FREE WEBINAR

INSTITUTIONAL COMPLIANCE SOLUTIONS

TITLE IX IN CHARTER SCHOOLS

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About Us

OUR MISSION

To provide the best Care and Support for our clients, Community Partners, employees, contractors, collaborators, vendors, and all others who encounter our company.

GOAL

To assist schools and districts in providing a safe and healthy learning and working environment for students, faculty and staff.

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BEFORE WE GET STARTED...

- Not legal advice
- Materials
- Questions
- Overview

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Agenda & Goals

- Broad Overview
- Priority Requirements
- Charter School Challenges



Overview

The House of Title IX

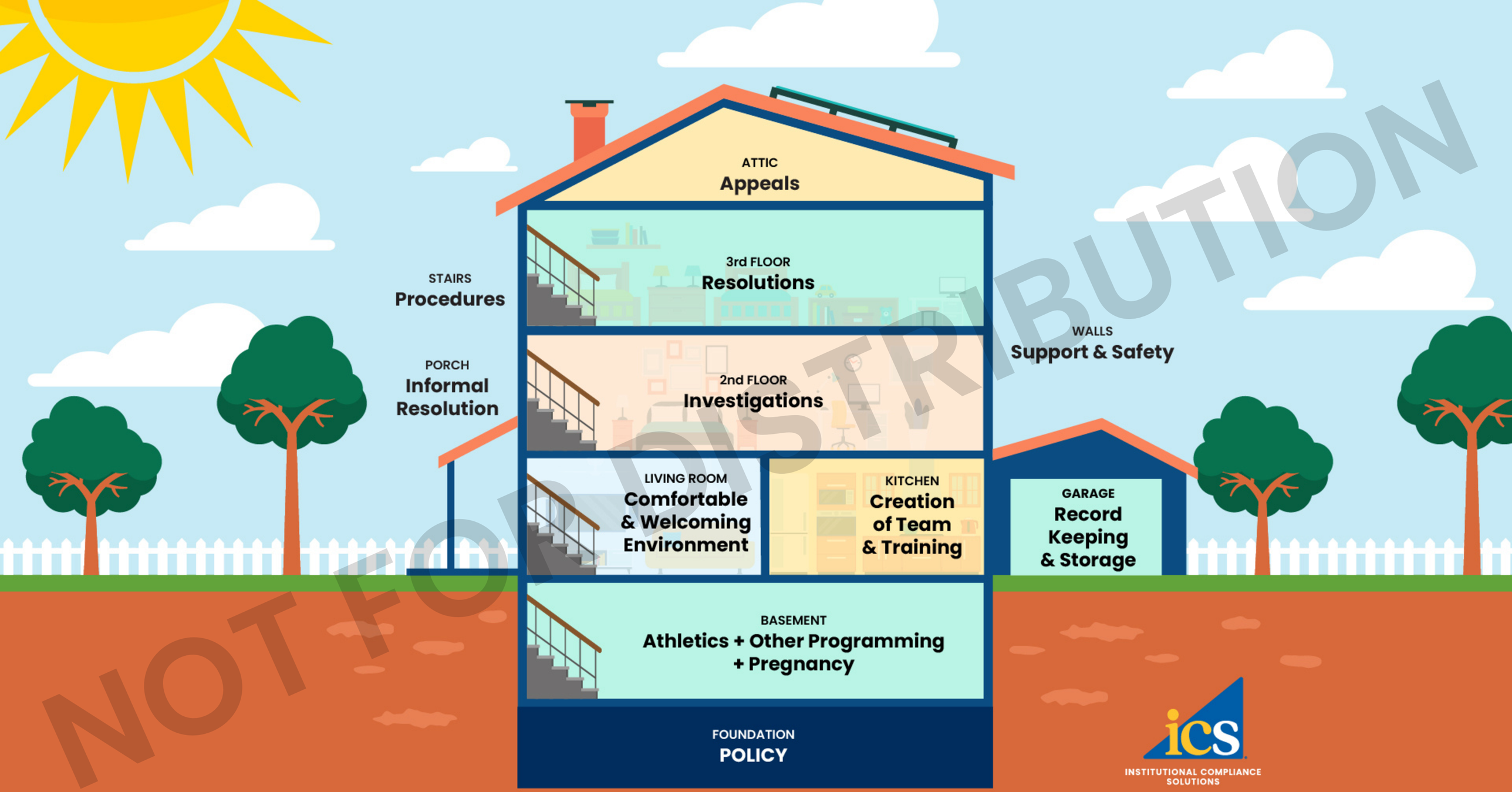
Challenges

Connections

Compliance + Compassion

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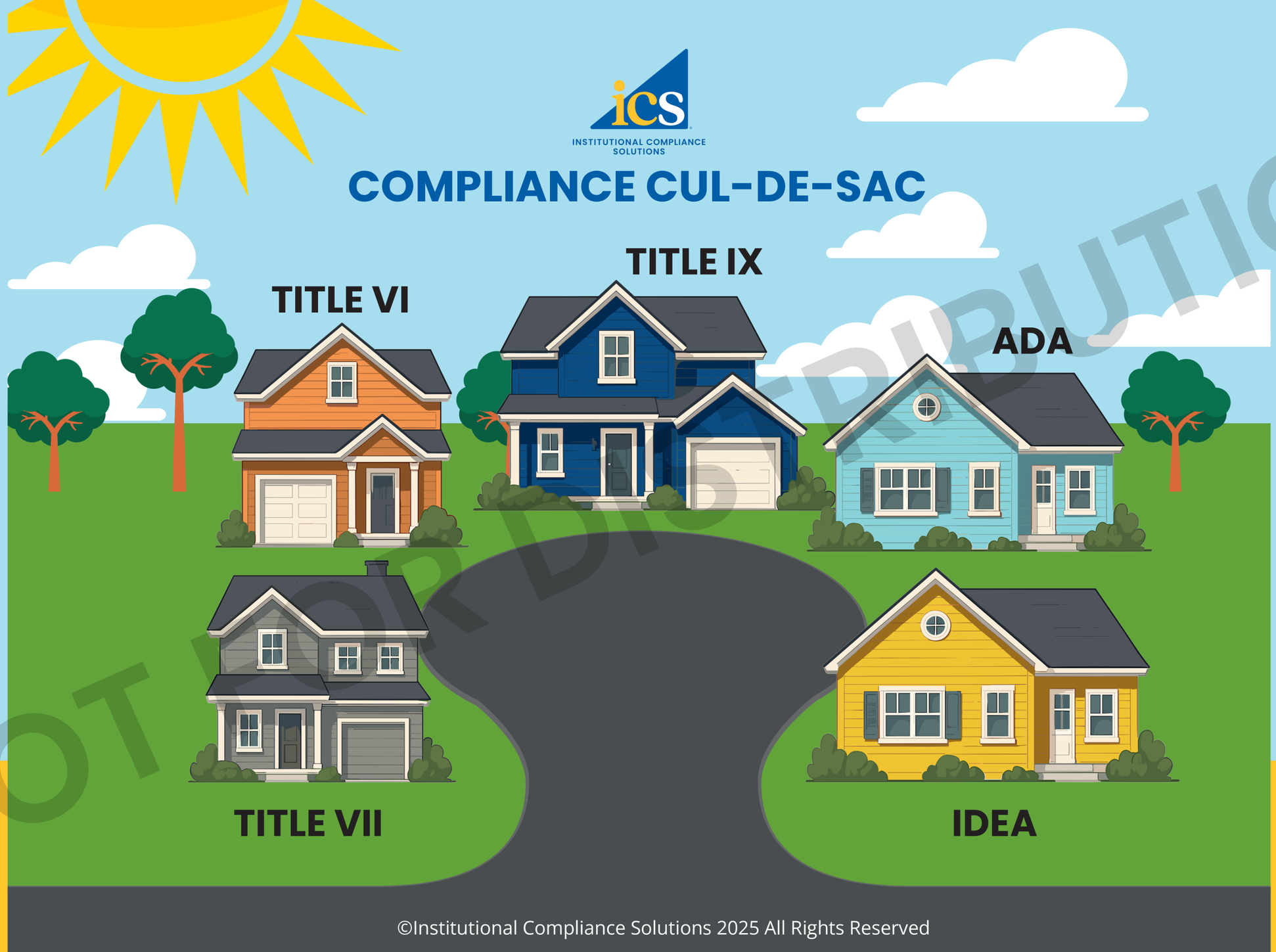
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COMPLIANCE CUL-DE-SAC



