

2020 Title IX REGULATIONS REFRESHER



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INTRODUCTION

COURTNEY BULLARD

- Creator, Title IX U
- Founder and Owner of ICS
- Education Law Attorney



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LESSON ONE

INTRODUCTION AND OVERVIEW



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AGENDA

- Lesson One Introduction and Overview
- Lesson Two Foundational Principles
- Lesson Three Sexual Harassment - The What and Who
- Lesson Four Sexual Harassment - The Where
- Lesson Five Title IX Formal Grievance Process
- Lesson Six Policy, Team, Training
- Lesson Seven Final Reminders and Assessment



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COURSE APPROPRIATE FOR:

Title IX professionals who have already received meaningful training on the 2020 Title IX regulations

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LESSON TWO

FOUNDATIONAL PRINCIPLES



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ACCESS IS MORE THAN JUST NOT GOING TO SCHOOL...



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TITLE IX FOUNDATIONAL PRINCIPLES



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FAIR AND EQUITABLE PROCESS

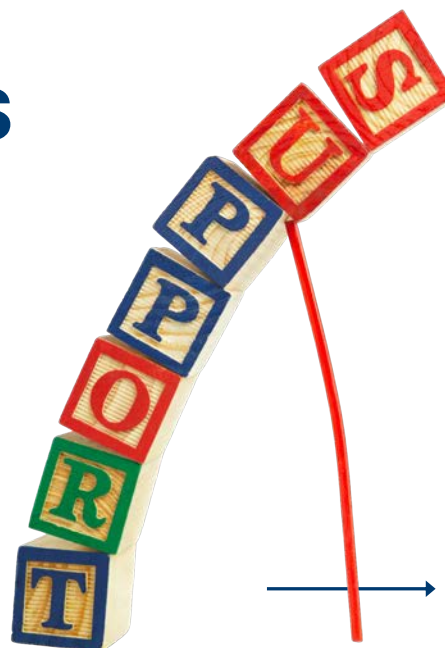


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SUPPORT FIRST, SUPPORT ALWAYS



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What this looks like in practice:



EMPATHY DRIVEN LANGUAGE/
PRACTICES



EDUCATION OF COMMUNITY TO
ENSURE REPORTS MAKE IT TO
TITLE IX OFFICE



INDIVIDUALIZED SUPPORTIVE
MEASURES REVISITED OFTEN
AND DOCUMENTED
EFFECTIVELY

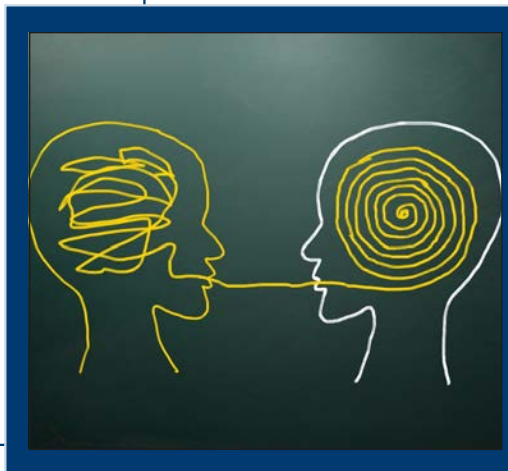


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EXPLAIN SUPPORTIVE MEASURES TO EMPLOYEES EARLY AND OFTEN.

*Make sure they understand
BEFORE you ask them to
implement.*



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SEE YOU IN LESSON 3!

