



FROM ONE TITLE IX COORDINATOR TO ANOTHER:

A Practical Approach to
Navigating Beyond Compliance

Day 1

Molly O'Malley

Ohio Department of Higher Education

June 2024

MEET YOUR FACILITATOR



Senior Solutions Specialist

She/Her/Hers

Molly O'Malley

Molly O'Malley joins Grand River Solutions as a Senior Solutions Specialist. Molly has a background in Title IX, EEO investigations, hiring processes, student conduct, diversity equity & inclusion, and student housing.

Molly has more than 10 years of experience working in higher education at private and public institutions and 5 years of experience in primary education. Prior to joining Grand River Solutions, Molly was the Associate Director of Diversity, Equity, & Inclusion & Title IX Coordinator at Northeast Ohio Medical University where she oversaw student and employee DEI efforts including recruitment and retainment, coordinated the Title IX processes, implemented case management software, and conducted EEO investigations. Prior to that, Molly was the Associate Director of EEO, Title IX, and Policy Development at Youngstown State University where she oversaw policy development and review, compliance reports including Affirmative Action, and the Title IX processes.

Prior to working in higher education, Molly was a Kindergarten and preschool teacher. She holds a Bachelor's degree in Early Childhood Education from Youngstown State University and a Master's in Higher Education Leadership from Walden University.

ABOUT US

Vision

We exist to create safe and equitable work and educational environments.

Mission

To bring systemic change to how school districts and institutions of higher education address their Clery Act & Title IX obligations.

Core Values

- Responsive Partnership
- Innovation
- Accountability
- Transformation
- Integrity

Let's Take a Moment.
Title IX Coordinator to Title IX Coordinator.



THE EVER-EVOLVING JURISPRUDENCE OF TITLE IX



01

Grand River

Title IX of the Education Amendments Act of 1972

"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."

20 U.S.C. § 1681 (1972).

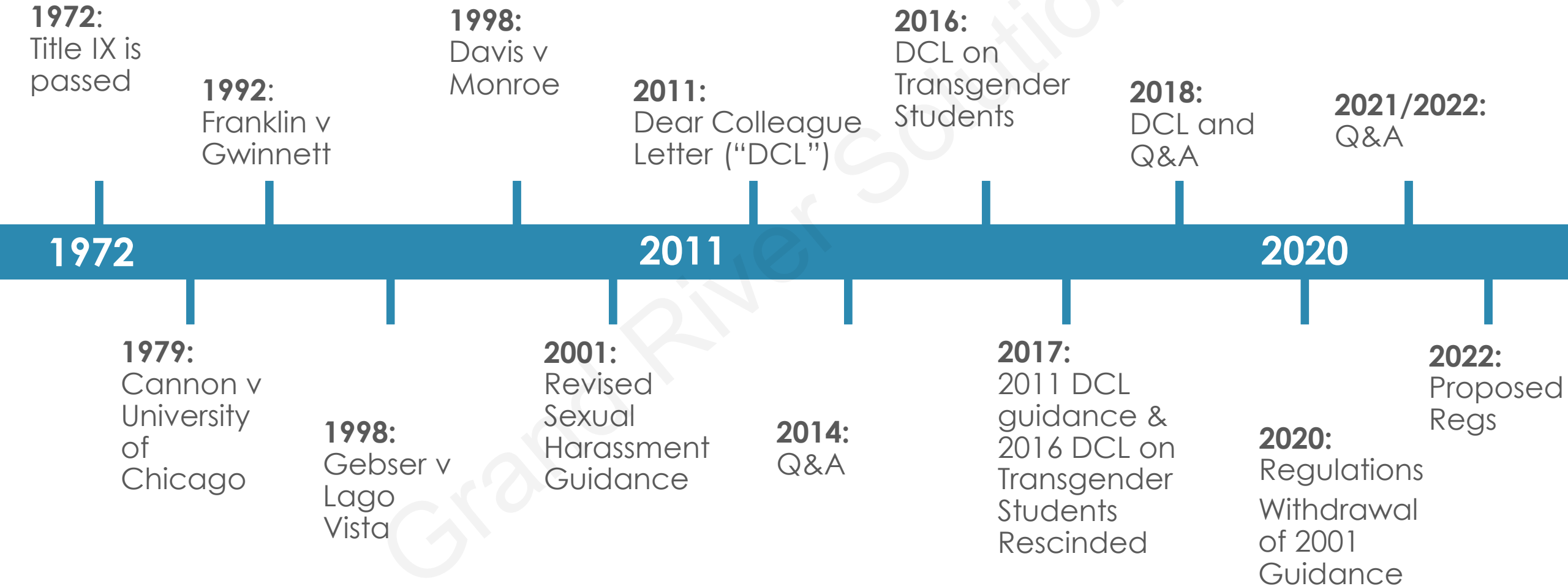


TITLE IX APPLIES TO ALL FORMS OF SEX DISCRIMINATION

- Sexual Harassment
- Achievement Awards
- Athletics
- Benefits
- Financial Aid
- Leaves of absence and re-entry policies
- Opportunities to join groups
- Pay rates
- Recruitment
- Retention Rates
- Safety
- Screening Exams
- Sign-on Bonuses
- Student and Employee Benefits
- Thesis Approvals
- Vocational or College Counseling
- Research opportunities

THE HISTORY OF TITLE IX

A TIMELINE



THE TITLE IX REGULATIONS

SEXUAL HARASSMENT ONLY

1

Narrows the definition of sexual harassment;

2

Narrows the scope of the institution's educational program or activity;

3

Narrows eligibility to file a complaint;

4

Develops procedural requirements for the investigation and adjudication of sexual harassment complaints, only.

SEXUAL HARASSMENT: *DEFINED IN 1996, 2001, & 2011 GUIDANCE*

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) Conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so **severe, pervasive, OR objectively offensive** that it **effectively denies** a person equal access to the recipient's education program or activity; or
- (3) Sexual assault is a form of sexual harassment

*Dating Violence, Domestic Violence, Stalking not included pre 2020 regulations.

SEXUAL HARASSMENT: SECTION 106.30

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) 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;
- (2) 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
- (3) "**Sexual assault**" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "**dating violence**" as defined in 34 U.S.C. 12291(a)(10), "**domestic violence**" as defined in 34 U.S.C. 12291(a)(8), or "**stalking**" as defined in 34 U.S.C. 12291(a)(30).



