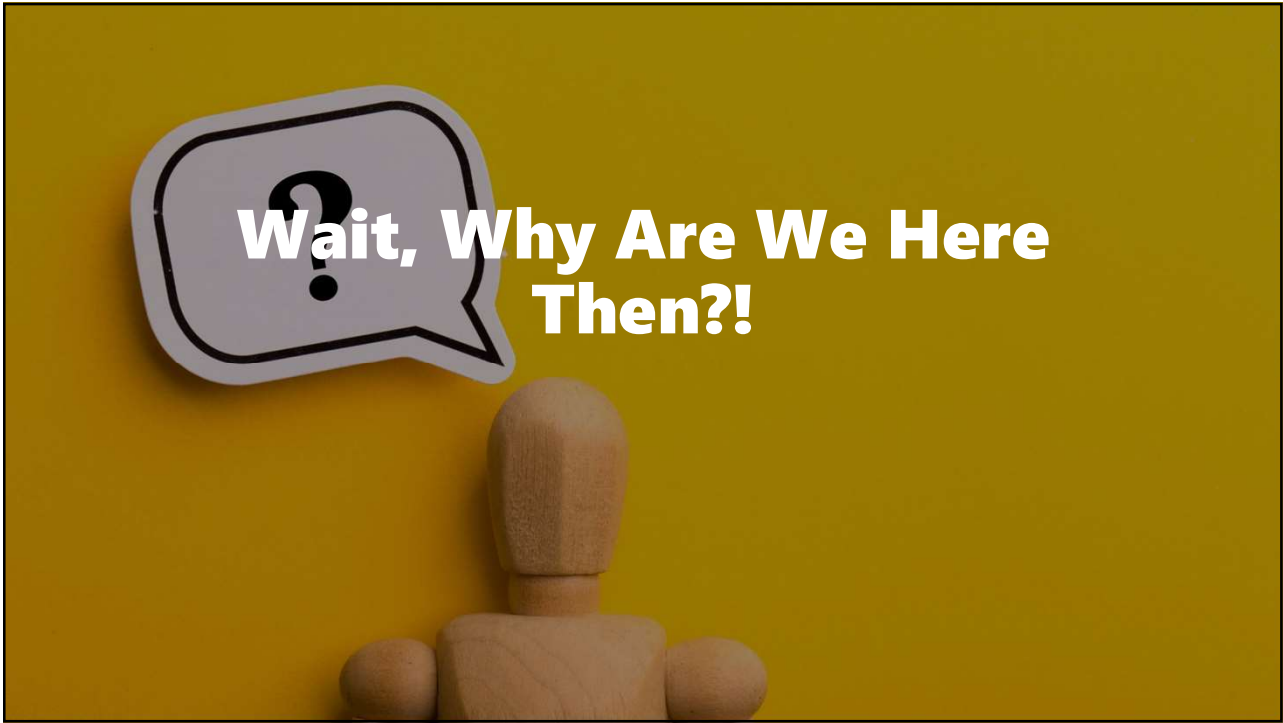
A man and a woman are standing in a meeting room, looking at a whiteboard covered with pink sticky notes. The man is pointing at one of the notes. There are blue chairs and a wooden table in the foreground.

Train the Trainer Tip

Informal Resolution Facilitator Training (covered in our Compliance Certification Training):

- ✓ What is "Sexual Harassment" under Title IX?
- ✓ What is the scope of the educational institution's "education program or activity"?
- ✓ What are the steps in the Title IX sexual harassment grievance process?
- ✓ How do you serve impartially without bias?

