



FROM ONE TITLE IX COORDINATOR TO ANOTHER:

A Practical Approach to
Navigating Beyond Compliance

Day 1

GRAND RIVER | SOLUTIONS

MEET YOUR FACILITATOR



Senior Solutions Specialist

She/Her/Hers

Emma Hempel

Emma Hempel is a Senior Solutions Specialist at Grand River Solutions. Emma serves as a Title IX Coordinator for campuses across the country. With over ten years of experience in the field of higher education, she previously served as the Title IX Coordinator at the State University of New York at New Paltz. In her previous role, she conducted all Title IX intakes for students and employees reporting sexual and interpersonal violence. She developed and implemented a variety of trainings and workshop on topics including sexual violence prevention, sexual harassment, bystander intervention, and diversity and inclusion.

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.



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THE EVER-EVOLVING LANDSCAPE OF TITLE IX

01

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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).

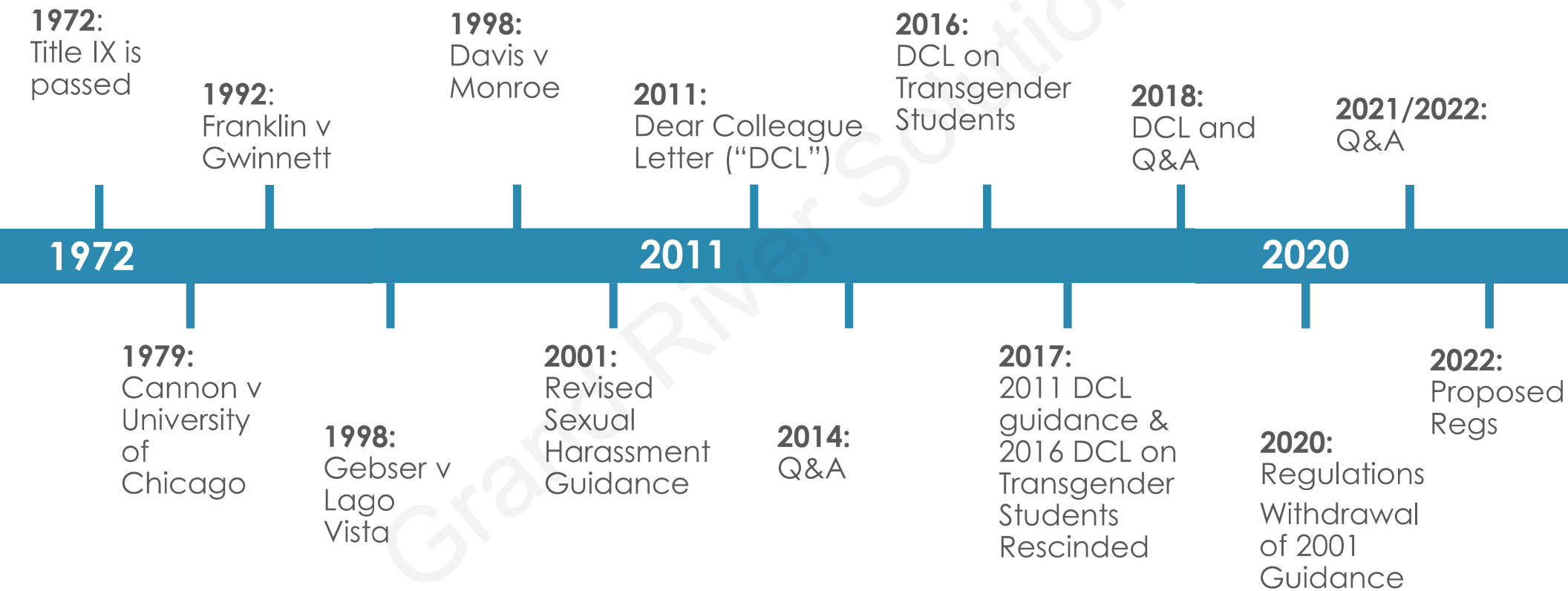


TITLE IX APPLIES TO ALL FORMS OF SEX DISCRIMINATION

- 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).