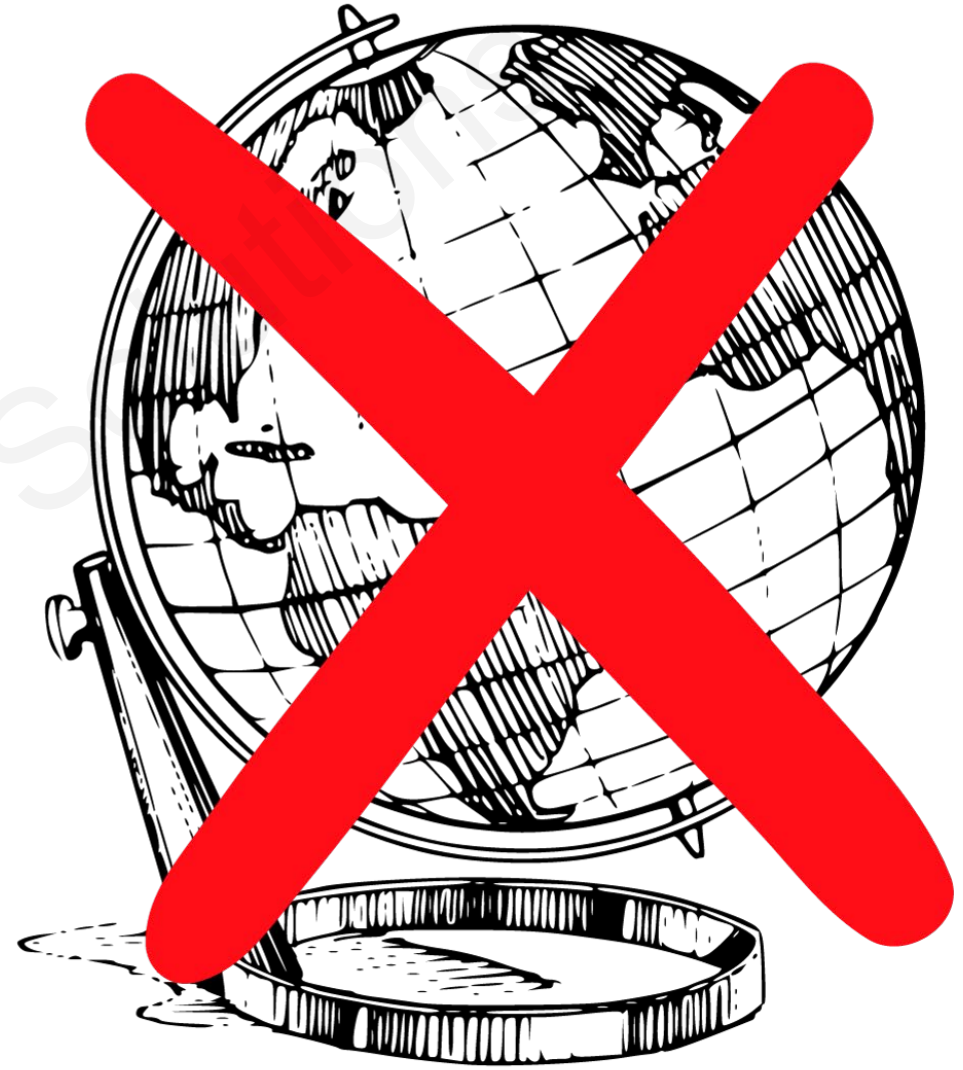
COVERED GEOGRAPHY

Includes locations, events, or circumstances over which the recipient exercised **substantial control** over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.

- ✓ On campus or in a building owned or controlled
- ✓ Off-campus incident that occurs as part of the institution's operations
- ✓ Institution exercised substantial control over the respondent and the context of alleged sexual harassment that occurred off campus pursuant to § 106.44(a); or
- ✓ the incident of sexual harassment occurs at an off-campus building owned or controlled by a student organization officially recognized by a postsecondary institution

NOT COVERED GEOGRAPHY

- x Off campus conduct, even if it has an impact on the educational program or activity;
- x Conduct that occurs outside of the United States.



COVERED INDIVIDUALS

ELIGIBILITY FOR TITLE IX'S PROTECTIONS:

“At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed.” 34 C.F.R. § 106.30

- Applicant
- Enrolled or Employed
- Accepted or Hired



WOULD THIS FALL UNDER TITLE IX?

Taylor, a 2nd year student, comes into the Title IX Office on Monday morning requesting a meeting, sharing that "Alex raped me at a party on Saturday at the 'A Capella House'."

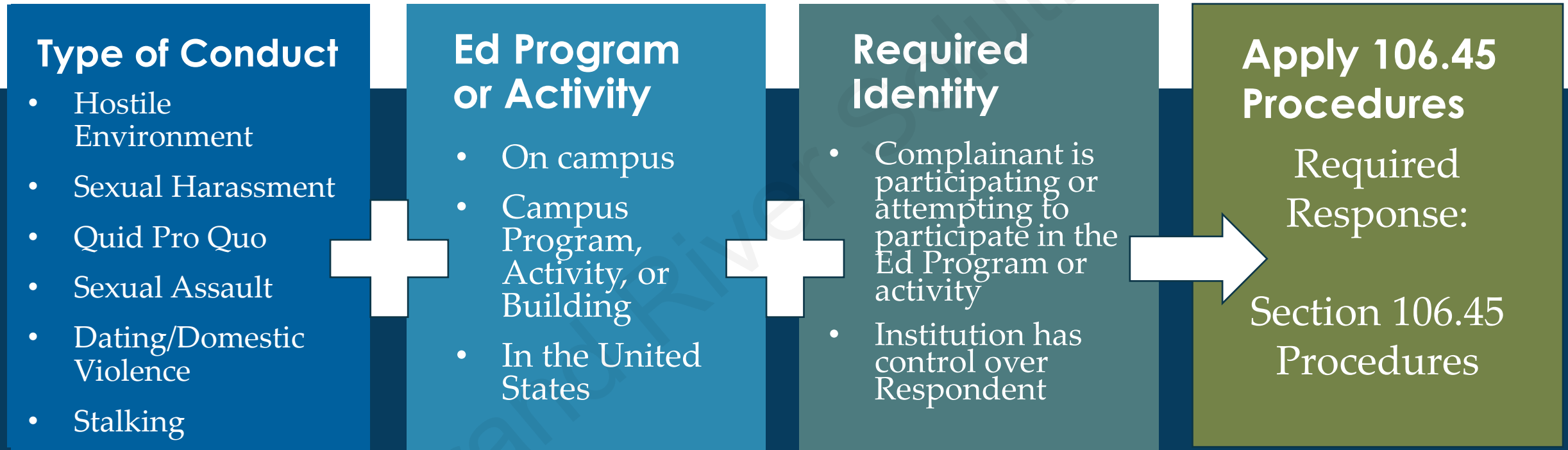
Some members of the A Capella club rent a house off-campus and they frequently throw parties..

Taylor is alleging "Alex raped me when I was drunk at the A Capella House."

- Would this fall under Title IX?
- Why or why not?
- What other information would you need to find out to make this determination?