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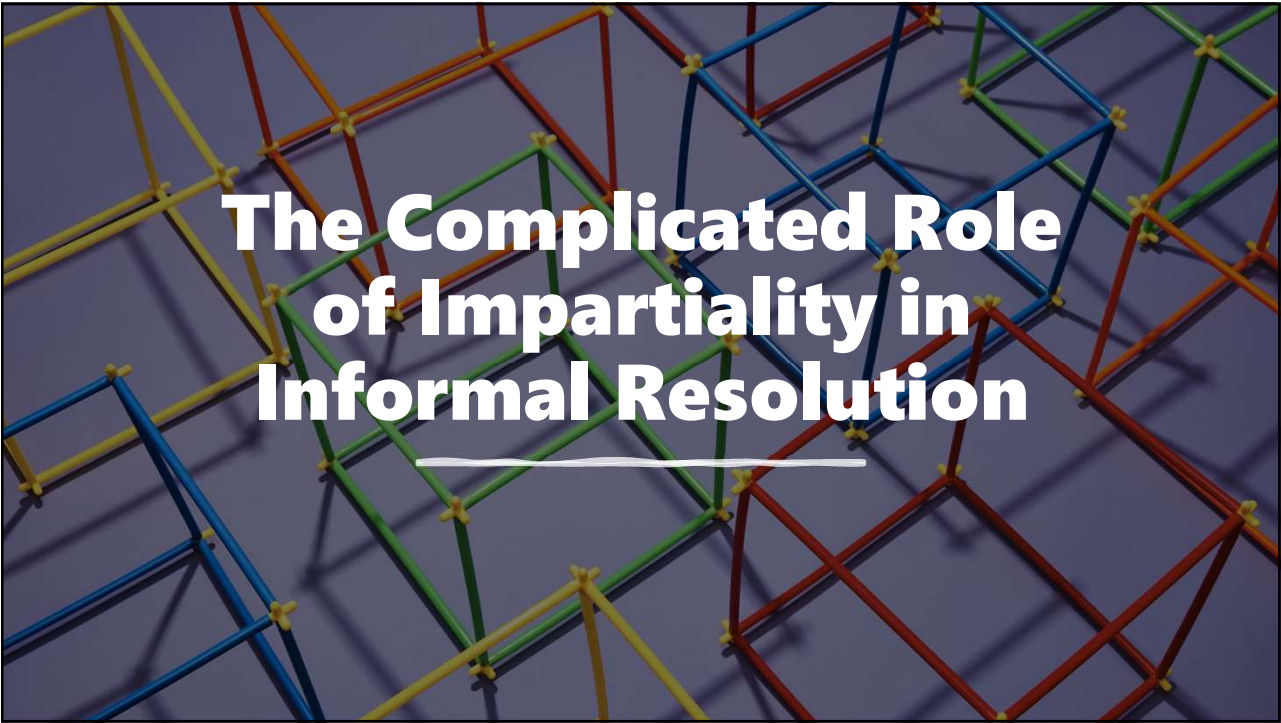


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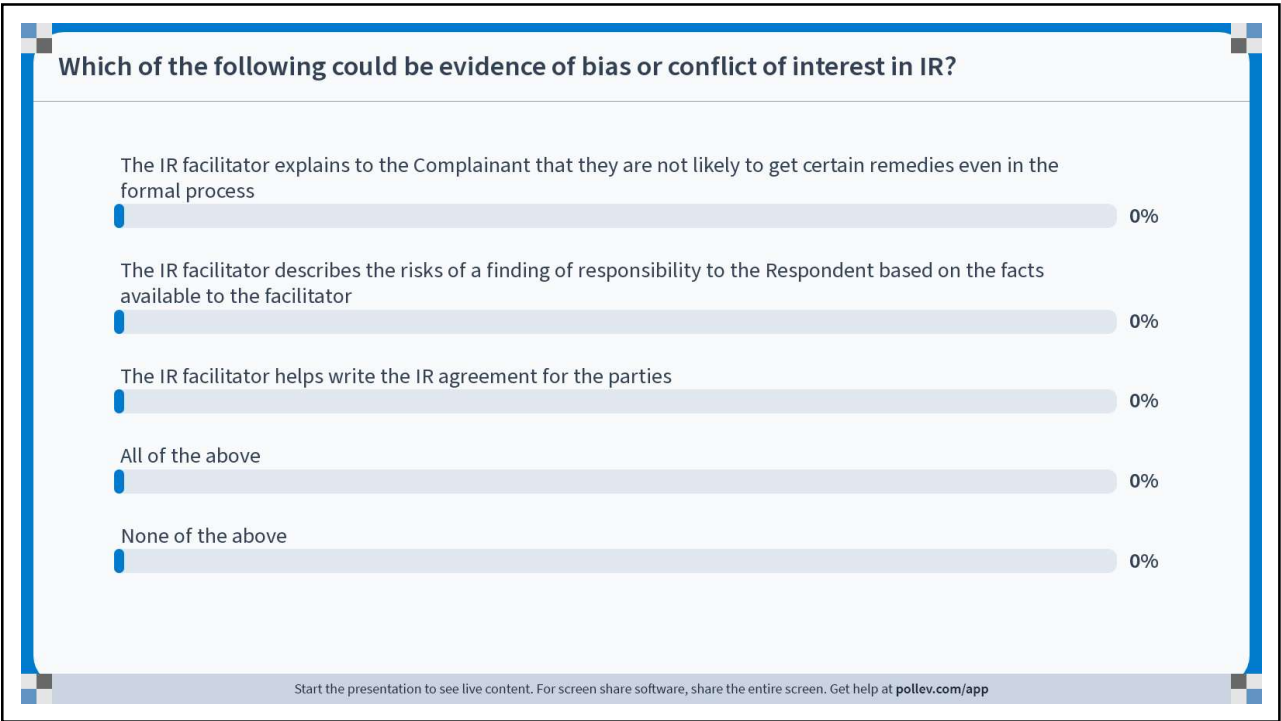
Informal Resolution Theory

- Informal resolution is not intuitive
- The role is very different from other roles in the Title IX process
- Certain skills may increase the chances of success

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Benefits of IR

The rules recognize that IR is efficient and effective

- Flexibility in Process
- Less Adversarial
- Speed
- Restorative Nature/Not Zero Sum
- Similar Outcomes
- Mutual Agreement Provides Control



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Can the Title IX Coordinator explain the benefits of IR to the parties to encourage them to agree to it?