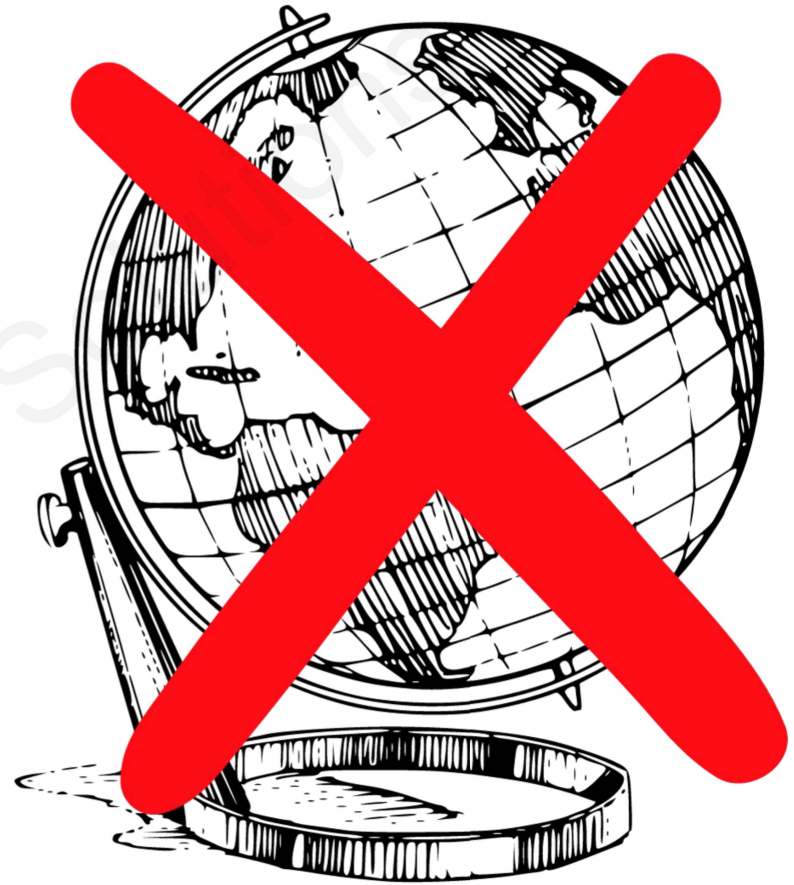
COVERED GEOGRAPHY

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



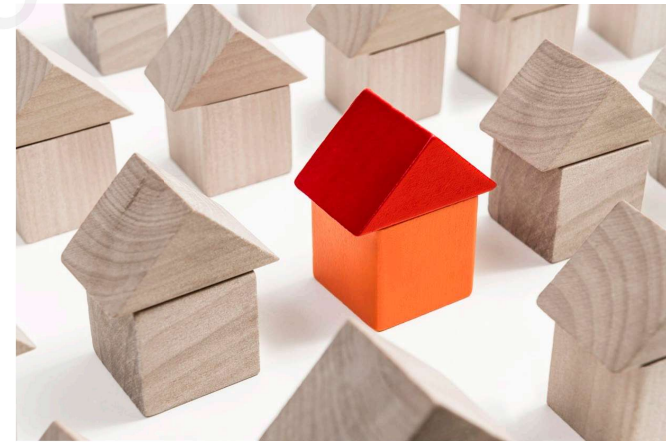
WOULD THIS FALL UNDER TITLE IX?

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'."

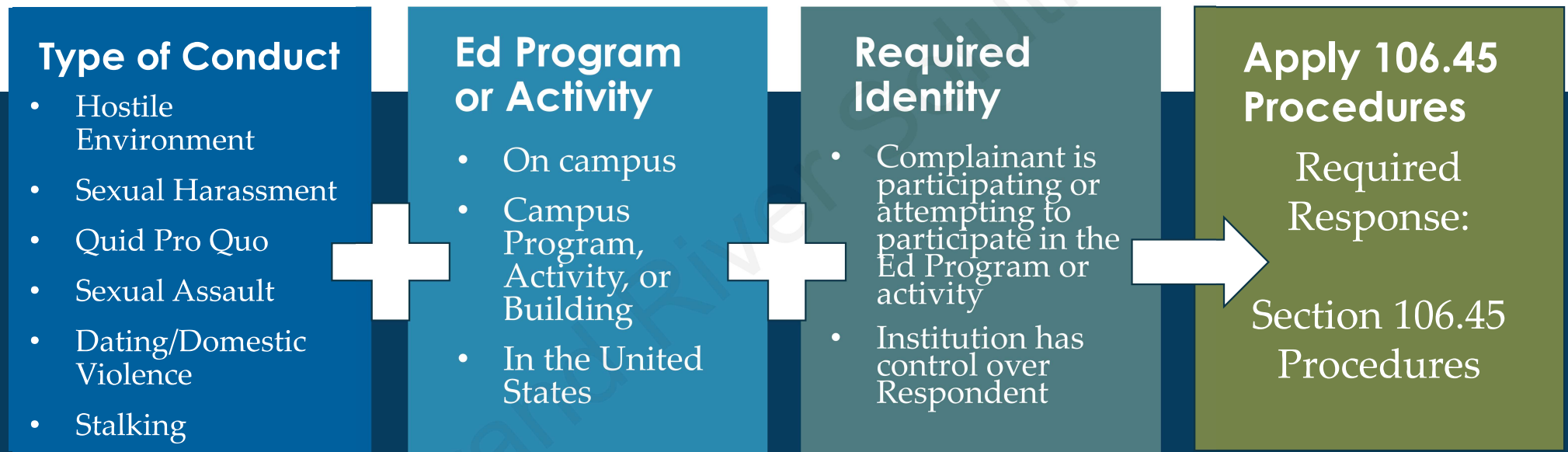
Some members of the A Capella club rent a house off-campus and they frequently throw parties..