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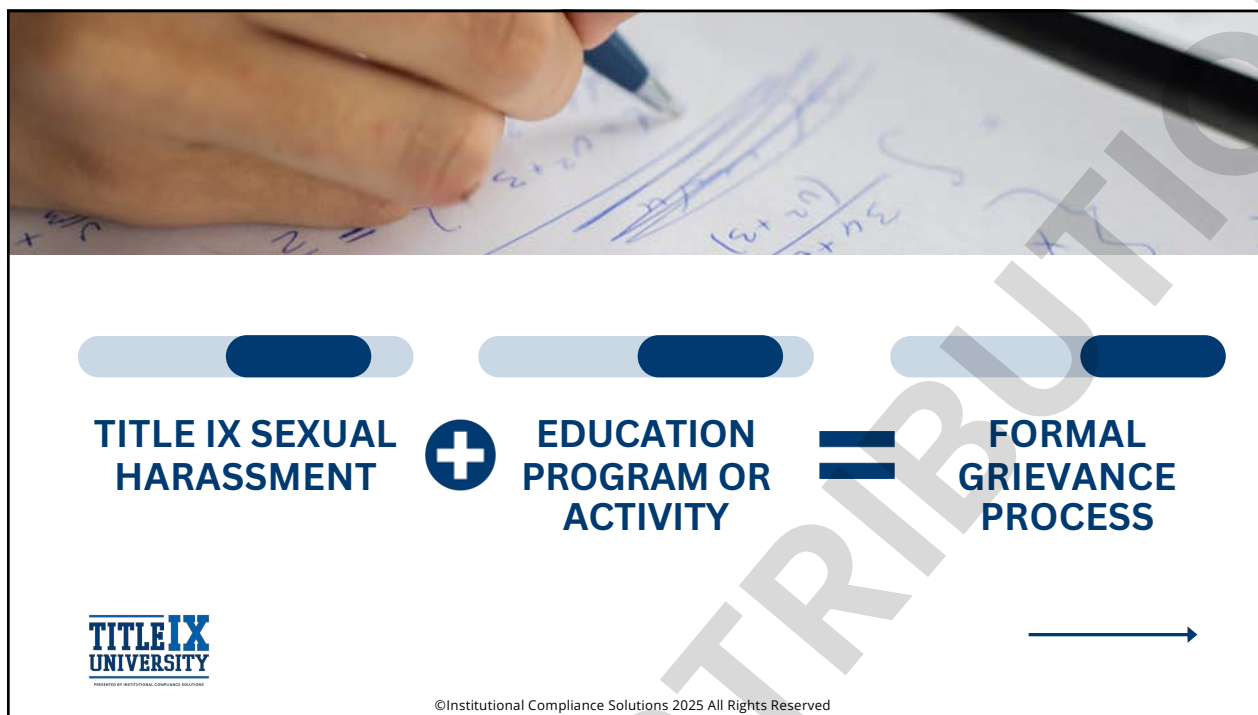
LESSON THREE

SEXUAL HARASSMENT - THE WHAT AND WHO

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"PARTIES" IN TITLE IX MATTER

COMPLAINANT

...an individual who is alleged to be the victim of conduct that could constitute sexual harassment.



RESPONDENT

...an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.



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CONDUCT THAT INVOLVES



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01

Student on student

02

Employee on employee

03

Student on employee

04

Employee on student



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SEXUAL HARASSMENT



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QUID PRO QUO



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1. An employee of the school
2. Conditioning the provision of an aid, benefit, or service of the recipient
3. On an individual's participation in unwelcome sexual conduct



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HOSTILE ENVIRONMENT HARASSMENT



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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

1. Severe - can be nonverbal through sexual assault (touching/fondling)
2. Pervasive - how often and how widespread
3. Objectively Offensive - behavior that would be offensive to a reasonable person under the circumstances



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SPECIFIC OFFENSES



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SPECIFIC OFFENSES

1. SEXUAL ASSAULT

- a. RAPE
- b. FONDLING
- c. INCEST
- d. STATUTORY RAPE

2. DATING VIOLENCE

3. DOMESTIC VIOLENCE

4. STALKING



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SEXUAL ASSAULT

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.

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.

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

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IMPORTANT UPDATE



In June 23, 2025, the FBI issued its annual update to the National Incident-Based Reporting System (NIBRS) User Manual. This update broadens the Title IX definition of "fondling" to "criminal sexual contact". The new definition is:

- The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
- The forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim, for the purposes of sexual degradation, sexual gratification, or sexual humiliation.
- This includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

****Talk with your Coordinator and review your policies and procedures regarding your school's response to this change****



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DOMESTIC VIOLENCE:

Felony or misdemeanor crimes committed by a person who:



Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction* of the recipient (school), or a person similarly situated to a spouse of the victim;

Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

Shares a child in common with the victim; OR

Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

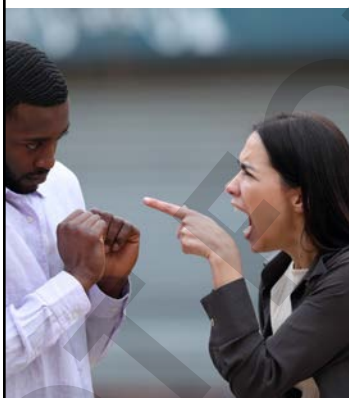


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DATING VIOLENCE:

FELONY OR MISDEMEANOR CRIMES OF VIOLENCE COMMITTED BY A PERSON:



Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

Where the existence of such a relationship shall be determined based on a consideration of the following factors:

- Length of relationship
- Type of relationship
- Frequency of interaction between the persons involved in the relationship



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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