No, the process must be entirely voluntary and encouragement is equal to pressure

0%

Yes, as long as it is clear that the process is entirely voluntary

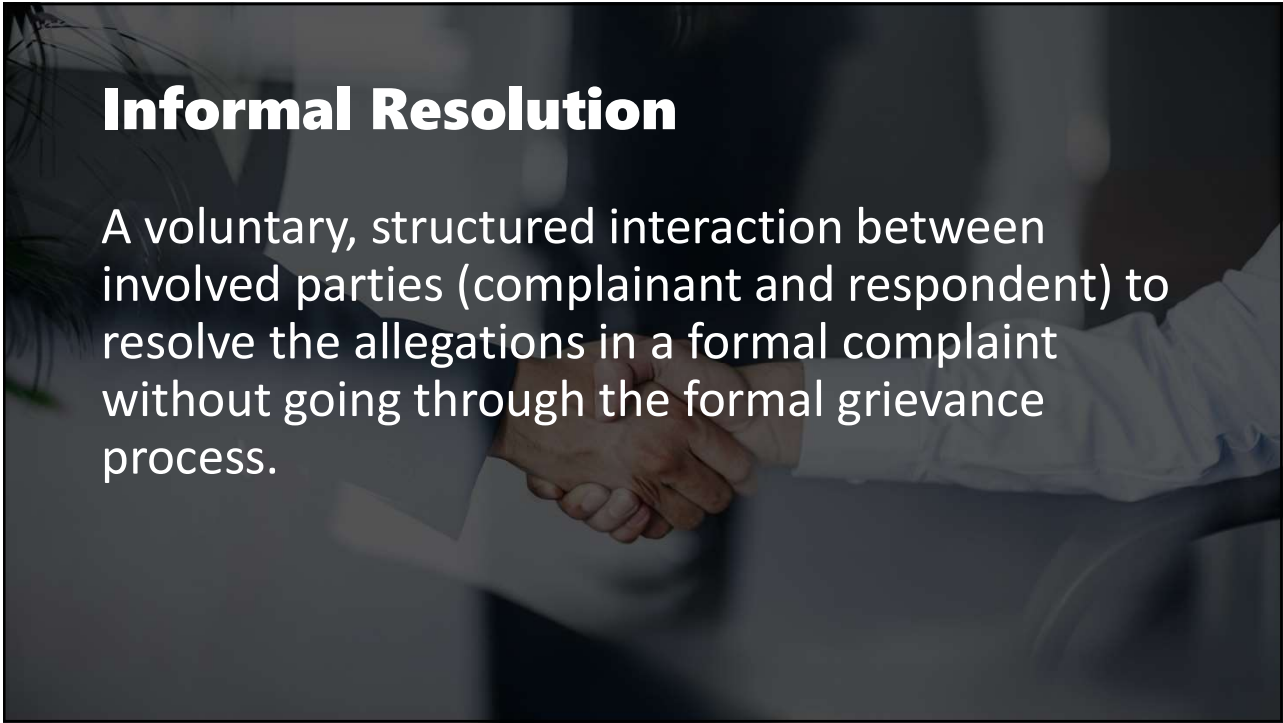
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Yes, this creates no risk of conflict or bias concerns