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?

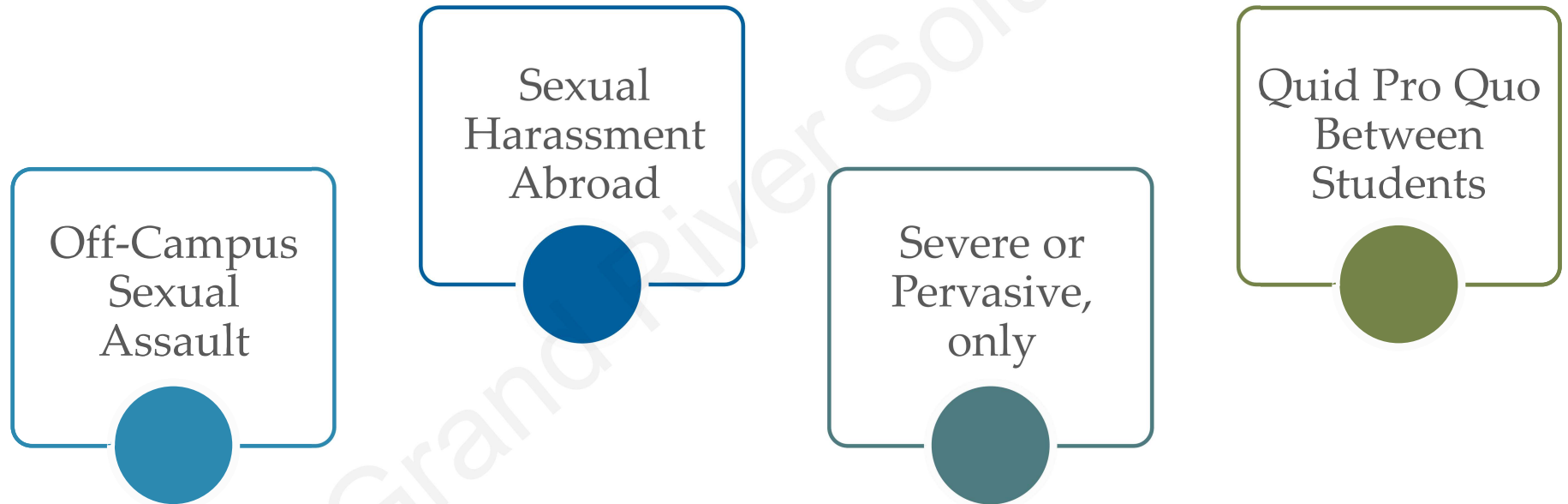


TITLE IX APPLICATION (POST-MAY 2020)



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 are not permitted 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 FOR SUCCESS

02



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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...**



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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



