

BOOTCAMP

Title IX Coordinator Bootcamp

February 23/March 2, 2022

Session 1

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ABOUT US



Housekeeping



- Chat bar
- Breaks
- Materials

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Agenda

- Work alongside the Compliance Workbook
- Collaborate and share with colleagues
- Work through hypotheticals on key concepts

Purpose of ICS Training



Not Legal Advice

Designed to help you work through your compliance efforts for your institution




All Levels

Course is appropriate for all levels and we have all levels in here!



Title IX Regulations

This course goes well beyond the Title IX regulations, but we will cover it



*Take a break,
take a breath!*

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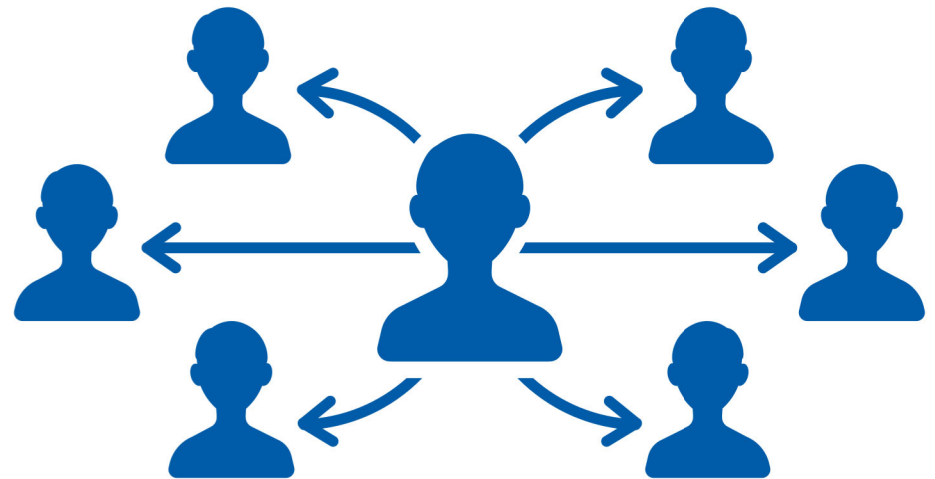
What We Know...



Your Role



The Title IX Coordinator is the leader of a team & coordinates all Title IX compliance efforts.



Title IX Coordinator

Education & Prevention

- Data/Trends
- Outreach
- Liaisons
- Training
 - In person
 - Online
 - Students
 - Faculty
 - Staff

Support

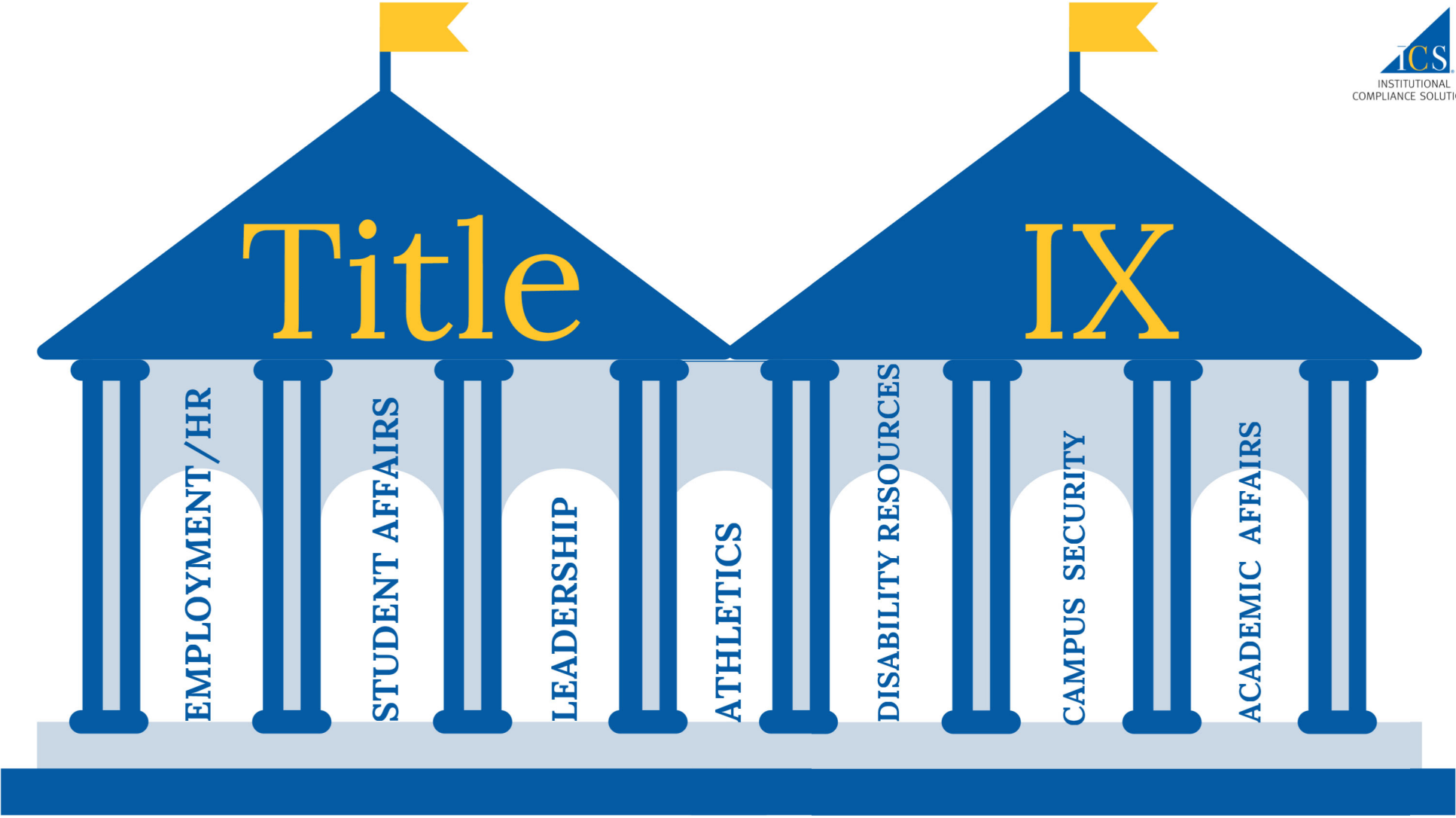
- Intake
- Respondent
- Complainant
- Students
- Employees

Investigations

- Title IX
- Non Title IX Sexual Harassment
- Students
- Employees

Resolutions

- Formal Grievance Process
- Informal Resolution (Adaptable Resolution)
- Students
- Employees



Team Leader Responsibilities

1. Regular meetings with team
2. Facilitate process
3. Available for team during process
4. Triage reports of discrimination
5. Policy & procedure expert & review



Sexual
Harassment

Gender
Equity in
Athletics

Pregnancy
Discrimination

Discrimination
Based
on Sex

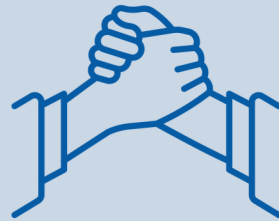
COMPLIANCE



It's more than compliance...