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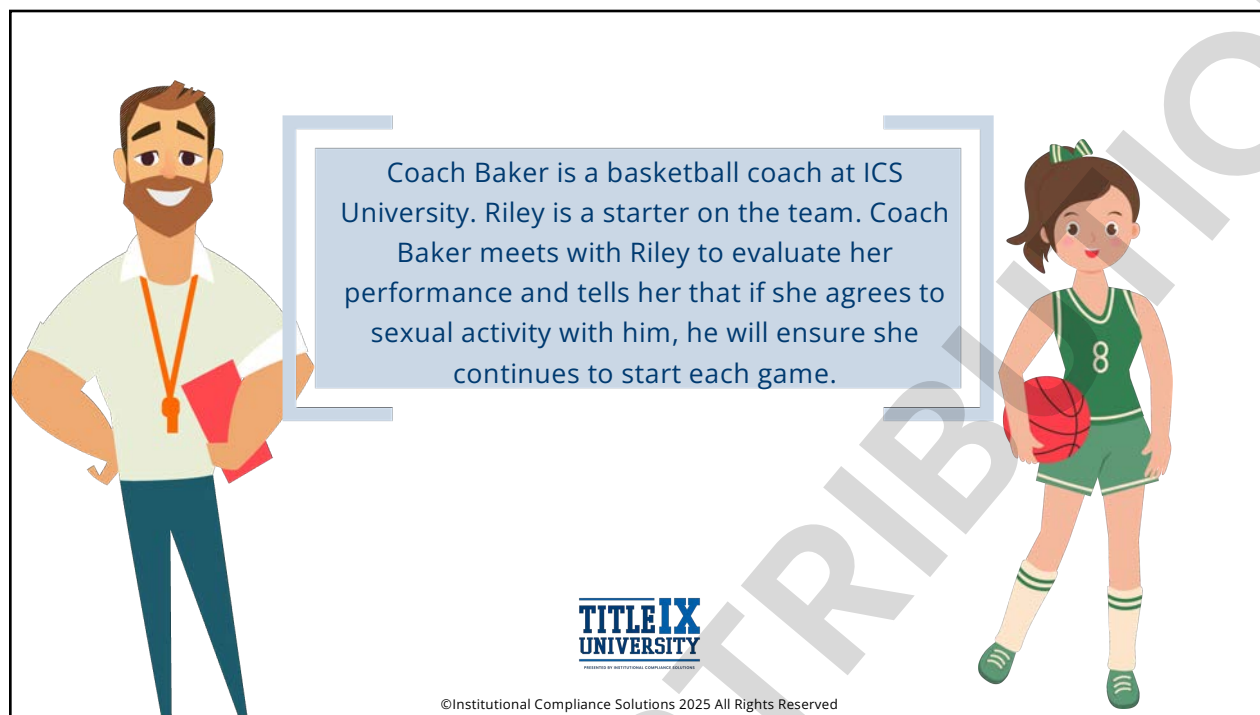


Charlotte and Campbell are students at ICS Academy. Charlotte tells Campbell that she thinks she is pretty and wants to date her. Campbell is uninterested. One day outside of class, Charlotte grabs Campbell's arm and pulls her close to her. She then grabs her butt and says, "man you have the best ass".