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The “What”

The “Where”

The “Who”

The “When”

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The “What”



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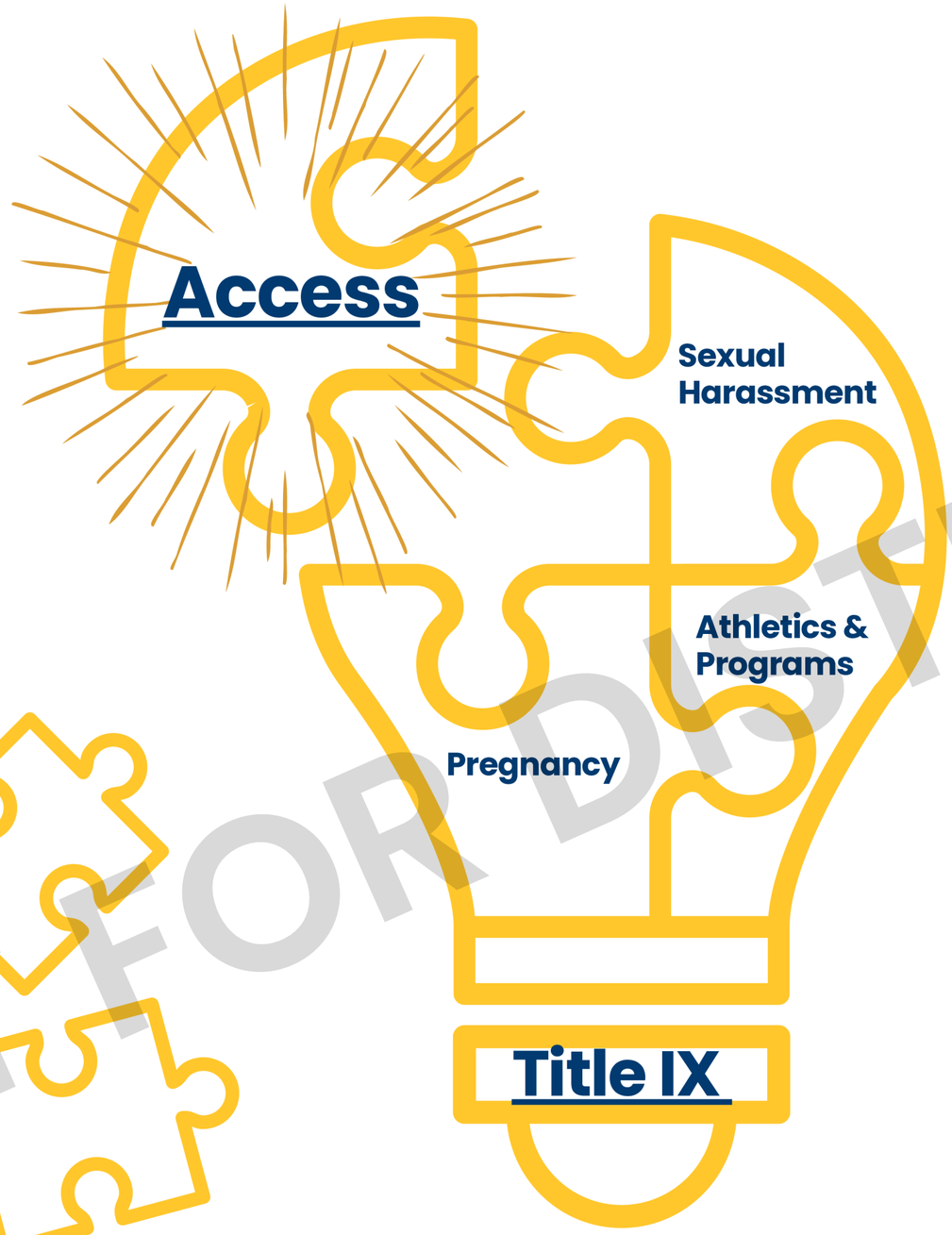
What is Title IX?