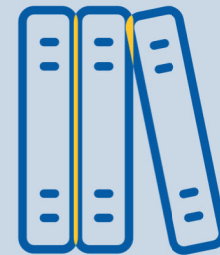
Care



Support



Prevention



Education

What Has Been Happening with Title IX Compliance

COMPLIANCE

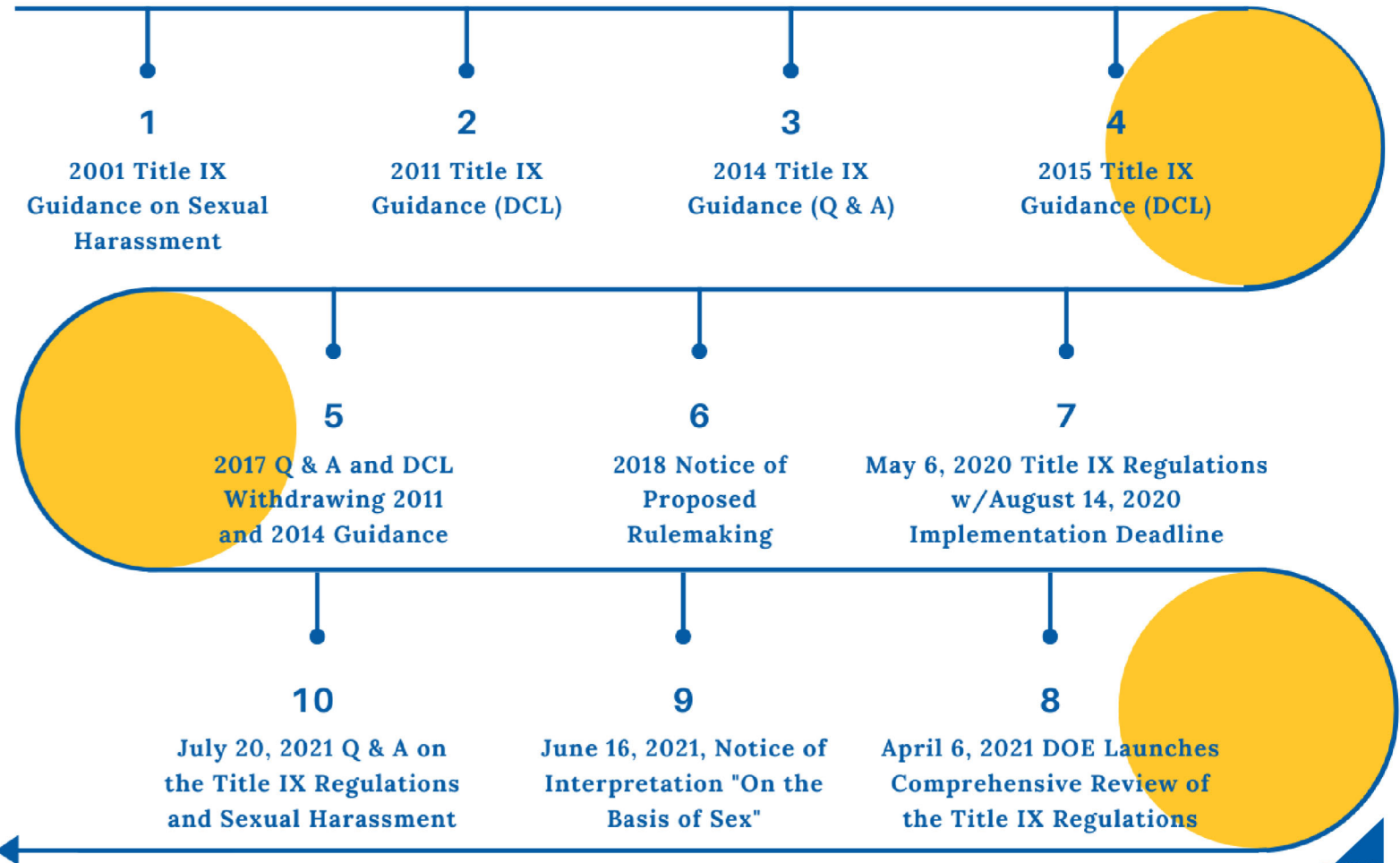
REGULATIONS

REQUIREMENTS

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The Evolution of Title IX

Sexual Harassment



EXPECTED

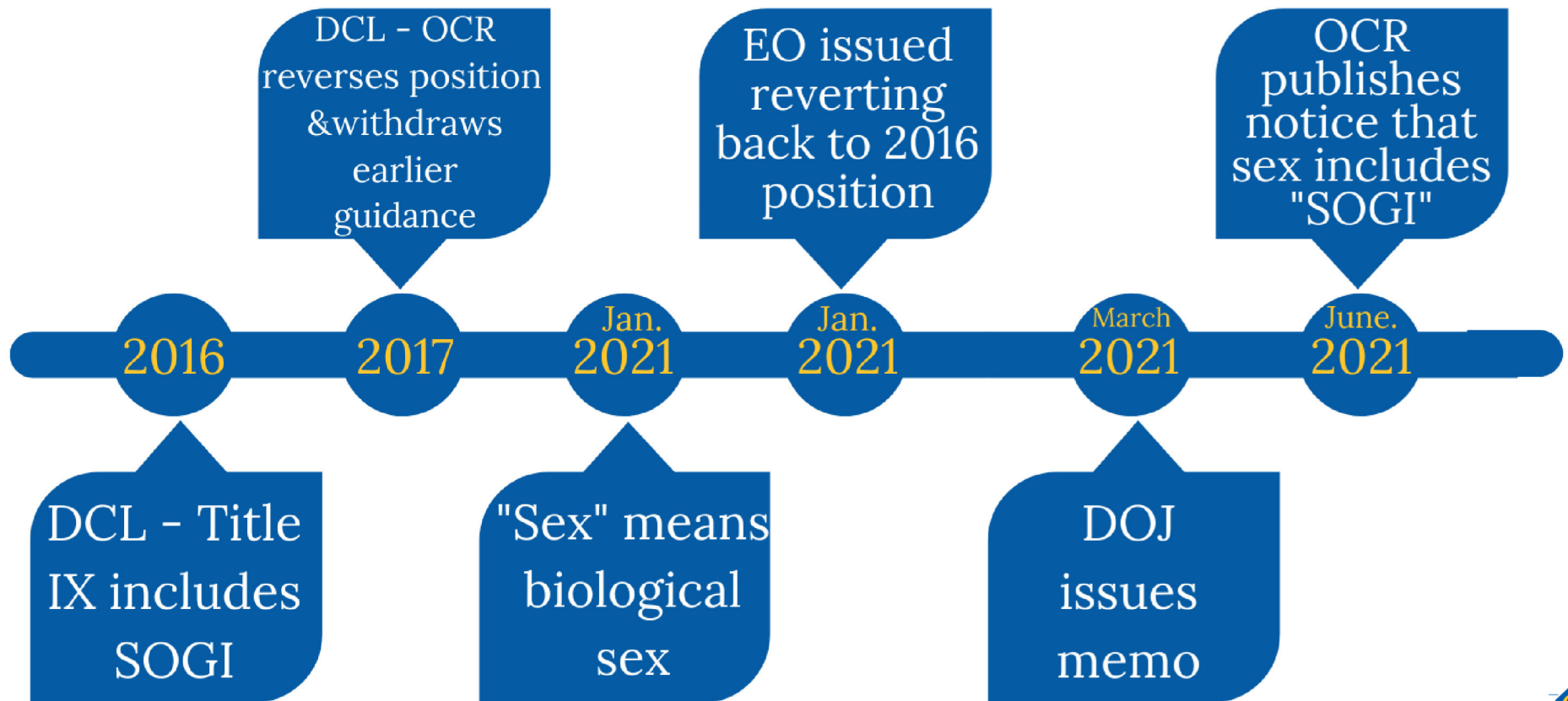
April May 2022

Title IX Rule

Changes/Amendments

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Evolution of Sub-Reg guidance re: SOGI under Title IX



Evolution of Title IX Offices and Institutional Responses



What We are Seeing



*Stand alone coordinator
*Coordinator + dedicated investigators

*Title IX Office
*Sexual Misconduct Prevention & Response
*Office of Institutional Equity
*Office for Civil Rights & Gender Equity

Questions?



