



Association of  
Title IX Administrators

# Informal Resolution Foundations for K-12 Education

Training and Certification Course

NOT FOR DISTRIBUTION

# WELCOME!

- Please log in to your ATIXA Event Lobby each day to access the training slides, supplemental materials, and to log your attendance.
- The ATIXA Event Lobby can be accessed by the QR code or visiting [www.atixa.org/atixa-event-lobby](http://www.atixa.org/atixa-event-lobby) in your internet browser.
- Links for any applicable training evaluations and learning assessments are also provided in the ATIXA Event Lobby. You will be asked to enter your registration email to access the Event Lobby.
- If you have not registered for this training, an event will not show on your Lobby. Please email [events@atixa.org](mailto:events@atixa.org) or engage the ATIXA website chat app to inquire ASAP.





Strategic Risk  
Management Solutions



Any advice or opinion provided during this training, either privately or to the entire group, is never to be construed as legal advice or an assurance of compliance. Always consult with your legal counsel to ensure you are receiving advice that considers existing case law in your jurisdiction, any applicable state or local laws, and evolving federal guidance.

# Course Introduction



The primary focus of this course is to introduce practitioners to Informal Resolution and its application to Title IX and allegations of sex- and gender-based discrimination.



Practitioners will learn about the variety of structural and policy decisions that need to be made when implementing an Informal Resolution process.



Our goal is to provide practitioners with a deep dive into the foundational elements and considerations regarding whether and how to implement Informal Resolution options.

# Content Advisory

The content and discussion in this training will necessarily engage with sex- and gender-based harassment, discrimination, and violence and associated sensitive topics that can evoke strong emotional responses.

ATIXA faculty members may offer examples that emulate the language and vocabulary that Title IX practitioners may encounter in their roles including slang, profanity, and other graphic or offensive language.

# Note on Vocabulary

- Title IX resolution processes specifically address sex- and gender-based discrimination, harassment, and violence
- Common alternative resolution processes focus on opportunities to reduce “conflict” or resolve a “dispute”
- Use of existing alternative resolution terminology is not meant to diminish the reality of sex- or gender-based misconduct

# Informal Resolution and Title IX

# 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 educational program or activity receiving federal financial assistance.”

*20 U.S.C. § 1681 & 34 C.F.R. Part 106 (1972)*



# Title IX and Equity

- Title IX is a gender equity law
- Equity refers to the understanding that not all individuals have access to the same resources and opportunities
  - Equity focuses on providing support and resources to reduce disparities in access to the education program
  - Title IX seeks to remedy the inequities sex and gender discrimination create
- Schools/Districts may determine their own Informal Resolution (IR) processes
  - Processes must be equitable in execution and access

# The IX Commandments



# Title IX: Scope

## Title IX

### Discrimination

- Sex-Based Discrimination
- Program Equity

### Harassment

- Quid Pro Quo
- Hostile Environment
- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking
- Retaliation

# Essential Compliance Elements

The requirement to **Stop, Prevent,** and **Remedy** guides school/district response in assuring equity and compliance

**1**

**STOP** discriminatory conduct

**2**

**PREVENT** recurrence, on both individual and school/district levels

**3**

**REMEDY** the effects of discrimination, on individuals and the school community

# Title IX Regulatory History

- **2020 Title IX Sexual Harassment Regulations**
  - Schools/Districts are permitted to offer Informal Resolution (IR) for formal complaints of sexual harassment as defined under Title IX
  - Regulations do not define or prescribe what “Informal Resolution” looks like in practice; schools/districts will differ in application
  - Policy/procedure should include option for IR, if available
- **2022 Title IX Sex-Based Harassment Proposed Regulations**
  - Affords significant flexibility for K-12 practitioners compared to the current process

# Regulatory Requirements



Formal Complaint



Written Notice



Voluntary Participation

# Informal Resolution Overview

# ATIXA's Informal Resolution Framework

ATIXA's Framework contemplates three categories of IR:

**1**

**Supportive  
Measures Only**

**2**

**Accepted  
Responsibility**

**3**

**Alternative  
Resolution**

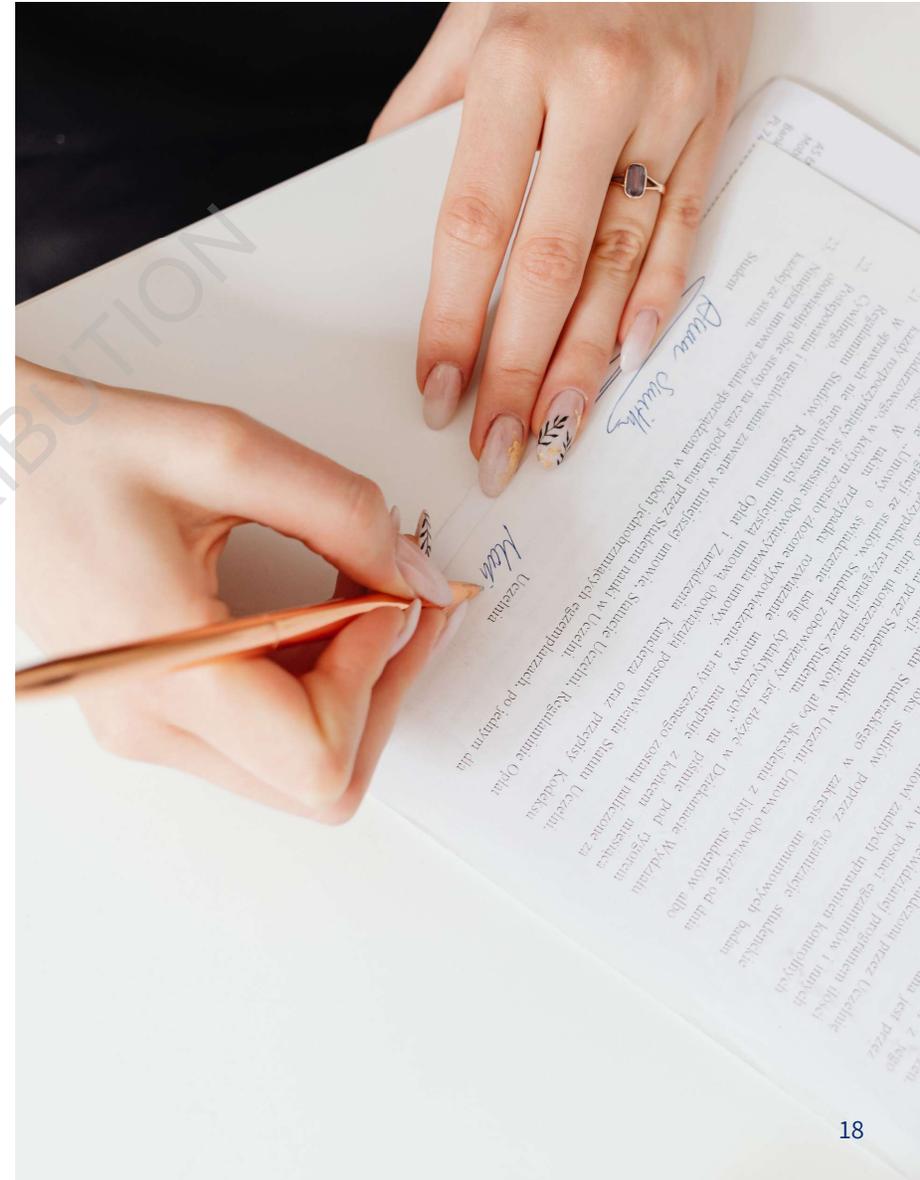
# Supportive Measures Only

- Title IX Coordinator (TIXC) resolves the report by providing the Complainant with remedies and Supportive Measures
- Formal complaint not required
- Respondents are typically not involved unless a Supportive Measure directly involves or impacts them