"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."

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2020 SEXUAL HARASSMENT

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

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







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The “Who”



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CONDUCT THAT INVOLVES

- STUDENT ON STUDENT
- STUDENT ON EMPLOYEE
- EMPLOYEE ON STUDENT
- EMPLOYEE ON EMPLOYEE

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The “When”



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THERE IS NO STATUTE OF LIMITATIONS...

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The “Where”



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The Big Question Is

Does the School have control?

- Control over the location/event
- Control over the Respondent (employee or student)

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Your Title IX Team



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Title IX Team



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Title IX Team



Coordinator

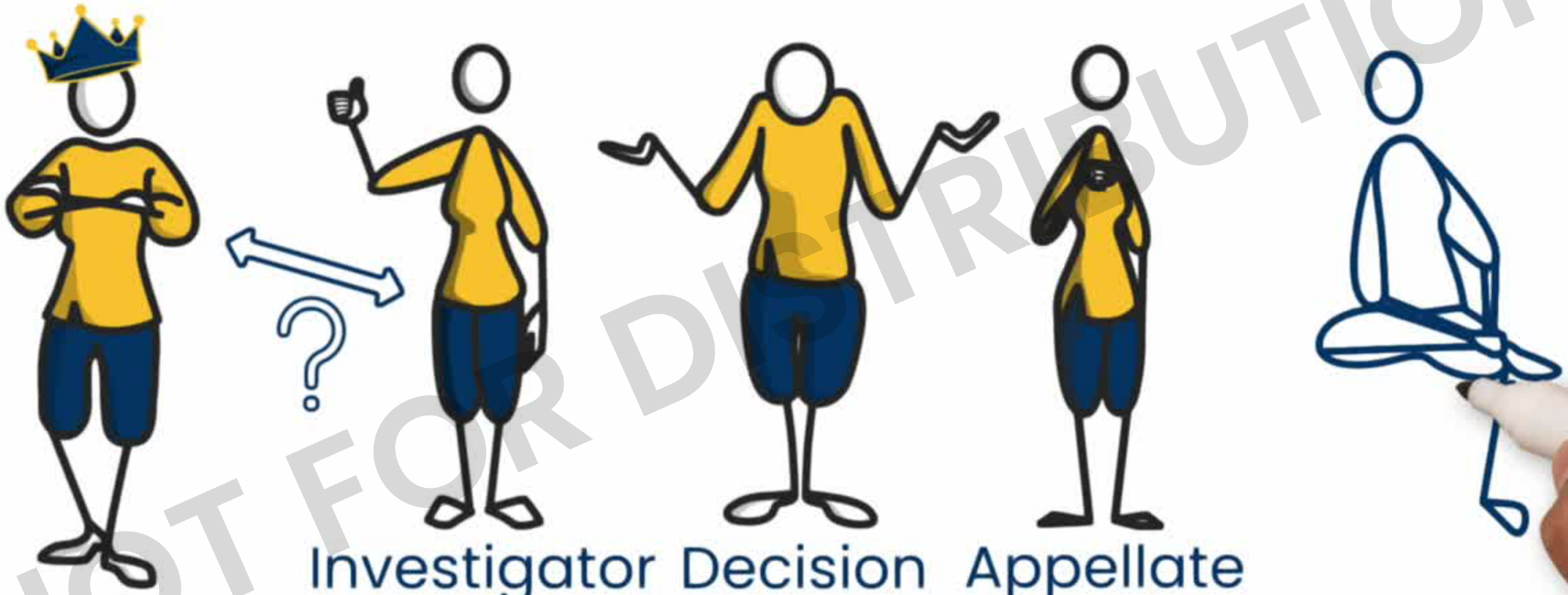
Investigator

Decision Maker

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Title IX Team



Coordinator

Investigator

Decision Maker

Appellate Decision Maker

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Title IX Team Must Serve Impartially In Their Role and Avoid:

- **Prejudgment of the facts at issue**
- **Conflicts of interest**
- **Bias**



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Evaluation & Triage



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SAFETY AND SUPPORT FIRST –– ALWAYS

Regardless of whether Title IX or not...
If it makes it to you, evaluate for safety and supportive needs IMMEDIATELY.