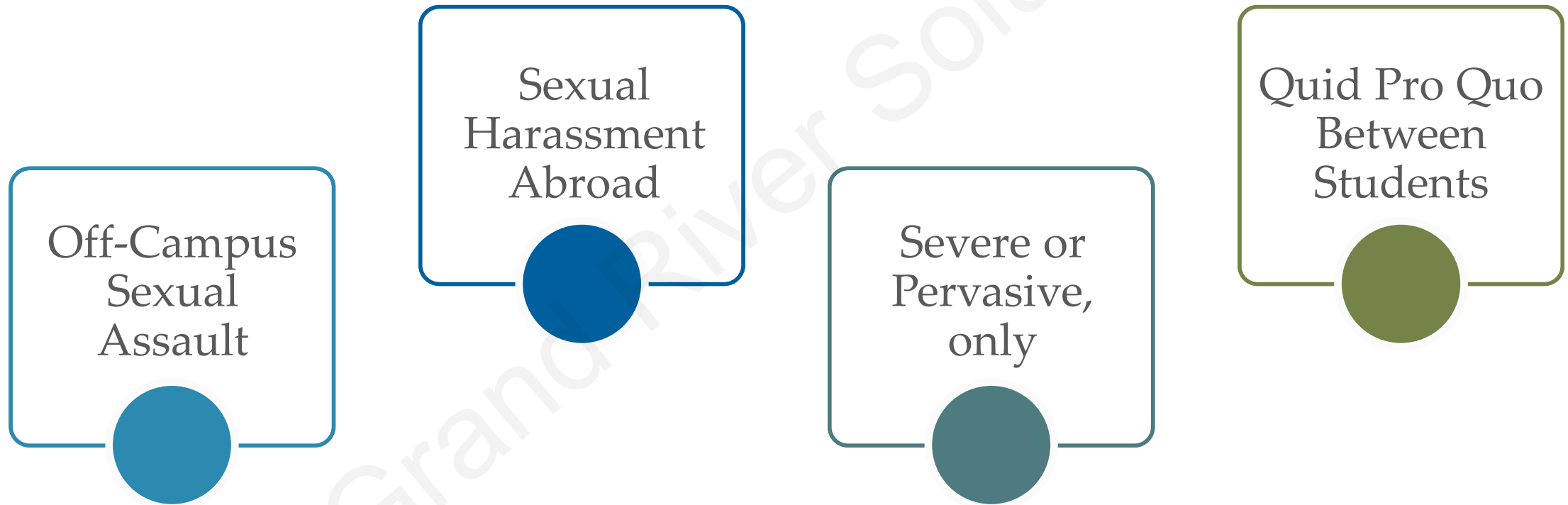


TITLE IX APPLICATION REGULATIONS (POST-MAY 2020)



CONDUCT FALLING OUTSIDE THE SCOPE OF TITLE IX

- Apply other institutional policies and procedures
- Ensure that those policies and procedures comply with VAWA/Clery, other intersecting federal and state laws



ACTUAL NOTICE

Institution must respond when it has:

”Actual Knowledge...”

When “an official of the recipient who has authority to institute corrective measures” has notice, e.g., Title IX Coordinator

...of “**sexual harassment that occurred within the school’s “education program or activity...**

- “includes locations, events, or circumstances over which the recipient exercised substantial control” over the respondent and the context in which the sexual harassment occurred
- Fact specific inquiry focused on control, sponsorship, applicable rules, etc.

...against a “**person in the United States**”

So, not in the study abroad context

A Narrowed Scope of Institutional Responsibility



INITIAL RESPONSE REQUIREMENTS



1. Receipt of Report

2. Outreach/Response from Title IX Coordinator

3. Support Measures, whether or not Formal Complaint is filed

4. How to File

5. Options for Resolution

PROCEDURAL REQUIREMENTS FOR INVESTIGATIONS

Notice to BOTH parties

Equal Opportunity to Present Evidence

An advisor of choice

Written notification of meetings, etc., and sufficient time to prepare

Opportunity to review all directly related evidence, and 10 days to submit a written response to the evidence prior to completion of the report

Report summarizing relevant evidence and 10-day review of report prior to hearing

PROCEDURAL REQUIREMENTS FOR HEARINGS

Must be live, but can be conducted remotely

Cannot compel participation of parties or witnesses

Standard of proof used may be preponderance of the evidence or clear and convincing; standard must be the same for student and employee matters

Cross examination must be permitted and must be conducted by advisor of choice or provided by the institution

Decision maker determines relevancy of questions and evidence offered

Written decision must be issued that includes finding and sanction

K-12: HEARINGS OPTIONAL

- Schools have the flexibility to allow for no hearings or for hearings in limited circumstances that they may define by policy.
- Whatever policy requires, rules adopted must apply equally to all parties
- If hearings are permitted, the procedures set forth in the Regulations are not required; use a hearing process that is age/school appropriate.



K-12: THREE REQUIREMENTS

1. Before any determination of responsibility is made, the decision-maker(s) must afford each party “the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party.”
2. Questions about the Complainant's prior sexual history predisposition or behavior except under certain circumstances.
3. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

FINAL RULE § 106.45(B)(8)

“Institutions must offer both parties an appeal from a determination regarding responsibility, and from a recipient’s dismissal of a formal complaint or any allegations therein.”



APPEALS: MANDATORY GROUNDS

(A) Procedural irregularity that affected the outcome of the matter;

(B) 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; and/or

(C) The Title IX Coordinator, investigator(s), or decision-maker(s) 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.

OTHER REQUIREMENTS OF THE REGULATIONS

Designation of a Title IX Coordinator

Dissemination of policy

Separation of Responsibilities

Training and posting of training

Impartiality

Record Keeping

BUILDING A FOUNDATION OF SUCCESS

02

Grand River Solutions



FINAL RULE, SECTION 106.8

Designation of Coordinator,
Dissemination of Policy, and
Adoption of Grievance Procedures

“Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under this part, which employee must be referred to as the Title IX Coordinator.”

Additionally:

- The recipient must notify [everyone] of the name or title, office address, email address, and telephone number of the coordinator(s).
- Any person may report in person, by mail/email, telephone using the contact information.
- Reports can be made at anytime.



FINAL RULE, SECTION 106.8 (a)

The institution must notify applicants and all members of the community of the Title IX Coordinator's:

1. **Name or Title**
2. **Office address**
3. **Email address**
4. **Phone number**

Any person may report , at any time, sex discrimination, including sexual harassment in person, by mail, by telephone, by email, or any other means using the contact information listed



“RESPONSIBILITIES REQUIRED UNDER TITLE IX AND THE REGULATIONS”

- Serve as the primary pathway for receipt of reports of sex discrimination and sexual harassment;
- Upon receipt of a report, promptly contact the complainant to discuss the availability of supportive measures and to explain the process of filing a formal complaint;
- Coordinate the effective implementation of supportive measures;
- Where a report is made, but a formal complaint is not filed by the complainant, determine whether a formal complaint should be filed and sign that formal complaint;
- Effective implementation of any remedies imposed by a decision maker at the conclusion of a grievance process.