INSTITUTIONAL
COMPLIANCE SOLUTIONS

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Structural Evaluation



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Visibility & Access of Title IX Coordinator

- ✓ Address
- ✓ Phone Number
- ✓ Voicemail?
- ✓ Email Address
- ✓ Accessibility of Reporting On-line
- ✓ Location
- ✓ Safety
- ✓ Comfort

Evaluation of Program, Policy, Positions, & People

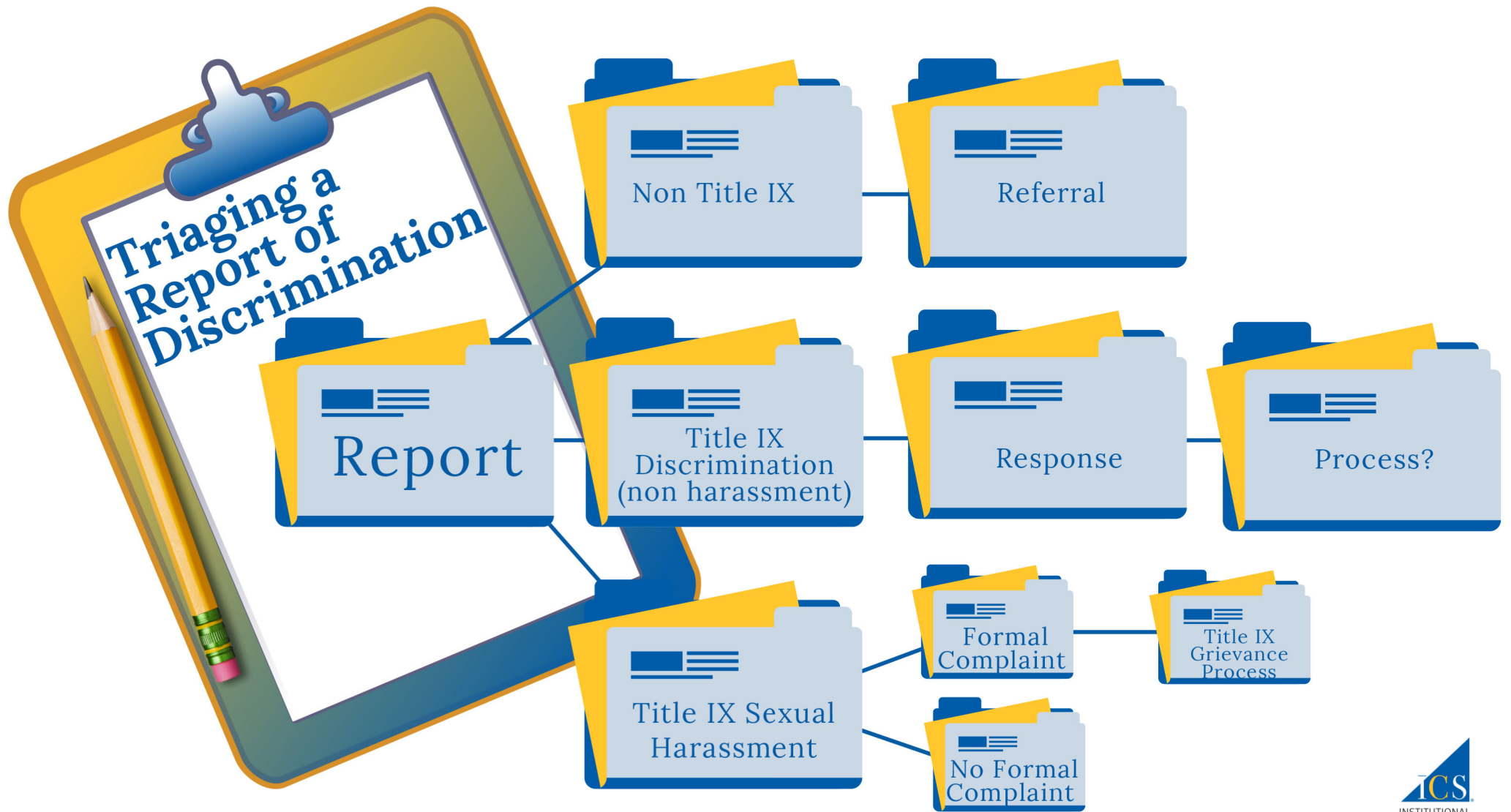


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Policy Evaluation



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Policy Evaluation: Ownership, Review, Internet Search



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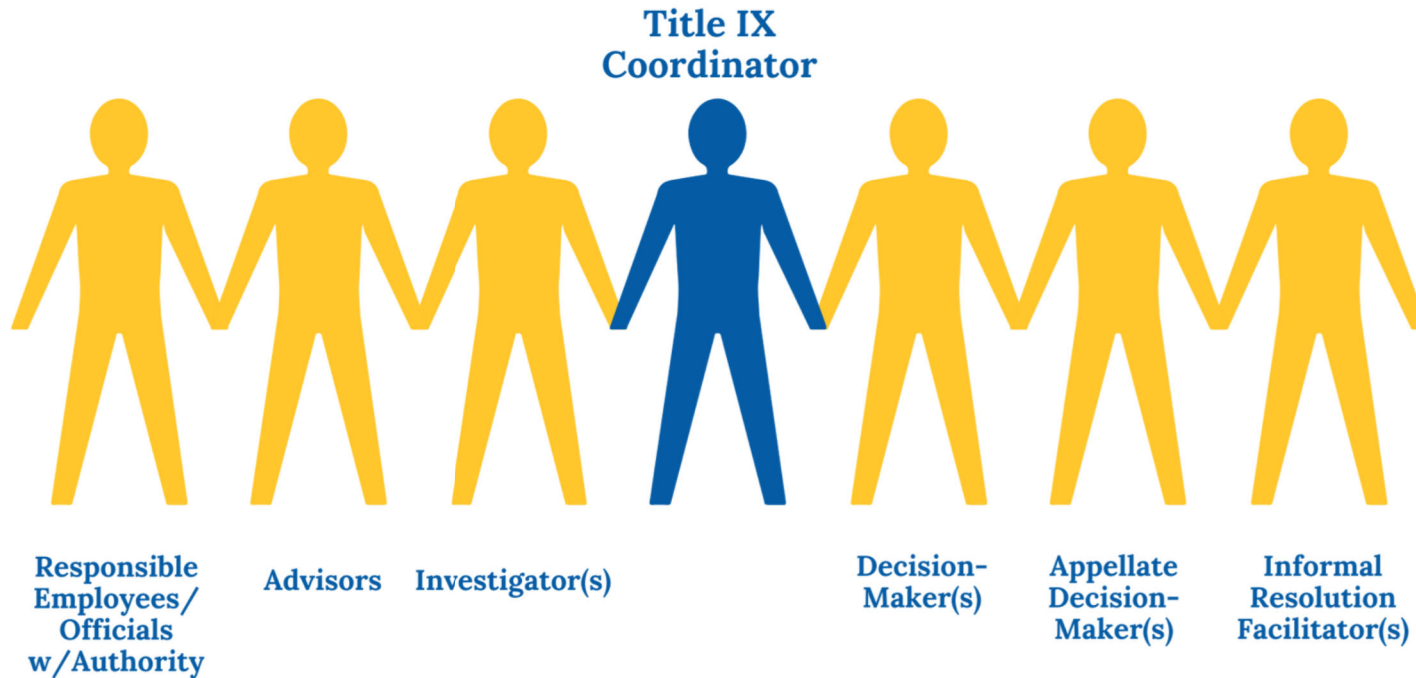