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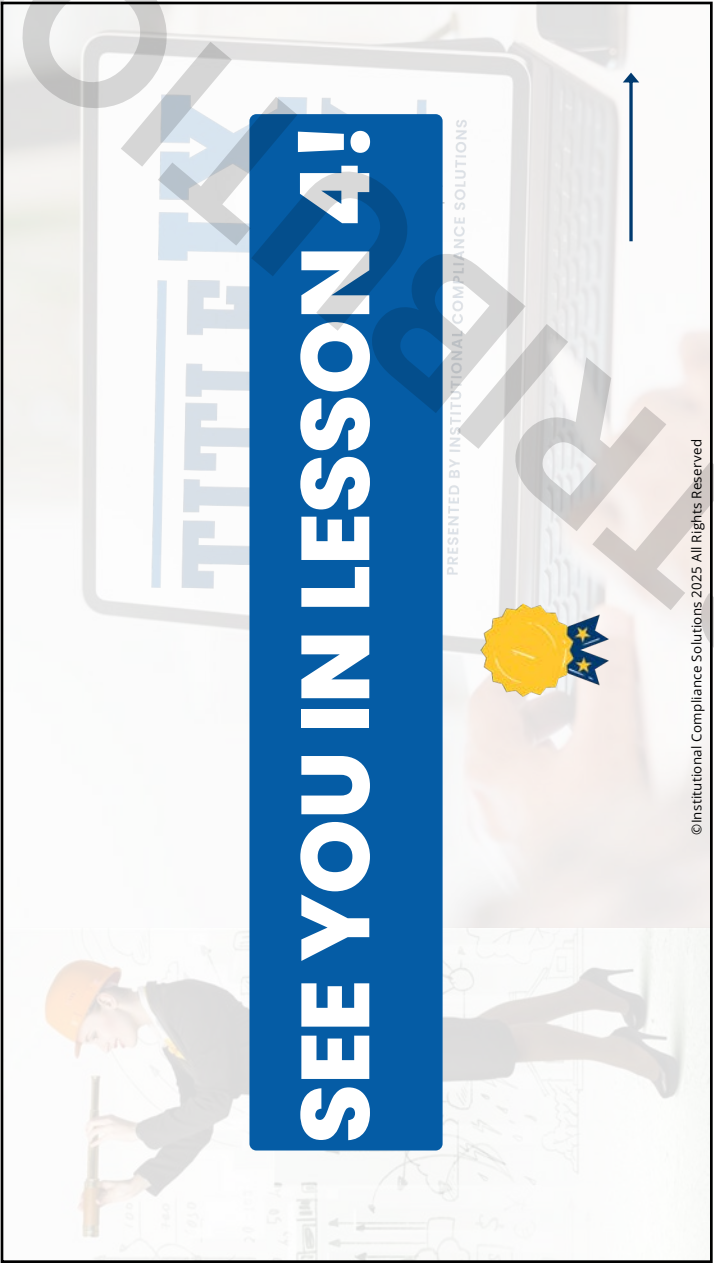
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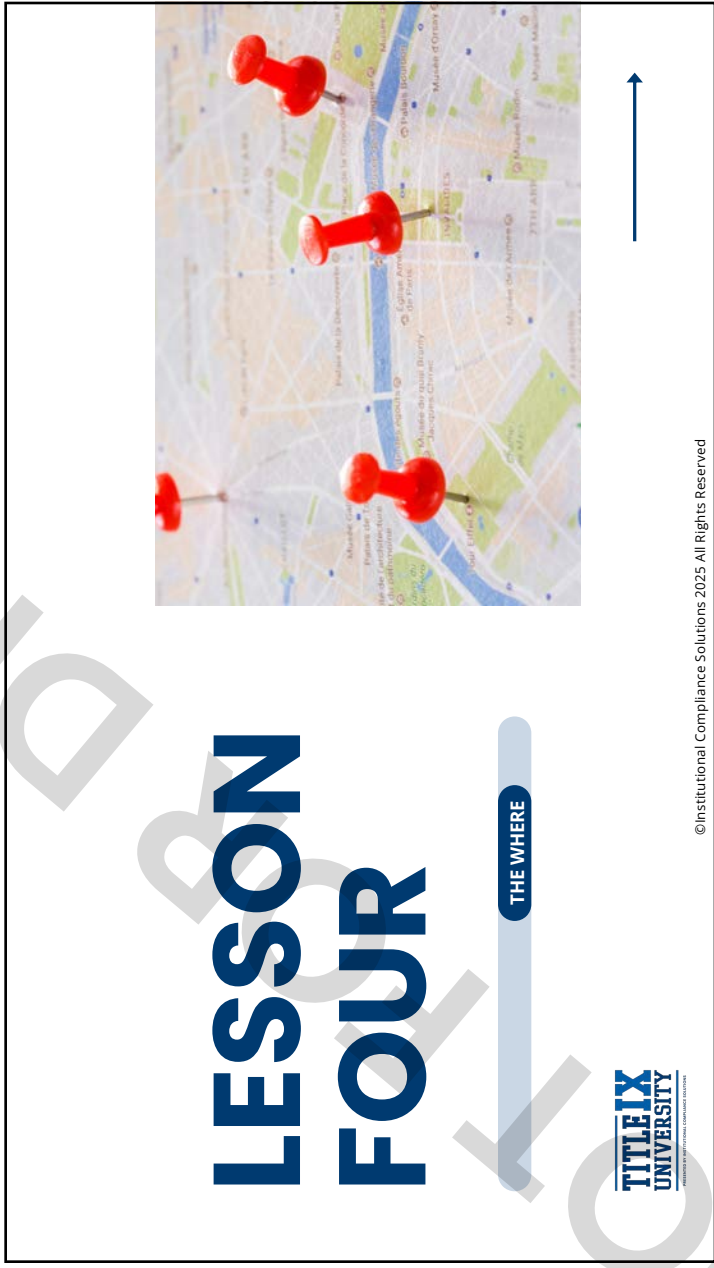
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SEE YOU IN LESSON 4!

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LESSON FOUR

THE WHERE

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If it happens at your school or institution, and you have control over the Respondent, it falls within your jurisdiction.

Ex: Parks and Rec baseball practice at the school; summer camp at a college

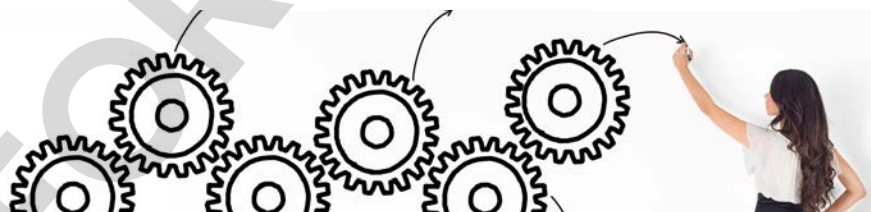


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HOW IS YOUR SCHOOL OR INSTITUTION HANDLING OFF-CAMPUS SEXUAL HARASSMENT?



Student code of conduct?

Same process?

Something else?