RESPONSIBILITIES OFTEN DELEGATED TO THE TITLE IX COORDINATOR

- Ensuring that the institutional policies and procedures are compliant with Title IX
- Ensuring dissemination of the policy
- Overseeing the grievance process to ensure it is compliant
- Coordinating a compliant grievance process
- Staffing various roles
- Ensuring training requirements are met
- Record keeping
- Compliance with intersecting federal and state laws
- Education and prevention efforts

THE THREE ESSENTIAL FUNCTIONS OF TITLE IX COMPLIANCE

01

Response



02

Education &
Prevention



03

Compliance



**ANOTHER
MOMENT, PLEASE...**



A SUCCESSFUL TITLE IX COORDINATOR...

C

Understands the Importance of Consistency

A

Adheres to policies and procedures

R

Records or documents everything

E

Engages meaningfully with the community

S

Strategically plans for success

STRATEGIZE

- Conduct your own review: Evaluate the institution's state of compliance, strengths, and opportunities in all areas
- Develop plans for success in every area
- Prioritize the implementation and execution of those plans



ENGAGE

- Understand the needs of the community you serve
- Build awareness
- Build trust
- When you engage, others engage
- Can assist with workload



ADHERE

- Adhere to policies and procedures
- Implement training plans
- Stick to compliance plans
- Use the forms that are developed



CONSISTENCY

- Creation of Forms and Templates
- Development of Annual Plans for Training
- Development of Annual Plans for Compliance
- Comprehensive Policies & Procedures



RECORD

Document, Document, Document!

1. Compliance

1. Maintain old policies
2. Keep records of all responses to reporting requirement

2. Training

1. Dates, times, locations
2. Attendees
3. Training materials
4. Reason for the training

3. Response

1. EVERYTHING



SUCCESSFUL COORDINATORS APPROACH ALL ASPECTS OF THE WORK...

Impartially



Utilizing
Best
Practices



With
Empathy



IMPARTIALITY

Avoiding Prejudgment and Bias

“The Department’s interest in ensuring impartial Title IX proceedings that avoid prejudgment of the facts at issue necessitates a broad prohibition on sex stereotypes so that decisions are made on the basis of individualized facts and not on stereotypical notions of what “men” or “women” do or do not do.” 85 Fed. Reg. 30254 (May 19, 2020).



IMPARTIALITY: AVOIDING PREJUDGMENT AND BIAS

Do not rely on cultural
“rape myths”

Do not rely on cultural
stereotypes about how
men or women
purportedly behave

Do not rely on gender-
specific research data or
theories to decide or make
inferences of relevance or
credibility in particular
cases

Recognize that anyone,
regardless of sex, gender,
gender identity or sexual
orientation, can be a victim
or perpetrator of sexual
assault or other violence

Avoid any perception of
bias in favor of or against
complainants or
respondents generally

Employ interview and
investigation approaches
that demonstrate a
commitment to
impartiality

IMPARTIALITY

Avoiding Bias

- Department also rejected commenters' arguments that individuals should be disqualified from serving as investigators because of past personal or professional experience
- “Department encourages [schools] to apply an objective (whether a reasonable person would believe bias exists), common sense approach to evaluating whether a particular person serving in a Title IX role is biased” WHILE
- “exercising caution not to apply generalizations that might unreasonably conclude that bias exists (for example, assuming that all self-professed feminists, or self-described survivors, are biased against men, or that a male is incapable of being sensitive to women, or that prior work as a victim advocate, or as a defense attorney, renders the person biased for or against complainants or respondents”

IMPARTIALITY

Avoiding Conflicts of Interest

- Commenters argued that investigators and hearing officers employed by schools have an “inherent conflict of interest” because of their affiliation with the school, so Department should require investigations and hearings to be conducted by external contractors
- Department noted that some of those commenters argued that this resulted in bias against complainants, and some argued that this resulted in bias against respondents
- Department’s response: Department’s authority is over schools, not individual investigators and other personnel, so Department will focus on holding school’s responsible for impartial end result of process, without labeling certain administrative relationships as per se involving conflicts of interest

IMPARTIALITY

Avoiding Prejudgment, Bias, and Conflicts of Interest

Bottom Line

- Follow facts of every individual case
- Investigate in manner that will not allow even a perception of prejudgment or bias for or against any party

COMPLIANCE

03

Grand River



SOURCES OF COMPLIANCE OBLIGATION



Title IX Final Regulations

Violence Against Women Act

Other, Intersecting Federal Laws

State Law

Legal Precedent

Institutional Policies

Resolution Agreements

TITLE IX COMPLIANCE OBLIGATIONS

Designate a Title IX Coordinator

For reports of sexual harassment utilize grievance procedures that comply with section 160.45

Disseminate Policy

Notification, Publication

Require that individuals participating in the grievance process do so impartially and that they are trained in accordance with the 160.45(b)(1)(iii).