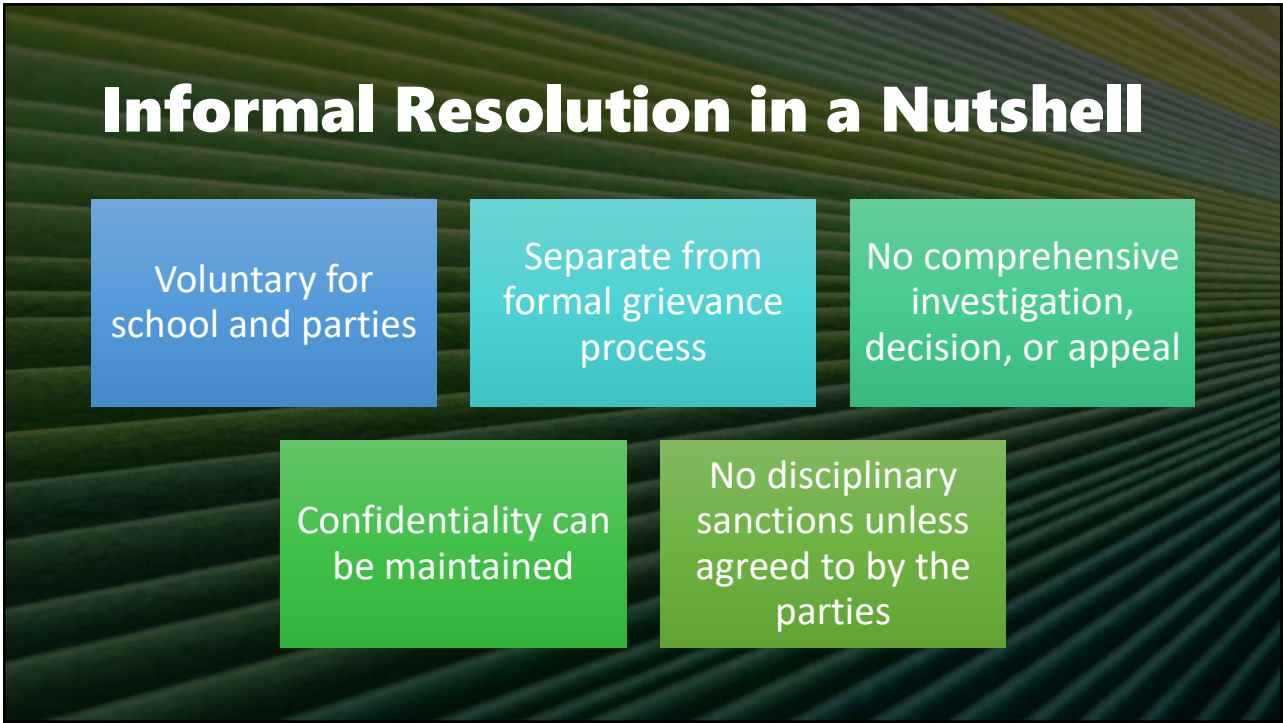
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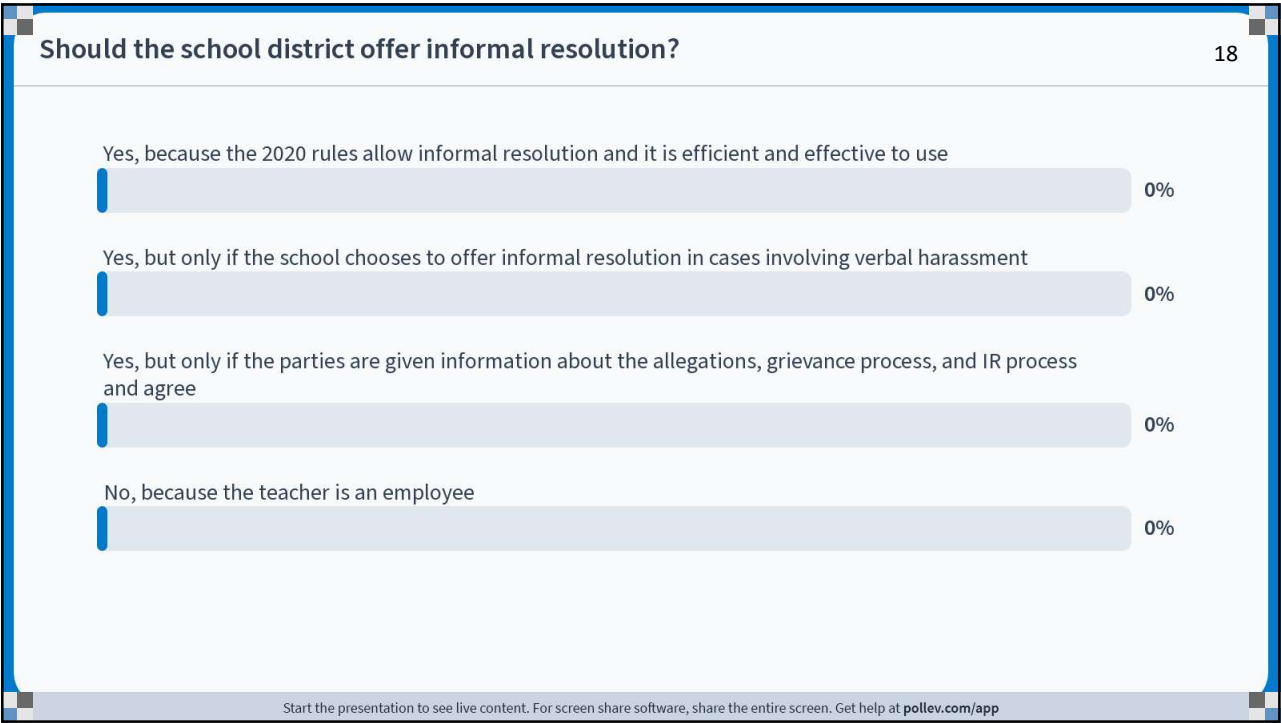
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Scenario

Cleo is a student in Teacher Thompson’s class and reports that the teacher regularly makes highly sexualized comments in class, making Cleo uncomfortable.