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SUPPORTIVE MEASURES:



Individualized measures offered, as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- Restore or preserve that party's access to the recipient's (school's) education program or activity, including measures that are designed to protect the safety of the parties or the recipient's (school's) educational environment; OR
- Provide support during the recipient's (school's) grievance procedures, or during the informal resolution process.

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SUPPORTIVE MEASURES MAY INCLUDE

but are not limited to:

- COUNSELING
- **RESTRICTIONS ON CONTACT APPLIED TO ONE OR MORE PARTIES***
- EXTENSION OF DEADLINES AND OTHER COURSE RELATED ADJUSTMENTS
- LEAVES OF ABSENCE
- CHANGE IN EXTRACURRICULAR OR OTHER ACTIVITY
- CAMPUS ESCORT SERVICES
- CHANGE IN CLASS WORK
- TRAINING AND EDUCATION PROGRAMS RELATED TO SEX-BASED HARASSMENT
- INCREASED SECURITY AND MONITORING OF CERTAIN AREAS
- CHANGE IN HOUSING (IF APPLICABLE)

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Formal Complaint: *Document (Written)*

- Alleging Sexual Harassment
- Requesting investigation
- Signed by:
  - Complainant/Guardian or Title IX Coordinator

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GIANT REMINDER!!!

No Investigation before or without a Formal Complaint

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Investigation



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Questions/ Decisions to be made BEFORE starting investigation

WHO IS SERVING AS YOUR INVESTIGATOR?

- NO CONFLICT OR BIAS
- CAPACITY TO DO THE WORK
- APPROPRIATE SKILL SET
- TRAINED
- UNDERSTANDS PRIVACY

HOW/WHERE WILL YOU STORE THE INFORMATION GATHERED?

WHAT CHALLENGES DO YOU ANTICIPATE?

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Important Notes for Investigations:

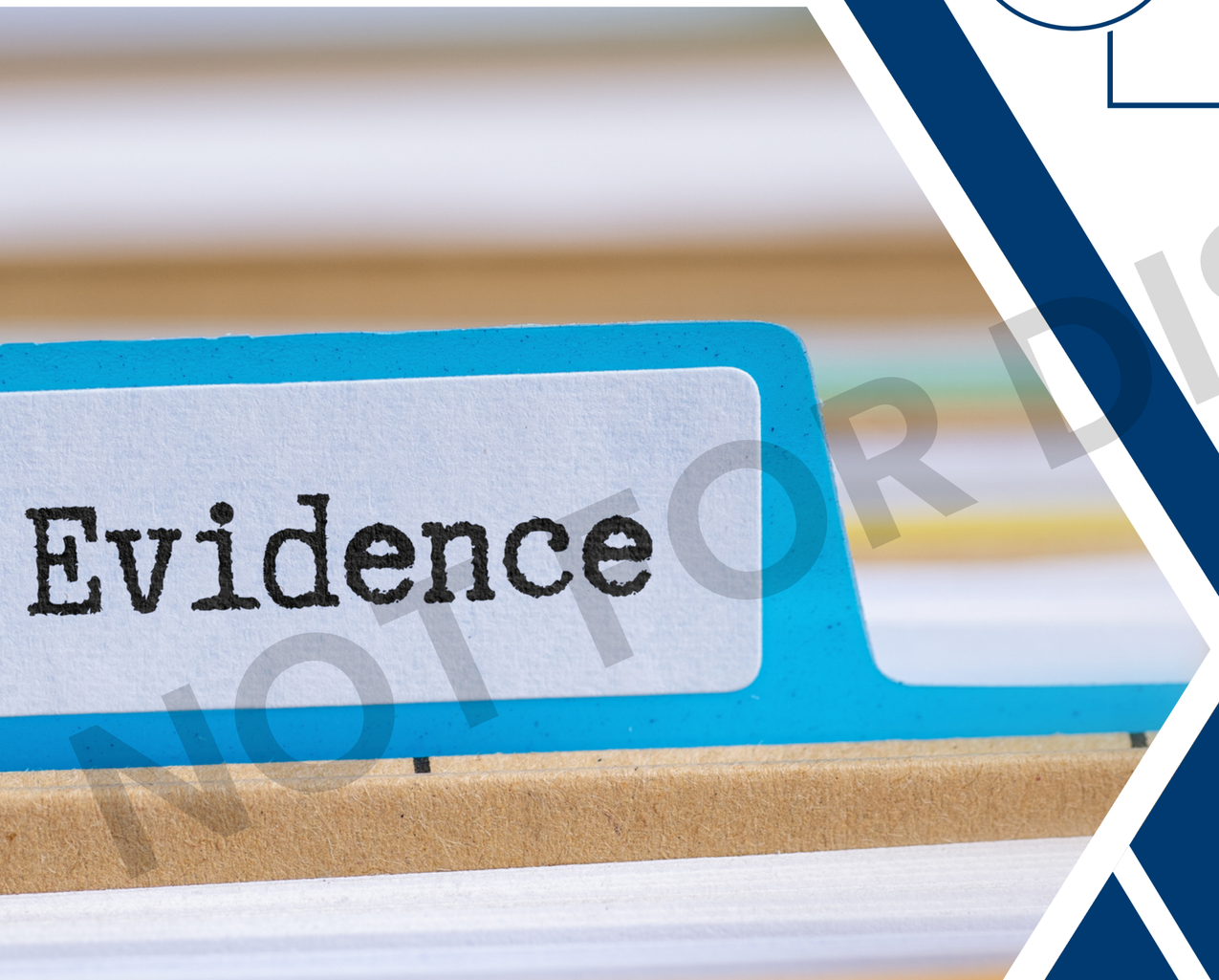
- **<u>Burdens</u>**
  - **Burden of gathering evidence on School-<u>NOT the parties</u>**
  - **Burden/Standard of Proof Preponderance of the Evidence (more likely than not) or Clear and Convincing Evidence**

- **May NOT** access, consider, disclose or use party's treatment records unless School obtains voluntary WRITTEN consent
- **MUST** provide equal opportunity for parties to:
  - Present witnesses (fact or expert--does not say character)
  - Gather and present relevant evidence
- **May NOT** restrict the ability of the parties to discuss the allegations or gather and present relevant evidence (no gag orders)

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Evidence Review & Response



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MUST: Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is DIRECTLY RELATED to the allegations Including:

- The evidence upon which the school does not intend to rely in reaching a determination
- inculpatory or exculpatory evidence

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

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How Long?