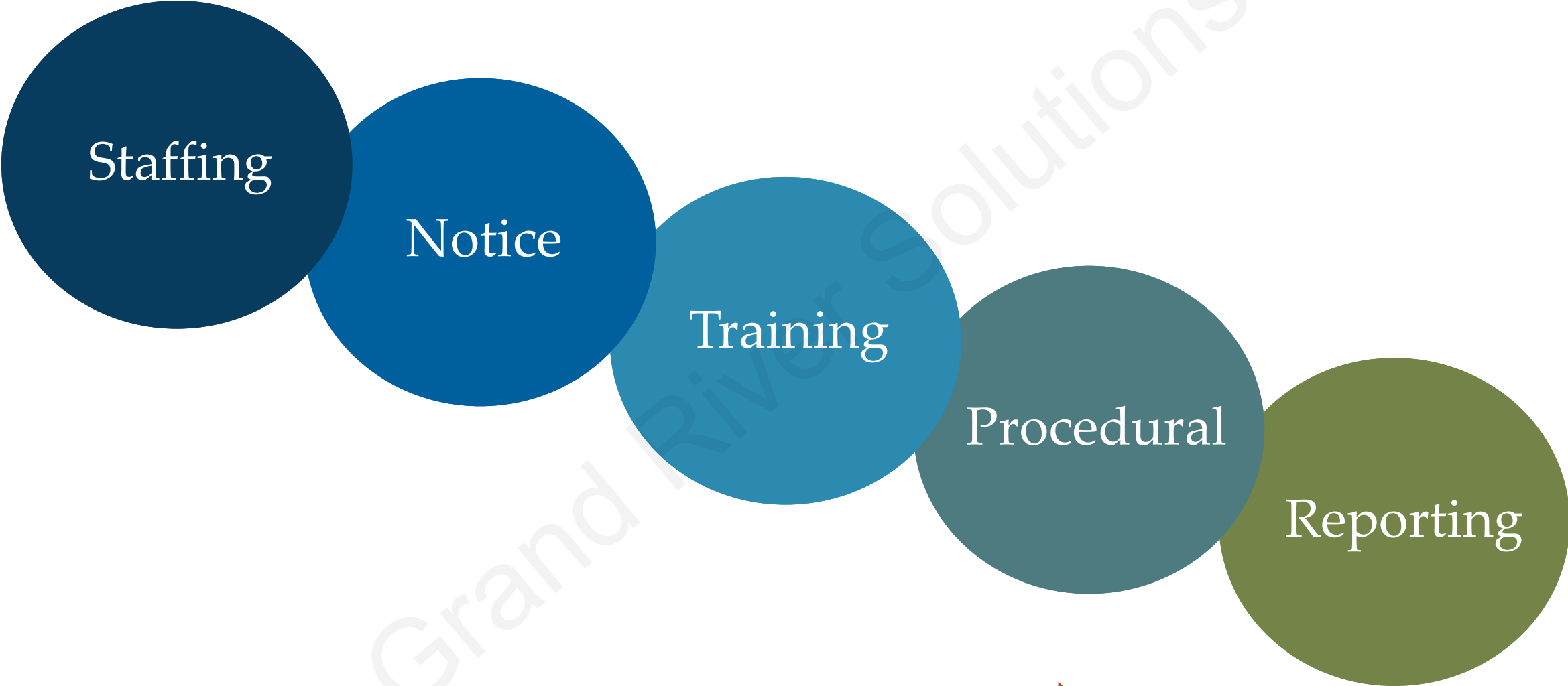
Promptly respond to instances of sexual harassment occurring within the educational program or activity of which the institution has actual knowledge in a manner that is not deliberately indifferent;

Maintain records response to sexual harassment in accordance with 160.45 (10)

Provide supportive measures in accordance with the requirements of section 160.30

Comply with 160.71 prohibition against retaliation

Categories of Compliance Requirements



DEVELOPING A STRATEGY FOR COMPLIANCE

1

Identify Compliance Obligations

2

How you will prove that you are compliant

3

Record Keeping

IMPLEMENTING THE STRATEGY FOR COMPLIANCE

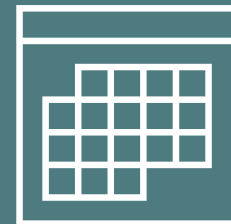
Partnerships



Record Keeping Databases



Calendar



TRAINING & EDUCATION

Educating ourselves and our communities in a post-regulatory world



04

Grand River

SOURCES OF TRAINING REQUIREMENTS

Title IX Final Regulations

Violence Against Women Act

State Law

Resolution Agreements

TRAINING AND EDUCATION: TWO AREAS OF FOCUS

01



Institutional Response to Sex Discrimination

02



Prevention Education

INSTITUTIONAL RESPONSE TRAINING

1. Institutional Policies and Procedures
2. Prohibited Conduct
3. Options for Confidential Support
4. The Identify, Role, and Requirements of the Responsible Employee
5. Options and methods for Reporting
6. The Grievance Process
7. The Role of the Title IX Coordinator



**A REALLY
IMPORTANT MOMENT.
LISTEN UP.
IT'S OKAY...**



To not know the answer to every question thrown your way



To say, "I don't know," "I'd like to think about that," "I'll get back to you," "Thank you for sharing your perspective."



To decline to answer a question



To recognize and assert your expertise

WHO MUST RECEIVE TRAINING?

Title IX Staff*

- Coordinators
- Investigators
- Decision Makers (hearings and appeals)
- Facilitators of Informal Resolution

Faculty

- New faculty
- Existing faculty
- Adjunct Faculty
- Supervising faculty

Students

- New Students
- Existing Students
- Specialized populations
- Student staff

Staff

- Senior leadership
- Public Safety/campus law enforcement
- Health care workers

*“Those who are charged with ensuring a prompt, fair, and impartial investigation and result.” (VAWA)

COMMUNITY PARTNERS?

Boards of Trustees

Law Enforcement

Advocacy Groups

Health Care Providers

Attorneys

Media

TRAINING FOR TITLE IX STAFF



The scope of the institution's education program or activity (i.e., its Title IX "jurisdiction")

How to conduct the grievance process

How to serve impartially

The technology to be used at a live hearing

Issues of relevance of questions and evidence

Rape shield protections; and,

Issues of relevance in creating an investigative report.



RESPONSIBLE EMPLOYEES

SPECIAL CONSIDERATIONS FOR TRAINING & EDUCATION IN THE POST REGULATORY LANDSCAPE

Explaining the narrowed scope of Title IX

Explaining the institutional decision for two processes/procedures

Responsible Employee challenges

Burden of proof challenges

Length of Training

Time for questions/community processing

PREVENTION EDUCATION: TITLE IX REGULATIONS

"The Department understands commenters' beliefs that the Department should create rules that monitor drinking, teach about interpersonal boundaries, sexuality, bystander intervention, and sexual consent communication, And while the Department does not mandate educational curricula, nothing in the final regulations impedes recipients' discretion to provide students (or employees) with educational information."

85 Fed. Reg. 30063 (May 19, 2020).

PREVENTION EDUCATION: VIOLENCE AGAINST WOMEN ACT (VAWA)

A primary prevention and awareness program [which includes bystander intervention] aims to prevent dating violence, domestic violence, sexual assault, and stalking.

Ongoing prevention and awareness campaigns.