# Accepted Responsibility

- Respondent accepts responsibility for violating policy and accepts the recommended sanction(s), ending the grievance process
- Accepted Responsibility may allow, but does not require, the parties to communicate directly about the complaint with the assistance of a third-party facilitator



# Alternative Resolution (AR)

- Parties agree to resolve the complaint through an AR mechanism such as facilitated dialogue, shuttle negotiation, or restorative practices
- AR may allow, but does not require, the parties to communicate directly about the complaint with the assistance of a third-party facilitator



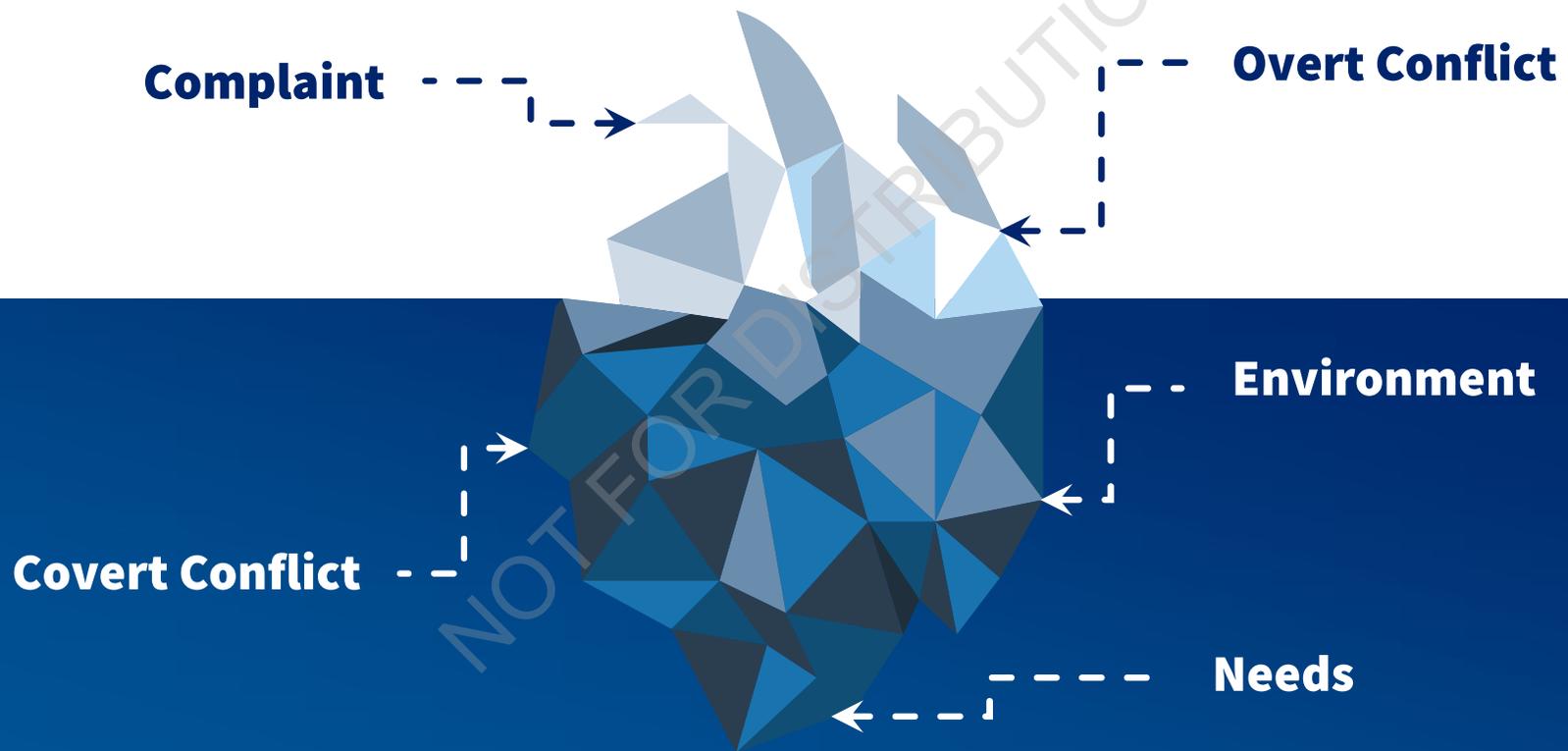
# Informal Resolution Goals

- Restore educational access
- Empower choice and agency over the resolution
- Identify and address parties' and school community needs
- Address past harm
- Prevent future harm
- Create space for communication and understanding among parties, if desired

# Informal Resolution Foundations

- Safety (physical, psychological, and emotional)
- Focus on needs
- Mutually serving
- Intentionality
- Informal ≠ casual
- Presence
- Meet parties where they are
- Pre- and post-process support and resources