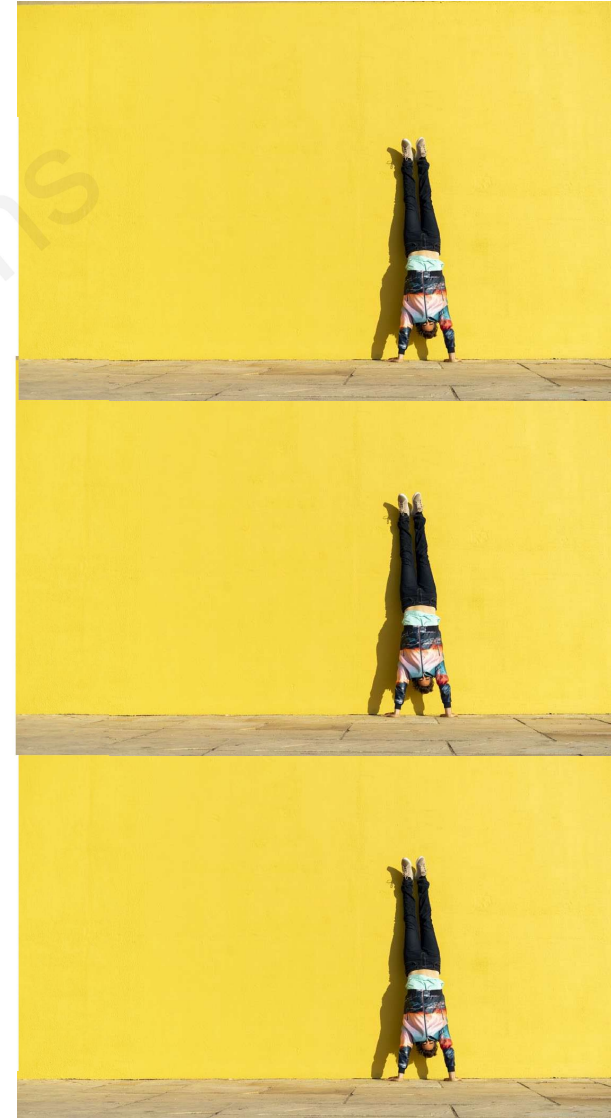
ADHERE

- 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
intake approaches that
demonstrate a
commitment to
impartiality

IMPARTIALITY

Avoiding Bias

- “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

- Simply having an affiliation with an institution in itself is NOT a conflict of interest:
 - “ 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



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SOURCES OF COMPLIANCE OBLIGATION