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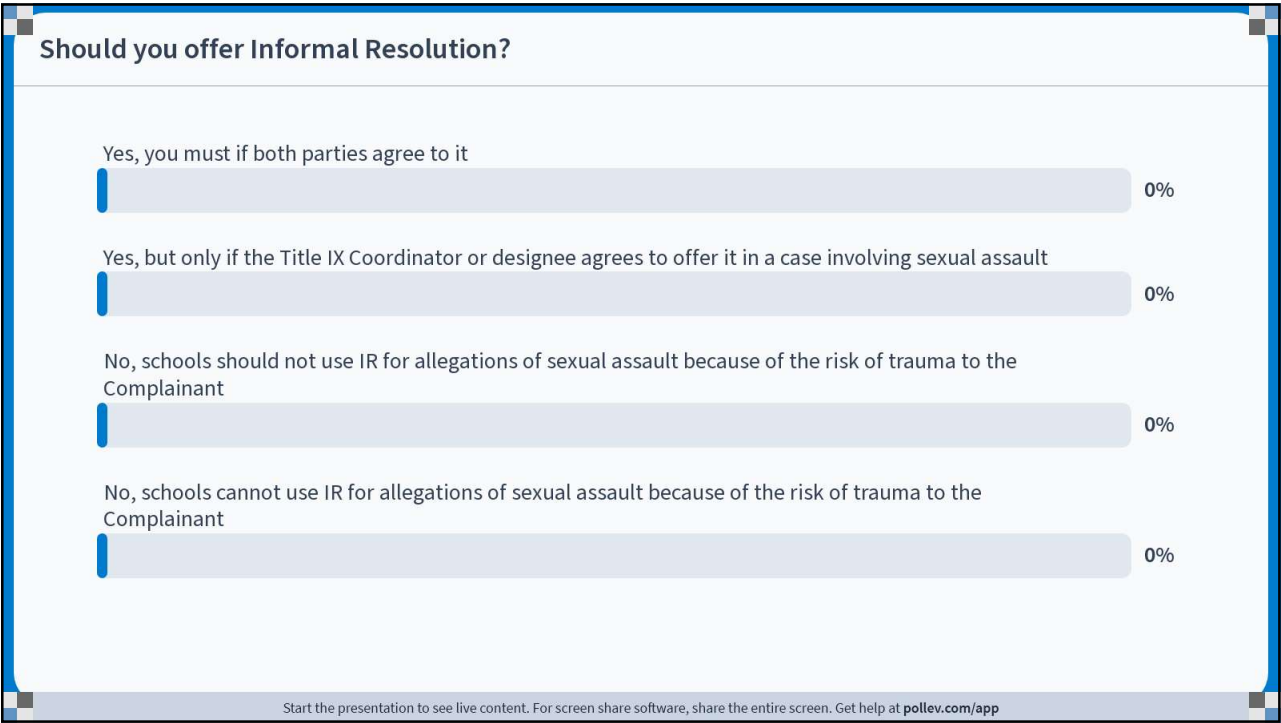
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Scenario

Charlie reports that Ryan sexually assaulted Charlie on an overnight trip for an athletic team. Ryan reports that they believed the conduct was consensual.



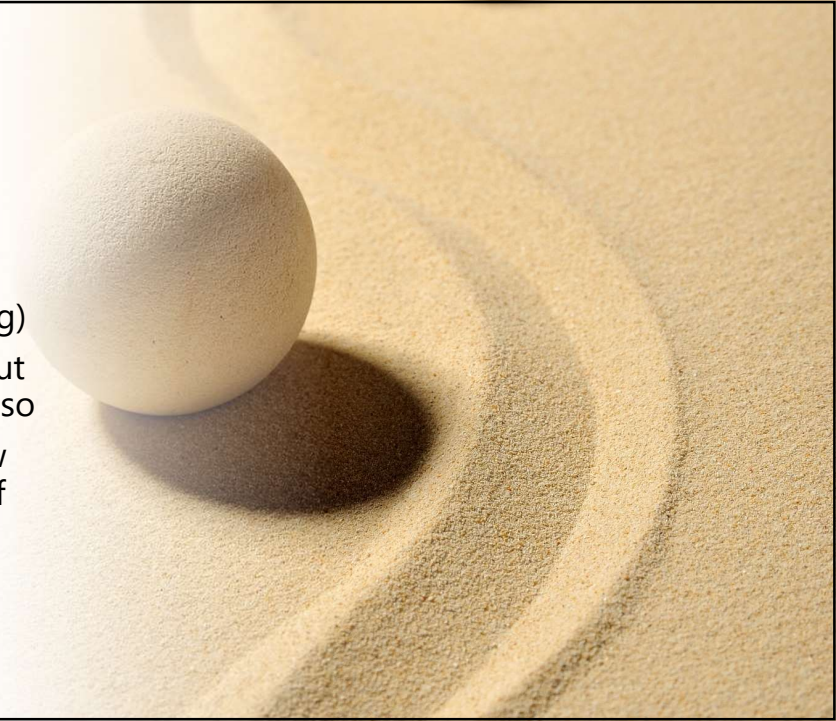
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Informal Resolution Formalities

- Both parties must agree (get it in writing)
- School can offer IR but is not required to do so
- You should think now about if there are "off limits" topics for you (e.g., sexual assault)
- Be consistent



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Trauma & Informal Resolution

Informal Resolution can promote:

- ✓ Empowerment
- ✓ Recognition
- ✓ True Resolution

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Scenario

You reach out to the Complainant, Cole, and the Complainant’s parents as the first step in your informal resolution mediation process in a complaint involving Reese. You introduce yourself, describe the process, and ask if they have any questions. They have none. After the phone call ends, Cole emails you the following:

I don’t really want to do this; my parents are making me. Reece deserves to be kicked out of school and I know that can only happen if there is an investigation.