# Complaints and Conflicts



# Sources of Conflict

- Conflicts are a sign of unmet needs
- There are three root causes of conflict

**1**

**Power and  
Control**

**2**

**Care and  
Connection**

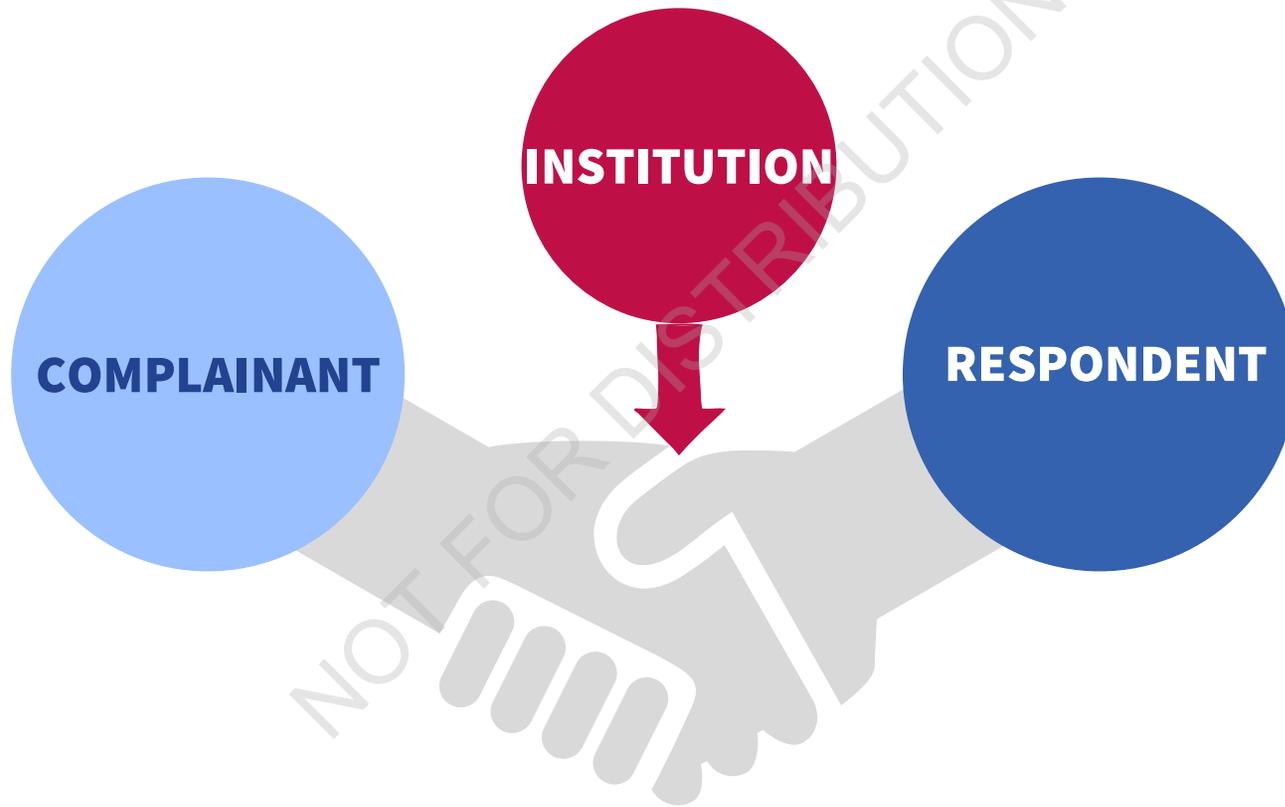
**3**

**Respect and  
Recognition**

# Contextual Considerations

- No one-size-fits-all approach to IR
- Not all structures will fit the unique circumstances of sex- and gender-based misconduct complaints
- Policies and processes should be designed with a variety of complaints and parties in mind

# Three-Party Model



# Informal Resolution Application

NOT FOR DISTRIBUTION

# General Application Information

- IR can take place at any point before a final determination is made
- May offer IR for incidents that:
  - Could meet the regulatory definition of Title IX sexual harassment, if proven
  - Fall under another policy
  - Do not yet rise to the level of a potential policy violation
- **IR is optional** and may be offered in a variety of forms

# Title IX Sexual Harassment



# IR Within the Title IX Regulations

- **Formal complaint required**
- Cannot be used for allegations of **employee-on-student misconduct**
- Alleged conduct must meet regulatory sexual harassment definition if proven and have occurred in the United States
- Complainant must be participating or attempting to participate in education program or activity
- Respondent must be a student or employee
- Facilitator must be free of bias and conflicts of interest
- Facilitator must have appropriate training
- Records maintained for minimum of **seven years**

# Informal Resolution Benefits

- Can be effective way of addressing complaints for parties and impacted school community
- Resolution focuses on the parties
- Empowers choice
- Provides a needs-based process
- Honors privacy similar to the Formal Grievance Process
- Focuses on ensuring educational access and restoration

# Timing

- IR may be implemented prior to, in lieu of, or following a Formal Grievance Process
- Schools/Districts determine whether an investigation should proceed or be paused while IR is attempted
  - Jurisdiction over Respondent
  - Party and witness availability
  - Evidence availability
- Timing may inform IR structure or options that may be available

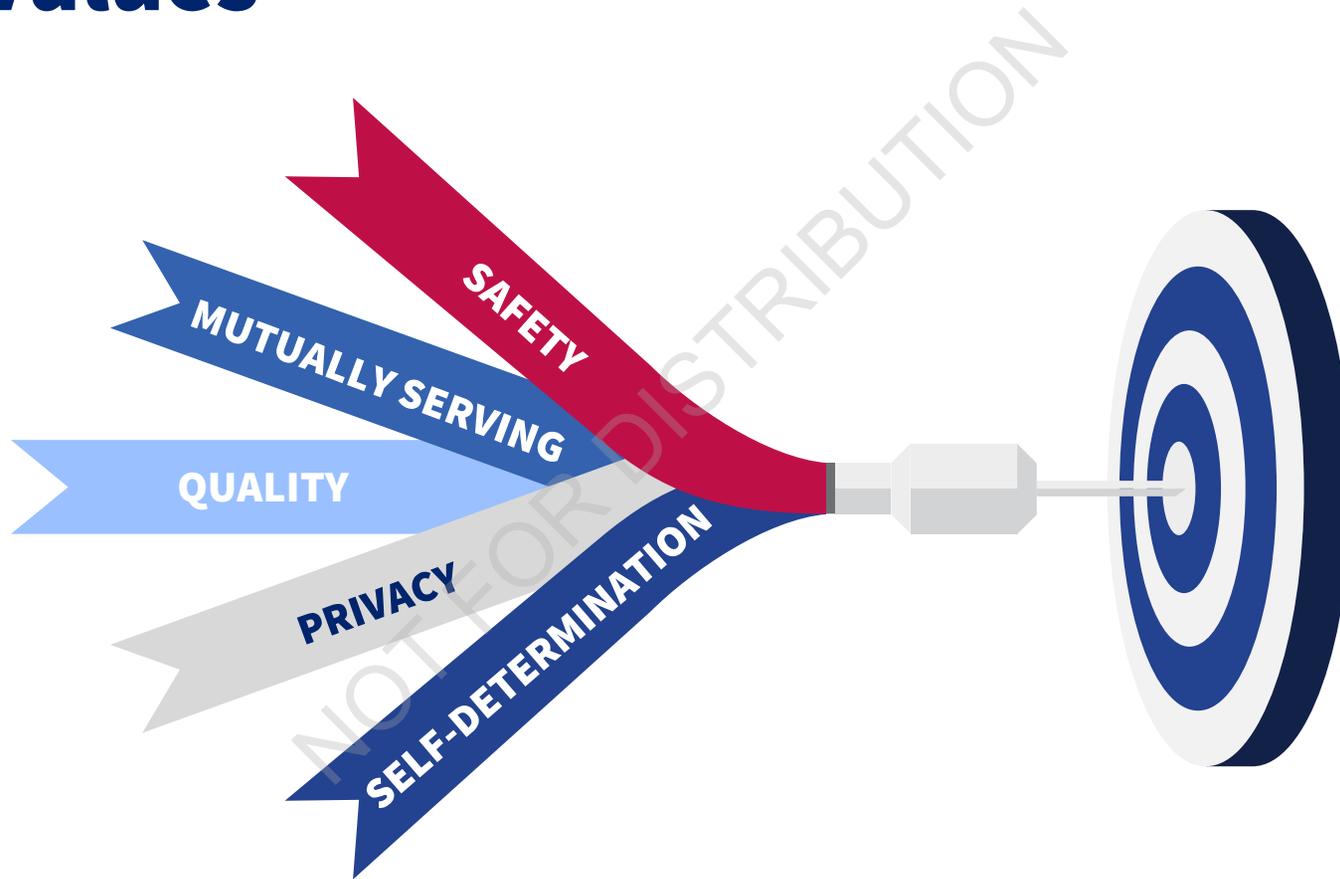
# Common Off-Ramps for IR

Any party may request to pursue an IR at any point prior to a final determination