Title IX Final Regulations

Violence Against
Women Act

Other, Intersecting
Federal Laws

State Law

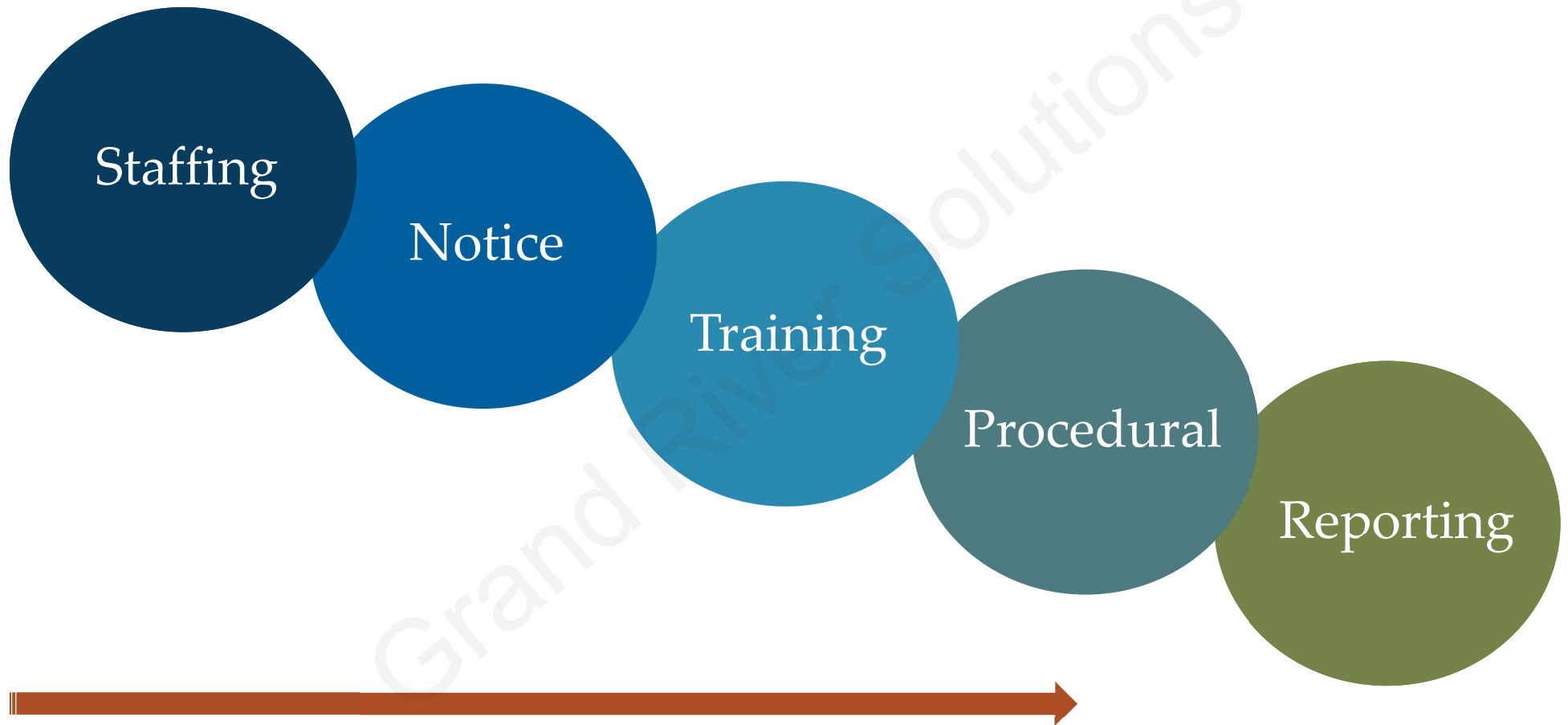
Institutional Policies

Resolution Agreements

TITLE IX COMPLIANCE OBLIGATIONS

- Designate a Title IX Coordinator
- Disseminate Policy
Notification, Publication
- 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;
- Provide supportive measures in accordance with the requirements of section 160.30
- For reports of sexual harassment utilize grievance procedures that comply with section 160.45
- 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).
- Maintain records response to sexual harassment in accordance with 160.45 (10)
- 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

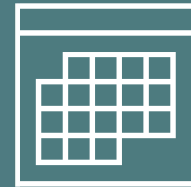
Partnerships



**Record
Keeping
Databases**



Calendar



TRAINING & EDUCATION

Educating ourselves and our communities

04

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SOURCES OF TRAINING REQUIREMENTS



Title IX Final Regulations



State Law



Violence Against Women Act



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

- New/existing 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 investigation report. *

A photograph of three women in a modern office setting. In the foreground, a woman with vibrant red hair, wearing a blue and white striped long-sleeved shirt, is smiling broadly at the camera while sitting at a dark wooden table. She has a laptop open in front of her. Behind her, two other women are also smiling. One woman with dark hair is wearing a mustard yellow top, and the other with dark hair is wearing a dark top. They are all looking towards the camera. On the table, there are several items: a red mug, a glass of water, and some papers. The background is a bright, minimalist office space with a large window and a dark rectangular object on the wall. A dark blue rectangular overlay is positioned on the right side of the image, containing the text 'RESPONSIBLE EMPLOYEES' in white, bold, sans-serif capital letters. At the bottom right, another dark blue rectangular overlay contains the text 'GRAND RIVER | SOLUTIONS' in white, sans-serif capital letters.