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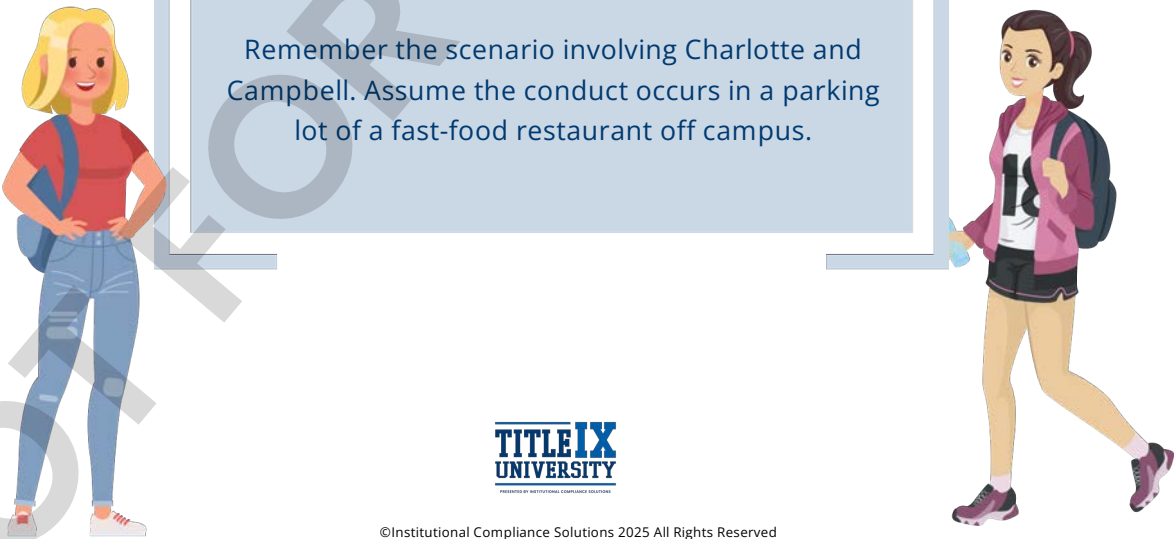
JURISDICTION?



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Remember the scenario involving Charlotte and Campbell. Assume the conduct occurs in a parking lot of a fast-food restaurant off campus.

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Remember Alex and Sophia. Sophia comes to the Title IX office with a second report. While they have broken up since her first report, Sophia now reports that during a study abroad trip for the school in England, Alex threatened to hurt Sophia if she did not get back together with him.

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SEE YOU IN LESSON 5!