# Determining Availability and Appropriateness

# Key Values



# Considerations for Appropriateness

- Not all complaints are appropriate for IR and not all parties are ready to participate
- Not all forms of IR are appropriate for all circumstances
- Factors to consider:
  - Age and developmental appropriateness for minors
  - History of emotional, physical, or sexual violence between parties
  - Power imbalances between parties
  - Potential to jeopardize safety or well-being
  - Party or parties not sincere or acting in good faith

# Informal Resolution Structures and Implementation

Cross-Cultural Considerations

# Culture

“[A] set...of rules for being in the world...[and] shared cognitive approaches to reality that distinguish a given group from others.”

Adler, Nancy & Jelinek, Mariann. (2006). Is “Organizational Culture” culture bound?. Human Resource Management. 25. 73 - 90.



# Cross-Cultural Considerations

- Practitioners need a thorough understanding of school/district culture and needs
- Culture is learned and adaptable
- People tend to defend and protect their culture
- People are often oblivious to the unique customs of their own culture

# Cultural Competence

- Awareness of one's own cultural beliefs and values and how they may be similar to or different from other cultures
- Achieving cultural competence includes:
  - Awareness of one's own worldview
  - Developing positive attitudes toward cultural differences
  - Willingness to accept and respect cultural differences
  - Gaining knowledge of different cultural practices and worldviews
  - Incorporating knowledge into interactions across cultures

# Trauma and Culture

A trauma-informed approach refers to the manner in which a school/district thinks about and responds to those who have experienced or may be at risk of experiencing trauma

- Anyone can experience trauma and reactions vary from person to person
- Culture influences how an individual interprets and assigns meaning to trauma
- Practitioners must understand trauma-informed practices in relation to cultural differences
- Trauma-informed schools/districts have a culture that incorporates a thorough understanding of trauma-informed principles and practices
- Offering IR is one way to move toward trauma-informed practices

# Dynamics of Sex- and Gender-Based Violence

- Culture affects how individuals view and experience gender-based violence (GBV)
- GBV occurs across many different types of relationships
- Relationships, and the power dynamics of those relationships, have an enormous impact on what strategies will provide the most effective responses
- Cultural aspects that may influence how GBV is experienced and viewed include:
  - Spoken and unspoken rules about behavior
  - Bodily autonomy
  - Fear, shame, and evaluation
  - Laws
  - Religious beliefs

# Culture and Conflict Resolution

- Cultures are embedded in every conflict because every conflict arises within human relationships
- Affects the ways we name, frame, blame, and attempt to tame conflict
- Influences how individuals engage in conflict resolution

# Intersectionality

Framework for understanding how aspects of a person's identities contribute to various disadvantages and privileges

## RACE

Often a dominant identity when navigating systems

## GENDER

More salient for gender diverse individuals encountering lack of knowledge or understanding

## ABILITY

Ability status often diminished based on intersecting identities

## ETHNICITY

Can create a feeling of being siloed into one group or another

## SEXUALITY

Often more dominant for males than females

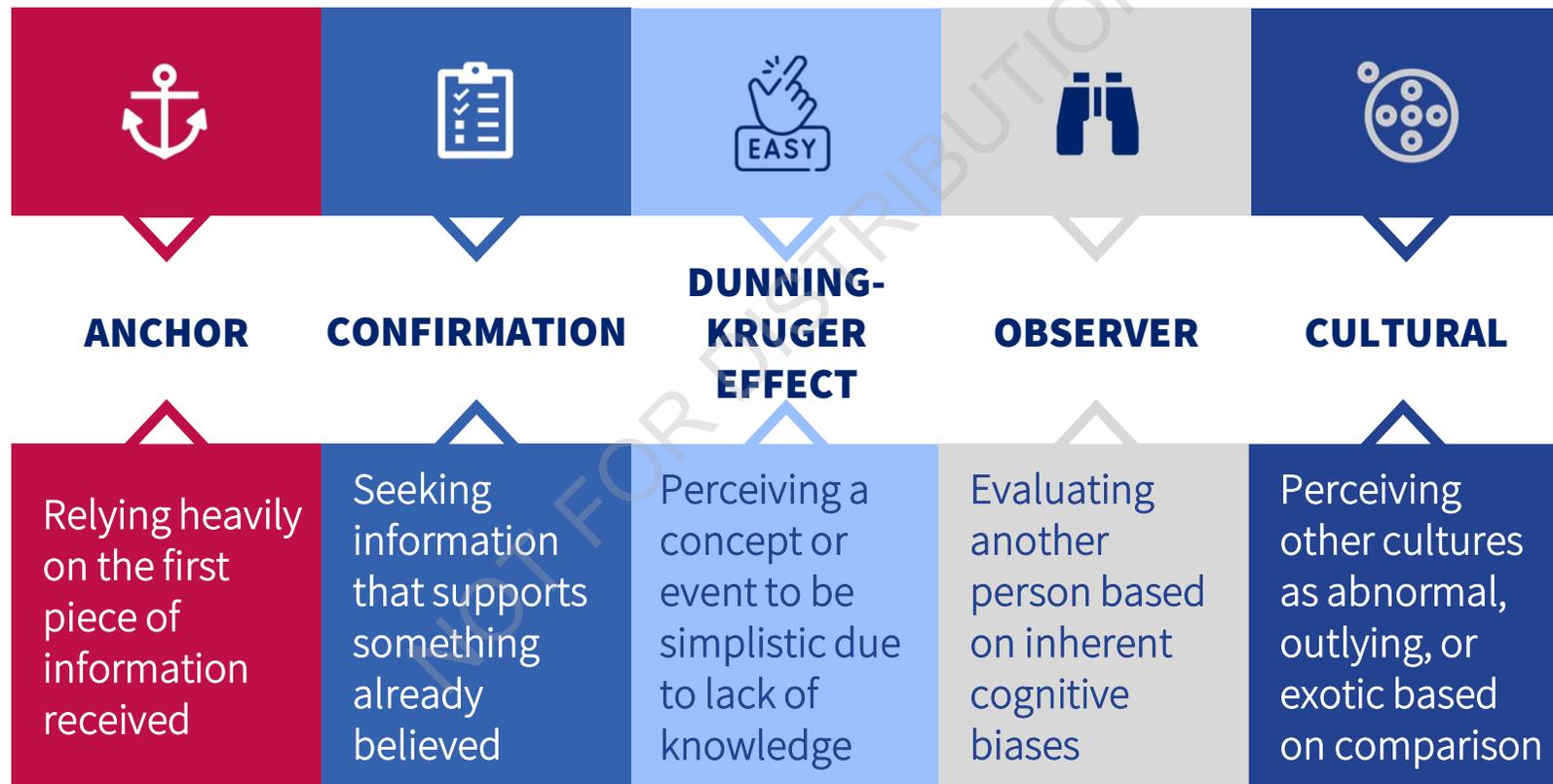
# What is Bias?