RESPONSIBLE EMPLOYEES

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SPECIAL CONSIDERATIONS FOR TRAINING & EDUCATION

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



"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

TRAINING COMMUNICATION



Annual Report



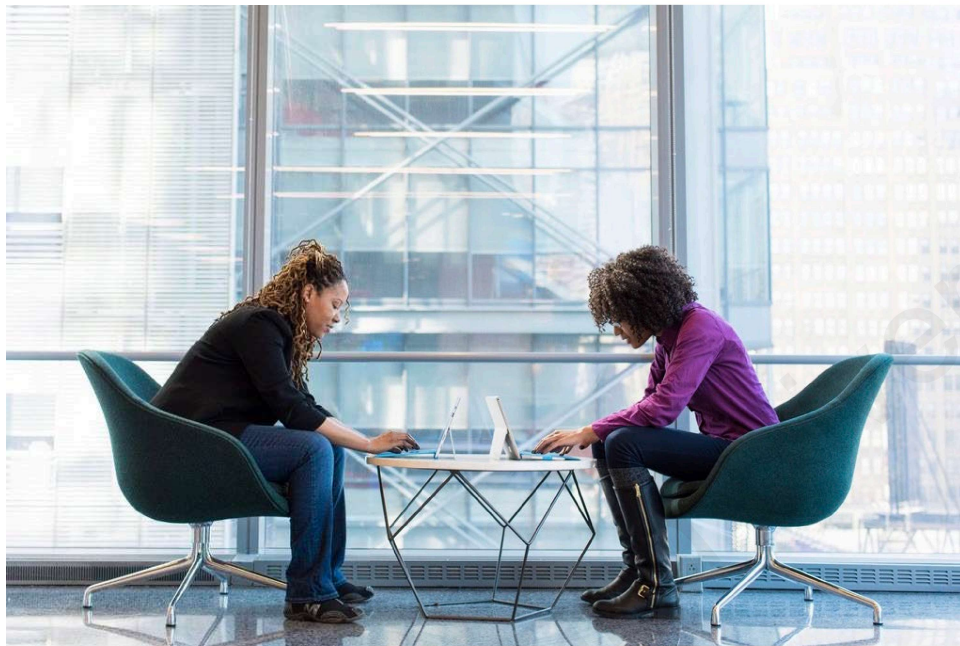
On Your Website



When training



In conversations



FROM ONE TITLE IX COORDINATOR TO ANOTHER:

A Practical Approach to
Navigating Beyond Compliance

Day 2

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DAY 2 AGENDA

01

Receipt of Reports

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

02

Complainant Intake & Supportive Measures

03

Report Resolution

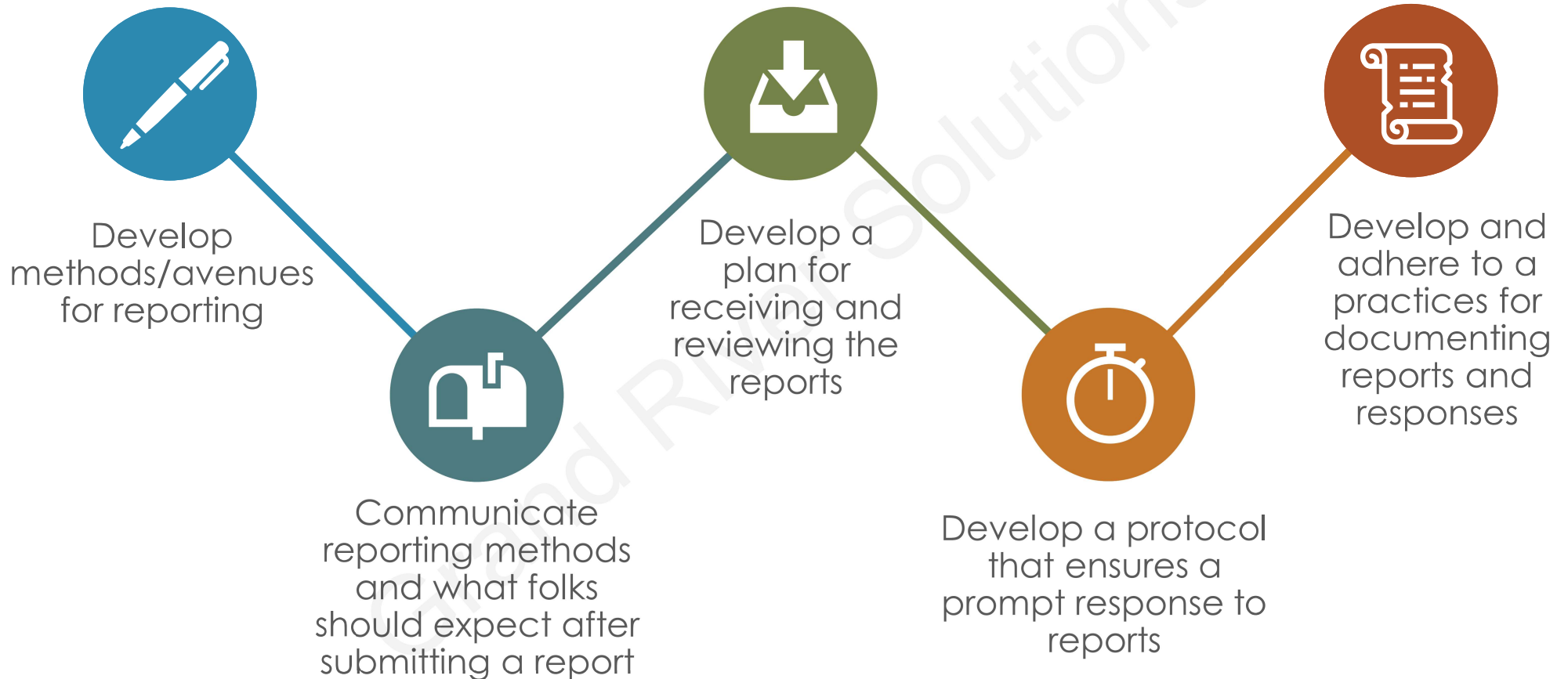
Support-Based Based, Alternative/Informal, or Formal

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 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



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 modifications and supportive measures;
- 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

03

Support-Based Only,
Informal/Alternative, or Formal

HOW TO PROCEED?