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Should informal resolution proceed?

No, because the Complainant does not want to do so

No, because the Complainant is not open to reaching a resolution

Yes, because the Complainant is a minor so their parent's decision prevails

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An illustration of a clipboard with a checklist and a pencil. The clipboard has a red clip at the top and a purple border. The checklist has three items: the first two are checked with green checkmarks, and the third is unchecked with a grey square. A yellow pencil with a pink eraser is positioned to the right of the clipboard.

Request to Participate

- The Title IX Coordinator or their designee can **offer** the IR process to one party
- Either party also may submit written **request** to Title IX Coordinator to participate in IR
- Either way, promptly notify the other party of the request and provide both parties your written Notice & Consent
- Both parties must voluntarily consent to participate
- If either party declines, the Title IX Coordinator should notify other party that informal resolution has been terminated and resume formal Grievance Process

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Notice & Consent

Notice **must include**

- Requirements for informal resolution process
- Including circumstances where informal resolution precludes parties from resuming Grievance Process for formal complaint based on or arising from same allegations
- Including record-keeping requirements
- Including when information from the IR process can be used elsewhere (e.g., formal complaint process, discipline)



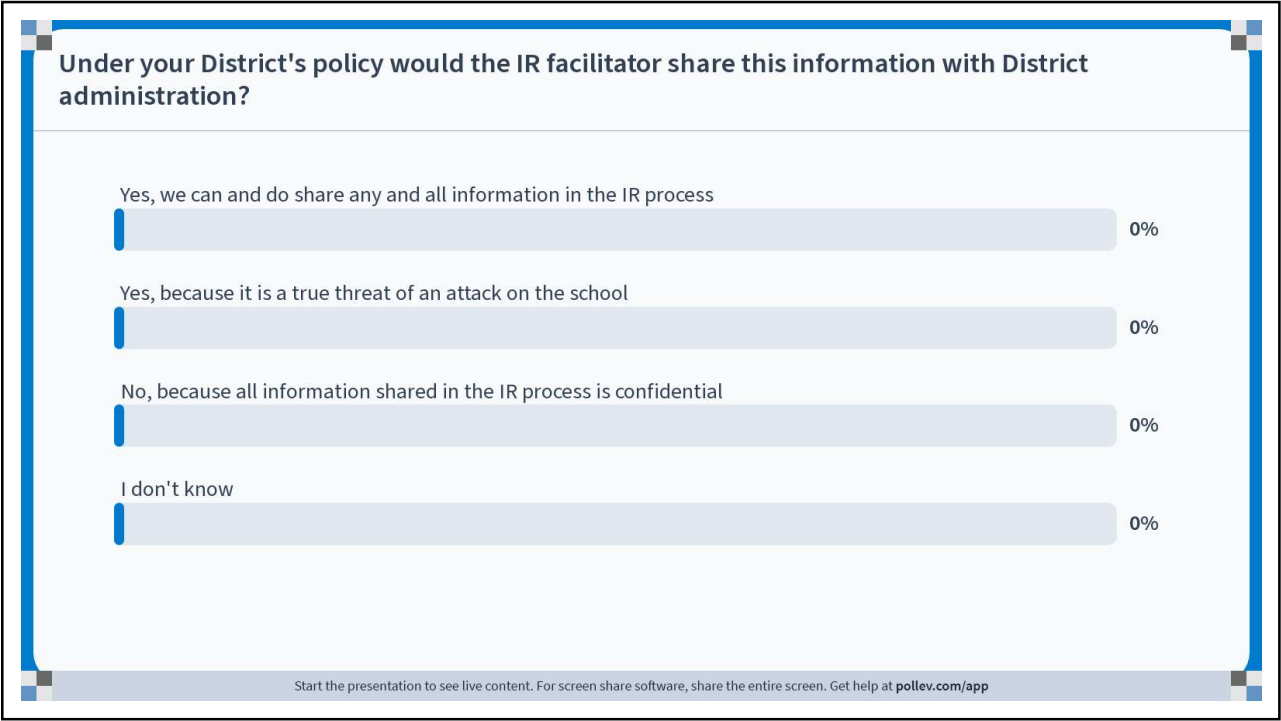
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Scenario

During informal resolution, the facilitator learns from one of the parties that the other party sent a threat by text message threatening to blow up the school if the Title IX process does not go their way