- A preference or tendency to like or dislike
- A cognitive process
- Can be a systematic error in our thinking process
- Mental shortcuts
- A thought process developed over time through repeated personal experience
- Implicit or explicit
- Can be intentional, but generally unintentional

# What is Bias?

- Formed from stereotypes, societal norms, cultural experiences, and expectations of the people around you
- Can affect our perceptions of Complainants **and** Respondents
- Common pre-conceptions about Complainants **and** Respondents
- Can affect our perceptions of others within the process or associated with the process

# Types of Bias



# Common Bases for Implicit Bias

- Ability
- Age
- Citizenship status
- Ethnicity
- Gender
- Gender Identity/Expression
- Health status
- Marital status
- Mental health status
- National origin
- Parental status
- Physical attributes
- Race
- Religion
- Sexual orientation
- Socioeconomic status

# Strategies for Addressing Bias

- Provide robust training
  - Cultural Competency
  - Title IX regulatory requirements
  - IR skills and best practices
- Encourage IR facilitator to share potential concerns or areas of bias with TIXC
  - Assign an alternative IR facilitator if a potential concern or bias is present

# ATIXA's Informal Resolution Framework

NOT FOR DISTRIBUTION

# Supportive Measures Only

- Formal complaint not required
- Complainant declines to pursue Formal Grievance Process
- TIXC works with Complainant to determine reasonable and appropriate Supportive Measures
  - May not adversely impact the Respondent
  - No cost to the Complainant

# Supportive Measures Only

## Examples include:

- Academic adjustment
- Monitoring at certain times/locations within the school day
- Transportation assistance
- No Contact Orders; involves notifying the other party
- Counseling
- Modified work schedule



# Supportive Measures Only

## ▪ **Facilitation Foundations**

- What does TIXC/IR facilitator need to know?
- Work collaboratively to identify reasonable and appropriate supports
- Empower choice
- Be cautious about incomplete stories

## ▪ **Appropriate Documentation**

- Decision to decline formal complaint and/or other resolution options
- Option to pursue formal complaint in the future
- What was offered, declined, and implemented
  - How to request additional support or modifications
  - Document plan for future academic years

# Supportive Measures Agreement Example

**“Agreement” between TIXC and Complainant that outlines specific supportive measures to be implemented**

## **Example:**

- TIXC (or the school counselor) will contact Mr. Simmons (AP English), Dr. Gaines (Calculus), and Ms. Lyles (World History) to request they work directly with student regarding academic adjustments appropriate to their classes. Student/parent will be cc'ed on emails and student is encouraged to work directly with their teachers to make specific arrangements.
- TIXC will work with the school counselor to arrange a conversation with the yearbook advisor to ensure that both students remain involved but will minimize in-person meetings that both students need to attend.

# Accepted Responsibility

- Respondent accepts responsibility for policy violation(s) prior to final determination
- TIXC, Complainant, and Respondent agree to sanctions/corrective actions
- If the school/district uses a **progressive sanctioning model**, the TIXC will need access to the Respondent's prior disciplinary history
- If a Respondent has an **Individualized Education Plan (IEP)**, school/district may need to follow the disciplinary process for students with disabilities (consult with your Special Education director and/or legal counsel)
- **No appeal process** if all parties agree on IR terms
- Document parties' decision to not pursue Formal Grievance Process

# Accepted Responsibility

## ▪ **Facilitation Foundations**

- What does TIXC/IR facilitator need to know?
- Discuss Complainant and Respondent needs and goals
- Ensure all parties/parents/guardians are voluntarily participating
- All parties must assent to findings/sanctions
- Outcome enforcement procedures

## ▪ **Appropriate Documentation**

- Decision to decline Formal Grievance Process and/or other resolution options
- Signed agreement

# Signed Resolution Agreement Example

Respondent accepts responsibility for violating the Sexual Harassment policy by repeatedly making unwelcome sexual comments to Complainant in person and sending sexual content to Complainant via text message between March and September 2023

- Respondent agrees to attend sexual harassment training provided by Human Resources by December 15, 2023
- Respondent agrees to have no contact with Complainant unless it is expressly work related
- Respondent will be placed on employment probation for a period of one calendar year
- Failure to adhere to this agreement will result in disciplinary action for Respondent's failure to comply

# Alternative Resolution

- Umbrella term that can encompass any mechanism used to resolve a formal complaint that is not Supportive Measures Only, Acceptance of Responsibility, or the Formal Grievance Process
- May or may not result in formalized agreement between the parties and school/district
- Should always include intake, preparation, facilitation, and closure phases
- Five common conflict resolution mechanisms:
  - Conflict Coaching
  - Facilitated Dialogue
  - Shuttle Negotiation
  - Mediation
  - Restorative Practices

# Conflict Coaching

- Party, usually the Complainant, works one-on-one with a trained facilitator
- Discuss the behavior they want to address
- Explore strategies for addressing the behavior directly with other party
- Often includes role-playing practice



# Conflict Coaching

## STRENGTHS

- Prevents low-level concerns from escalating
  - Empowers parties and builds conflict resolution skills
- 

## CHALLENGES

- Relies on one party's version of the events
  - Dependent upon initiating party's willingness to engage
- 

## CONTEXT CUES

- Pre-existing relationship
  - Low-level conduct
  - Respondent struggles with social cues
- 

## BEHAVIORS

- Unwelcome communication
- Lingering or lurking
- Repeated requests for dates

# Facilitated Dialogue

- Parties engage in direct conversation about incident/conflict
- Use the assistance of a mutually serving facilitator
- Focus on providing space and framework for communication versus finding agreement



# Facilitated Dialogue

## STRENGTHS

- Allows for dialogue without pressure to reach an agreement
  - Easily adaptable to in-person or virtual settings
- 

## CHALLENGES

- May leave parties feeling the situation is unresolved
  - Can easily turn into debate rather than dialogue
- 

## CONTEXT CUES

- Parties open to direct interaction
  - Conduct may not rise to the level of a policy violation
  - Goal of perspective sharing and increasing understanding
- 

## BEHAVIORS

- Offensive or hate speech
- Not respecting boundaries

# Shuttle Negotiation

- Common approach in K-12
- Third-party facilitator acts as a go-between for the parties to negotiate a resolution
- Often takes several conversations with each party before a resolution is reached