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LESSON FIVE

TITLE IX FORMAL GRIEVANCE PROCESS



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LANGUAGE MATTERS

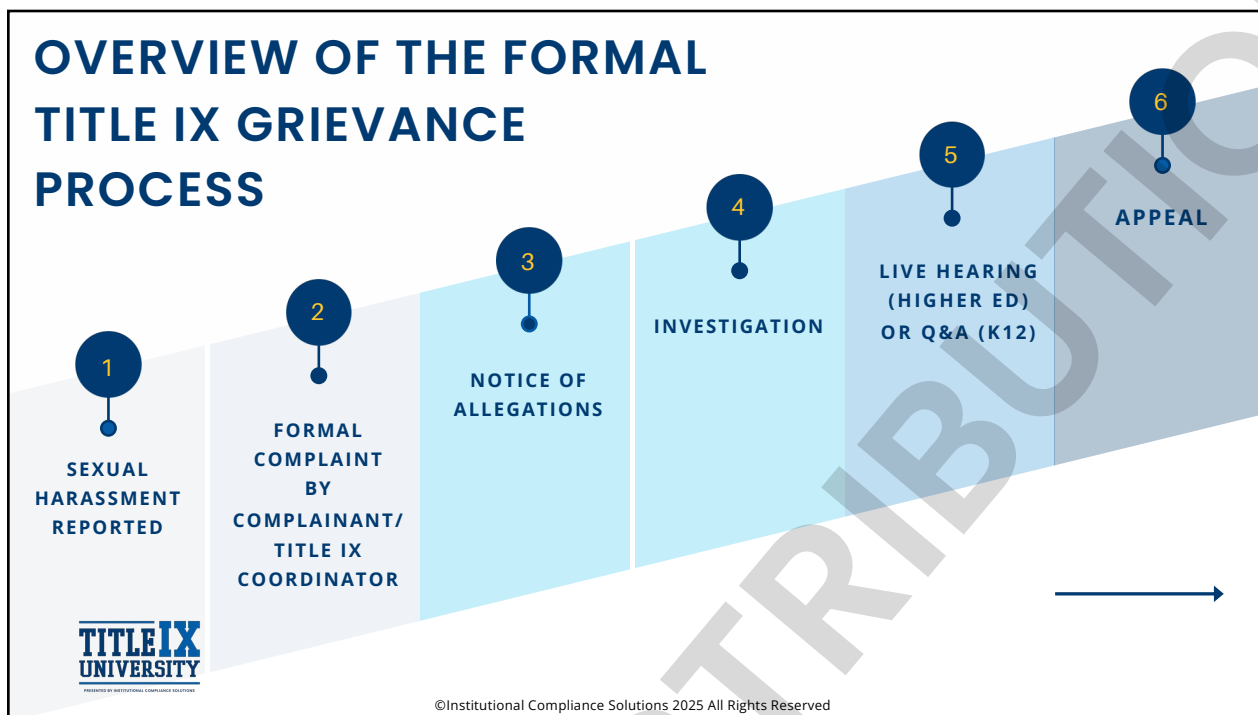


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OVERVIEW OF THE FORMAL TITLE IX GRIEVANCE PROCESS



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TRIAGE/EVALUATION

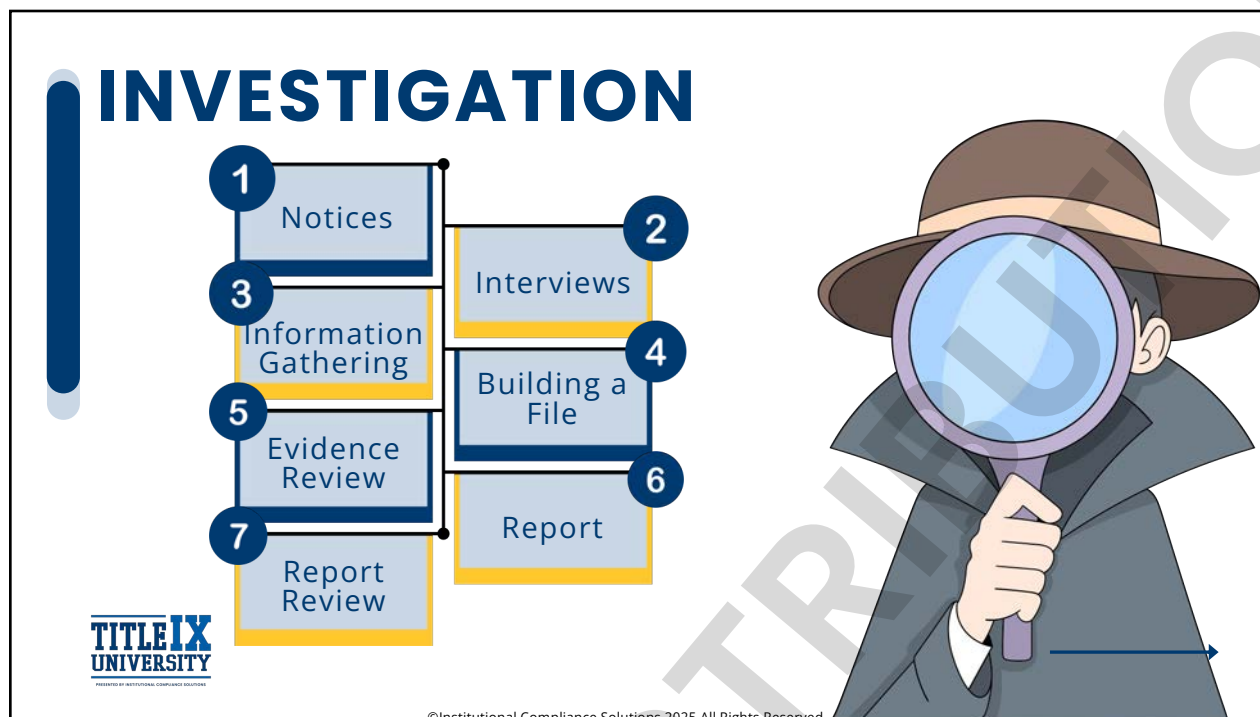
- Responsibility of Title IX Coordinator or Designee
- No prejudgment of information provided
- Determines pathway(s)

EVALUATE

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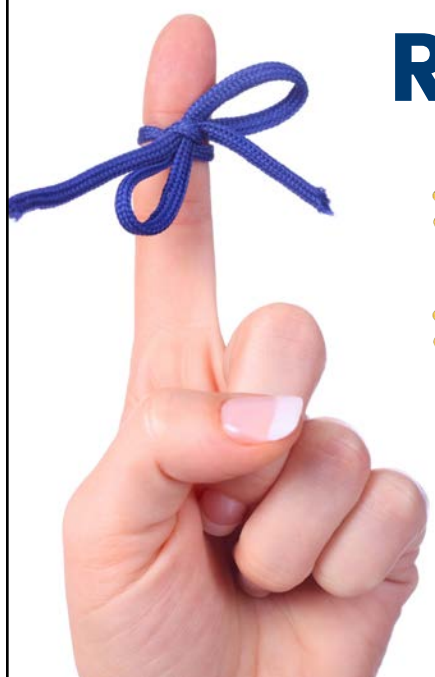
REMINDER!!!