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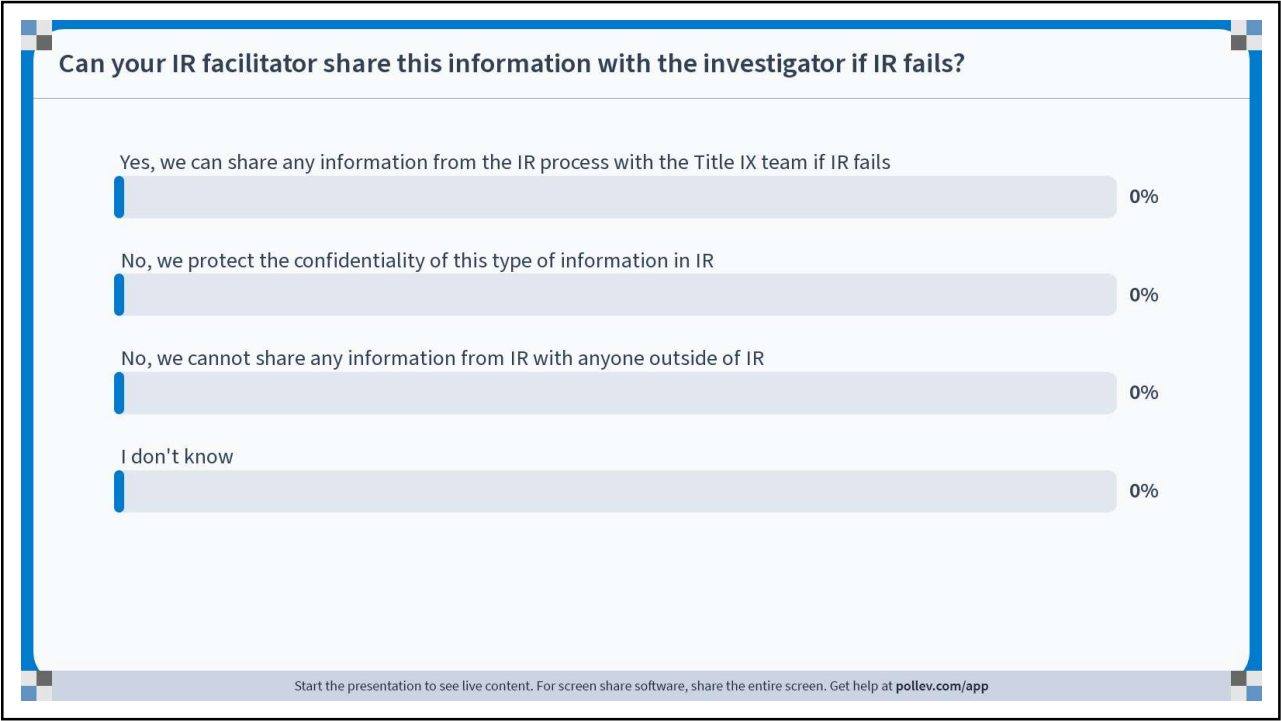
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Scenario

During the IR process, a party admits that they either made up the allegations or committed the alleged misconduct


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Requirements

- Parties may have advisor (attorney or non-attorney) and minor parents/guardians may attend
- Restrictions okay if equally applied
- Must be reasonably prompt



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- Mediation
- Restorative Justice
- Something Else?

Method



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Mediation

- May be governed by state law
- Is "facilitated resolution" of a dispute under Title IX "mediation"?
- In person or "shuttle diplomacy"?

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I believe face-to-face mediation is appropriate in sexual assault cases.

True

False

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Mutually Agreeable Time and Place

- Mutually agreeable time and place
- Begin early if possible
- Not close proximity to another mediation
- Neutral, comfortable location
- No privacy/confidentiality concerns

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Preparation

- IR facilitator should review all documents in the file for the case
- IR facilitator may wish to ask parties if they would like to submit documents or a statement before mediation begins
- Do not predetermine the case— you are NOT a decisionmaker
- Keep an open mind



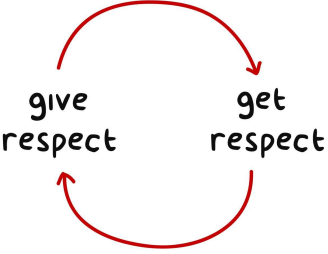
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Set Ground Rules

- Consider developing written information regarding the process and ground rules for informal resolution session
- Have all parties read and sign

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Respect All Parties

- Equal treatment for all parties
- Cultural sensitivity
- Understand emotions are high & acknowledge feelings


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Overview

- IR facilitators should begin with a solid "intro" so the parties understand expectations and the process
- Allow the parties to share their story with the IR facilitator *if they would like to do so*

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Listen

- Prompting questions are okay
 - “Why are we here?”
 - “Tell me more about...”
 - “Help me understand...”
- Resist urge to fill the silence
- Reasonable & neutral sympathy is okay
 - “I can tell this is hard for you”
 - “I’m sorry this is difficult”

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Be Approachable

- Friendly yet firm
- Empathetic yet impartial
- Listen carefully – cues
- Convey sense of optimism



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Broker – First Party

- Determine what the first party wants to ask for to resolve the process
- Brainstorm first—nothing is off the table at first, narrow down later based on the other party's response—and provide suggestions
- Make sure you understand if there has been information shared with you by the first party that is off limits to share with the other party
- Front any concerns with any of the suggestions before you go to the other party, but don't take it off the table



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Examples of Suggestions

- No contact orders
- Tutoring or academic adjustments
- Counseling (offered or required)
- Training (offered or required)
- Admission and apology for wrongdoing
- Apology for Impact only
- Managing course schedules
- Online courses
- Employee supervision



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Be Open to Suggestions

- Do not shut down any ideas – write them all down
- Discuss pros/cons and possibility of solution working
- Suggest, but don't advocate
- If a party refuses to make further offers, ask questions to understand why

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Suggestion Language

- “What terms would help you reach a resolution in this case?”
- “I want to provide some options to consider, but these are just suggestions to help get/keep the conversation going.”
- “The other party offered [explain], what is your response?”