# Shuttle Negotiation

## STRENGTHS

- Allows for resolution without direct interaction
  - Flexible to accommodate different communication preferences
- 

## CHALLENGES

- Relies heavily upon facilitator's accuracy and skill
  - Often does not address underlying feelings and needs
- 

## CONTEXT CUES

- Parties do not want or are restricted from direct communication
  - Goal of sharing perspectives and reaching agreements
  - Parties have ongoing relationship/overlap in education, social, or employment activities
- 

## BEHAVIORS

- Sexual harassment
- Dating or domestic violence
- Sexual exploitation

# Mediation

- Structured process where mutually serving facilitator fosters an environment of open communication between parties with an intention of reaching an agreement
- Facilitators tend to follow facilitative and/or transformative mediation models for Title IX complaints
- Mediators tend to keep their own views of the conflict hidden



# Mediation

## STRENGTHS

- Seeks to address short- and long-term issues
  - Structured to facilitate developing a tangible agreement
- 

## CHALLENGES

- Assumption that both parties contributed to causing the issue being mediated
  - Not appropriate for matters with unresolved power imbalances
  - Often results in compromise; no party is fully satisfied
- 

## CONTEXT CUES

- Parties willing to be in the same space
  - Limited or no power imbalances
  - Flexibility about what outcome may result
- 

## BEHAVIORS

- Sexual harassment
- Sexual exploitation

# Restorative Practices

- Commonly thought of as a circle process with a mutually serving facilitator
- May take the form of conferencing or an exchange of statements
- Focuses on identifying:
  - Who was harmed
  - How they were harmed
  - Respondent taking accountability for causing harm
  - Parties determining how Respondent can best repair the harm



# Restorative Practices

## STRENGTHS

- Provide Complainant opportunity to be heard and have questions answered
  - Allow parties to work collaboratively to determine how harm and relationships can be repaired
- 

## CHALLENGES

- Cultural shift for Respondents to take accountability
  - Require highly skilled and experienced facilitator
  - Often time-intensive for preparation and facilitation
- 

## CONTEXT CUES

- Respondent is taking accountability for causing harm
  - Desire to repair a pre-existing relationship
  - Openness to listening to others' experiences and perspectives
- 

## BEHAVIORS

- Sexual exploitation
- Hazing

# Activity: Case Study

# Tate and Cal

## Initial Contact

Tate, a senior, and their parent file a formal Title IX complaint alleging that another student, Cal, repeatedly and intentionally touched Tate's buttocks and breasts during basketball practice and in the locker room. Tate alleges the behavior has been going on for several months and Cal hasn't stopped when Tate has asked Cal to stop. Tate and their parent aren't sure how they want the matter resolved yet, but they want Cal to be "spoken to," for the behavior to stop, and for the coaches and volunteers to be aware of Cal's behavior. In earlier conversations, Tate's parent said they wished Cal would leave the team entirely.

**If this complaint were to be resolved informally, would it fall within the Title IX regulations? Why or why not?**

# Tate and Cal

## Initial Screening

- Is this situation appropriate for a possible IR?
- Is this a scenario where we need to follow IR procedures as specified under the Title IX regulations?
- What IR method might be appropriate?
- What potential outcomes can you envision based upon the information provided?
- What other issues do you “spot” as you think about approaching the parties regarding IR?

# Alternative Resolution Process

# Who Should Facilitate?

- Schools/Districts have discretion to determine who can serve as an IR facilitator
- Models:
  - TIXC can serve as facilitator
  - Identified Deputy TIXC who typically facilitates
  - Facilitator pool
- School/District may contract or hire external facilitators
- TIXC will need to determine appropriateness of facilitator preference requests from parties
- Must be trained IR facilitator

# Role(s) of Parent/Guardian

- Parent/Guardian may serve as the Advisor for their student in the Formal Grievance Process
- Even if not technically an “Advisor,” parents/guardians participate in the IR process
  - Parent/Guardian can decide whether to opt for IR
  - Attend (and participate) in IR meetings and preparation meetings
  - Decide whether a resolution is acceptable
  - Support and assist their student in conveying experience and position
- IR facilitator may need to navigate when student and parent/guardian want different outcomes

# Advisors

- School/District policy determines if Advisors are permitted during IR
- Assess whether school/district policy allows Advisors in other similar processes
  - Full participation/representation vs. limited role
  - Representative for school/district
- Clearly explain Advisor role and expectations in published policy/procedures and first Advisor interaction

# Intake

- First step in process
- Best facilitated by the person or pair running the process
- All parties need to participate in individual intake sessions

## Intake Session Goals

- Build rapport
- Evaluate emotional, mental, and physical safety for participation
- Ascertain motivation and goals
- Explain AR process and manage expectations
- Identify support resources for parties
- Determine what would prevent continuation of process for each party

# Facilitator Reminders

- For most parties, this is a new process
- Provide reference materials for parties after the intake meeting
- Facilitator's goal is to make the process or action easier for parties
- Do not take parties' actions personally
- Avoid making assumptions and challenge assumptions the parties make

# Positions, Interests, and Needs

**P**

**Positions:** specific demands; a chosen stance; a solution a upon which a party has decided

Example: “I want the Respondent suspended”

**I**

**Interests:** underlying motivations, hopes, concerns, desires, or worries that led a party to their position; what helps a party choose their solution

Example: “I don’t want to have classes with the Respondent”

**N**

**Needs:** what a party actually must have

Example: safety

# Activity: Case Study

# David and Andrea

## Initial Contact

David has been referred to Title IX by Human Resources. He shared that his ex-fiancé Andrea (also an employee) has repeatedly contacted him after their relationship ended, including leaving notes on his vehicle on school property that stated, “This is not over;” approaching him after school; appearing at his home; and multiple phone calls and text messages demanding that he speak to her, sometimes during the school day. Andrea has also asked his friends where David is and has shown up at athletic events based on the district’s social media posts about the where and when of post-season play.

David explains that he has repeatedly asked Andrea to leave him alone and not contact him, but she will not comply with his requests. He believes Andrea is having a hard time letting go of their relationship, and he is now seeking your help to resolve the situation.

**What could resolution look like based on David’s story?**

# David and Andrea

## Initial Screening

- Is this situation appropriate for a possible IR?
- Is this a scenario where we need to follow IR procedures as specified under the Title IX regulations?
- What IR method might be appropriate?
- What potential outcomes can you envision based upon the information provided?
- What other issues do you “spot” as you think about approaching the parties regarding IR?

# David and Andrea

## Intake with David

David explained that he started dating Andrea in college, and they were a couple when they both started working for the district. Last year, David proposed, and Andrea accepted. They moved in together. However, at the end of the last school year their relationship became strained, and they started arguing on a regular basis. David shared that he decided to end the relationship over the summer and moved into an apartment with friends. David stated that he does not want to have any further contact with Andrea and there is no reason that she should be continuing to contact him (i.e., no shared children, pets, property, etc.). He requests a No Contact Order and is considering whether to file a formal Title IX complaint.