ELEMENTS OF ANNUAL TRAINING STRATEGY

- Identify population to be trained
- Determine topic
- Schedule the training
- How will you deliver the training
- Partnerships
- Communications
- Community input/feedback
- Engagement as passive education



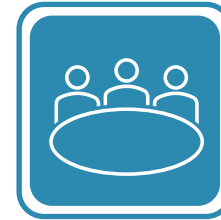
ONGOING ASSESSMENT OF TRAININGS



Pre and Post
Surveys



Observation



Opportunities for
Feedback and
Suggestions



Engage and Listen

COMMUNICATE TRAINING SUCCESSSES



Annual Report



On Your Website



When training



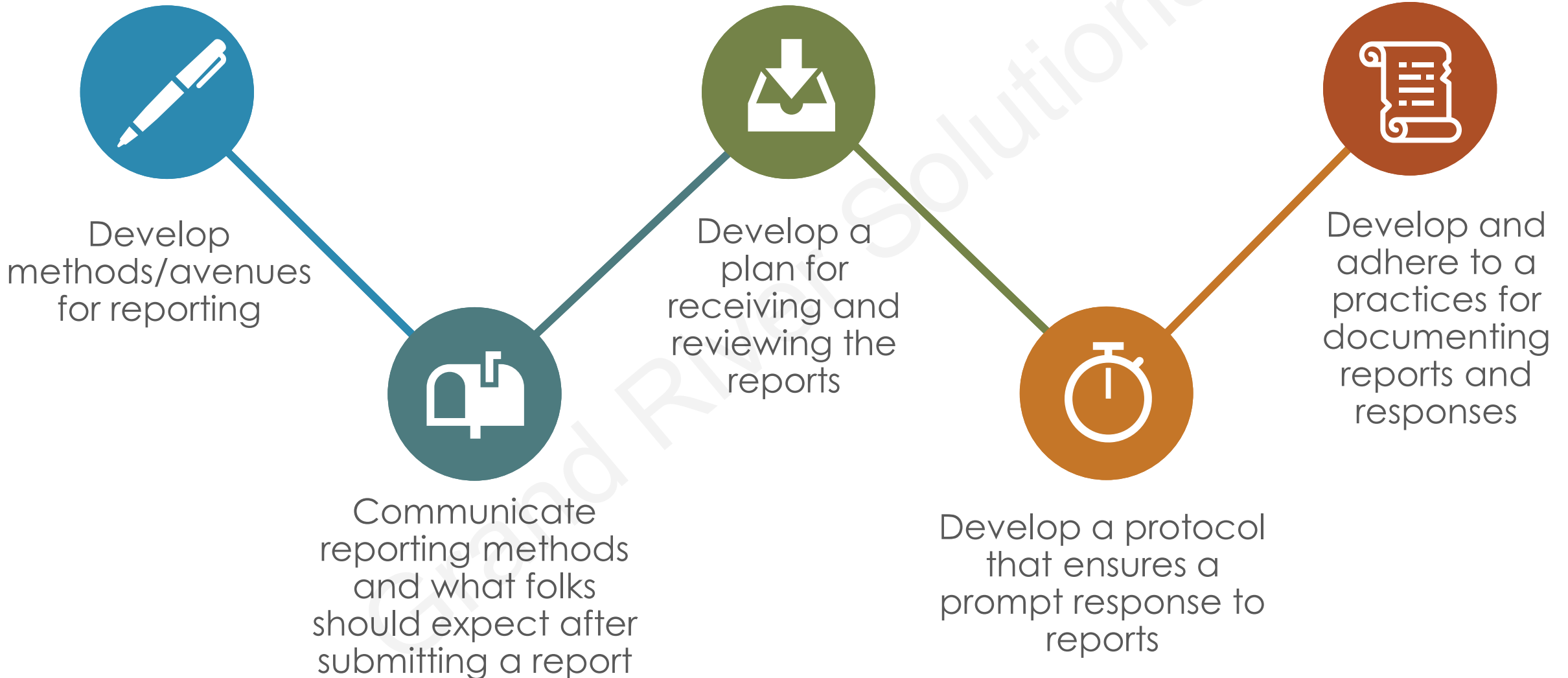
In conversations

RECEIPT OF REPORTS

Actual Knowledge, Report Response,
Initial Assessments, and Supportive
Measures

01

INFRASTRUCTURE FOR REPORTING



REGULATORY REQUIREMENTS

Notice to College/University

Outreach/Response from Title IX Coordinator

Support Measures, whether or not Formal
Complaint is filed

How to File

Options

RECEIVING REPORTS AND INITIATING THE RESPONSE



1. Review the report



2. Determine the appropriate initial response



3. Promptly initiate that response



4. Document/record the receipt of the report and the response thereto

INITIAL OUTREACH

- First: Safety
- Email: Create Forms
- Phone
- In person: Use RA, Campus Safety
- Follow Up Emails



SCENARIO: EMERGENCY REMOVAL OF STUDENT

- High threshold
- Not a determination of responsibility
- Whether or not grievance is underway
- Individualized
- Immediate threat (physical)
- Opportunity to challenge



THE TITLE IX OFFICE RECEIVES THE FOLLOWING ANONYMOUS REPORT VIA YOUR INSTITUTION'S ONLINE REPORTING FORM:

“Riley Smith is in trouble. I live on their floor in River Hall and I constantly hear fighting and crying coming from their room at night. Every time I see Riley with their partner, they seem really submissive and nervous and I have noticed bruises on Riley the mornings after the biggest fights. The RA and Riley’s partner are friend and so the RA doesn’t do anything about it. It’s getting so bad that some of the other people on the floor are talking about intervening, but we are afraid of Riley’s partner too.”

THE TITLE IX OFFICE IS CONTACTED BY A PROFESSOR WHO FORWARDS THE FOLLOWING EMAIL FROM A STUDENT TO YOU:

“I really don't want to bother you but I'm in a really hard situation.

I and my boyfriend had a row for these days. And he beat me yesterday and this morning that I attached some pictures before XXXX final starts this afternoon because I found out I couldn't hold pencil because of trembling and I couldn't even think in the first thirty minutes. These pictures shows my arms after he twisting them, which doesn't look violent but feel hurt. One hour before lab final started, I told him I'm going to call police after he beat me, then he dragged me from bed to the floor and threatened to kill me if I call police. It was horrible and hard to reminisce. I knew he tends to use violence before and I forgave him some times when he just pinched my chin and dragged my arm. But this time it is too bad. So he took my phone away and restrain me in my room, not letting me go because I told him I would tell my TA about this whole thing after the final. So he just let me go to final after I promised I won't tell school and police.

When I go to two finals today (XXXX and XXXX, especially the latter), I really couldn't think and even hold pen (and I grabbed my bag but almost nothing in it) for the first thirty minutes. Now everything is done, he promised not to show up in my life nor my room, which is good because I don't want to take penalty on anyone. But I couldn't predict what my final shows out. It won't match my work for the whole semester. I don't expect any makeup chance. I just want to let you know since I barely know any American women here, am I doing wrong? Is there anything I can do to fix anything from academics or life? Sorry for bothering. ”

THE TITLE IX OFFICE RECEIVES THE FOLLOWING EMAIL FROM A RESPONSIBLE EMPLOYEE:

“My name is Professor Jones. One of my students shared that they were raped last weekend at a party by another student. They don’t want the school starting an investigation, and so I am not going to share their name or the details with you. They are thinking about talking to the police but are not sure who to contact. Can you please provide me with information that I can share with the student?”