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Broker – Second Party

- Follow the process you used with the first party, FIRST; don't immediately confront the other party with the first party's suggestions
- After discussing the second party's asks, consider if there is overlap you can discuss
- Then, address things that don't match up
- Continue brainstorming, explaining limits, and ensuring information that can be shared



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Remain Impartial

- Commitment to aid all parties
- Avoid accusatory language/placing blame on any party during discussions
- Do not invest emotionally
- Stay objective; focus on facts
- No consideration of external factors



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Remain Impartial

- Remind that you do not have material interest in outcome
- Be consistent
- Communicate effectively
- Transparency



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Be Inclusive

- Allow both sides to be fairly represented
- Communicate with any party necessary to address conflict
- Do not allow advisors (or parents) to steamroll process



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Focus on Resolution

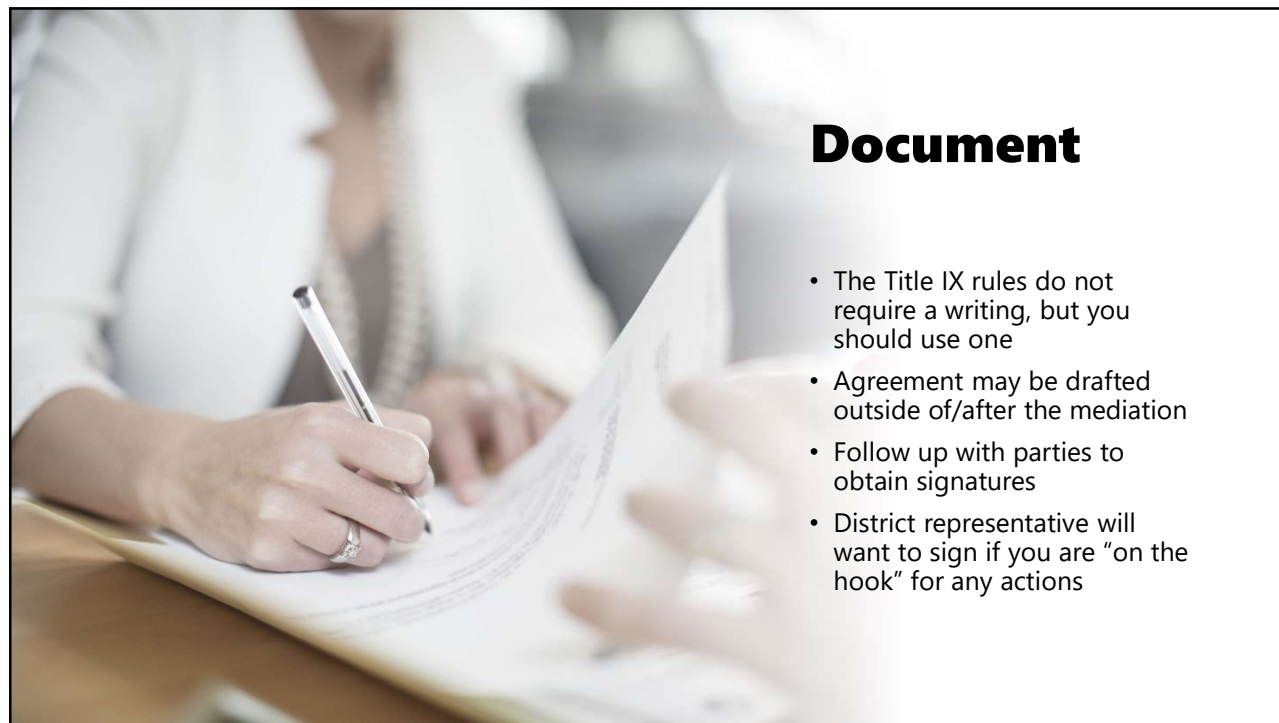
- Encourage parties to not react defensively
- Focus discussion on possible solutions as opposed to “rehashing” defensive statements or explanations

SOLVED

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Document

- The Title IX rules do not require a writing, but you should use one
- Agreement may be drafted outside of/after the mediation
- Follow up with parties to obtain signatures
- District representative will want to sign if you are “on the hook” for any actions



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When can the Title IX process resume after the IR process has begun?


Anytime

Anytime before an agreement is reached

Never

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Timeframes

- During informal resolution, time frames for formal Grievance Process will be placed on hold
- Think about putting time limits in place, but be flexible

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What happens if a party violates the IR agreement terms?

Nothing

Whatever is dictated in the agreement

The Title IX process begins again

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Thank You!

Questions?

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