Evaluation of Positions - Title IX Team



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TITLE IX TEAM



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TITLE IX TEAM

INVESTIGATOR

Cannot serve as the Decision-Maker or Appellate Decision-Maker. May be the Title IX Coordinator but if possible, it is recommended that this individual be separate from the Title IX Coordinator. It is not recommended that an Investigator serve as the Informal Resolution facilitator in a case that they have started, or later serve, as an Investigator.

APPELLATE DECISION MAKER

Cannot be the Title IX Coordinator.
Cannot serve as the Investigator or Decision-Maker. It is not recommended that an Appellate Decision- Maker serve as the Informal Resolution facilitator in a case that they may later serve as an Appellate Decision-Maker.

TITLE IX COORDINATOR

Cannot serve as the Decision-Maker or Appellate Decision-Maker. May serve as an Investigator-though if possible, it is recommended that another individual serve as an Investigator. May serve as an Informal Resolution Facilitator.

DECISION MAKER

Cannot be the Title IX Coordinator. Cannot serve as the Investigator or Appellate Decision-Maker. It is not recommended that a Decision- Maker serve as the Informal Resolution facilitator in a case that they may later serve as a Decision-Maker.

INFORMAL RESOLUTION FACILITATOR

May be the Title IX Coordinator. It is not recommended that an individual who has or will serve as an Investigator, Decision-Maker or Appellate Decision-Maker in the same case serve as the Informal Resolution Facilitator.



Beyond the Title IX Team Evaluation of Campus Allies/Partners



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Title IX Advisory Committee Evaluation

Member Considerations: Campus Safety, HR, Counseling, Student Affairs, Academic Affairs



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Other Committees Evaluation

BIT, CARE, Bias Response, SMRV, Workplace Violence Committee



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Education, Training, & Prevention Evaluation



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Training Evaluation

Student Training, Title IX Team, Faculty, Staff, High Risk Areas



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Care & Support Evaluation

Remember, care and support prevent barriers to reporting.



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Report vs Formal Complaint



Report



Initiates
a
response

Formal Complaint



May initiate
a formal
Title IX
Grievance
Process

Evaluation

Who makes initial contact with reporter? Who makes initial contact with complainant?
How is it made?



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Supportive Measures



Conduct a 12 month analysis.



How often are you revisiting them?



How are they tracked?

Support

Ultimate Goal: Removing Barriers to Reporting



Location



Team Not Knowing Roles



Website Deficiencies



Policy Deficiencies



Reputational Harm



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Barriers to Reporting Evaluation



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Questions?



INSTITUTIONAL
COMPLIANCE SOLUTIONS

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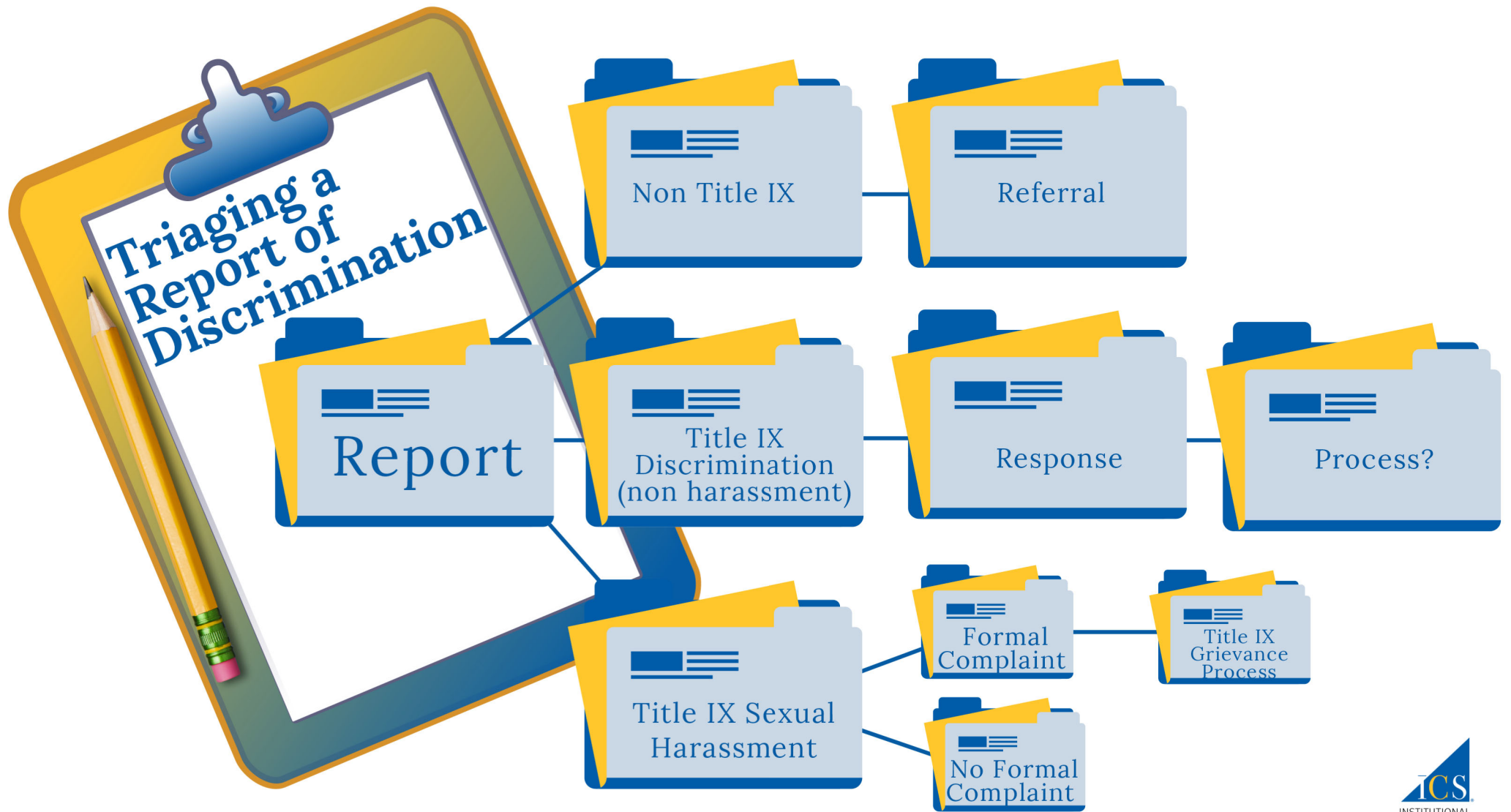
A photograph of a hospital room. A patient is lying in a hospital bed on the left, wearing a white blanket and a pulse oximeter. A nurse in blue scrubs stands by the bed, adjusting a piece of medical equipment. In the center, another nurse in blue scrubs is talking to a doctor in a white lab coat. Another nurse in blue scrubs is visible in the background on the right. The room is brightly lit with medical equipment and monitors visible.