Support- Based Only

No formal
process



Alternative/ Informal

Signed
agreement;
Voluntary;
What records?



Formal/ Investigation/ Hearing

All
requirements of
106.45



SUPPORT BASED-BASED RESOLUTION

3(a)

SUPPORT-BASED RESOLUTIONS

- Supportive Measures
- Targeted Education
- Educational Conversations



FORMAL COMPLAINT & NOTICE REQUIREMENTS

03(b)

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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 or investigation.

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**



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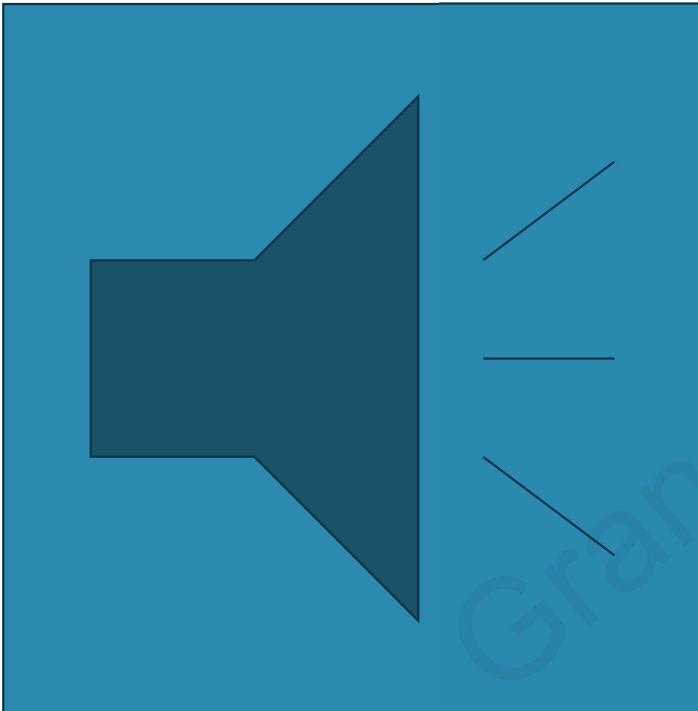
NOTICE OF ALLEGATION REQUIREMENTS (1)

- 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
questioning 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

ALTERNATIVE RESOLUTION

03(c)

ALTERNATIVE RESOLUTION REQUIREMENTS

- Formal Complaint must be filed
- Participation in an alternative 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 alternative resolution must be obtained
- Facilitators of alternative resolution must be trained



ALTERNATIVE RESOLUTION NOTICE REQUIREMENTS

- The allegations,
- The requirements of the alternative/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 alternative resolution process
- And resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the alternative resolution process, including the records that will be maintained or could be shared;



The background of the slide is a photograph of a park. In the foreground, there are trees with bright pink blossoms and some with yellow blossoms. A paved path winds through the park, and a few people can be seen walking in the distance. The image is partially covered by a dark blue semi-transparent overlay that contains the title text.

FACILITATORS OF ALTERNATIVE RESOLUTION AS WITNESSES

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



FORMAL RESOLUTION

03(d)

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)