10 days

(business or calendar)

Define in policy

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Written Investigation Report & Response



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A TITLE IX REPORT IS A SUMMARY OF RELEVANT EVIDENCE

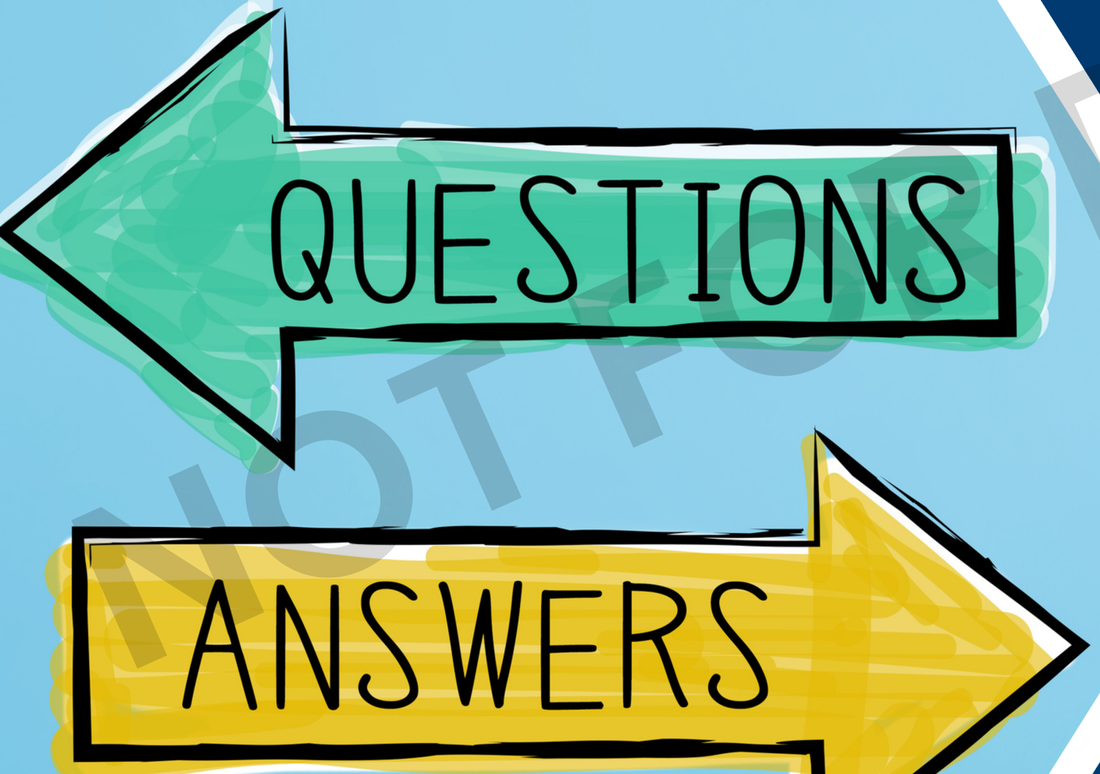


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Question & Answer



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Question & Answer

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

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Determination



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Decision-Maker Determination Regarding Responsibility Checklist:

- Identification of the Allegations
- Description of Procedural Steps Taken
  - Notifications to the Parties
  - Interviews with Parties and Witnesses
  - Site Visits
  - Methods Used to Gather Other Evidence
  - Hearings Held
- Findings of Fact Supporting Determination
- Conclusions Regarding the Application of the Code of Conduct to the Facts
- Result of Each Allegation Including Rationale
  - Determination Regarding Responsibility
  - Disciplinary Sanctions
  - Whether Remedies Designed to Restore or Preserve Equal Access to Education Program or Activity Provided to the Complainant
- Procedures and Permissible Basis for Appeal

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Appeal



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APPEALS

-Offered to both parties.

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

-On the Following Basis:

- Procedural irregularity that affected the outcome of the matter.
- New Evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter.
- Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
- Additional basis if offered equally to both parties.

-Written decision describing the result and rationale for the result.

-Notify the other party in writing when an appeal is filed.

-Provide written decision simultaneously to both parties.

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

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INFORMAL RESOLUTION



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TITLE IX UNIVERSITY

K-12

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