Triaging a Report

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Reminder





**Title IX
Discrimination?**

Yes

**Sexual
Harassment?**

Yes

**Formal
Grievance
Process**



Changes & Requirements Overview



Prescriptive
Title IX Process



Officials
with Authority



Policies &
Procedures



Team & Training



Coordinator
with Authority



**TITLE IX SEXUAL
HARASSMENT**



**EDUCATION
PROGRAM/
ACTIVITY**



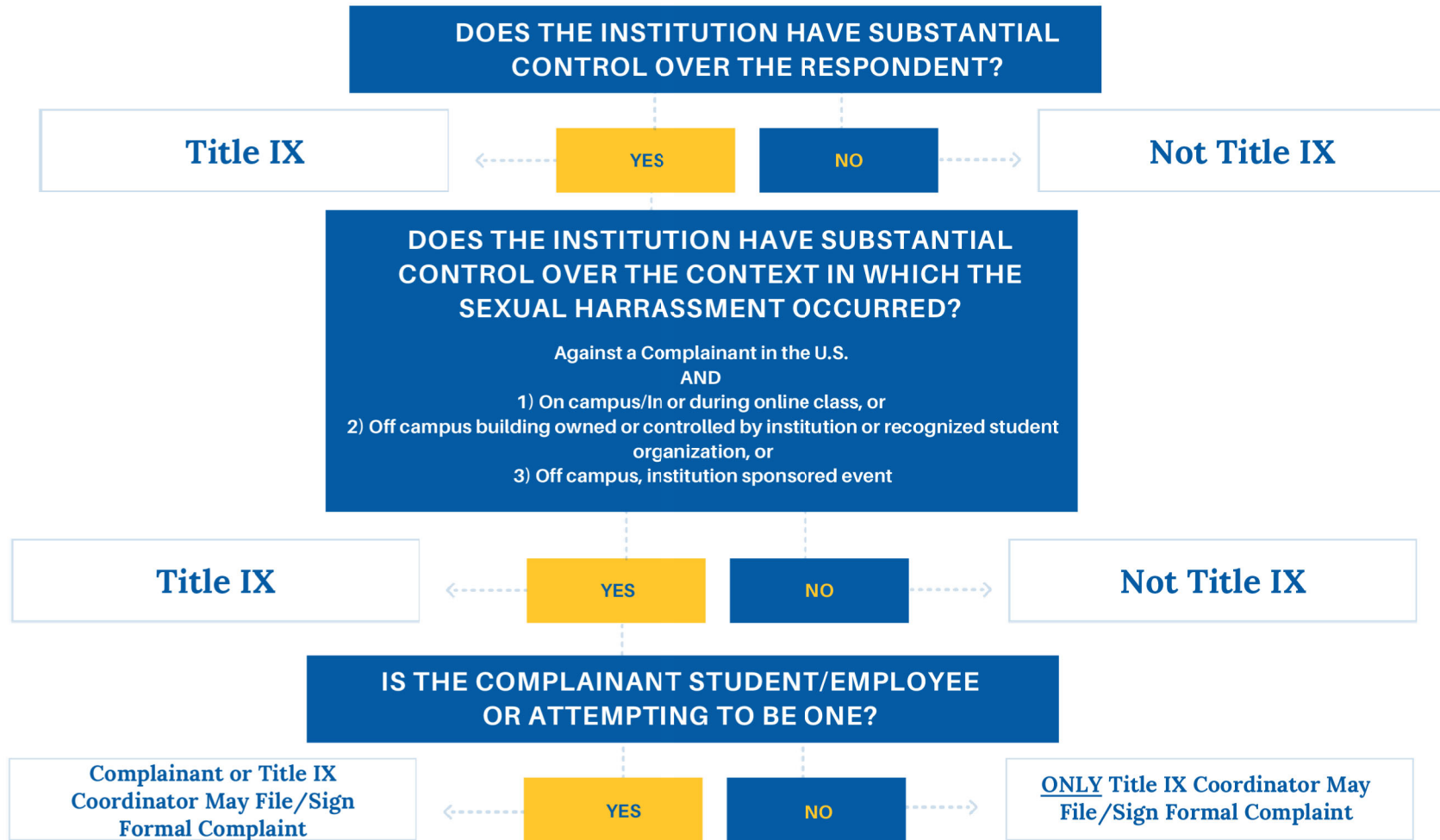
**TITLE IX FORMAL
GRIEVANCE
PROCESS**

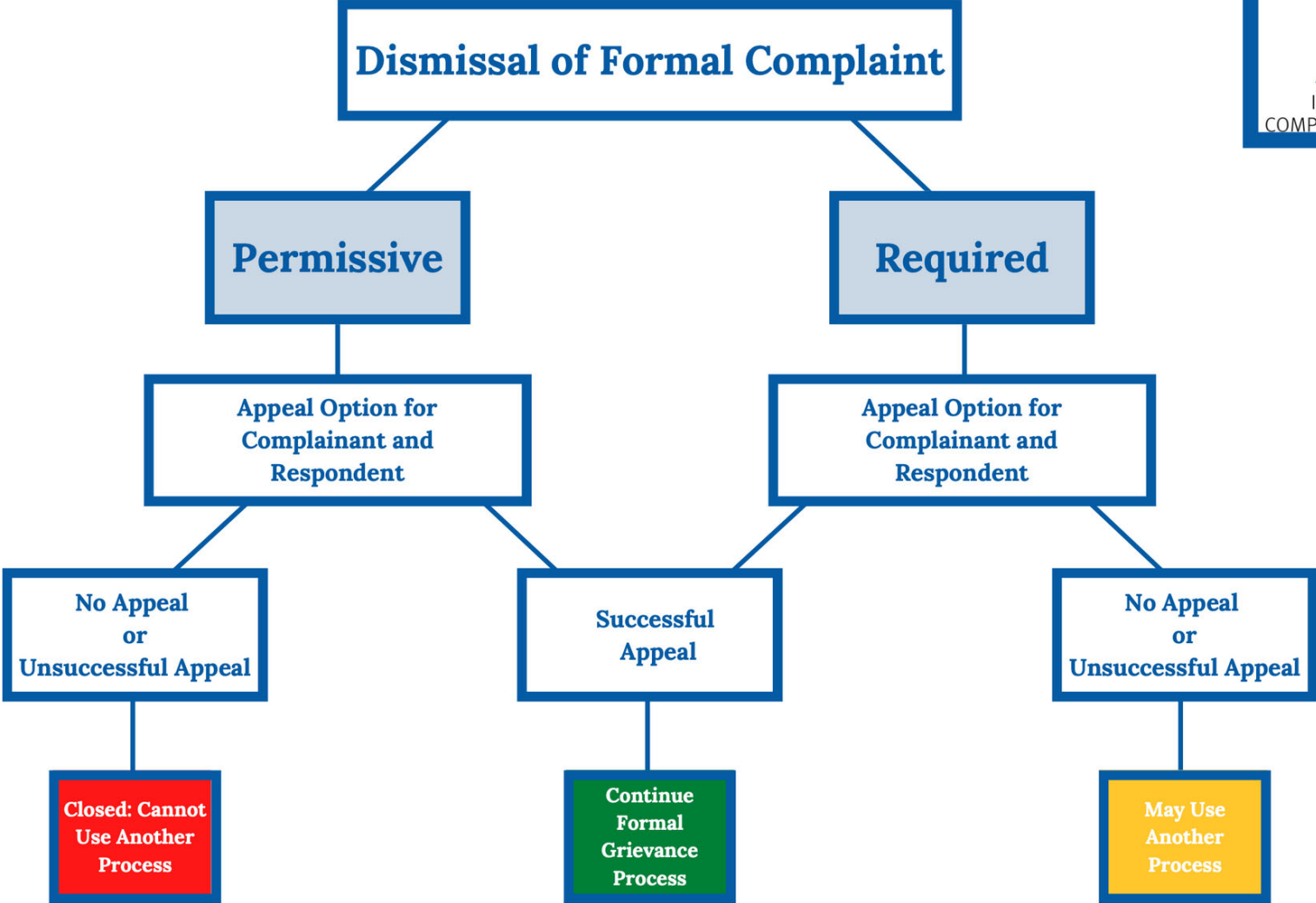
Sexual Harassment



- 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.

Education Program or Activity/Jurisdiction





Report

Hal, a professor, files an online report alleging that a student in his class is harassing him because he is gay. Hal alleges that the student has called him derogatory names under his breath during class on several occasions and that when he arrived at class the other day, "fag" was written on the board in class. As a result of the comments and the chalkboard incident, he no longer feels safe teaching his course.

Report

Sandra is a student in the dental assisting program. She is 7 months pregnant and experiencing complications. As a result, her physician has ordered bedrest. Sandra alleges that she informed her professor that she could not complete the final course requirements in person as a result of her bedrest. Her professor has told her that she will fail the course because she must take the final exam in person. Sandra files a report with your office.

Report

Campbell files an online report of sexual harassment with your office. Campbell is a staff member in the admissions office. She alleges that another staff member continues to "hit on her." He has asked her out on two occasions, and she has turned him down. On one other occasion he told her she has a nice ass. On another occasion he told her that he wants to see her in a bathing suit when she was talking with a friend about going to the pool with her over the weekend.

Report

Assume the facts in the prior slide; however, Campbell files a Formal Complaint containing the same information. What should you do?

Report

Olivia is a staff member in financial aid. She alleges that her supervisor is making her uncomfortable and making inappropriate comments.

TITLE IX FORMAL COMPLAINT - EMPLOYEE

My name is Olivia Smith. I am an employee at ICS University.

~~Bob Lyon~~ sexually harassed me on or about _____ [insert date/time]
at work [insert location].

INSERT ALLEGATIONS
hit on me
inappropriate comments
I feel uncomfortable. He is my boss.

I am requesting that ICS University investigate these allegations.

Name Olivia Smith

Signature Olivia Smith

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Report

After speaking with Olivia, you learn that Bob has made the following comments: "One night with me, and you would be on your way to a raise." "All my girls in the office know that to get the best treatment, you have to give the best treatment." Olivia does not have specific dates/times that these occurred but can provide you with a ballpark.

Report

Charlotte is a freshman at ICS University. Her friend, Tyler, sends you an email that states he is concerned for Charlotte. The other night she told him she was sexually assaulted at a party by a "guy named Hal." Tyler thinks Hal is a predator and thinks the university needs to do something about his behavior.

Report