- 👉 No Investigation before or without a Formal Complaint
- 👉 No Investigation without NOA
- 👉 NOA should be updated as needed and redistributed

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REMINDER!!!

Re: Advisors

- Entitled to an advisor of choice
- Participation is dictated by policies and procedures (note: Higher Ed and K-12 differences)

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RESOLUTION



- 1 Introduction to the parties
- 2 Q and A or Hearing
- 3 Ultimate determination of relevance
- 4 Determination (+sanctions)

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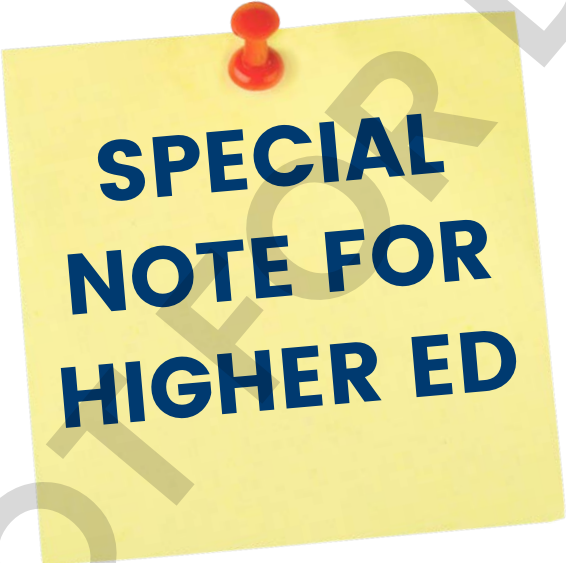
REMINDER!!!

 Investigator cannot be the Decision-Maker



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SPECIAL NOTE FOR HIGHER ED

-  Live Hearing Required
-  Must provide Advisors if the parties do not have one to "cross" other party and other witnesses
-  Trained on technology used

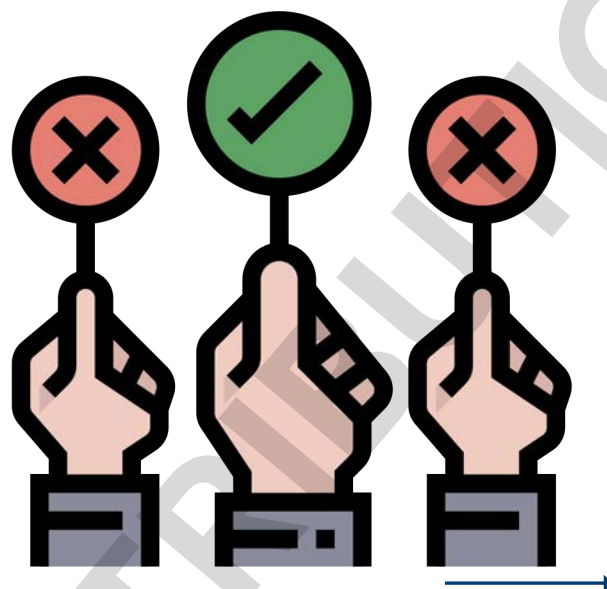


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APPEAL

- Options
- Gatekeeping



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INFORMAL RESOLUTION

-  Can occur anytime after Formal Complaint but before Determination
-  Cannot offer in employee on student matters
-  Notice of Informal Resolution Required



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EMERGENCY REMOVAL

- ⚠ Ensures access for students to education program/activity except in exceptional circumstances
- ⚠ Should not be used if there are other less restrictive means available
- ⚠ Can happen any time in the process
- ⚠ Should be determined by Coordinator
- ⚠ Failure to use this process will be discipline of a Respondent in violation of Title IX



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ADMINISTRATIVE LEAVE

- ⚠ For employee Respondents
- ⚠ Paid leave



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SEE YOU IN LESSON 6!

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LESSON SIX

POLICY, TEAM, TRAINING



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TITLE IX TEAM



TITLE IX COORDINATOR










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TITLE IX COORDINATOR IS YOUR RESOURCE ON QUESTIONS

Need to be
trained on
YOUR specific
policies and
procedures.





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BE SURE YOU HAVE CLARITY ON YOUR ROLE IN COMPLIANCE

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TITLE IX TEAM

- ✓ Must be trained
- ✓ Free from conflict of interest/bias

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Plan NOW for...



ABSENCES



CONFLICTS



RESOURCE ISSUES

...THAT MAY ARISE LATER



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RECORDKEEPING



- Specific obligations to maintain records for seven years.
- You play an important part in the school complying with this mandate.