COMPLAINANT INTAKE & SUPPORTIVE MEASURES



02

Grand River

INITIAL MEETING WITH THE COMPLAINANT

- Prepare for the meeting
- Select appropriate space
- Build trust and rapport; empower
- Explain your role
- Discuss available support
- Options for reporting
- Answer questions
- Evidence collection/preservation
- Conclude with a discussion of next steps



SUPPORTIVE MEASURES

Non-Disciplinary

May not
unreasonably
burden the other
party

Designed to restore
or preserve equal
access

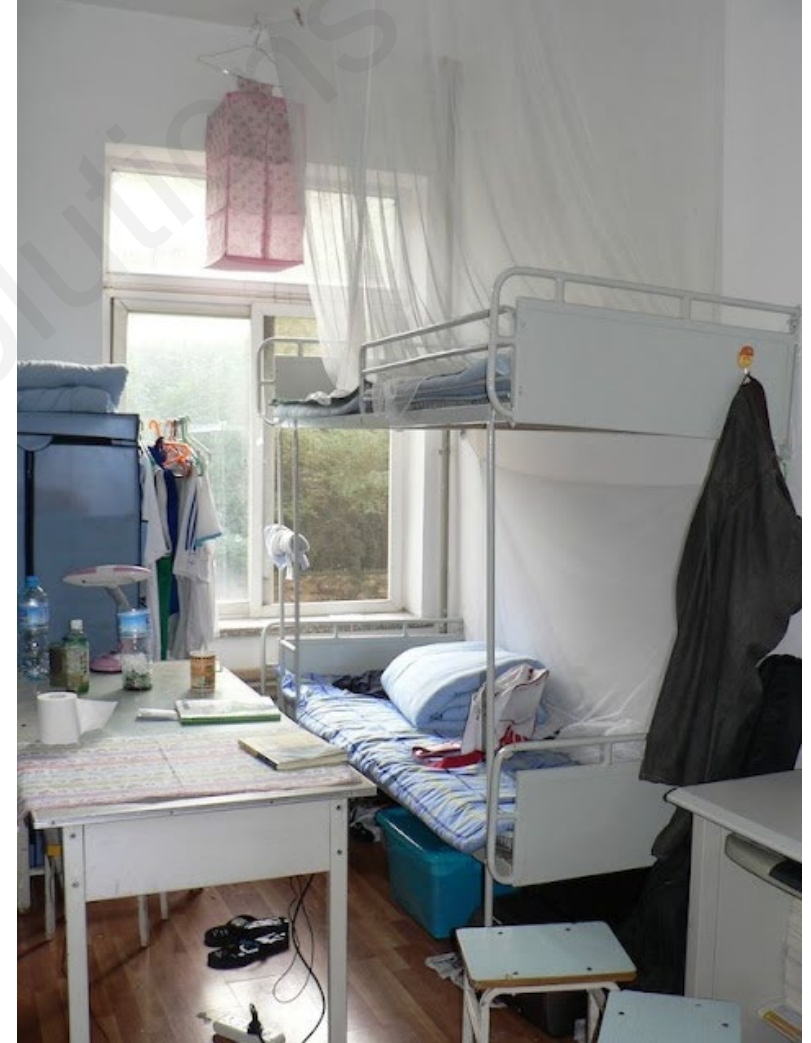
Non-punitive

As appropriate and
reasonably
available

Confidential

EXAMPLES OF SUPPORTIVE MEASURES

- Assistance obtaining access to counseling, advocacy, or medical services;
- Assistance obtaining access to academic support and requesting academic accommodations;
- Changes in class schedules;
- Assistance requesting changes in work schedules, job assignments, or other work accommodations;
- Changes in campus housing;
- Safety escorts;
- Leaves of absence;
- Mutual restrictions on contact between the Parties (“No-contact” orders).



**“MUTUAL
RESTRICTIONS
ON CONTACT
BETWEEN THE
PARTIES”**



POST MEETING TASKS

Document the meeting

Send a summary email
with resources, options,
next steps

Follow up

Make connections

Provide the supportive
measures

Document supportive
measures requested,
provided, and not
provided. Where not
provided, indicate why.

REPORT RESOLUTION

Remedies Based, Informal, or Formal

03

Grand River



HOW TO PROCEED?

Remedies- Based

No formal
process



Alternative/ Informal

Signed
agreement;
Voluntary;
What records?



Formal/ Investigation/ Hearing

All
requirements of
106.45



REMEDIES-BASED RESOLUTION

3(a)

Grand River

REMEDIES BASED RESOLUTIONS

- Supportive Measures
- Educational Conversations
- Targeted Education



FORMAL COMPLAINT & NOTICE REQUIREMENTS

03(b)

Grand River

FORMAL COMPLAINT FILED

By Complainant

**By the Title IX
Coordinator**

FACTORS TO CONSIDER WHEN DETERMINING WHETHER TO FILE A FORMAL COMPLAINT



Allegations of
Violence



Threats

Use of
Weapons



Serial
predation



A FORMAL COMPLAINT MUST INCLUDE

The Complainant's digital or physical signature, or an indication that the Complainant is the person filing the Formal Complaint;

An allegation of Prohibited Conduct as defined under this Policy. This may include: Where the incident(s) occurred; what incident(s) occurred; when the incident(s) occurred;

Identity of Respondent, if known;

A request for a resolution.

DISMISSING COMPLAINTS

Mandatory

- Not sexual harassment
- Did not occur in program or activity
- Not against person in the U.S.

Discretionary

- Complainant withdraws complaint
- Respondent no longer enrolled/employed
- School unable to collect sufficient info

**CAN PROCEED
UNDER OTHER
POLICY**



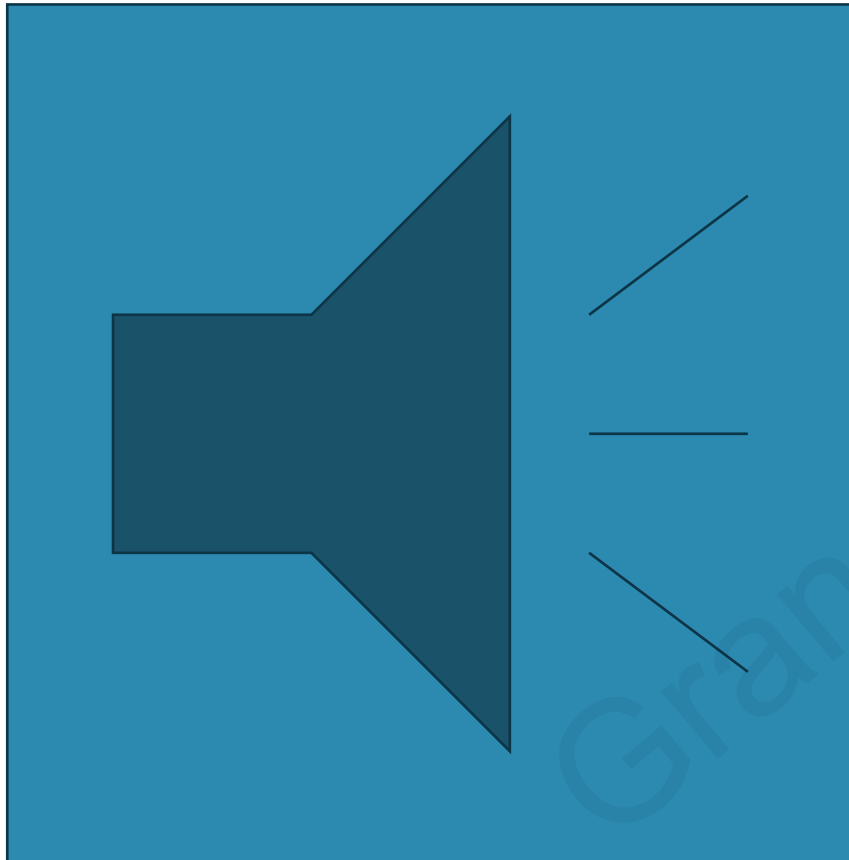
NOTICE OF ALLEGATION REQUIREMENTS (1)