You are able to speak with Charlotte. She says she was raped in a bathroom at a bar off campus by Hal. She states that she did not even know him but later learned his name. She states that he followed her in, locked the door and assaulted her. She is terrified, has not told her parents, and does not want anything done. The assault happened about a week ago.

Report

A few weeks later, Charlotte returns to your office. She states that she keeps seeing Hal around campus. He is trolling her on social media, he has been outside of her classroom on several occasions, and her friends state that he is asking about where she lives saying she was a "good lay." Charlotte wants it to stop, but does not want to do anything formal.

Report

Formal Complaint Deep Dive

-  C student/R is student
-  C files the day before s/he graduates/R is a student
-  C is not an employee/student and R is current employee/student
-  C is student/employee and R is a third party

Questions?

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- Betsy Smith
- Celeste Bradley



Institutional Compliance Solutions
Groups:
Title IX Coordinators Closed Group
K-12 Title IX Coordinators



@TitleIXLawyer



@ICSLawyer

**Religious Exemptions
Under Title IX
FREE Webinar**

March 4

**Care & Support
Administrators
Training**

March 10

Investigator Training

April 20



Spring Schedule:

BOOTCAMP

Title IX Coordinator Bootcamp

February 23/March 2, 2022

Session 2

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ABOUT US



Housekeeping



- Chat bar
- Breaks
- Materials

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Recap

- Collaboration
- Time to Step Back
- Role of Coordinator
- Title IX Past and Present
- Evaluation of program, policy, positions and people
- Triaging a Report

Title IX Formal Grievance Process



Report

Charlotte is a freshman at ICS University. Her friend, Tyler, sends you an email that states he is concerned for Charlotte. The other night she told him she was sexually assaulted at a party by a "guy named Hal." Tyler thinks Hal is a predator and thinks the university needs to do something about his behavior.

Initial Reach-Out to the Complainant



You?



Intake Coordinator?



Someone else?

Report





You are able to speak with Charlotte. She says she was raped in a bathroom at a bar off campus by Hal. She states that she did not even know him but later learned his name. She states that he followed her in, locked the door and assaulted her. She is terrified, has not told her parents, and does not want anything done. The assault happened about a week ago.

Report

A few weeks later, Charlotte returns to your office. She states that she keeps seeing Hal around campus. He is trolling her on social media, he has been outside of her classroom on several occasions, and her friends state that he is asking about where she lives saying she was a "good lay." Charlotte wants it to stop, but does not want to do anything formal.

Report

Formal Complaint Deep Dive

-  C student/R is student
-  C files the day before s/he graduates/R is a student
-  C is not an employee/student and R is current employee/student
-  C is student/employee and R is a third party

EMERGENCY

Emergency Removal

Safety & Risk Analysis



Who has the ultimate authority to make the determination?



Are you utilizing a BIT, CARE, or other team?



Look back and evaluate...

Formal Grievance Process Pathway



Care and Support



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.