# David and Andrea

## Next Steps

- Based on the information David has provided, what would your next steps be?
- Is it your practice to speak to the other party before deciding to issue a No Contact Order?

NOT FOR DISTRIBUTION

# David and Andrea

## Conversation with Andrea

Andrea provides similar information regarding the history of her relationship with David. She explains that when they were together, she consented to allowing David to take nude photographs of her at multiple times. Andrea has heard a rumor that David still has the photos and has commented that he plans to post them online. Andrea has been trying to speak to David about deleting the photos, including contacting him during and outside of the school day, but he refuses to answer or return her calls or speak to her in person. Although Andrea was not happy about the relationship ending and would be open to rekindling things with David, all she really wants at this point is for David to delete the photos.

# David and Andrea

## Conversation with Andrea

Andrea provides similar information regarding the history of her relationship with David. She explains that when they were together, she consented to allowing David to take nude photographs of her at multiple times. Andrea has heard a rumor that David still has the photos and has commented that he plans to post them online. Andrea has been trying to speak to David about deleting the photos, including contacting him during and outside of the school day, but he refuses to answer or return her calls or speak to her in person. Although Andrea was not happy about the relationship ending and would be open to rekindling things with David, all she really wants at this point is for David to delete the photos.

# Positions, Interests, and Needs

## David



I want Andrea to leave me alone



We aren't in a relationship; there is no reason for us to communicate



Cooperation, ease

## Andrea



David needs to delete the photos



He has no reason to keep the photos and I don't want them being shared



Consideration, respect, security

# David and Andrea

## Next Steps

- How could a facilitator approach resolving the situation between David and Andrea?

NOT FOR DISTRIBUTION

# Intake Meeting Structure



**GATHER PARTY'S  
PERSPECTIVE**



**EXPLORE POSITIONS,  
INTERESTS, NEEDS,  
AND FEELINGS**



**ASCERTAIN PARTY'S  
MOTIVATION**



**ASK WHAT CANNOT BE  
SHARED WITH OTHER  
PARTY**



**DISCUSS PARTY'S  
GOALS**



**OBTAIN WRITTEN  
CONSENT**

# Evaluation Frameworks

- Pay attention to cues indicating whether a party is in a conducive mental and emotional state for AR participation
- Assessing readiness and amenability for AR is both an art and a science
- Three example frameworks:
  - The 10 D's of Opposition
  - Four Levels of Accountability
  - ATIXA's 1P2P Framework

# 10 D's of Opposition



**DEFLECT**



**DELAY**



**DENY**



**DISCOUNT**



**DECIEVE**



**DIVIDE**



**DULCIFY**



**DISCREDIT**



**DESTROY**



**DEAL**

NOT FOR DISTRIBUTION

# Four Levels of Accountability

Want to repair  
harm and  
relationships

Desire to  
understand  
impact of harm

Ability to  
acknowledge  
you caused  
harm

Ability to  
acknowledge  
someone was  
harmed

# ATIXA's 1P2P Framework

Checklist outlining considerations for determining appropriateness and parties' preparedness for AR

## Considerations:

- Parties' amenability to AR
- Likelihood of resolution
- Parties' motivation
- Civility
- Results of violence risk assessment
- Emergency removal implications
- Complaint initiation
- Facilitator skill
- Emotional investment
- Rationality
- Parties' goals
- Resources

# Preparation Meetings

- Number and structure of preparation meetings depends on AR mechanism and parties
- Facilitator should go into each meeting prepared with what they want to achieve during the meeting
  - AR can take unexpected turns and facilitators should not plan for a particular outcome
- Parties may not get to a place where they are ready to interact

# Nonviolent Communication (NVC)

- Method of communication claimed to increase empathy and improve quality of life
- Four stages include:
  - Observations
  - Feelings
  - Needs
  - Requests/Offers

If "violent" means acting in ways that result in hurt or harm, then much of how we communicate could indeed be called "violent" communication.

## Nonviolent COMMUNICATION

A Language of Life



Words matter. Find common ground with anyone, anywhere, at any time, both personally and professionally.

**MARSHALL B. ROSENBERG, PhD**

Foreword by **Deepak Chopra**

Endorsed by **Tony Robbins, Arun Gandhi, Marianne Williamson, John Gray, Jack Canfield, Dr. Thomas Gordon, Riane Eisler, and others**

# Preparation Questions

## Complainant

- What would you like the Respondent to learn as a result of this incident?
- What would help you feel confident that this behavior will not happen again?
- Do you want to be able to have contact with the Respondent following this incident?
- What did you need in the moment that the incident was happening?

## Respondent

- What do you think you need to learn as a result of this incident?
- Are there any underlying issues that contributed to your choices and behaviors that need to be addressed?
- What would help you feel confident that this behavior will not happen again?