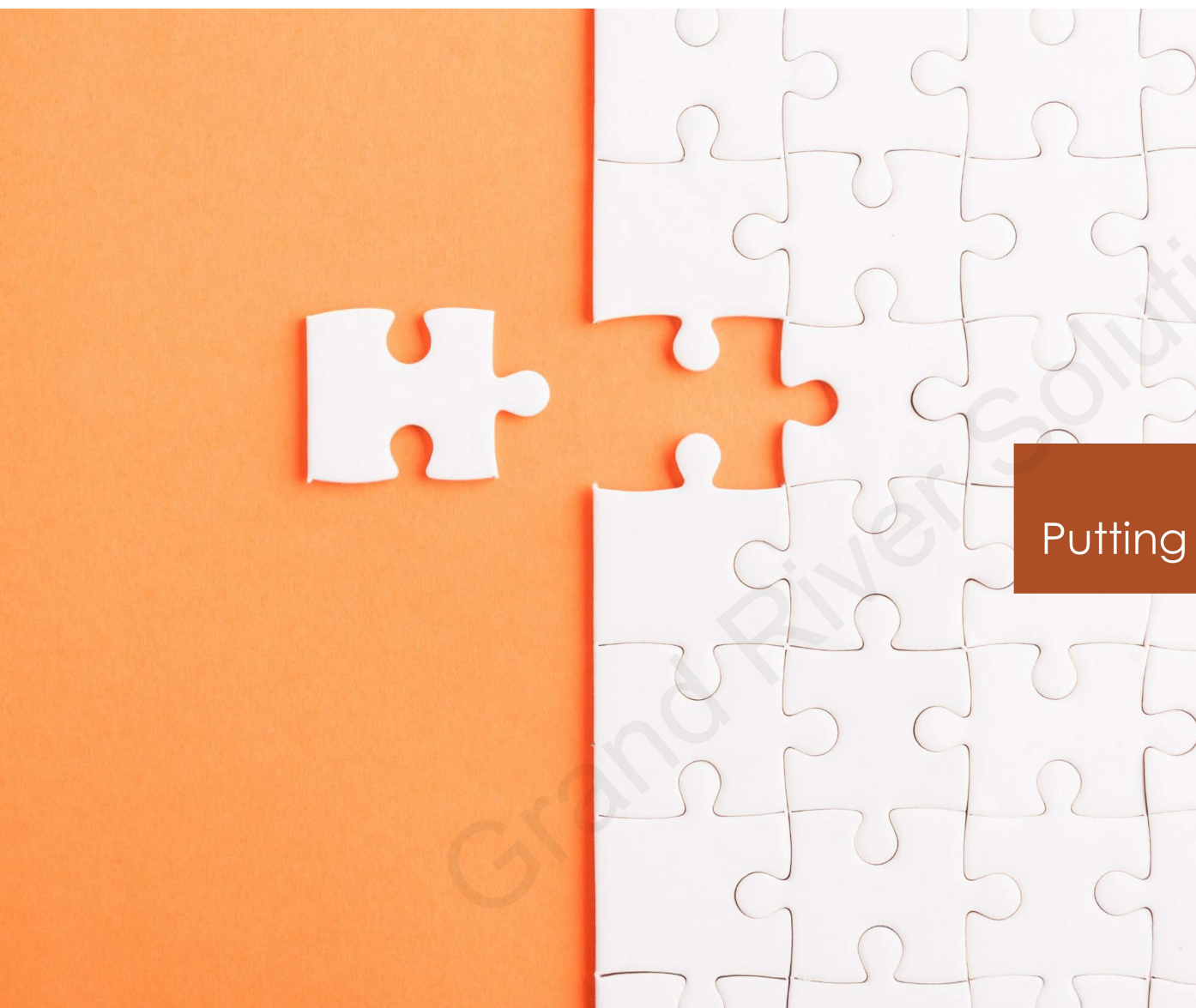
“Institutions must offer both parties an appeal from a determination regarding responsibility, and from a recipient’s dismissal of a formal complaint or any allegations therein.”

TITLE IX COORDINATOR'S ROLE

In the Appeal

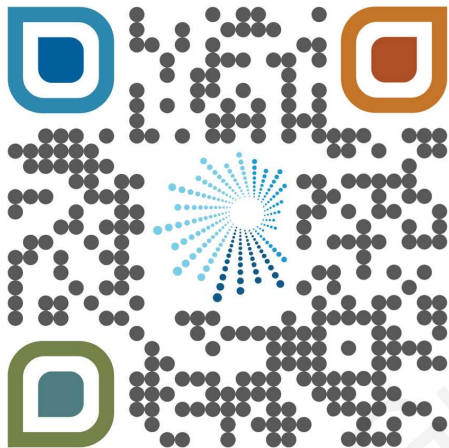


- Title IX Coordinator may not serve as an appellate reviewer
- May serve to support the appellate reviewer/panel
- May provide logistical support
- May coordinate implementation of appellate findings, where appropriate.
- Responsible for effective implementation of remedies imposed



Putting it all together

COMPLIMENTARY SUBSCRIPTION



A place to

*communicate
share
educate
learn*

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



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Your Opinion Is Invaluable!



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