- Notice of the allegations, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:
 - the identities of the parties involved in the incident, if known,
 - the conduct allegedly constituting sexual harassment under § 106.30,
 - and the date and location of the alleged incident, if known.
- The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.

NOTICE OF ALLEGATION REQUIREMENTS (2)

- The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, under paragraph (b)(5)(iv) of this section, and may inspect and review evidence under paragraph (b)(5)(vi) of this section.
- The written notice must inform the parties of any provision in the recipient's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process

NOTIFYING THE RESPONDENT



FIRST- SAFETY

Make sure Support Available

Written Notification Meetings and Sufficient Time to Prepare

Don't Send on a Friday

Don't send at 5pm

How will you notify?

Consider impact of notification on Respondent

ADVISOR OF CHOICE

The advisor can be anyone, including an attorney

Institutions cannot place restrictions on who can serve

No training required

Institution must provide advisor for the purposes of cross examination, only.

INITIAL MEETING WITH RESPONDENT

- Prepare for the meeting
- Select appropriate space
- Build trust and rapport; empower
- Explain your role
- Discuss available supportive measures
- Supportive measures that were provided to complainant that impact them
- Answer questions
- Evidence collection/preservation
- Conclude with a discussion of next steps



POST MEETING TASKS

Document the meeting

Send a summary email with resources, options, next steps

Follow up

Make connections

Provide the supportive measures

Document supportive measures requested, provided, and not provided. Where not provided, indicate why.

FORMAL COMPLAINT RESOLUTION

Informal Resolution

- Formal Complaint Required
- Parties must agree
- Can withdraw from process
- Alternate Resolution/Mediation
- No appeal

Formal Resolution

- Investigation and Adjudication process in compliance with Section 106.45

INFORMAL RESOLUTION

03(c)

Grand River

INFORMAL RESOLUTION REQUIREMENTS

- Formal Complaint must be filed
- Participation in an informal resolution must be voluntary
- Must occur prior to resolution via a formal process
- Parties must be permitted to withdraw and seek formal resolution
- Voluntary, written consent to the informal resolution must be obtained
- Facilitators of informal resolution must be trained



INFORMAL RESOLUTION NOTICE REQUIREMENTS

- The allegations,
- The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process
- And resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;





FACILITATORS OF INFORMAL RESOLUTION AS WITNESSES

**INFORMAL RESOLUTION IS
PROHIBITED TO RESOLVE
ALLEGATIONS THAT AN
EMPLOYEE SEXUALLY HARASSED
A STUDENT.**



FORMAL RESOLUTION

03(d)

Grand River

PROCEDURAL REQUIREMENTS FOR INVESTIGATIONS

Notice to BOTH parties

Equal Opportunity to Present Evidence

An advisor of choice

Written notification of meetings, etc., and sufficient time to prepare

Opportunity to review all directly related evidence, and 10 days to submit a written response to the evidence prior to completion of the report

Report summarizing relevant evidence and 10-day review of report prior to hearing

TITLE IX COORDINATOR'S ROLE

In the Investigation

- Title IX Coordinator is permitted to conduct the investigation, though this is not favored
- If conducting the investigation, do so in accordance with the applicable institutional policy
- If not conducting the investigation, may serve as a support to the investigators
- May serve as a resource to the parties



PROCEDURAL REQUIREMENTS FOR HEARINGS

Must be live, but can be conducted remotely

No Compelling participation

Standard of proof used may be preponderance of the evidence or clear and convincing; standard must be the same for student and employee matters

Cross examination must be permitted and must be conducted by advisor of choice or provided by the institution

Decision maker determines relevancy of questions and evidence offered

Written decision must be issued that includes finding and sanction

TITLE IX COORDINATOR'S ROLE

In the Adjudication

- Title IX Coordinator may not serve as the decision maker
- May serve to support the decision maker(s)
- May participate in the hearing to provide logistical support to decision makers
- Responsible for effective implementation of remedies imposed

FINAL RULE § 106.45(B)(8)

“Institutions must offer both parties an appeal from a determination regarding responsibility, and from a recipient’s dismissal of a formal complaint or any allegations therein.”

TITLE IX COORDINATOR'S ROLE

In the Appeal



- Title IX Coordinator may not serve as an appellate reviewer
- May serve to support the appellate reviewer/panel
- May provide logistical support
- May coordinate implementation of appellate findings, where appropriate.
- Responsible for effective implementation of remedies imposed



Putting it all together

COMPLIMENTARY SUBSCRIPTION

A top-down photograph of a desk with a blue notebook, a white pen, a pair of glasses, a cup of coffee, and a glass of water.

 **THE RIVER**
CONNECT

A place to

- communicate*
- share*
- educate*
- learn*

for HIGHER EDUCATION
PROFESSIONALS working in
Title IX, Equity & Clery

CONNECT WITH US



info@grandriversolutions.com



[/Grand-River-Solutions](https://www.linkedin.com/company/grand-river-solutions)



[/GrandRiverSolutions](https://www.instagram.com/GrandRiverSolutions)



[/GrandRiverSolutions](https://www.facebook.com/GrandRiverSolutions)



Grandriversolutions.com

GRAND RIVER | SOLUTIONS

WE LOVE FEEDBACK

Your Opinion Is Invaluable!



©Grand River Solutions, Inc., 2022. Copyrighted material. Express permission to post training materials for those who attended a training provided by Grand River Solutions is granted to comply with 34 C.F.R. § 106.45(b)(10)(i)(D). These training materials are intended for use by licensees only. Use of this material for any other reason without permission is prohibited.