# Facilitation

1

## Opening

- Introductions
- Process explanation
- Guidelines/ground rules

2

## Connection and Communication

- Exchange of information between parties
- Reflections and responses

3

## Developing Agreements

- Requests and offers
- Negotiation
- Expectations for non-compliance

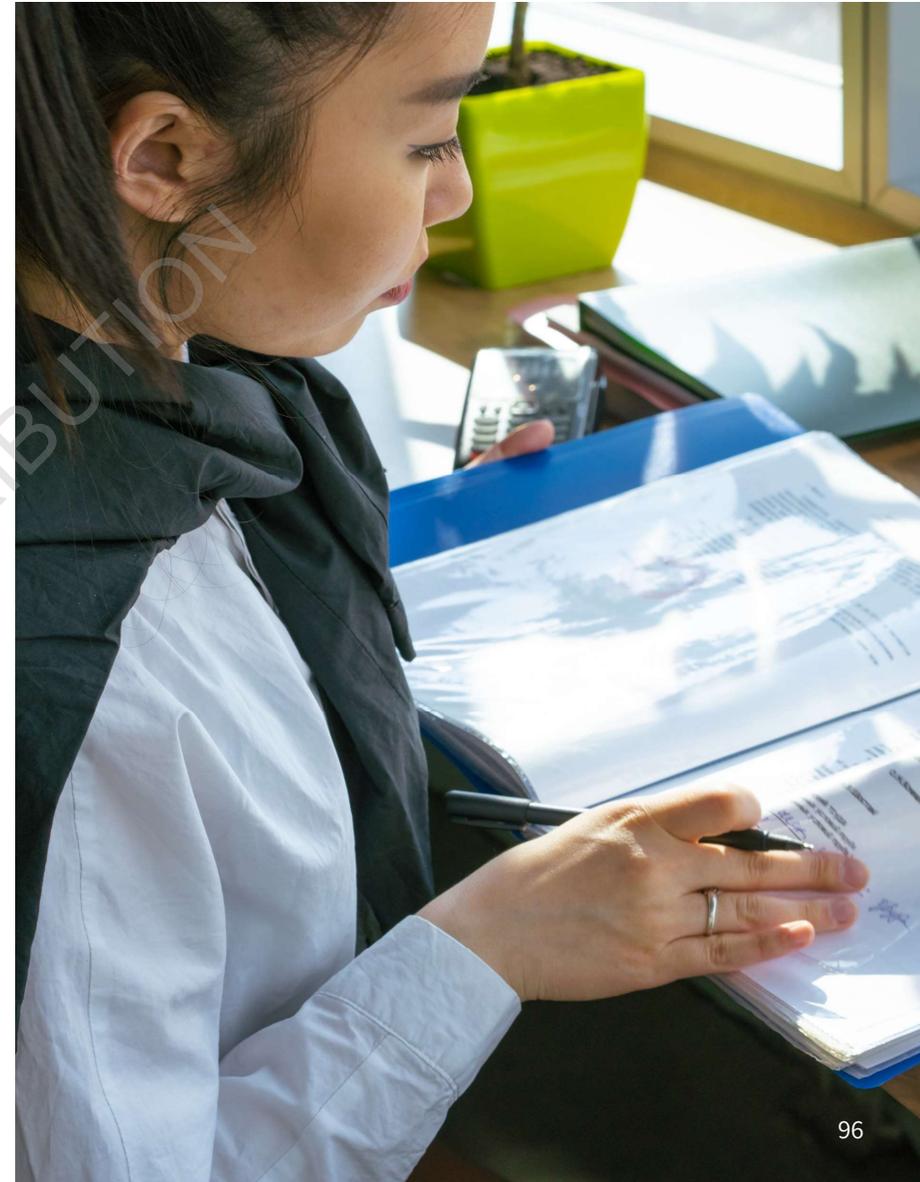
4

## Closing

- Conversation recap
- Review and finalize any agreements

# Process Closure

- Involves responsibilities for TIXC and the facilitator(s)
- ATIXA recommends the TIXC approve any agreements before they are finalized
- Process closure includes:
  - Written agreements
  - Follow-up with the parties
  - Facilitation debrief
  - Documentation



# Resolution Agreements

- Facilitator documents resolution from process notes
- Once approved by TIXC: clear communication regarding what is required of parties, if anything
- Copies of resolution are provided to parties for review
- School/District will determine whether parties will sign an acknowledgment of acceptance
- Final copy is provided to the parties and maintained by TIXC
- Document sufficient details to allow for an evaluation of a possible pattern in the event of a future complaint

# Unsuccessful Resolution

- Facilitators or TIXC should meet with the parties individually to discuss why AR was unsuccessful
  - Gauge ability and willingness to revisit outcome and continue AR process
- Refer the complaint back to the Formal Grievance Process to resume or start as appropriate
  - Complainant has option to withdraw the complaint
- For unapproved proposed resolutions, TIXC must provide a rationale
- Facilitator should provide process notes to the TIXC to be included in the Complaint File

# Process Considerations

NOT FOR DISTRIBUTION

# Setting the Tone

**Practitioners need to consider the tone they hope to set for IR in their process**

- Participant experience from intake through resolution
- Policy language
- Print and web-based materials
- Presentations and training
- On- and off-ramps

# Policy Considerations

- Determine if school/district policy allows for AR
  - Permissiveness
  - Deal breakers
- Determine whether school/district support exists for AR and to review/amend policies
- Know your school/district processes to review/amend policies
  - Process
  - Approval
  - Legal counsel review

# Process Structure Considerations

- ATIXA recommends the TIXC have authority to disapprove of a proposed resolution
  - Responsible for ensuring equity within a complaint and across complaints
  - Requirement to stop, prevent, and remedy
- Schools/Districts need clearly defined deal breakers
- Accurate understanding of the support and comfort level in applying AR in Title IX complaints

# Facilitation Structure Considerations

- Schools/Districts need to determine which of the IR and AR options they will offer
- Identify existing conflict/alternative resolution processes within the school/district
- Identify and train facilitators
- Determine the types of complaints the school will resolve with internal vs. external facilitators



# Privacy Considerations

- Who is invited to participate?
- Non-Disclosure Agreements
  - All parties sign?
  - Advisors
  - How to address a violation of the agreement?
    - Violation by non-affiliated parties?
- Required Reporting
  - Abuse of minor/elder/person with a disability
  - Threats of harm to self
  - Threats of harm to others

# Notetaking

- Facilitators often take notes to help all participants track issues and agreements during the IR process
- School/Districts must determine if facilitator notes are maintained, and if so, by whom and how



# Information Admissibility in the Formal Grievance Process

- **School/District choice to allow information from an AR to be used in the Formal Grievance Process**
- A flexible approach allows schools/districts options and sets expectations with parties involved in each complaint
- Respondents may hesitate to participate without some assurance that information they share won't be used against them in another venue
- Confidentiality agreements/NDAs and/or information sharing expectations can be part of the agreement to participate

# ATIXA's Recommended Policy Language

**“Under circumstances approved by the TIXC, the parties may agree, as a condition of engaging in Informal Resolution, that statements made, or evidence shared, during the Informal Resolution process will not be considered in the Formal Grievance Process unless all parties consent.”**

# Record Retention

- Title IX complaints and associated information must be maintained for a **minimum of seven (7) years**
  - IR is part of this recordkeeping requirement
- Schools/Districts need to determine:
  - Who maintains records
  - How records are retained
  - Whether to create and maintain recordings of AR meetings
  - Whether parties may request to review or amend records
  - Protocol for releasing records as requested and permitted by law



Association of  
Title IX Administrators

**Questions?**

NOT FOR DISTRIBUTION



Association of  
Title IX Administrators

**ALL ATIXA PROPRIETARY TRAINING MATERIALS ARE COVERED BY  
THE FOLLOWING LIMITED LICENSE AND COPYRIGHT.**

By purchasing, receiving, and/or using ATIXA materials, you agree to accept this limited license and become a licensee of proprietary and copyrighted ATIXA-owned materials. The licensee accepts all terms and conditions of this license and agrees to abide by all provisions. No other rights are provided, and all other rights are reserved. These materials are proprietary and are licensed to the licensee only, for their use. This license permits the licensee to use the materials personally and/or internally to the licensee's organization for training purposes, only. If these materials are used to train Title IX personnel, they are subject to 34 CFR Part 106.45(b)(10), requiring all training materials to be publicly posted on a Recipient's website. If you have lawfully obtained ATIXA materials by registering for an ATIXA training, you are licensed to use the materials provided for that training. Licensees may download and post a PDF version of training materials for their completed training to their organizational website to comply with federal regulations.

You are not authorized to copy or adapt these materials without ATIXA's explicit written permission. No one may remove this license language from any version of ATIXA materials. Licensees will receive a link to their materials from ATIXA. That link, or links to the materials on that page only, may be posted to the licensee's website for purposes of permitting public access to the materials for review/inspection, only. Should any non-licensee post these materials to a public website, ATIXA will send a letter instructing the licensee to immediately remove the content from the public website upon penalty of copyright violation. These materials may not be used for any commercial purpose except by ATIXA.