Severe, Pervasive, AND Objectively Offensive



**UNWELCOME
CONDUCT**



**SEVERE, PERVASIVE, AND
OBJECTIVELY OFFENSIVE**

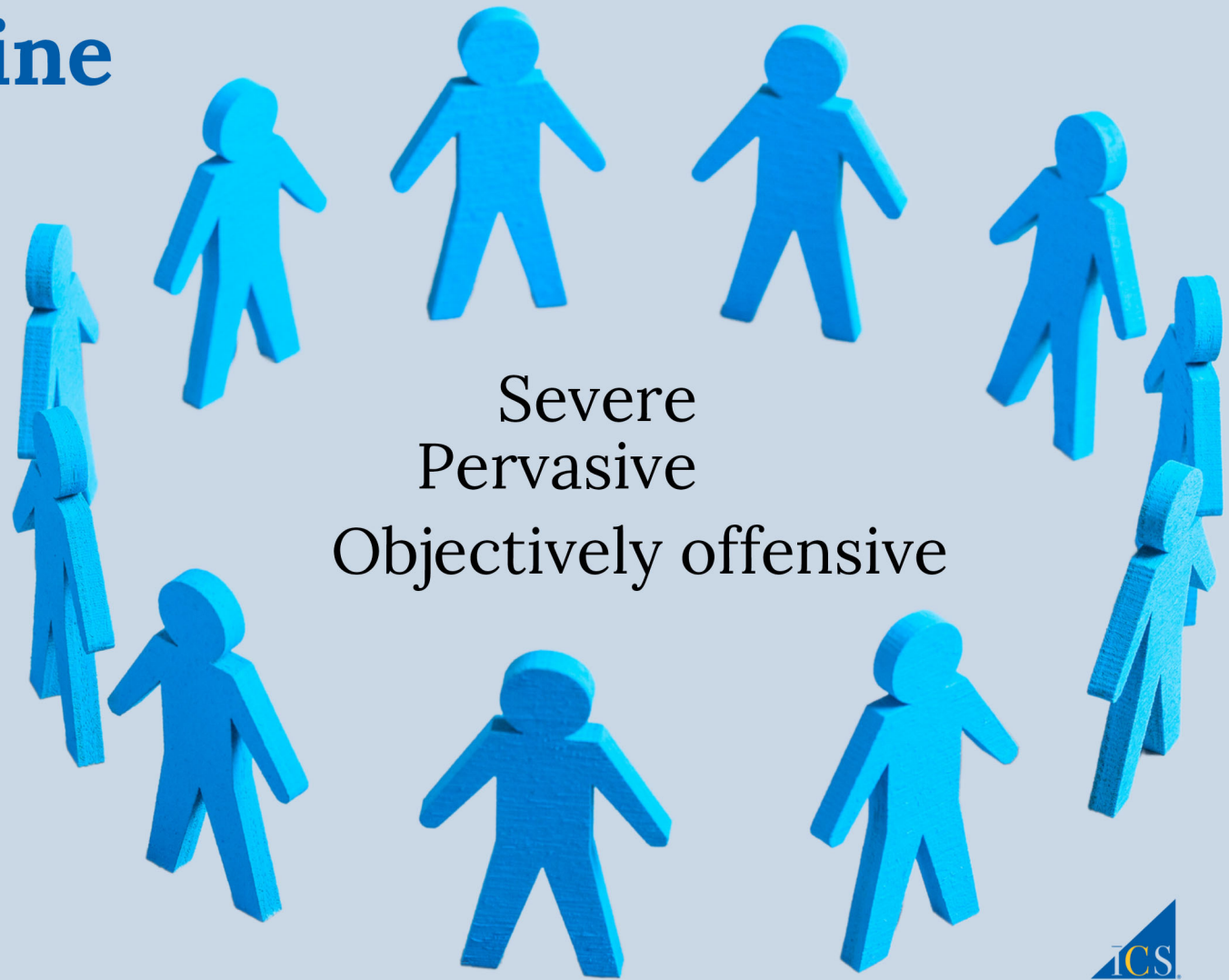
- Severe- can be non verbal through sexual assault (touching/fondling)
- Pervasive- how often and how widespread
- Objectively Offensive- behavior that would be offensive to a reasonable person under the circumstances



**DENIES
EQUAL
ACCESS**



Can You Combine Allegations by Multiple Complainants?



Severe
Pervasive
Objectively offensive

Jurisdiction



Education Program or Activity

Locations, events, or circumstances (operations) over which the district 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.




When should a Title IX Coordinator sign a Formal Complaint?


Complaint

Hypo

Layli is a second year at ICS University. She reports that she was sexually assaulted by Jack in his room after class one night. She states that they were dating, but that she was a virgin so she did not want to have sex with him. Jack picked her up from class and they got in a fight over her lack of "putting out." Layli states that they went to his apartment, they got in another argument, and he raped her when she refused to go further than foreplay.




You meet with Layli and offer supportive measures. Layli does not want to proceed with a Formal Complainant after you explain the process to her.



Will you sign the Formal Complaint as the Title IX Coordinator?

What factors will you consider?



Hypo Cont'd

A few days after Layli meets with you, Olivia makes a report to your office. Olivia says that she has been talking to a student named Jack. She also states that Jack sexually assaulted her at an on-campus party. You meet with Olivia and provide supportive measures. Olivia says that she does not want to file a Formal Complaint because she is afraid of what Jack might do. She has only known him a few weeks, but states he has a temper.

Given this information, will you file a Formal Complaint as the Title IX Coordinator?

Why or why not?

If yes, will it be for both instances or only Layli or only Olivia?

Would you consider an emergency removal in this matter?

Would you allow for an Informal Resolution between Jack and one of the complainants if the other does not want IR?

Informal Resolution

Is it offered?

Do you have the internal structure in place, including templates?

How is it going?

Ways to strengthen it?

REMINDER -Not for employee on student matters

Formal Title IX Grievance Process Evaluation



Questions?

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DON'T FORGET

Close the Loop on **ALL** matters

- Informal Resolutions
- Referrals
- Resolution that involves discipline from another office



Record Keeping



The regulations require records to be kept for seven years.

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Evaluate



How are you maintaining your records?
How are you tracking supportive measures?
Are you tracking patterns/trends?

Evaluation



Non-Title IX Sexual Harassment

- Rises to sexual harassment but not within your program/activity
- Does not rise to sexual harassment
- Third party sexual harassment





CLERY/VAWA REQUIREMENTS

- Conduct/document adequate, reliable, and impartial investigations
- Conduct an investigation and hearing process that protects the safety
- Both parties are entitled to have an advisor of their choice present for all investigative and disciplinary proceedings (note that participation level of advisor may be constrained by the institution)
- Both parties simultaneously informed in writing of the outcome of any disciplinary proceeding that arises from an allegation of Sexual Assault, Domestic Violence, Dating Violence, or Stalking
- Both parties notified of changes in results that occur prior to when results become final, and will be notified when final
- Possible sanctions and protective measures an institution may impose following an institution's disciplinary procedure involving Sexual Assault, Domestic Violence, Dating Violence, or Stalking
- Clery Act prohibitions on and protections against retaliation

Non-Harassment Title IX Discrimination

- Allegations of Culture
- Retaliation
- Gender-Equity
- Pregnancy Discrimination
- Other allegations of discrimination based on sex, including SOGI



Hypo

Layli files a Formal Complaint against Jack and the matter is in the investigative stage.