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POLICIES AND PROCEDURES

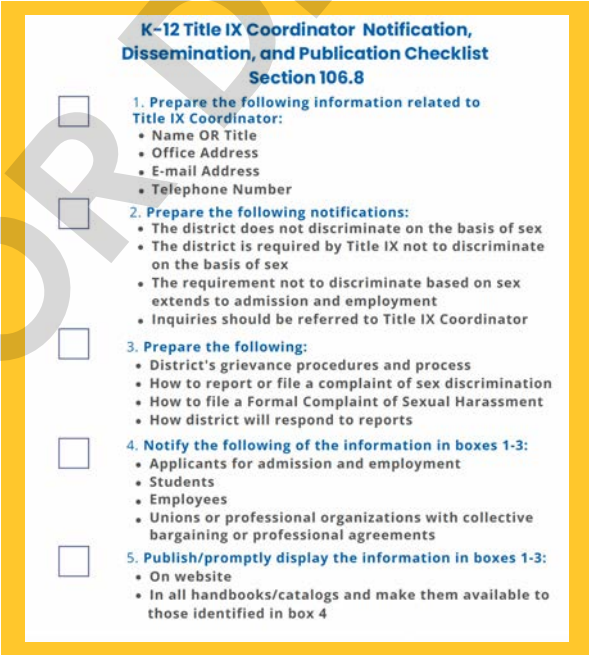
- Roadmap for your Title IX Team
- Roadmap for the parties
- Provides transparent expectations for school community
- REQUIRED

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K-12 Title IX Coordinator Notification, Dissemination, and Publication Checklist Section 106.8

- ☐ 1. Prepare the following information related to Title IX Coordinator:
 - Name OR Title
 - Office Address
 - E-mail Address
 - Telephone Number
- ☐ 2. Prepare the following notifications:
 - The district does not discriminate on the basis of sex
 - The district is required by Title IX not to discriminate on the basis of sex
 - The requirement not to discriminate based on sex extends to admission and employment
 - Inquiries should be referred to Title IX Coordinator
- ☐ 3. Prepare the following:
 - District's grievance procedures and process
 - How to report or file a complaint of sex discrimination
 - How to file a Formal Complaint of Sexual Harassment
 - How district will respond to reports
- ☐ 4. Notify the following of the information in boxes 1-3:
 - Applicants for admission and employment
 - Students
 - Employees
 - Unions or professional organizations with collective bargaining or professional agreements
- ☐ 5. Publish/promptly display the information in boxes 1-3:
 - On website
 - In all handbooks/catalogs and make them available to those identified in box 4

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COMMON POLICY DEFICIENCIES:

- ✓ Failure to provide fully all sexual harassment definitions
- ✓ Missing one or both 10-day review periods
- ✓ Not user friendly
- ✓ Failure to provide timeframes for Formal Grievance Process

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REMINDER!!!

There is conduct that does not require the Formal Title IX Grievance process but requires a response from your school or institution and falls under Title IX:

- ✎ Gender-equity in athletics
- ✎ Discrimination based on pregnancy
- ✎ Failure to accommodate pregnant students
- ✎ Discrimination based on "sex" that is not "sexual harassment" (i.e., teacher treating female students differently than male students).

**Do you have a policy/procedure for these matters?*

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RETALIATION

- Retaliation prohibited in the regulations
- Allegations of retaliation do not have to go through the Formal Grievance Process



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SEE YOU IN LESSON 7!

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LESSON SEVEN

FINAL REMINDERS AND ASSESSMENT



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COMMON MISTAKES

- **Inefficient or insufficient notices**
 - advisors not copied
 - clinically empathy-led
- **Investigation prior to triage/evaluation**
- **Discipline outside of the Title IX process**
- **Inequitable treatment of parties**
 - overt and covert
 - often more supportive of complainant
- **Failure to follow policies/procedures**



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COMMON MISTAKES



- Overcomplicated policies/process
- Lack of visibility of Title IX Coordinator
- Barriers to reporting that are unaddressed/not identified
- Failure to identify sexual harassment when overlapping conduct
- Lack of policy/process for matters under Title IX but outside of the 2020 Title IX regulations

Even the most established processes/seasoned administrators need regular re-evaluation

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Even the most established processes/seasoned administrators need regular re-evaluation

- Just because you have always done it that way does not mean it is the best way now
- Blinders can result from it being something "you built"
- There is always room for improvement
- If you are solid on the Formal Title IX Grievance Process, increase focus on education and prevention
- Best practices/legal landscape/administrative enforcement continue to evolve



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REMINDER!!!

- 👉 Use your templates and checklists
- 👉 Coordinators: Use the triage tool
- 👉 Recognize burn out/need to step away from the work/take a break
- 👉 Mistakes happen, cure in real time
- 👉 Sustainability planning is key

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ADDITIONAL EDUCATION

- Intermediate/Advanced Courses
- Go back to Intro and Overview and courses specific to your role if questions remain
- ICS is here to help

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QUESTIONS?

Title IX Coordinator

info@titleixu.com



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CONGRATULATIONS!



WELL DONE!



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