It is reported by a witness for Layli, Charles, that Jack threatened to kill him because he is helping Layli. The matter is reported to the police. There are text messages of the threats. Student Affairs is notified of the matter by campus safety.

Student Affairs wants to issue an interim suspension. OK?

What process will this go through on your campus? Does Charles become a Complainant? What if alleged by Layli?

Retaliation Deep Dive

Evaluate Processes for Non-Harassment Title IX Discrimination



Questions?

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Other Title IX Matters

Gender Equity in Athletics



- Evaluate your involvement?
- Deputy or Liaison?
- Regular Evaluations of Compliance?

SOGI

- Anti-discrimination statement include SOGI?
- Offices to support SOGI students?
- Accommodations request?

Pregnancy discrimination is a form of sex discrimination under Title IX. Need to address:

- *Reports of discrimination
- *Accommodation requests



PREGNANCY
DISCRIMINATION

Pregnancy Accommodations

Does your institution use a centralized approach (like ADA)?

If YES,
through Title IX
Coordinator?
Through Disability
Resource Center?

If NO,
decentralized
approach? No
approach?

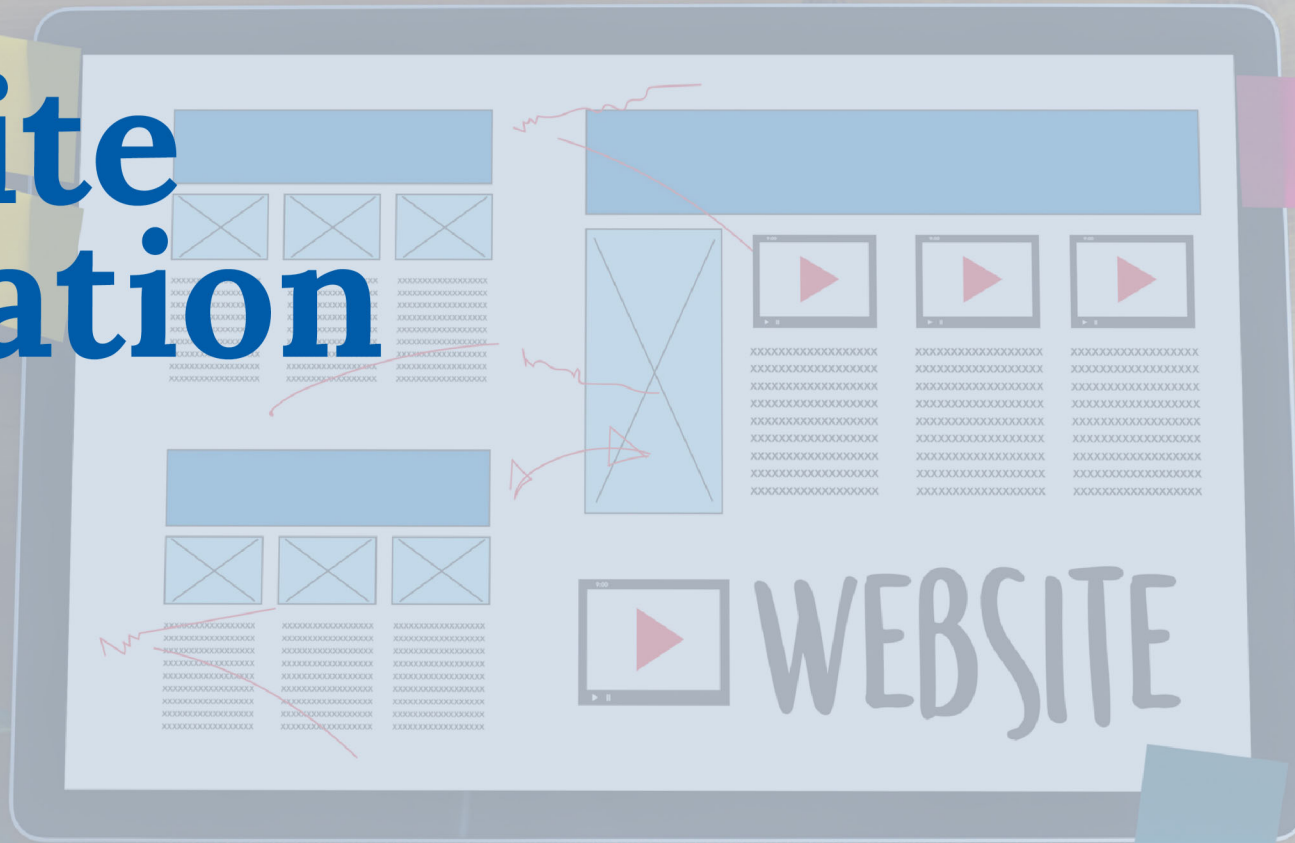


Other Matters



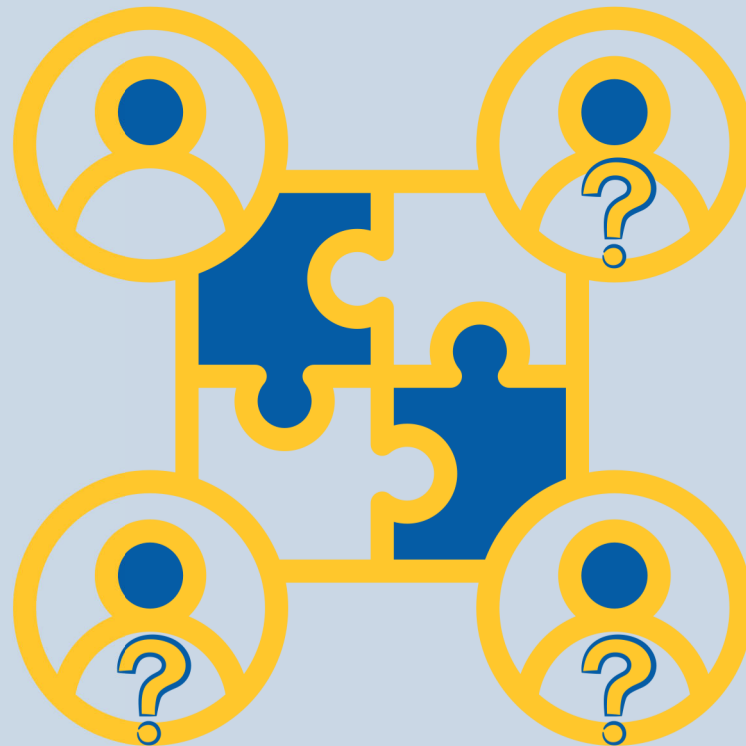
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Website Evaluation



Grassroots Efforts Evaluation

List three offices to schedule a conversation with in the next three months...



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Sustainability Planning



Tracking patterns & trends



Reporting to leadership



Depth of office



External assistance for various roles

Identifying Your Title IX Crutch (your people)



Reflect...



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**Religious Exemptions
Under Title IX
FREE Webinar**

March 4

**Care & Support
Administrators
Training**

March 10

**Investigator
Training Level 1**

April 20



Spring Schedule:

