



Association of
Title IX Administrators

Title IX Coordinator Foundations: Sex-Based Harassment for Higher Education

Training and Certification Course

WELCOME!

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- The ATIXA Event Lobby can be accessed by scanning the QR code or by visiting **www.atixa.org/atixa-event-lobby**.
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Strategic Risk
Management Solutions



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

Content Advisory

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

ATIXA faculty members may offer examples that emulate the language and vocabulary that Title IX practitioners may encounter in their roles including slang, profanity, and other graphic or offensive language. It is not used gratuitously, and no offense is intended.

Introduction



The primary focus of this course is on managing reports or complaints of sex-based harassment, covering areas such as reporting, the Resolution Process, policy development, and other similar topics.



Title IX practitioners must ensure that institutional response to reports of sex-based harassment is consistent with laws, regulations, and court decisions.



Our goal is to provide a comprehensive framework to structure institutional response to sex-based harassment reports and complaints.

Future of Title IX

- We expect the Title IX regulatory landscape to remain unsettled in the immediate future
 - We anticipate some clarity by the end of 2025, if not sooner
 - We predict that 2020 Regs will likely become the permanent rule long-term
- The new administration will likely try to dispense (somehow) with the 2024 Regs and return to the 2020 Regs nationwide
 - The Department of Justice may stop defending the injunction lawsuits and encourage the courts to strike down the 2024 Regs or implement a nationwide injunction
 - The Department of Education (ED) may try to rescind the 2024 Regs and leave the 2020 Regs in place nationwide
 - ED could announce a new rulemaking process, but any new rule would not take effect until 2027 or so
- Any of these approaches are likely to generate lawsuits from supporters of the 2024 Regs

Future of Title IX

- Congress could also amend/rescind the Title IX statute to reflect its priorities
 - LGBTQIA+ inclusion/exclusion
 - Athletics inclusion/exclusion
 - 2024 proposed athletics Regs are dead
- ATIXA does not expect ED dissolution
 - It will likely be reorganized, and funding may be cut to some/all programs
 - Even if ED were dismantled, all legislation and associated implementing regulations currently under ED oversight would still be administered by some agency, unless the underlying legislation is repealed

ATIXA Recommendations

ATIXA recommends training for the regulatory scheme in force in your state, district, or institution

- If 2020 applies to you, train for 2020
- If 2024 applies to you, train for 2024
 - Keep in mind that the 2024 Regs require you to use the 2020 Regs for all complaints prior to August 1, 2024, so 2020 training is still critical for compliance
 - It will help you be prepared in case the 2020 Regs return
 - Must have an updated 2020 policy and procedure ready to go if 2024 is enjoined or rescinded
 - ATIXA has recently revised its 2020 One Policy, Two Procedures template
- Some school districts or university systems may have to train for both due to the Kansas injunction lists

Title IX Compliance Oversight

Title IX and Equity

- Title IX is a sex and gender equity law
- Equity refers to the understanding that not all individuals have access to the same resources and opportunities
 - Equity focuses on providing support and resources to reduce disparities in access to the education program
 - Title IX seeks to remedy the inequities created by sex-based harassment and sex discrimination

Essential Compliance Elements

The requirements to **Stop, Prevent,** and **Remedy** guide Title IX Coordinators in their equity and compliance work

1

STOP discriminatory conduct

2

PREVENT recurrence, on both individual and institutional levels

3

REMEDY the effects of discrimination, for both Complainant and community

Title IX Compliance Oversight

Who is the Title IX Coordinator (TIXC)?

- Role mandated by Title IX regulations
- Oversees institutional Title IX compliance
- Responsibilities fall into two categories:
 - Responding to reports or complaints of sex discrimination, sex-based harassment, and retaliation
 - Leading efforts to ensure sex and gender equity across the entire institution
- Ensures the institution is **not** deliberately indifferent to reports of sex discrimination and sex-based harassment



Title IX Compliance Oversight

Responsibilities:

- Manage policy and procedures prohibiting sex discrimination, sex-based harassment, and retaliation
 - Including pregnancy and LGBTQIA+ discrimination
 - Ensure institution acts reasonably to **stop, prevent, and remedy**
- Provide notification of nondiscrimination and Title IX information to current and prospective including students and employees, including union/contract employees
- Develop and maintain accurate web and print-based Title IX publications
- Train all institutional employees on Title IX compliance
- Recruit, supervise, and train Title IX Team
- Serve as point person for all reports and complaints

Title IX Compliance Oversight

- Oversee complaint Resolution Process and program equity
- Monitor for barriers to reporting and take steps to address them
 - Track systemic issues or patterns
 - Take remedial action to prevent recurrence
- Assess compliance efforts and program effectiveness
 - Create and disseminate annual compliance report (best practice, not a requirement)
- Update institutional leadership on Title IX issues
- Liaise with institutional legal counsel
- Create/maintain records
- Respond to government inquiries/investigations

Title IX Training

The Title IX Coordinator has responsibility to ensure training mandates are met:

- All employees **must** receive annual training on the following topics, at a minimum:
 - Obligation to address sex discrimination in institution's education program or activity
 - Scope of conduct constituting sex-discrimination and sex-based harassment
 - Reporting and information sharing requirements
- Provide access to training materials on demand
- **Note:** Related student and employee training and prevention requirements per Clery Act/VAWA § 304



Title IX Team Training

The Title IX Coordinator has responsibility to ensure the **Title IX Team** also receives **annual training** on the topics on the preceding slide, and:

- Institutional response obligations to reports of sex discrimination, including reporting requirements
- Grievance procedures
- Serving impartially
- Meaning and application of relevant and impermissible questions and evidence
- IR Facilitators must receive training on rules and practices associated with the institution's Informal Resolution process

Title IX Coordinator Training

- Title IX Coordinators must receive training on:
 - Pregnancy outreach and support requirements
 - Obligations to respond to reports of sex discrimination
 - Supportive Measures
 - Recordkeeping system and recordkeeping requirements
 - Any other training necessary to coordinate Title IX compliance
- Applies to designees, too, such as Deputy Title IX Coordinators (DTIXCs)

Title IX Scope and Definitions

Retroactivity

- The 2024 Regulations apply **only** to sex discrimination or sex-based harassment alleged to have occurred **on or after** August 1, 2024
 - For conduct alleged to have occurred prior to August 1, 2024, the regulations in place at the time the alleged behavior occurred will apply
- Institutions will need to maintain/update policies, procedures, and training that are compliant with the **2020** Regulations and **2024** Regulations
 - If the institution is not fully compliant with 2020, now is the time



Title IX: Scope

Sex Discrimination

- Inequitable Treatment
 - Sex Characteristics
 - Sex Stereotypes
 - Pregnancy or Related Conditions
 - Sexual Orientation
 - Gender Identity
- Exclusion from Participation

Sex-Based Harassment

- Quid Pro Quo
- Hostile Environment Harassment
- Dating Violence
- Domestic Violence
- Stalking
- Sexual Assault
 - Rape
 - Sodomy*
 - Sexual Assault with an Object*
 - Fondling
 - Incest
 - Statutory Rape

Retaliation

*ATIXA recommends removing these behaviors from policy, as they are covered by the Rape definition and are inconsistent with the Clery Act

Sex-Based Harassment

- Subset of sex discrimination
- Includes (the “Big Six” offenses):
 - Quid Pro Quo (QPQ)
 - Hostile Environment Harassment
 - Sexual Assault
 - Dating Violence
 - Domestic Violence
 - Stalking
- No consent definition provided
 - ATIXA recommends adopting a definition in institutional policy



Quid Pro Quo

- “An employee, agent, or **other person authorized by the Recipient** to provide an aid, benefit, or service under the Recipient’s education program or activity
 - Explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct”
- If a **student** occupies a position as an “other person authorized by the Recipient...” then QPQ **could** apply
- Definition encompasses:
 - Extracurriculars and academics
 - Detriment or threat thereof
 - If an individual purports to have authority to provide some aid, benefit, or service, even if they are unable to do so

Hostile Environment Harassment

- Definition:
 - Unwelcome sex-based conduct that
 - Based on the totality of the circumstances
 - Is subjectively and objectively offensive **AND**
 - Is so severe **OR** pervasive
 - That it **limits or denies** a person's ability to participate in or benefit from the Recipient's education program or activity
- Regulations outline a series of additional considerations
- Lower/broader standard than the 2020 Regulations, with First Amendment implications

Hostile Environment Harassment

- Definition provides factors for evaluating whether a hostile environment exists
 - Complainant's ability to access the education program or activity
 - Type, frequency, and duration of the conduct
 - Parties' ages, roles, and previous interactions
 - Location and context of the conduct
 - Institutional control over the Respondent
- These are **factors**, not requirements
 - There could be other factors to consider, too

Rape

Rape:

- Penetration, no matter how slight,
- Of the vagina or anus,
 - With any body part or object,
- Or oral penetration by a sex organ of another person,
- Without the consent of the Complainant

Fondling

Fondling

- The touching of the private body parts (breast, buttocks, groin) of the Complainant,
 - For the purpose of sexual gratification,
- Without the consent of the Complainant, including instances where the Complainant is incapable of giving consent
 - Because of age **or**
 - Because of a temporary or permanent mental or physical incapacity

Incest and Statutory Rape

Incest

- Sexual intercourse
- Between persons who are related to each other,
- Within the degrees wherein marriage is prohibited by state law

Statutory Rape

- Sexual intercourse,
- With a person who is under the statutory age of consent

Dating Violence

Dating Violence: Violence, on the basis of sex, committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the Complainant
- The existence of such a relationship shall be determined based on:
 - Complainant's statement, with consideration of the:
 - Length of the relationship,
 - Type of relationship, and
 - Frequency of interaction between the persons involved in the relationship
 - Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse
 - Dating violence does not include acts covered under the definition of domestic violence

Domestic Violence

Domestic Violence: Violence, on the basis of sex,

- Committed by a current or former spouse or intimate partner of the Complainant,
 - Shares a child in common with the Complainant,
 - By a person with whom the Complainant has a child in common, **or**
 - By a person who is cohabitating, or has cohabitated, with the Complainant as a spouse or intimate partner, **or**
 - By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the state, **or**
 - By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the state

Stalking

Stalking: Engaging in a course of conduct, on the basis of sex, directed at the Complainant that would cause a reasonable person to:

- Fear for the person's safety or the safety of others; **or**
- Suffer substantial emotional distress
- **Course of conduct** means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property
- **Substantial emotional distress** means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling

Definitions: Consent

- **Consent** is not defined by the regulations, so school/district policy should define it
 - Some states prescribe a definition
- **ATIXA's Definition:**
 - Informed, knowing, and voluntary (freely given)
 - Active (not passive)
 - Creates mutually understandable permission regarding the conditions of sexual activity



Definitions: Consent

- No means no, but nothing also means no
- Silence and passivity do not equal consent
- To be valid, consent must be given immediately prior to or contemporaneously with the sexual or intimate activity
- Consent can be withdrawn at any time, so long as it is clearly communicated verbally or non-verbally
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity

Consent Construct: Three Questions

1. Did the Respondent use **force** to obtain sexual or intimate access?
2. Was the Complainant **incapacitated**?
 - a. If so, did the Respondent know, or
 - b. Should the Respondent have known that the Complainant was incapacitated?
3. What **clear words or actions** gave the Respondent permission for each specific sexual or intimate act that took place?

Retaliation

Defined as:

- Intimidation, threats, coercion, or discrimination against any person
- By the institution, a student, an employee, or other person authorized by the institution to provide aid, benefit, or service under the education program or activity:
 - For the purpose of interfering with any right or privilege under Title IX, **OR**
 - Because the person has reported information, made a complaint, assisted, or participated or refused to participate in any manner in any part of a Title IX Resolution Process

- **Institutions may require** employees to participate as witnesses without it being retaliatory
- Cannot require students to participate as parties or witnesses
- Retaliation allegations should be resolved under the Title IX Resolution Process

ATIXA Model Policy Definitions

- Common additional offenses with a potential Title IX intersection
 - Sexual Exploitation
 - Harm/Endangerment
 - Intimidation
 - Hazing
 - Bullying



Activity: Is it a IX?

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Blake & Tamika

- Tamika is a graduate student serving as a graduate teaching assistant for a first-year chemistry course
- Blake, a student in the course, has visited Tamika's office hours each week to ask questions and seek help with the course materials
- With the midterm coming up, Tamika offered Blake her phone number so he could message her with questions and allow her to respond more quickly than email
- After the midterm, Tamika continued texting Blake and they often talked about personal things
- Tamika started flirting with Blake and he flirted back

Blake & Tamika

- After a few weeks, Tamika asked Blake to get a drink with her after class, Blake declined
- Over the following few weeks, Tamika sent Blake several sexually explicit text messages, including a few partially nude pictures of herself
- Blake tried to tell Tamika he wasn't interested, but then gave up on responding
- Eventually, Blake blocked Tamika
- Tamika then resorted to winking at Blake during class and making thinly veiled sexual comments in front of Blake's classmates
- Tamika then used her campus email account to ask Blake to come to her office hours for a surprise, implying his grade would suffer otherwise

Is this a IX?

Amina & Darius

- Amina and Darius are two first-year students who met during their institution's Welcome Week festivities
- In October, Amina invited Darius to come with her to a play on campus
- During the show, Darius tried to grab Amina's hand, which was resting on her leg
- Amina pulled her hand away, but Darius left his hand on her thigh for awhile
- Amina froze and did not remove Darius's hand
- At one point during the play, Darius leaned over to try and kiss Amina, but Amina moved so Darius could not reach her mouth
- He kissed Amina on the cheek instead

Amina & Darius

- Then Darius put his arm around Amina and squeezed her shoulder, pulling her into him
- After the play, Amina and Darius walked back to Amina's residence hall
- Darius put his arm around Amina's waist during their walk, again pulling her in closer to him
- When they reached Amina's residence hall, Darius pulled Amina closer to try and kiss her again
- Amina pulled him in for a quick hug, said goodbye, and bolted for the door

Is this a IX?

Daveed & Calvin

- Daveed reported an incident involving a former partner, Calvin, to his Resident Assistant
- Daveed reported that he and Calvin had been dating on-and-off for a few months but broke things off a few months ago
- Since then, Calvin has been spreading rumors that Daveed has an STI and is very promiscuous
- Daveed has been working with the Title IX office to try and resolve the situation since the RA followed their mandatory reporting obligations and submitted a report

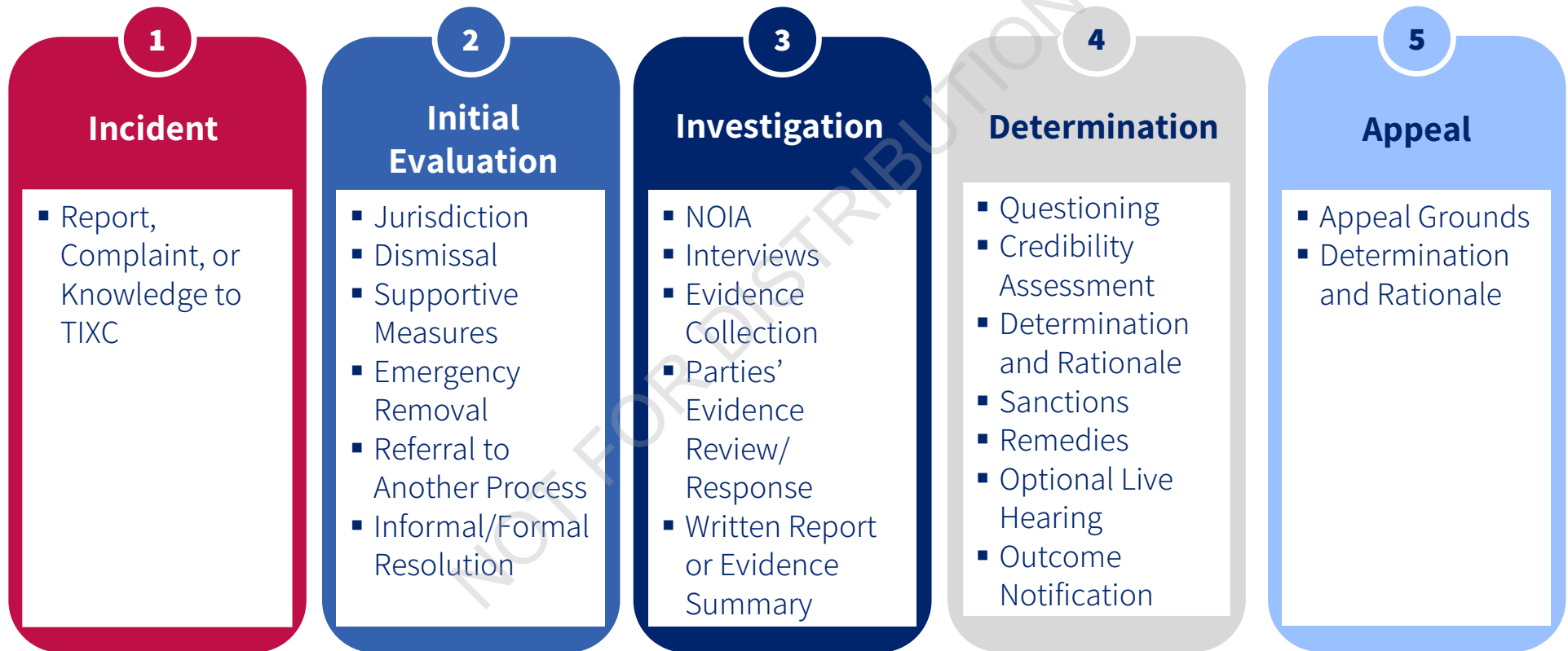
Daveed & Calvin

- Calvin's friend Kristina is on the student programming board's executive team and runs the club's elections
- Daveed is a club member and wants to be on the executive board next year
- Daveed is now reporting that Kristina has been talking to the executive board about his Title IX report and how Daveed is not trustworthy enough to be on the executive board
- Daveed feels like he can't file a formal complaint, or he won't get a fair shot at being elected

Is this a IX?

Resolution Process Overview

Title IX Resolution Process Overview



Title IX Resolution Process Overview

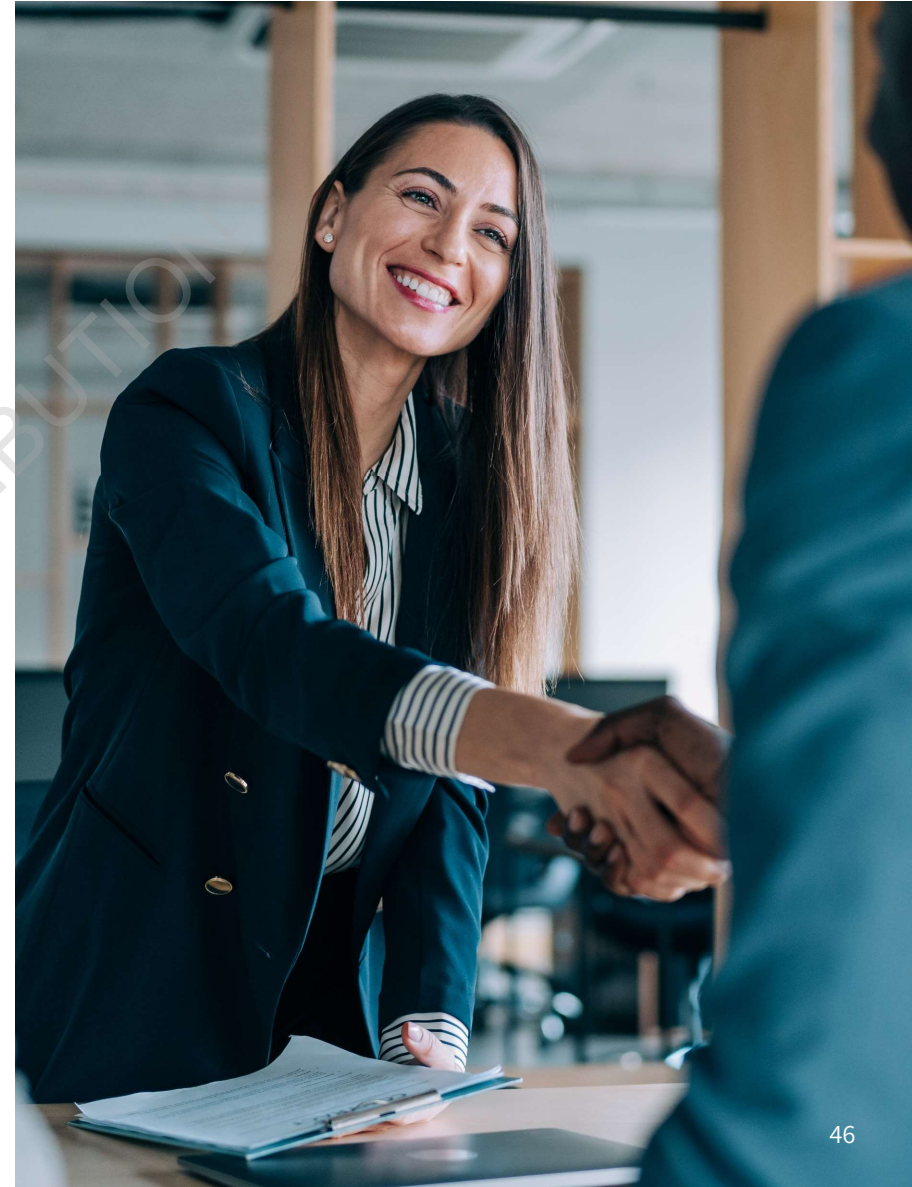
Prompt Resolution

- Reasonably prompt timeframes for “major stages” of Resolution Process
- Title IX regulations do not define “reasonably prompt”
 - 30-60 business days is a good guide for IR
 - 60-90 business days for moderately complex allegations
- Process may take longer than expected
 - Communicate with parties about delays
 - Reasonable extensions permitted
- Provide anticipated timelines for each proceeding

Title IX Resolution Process Overview

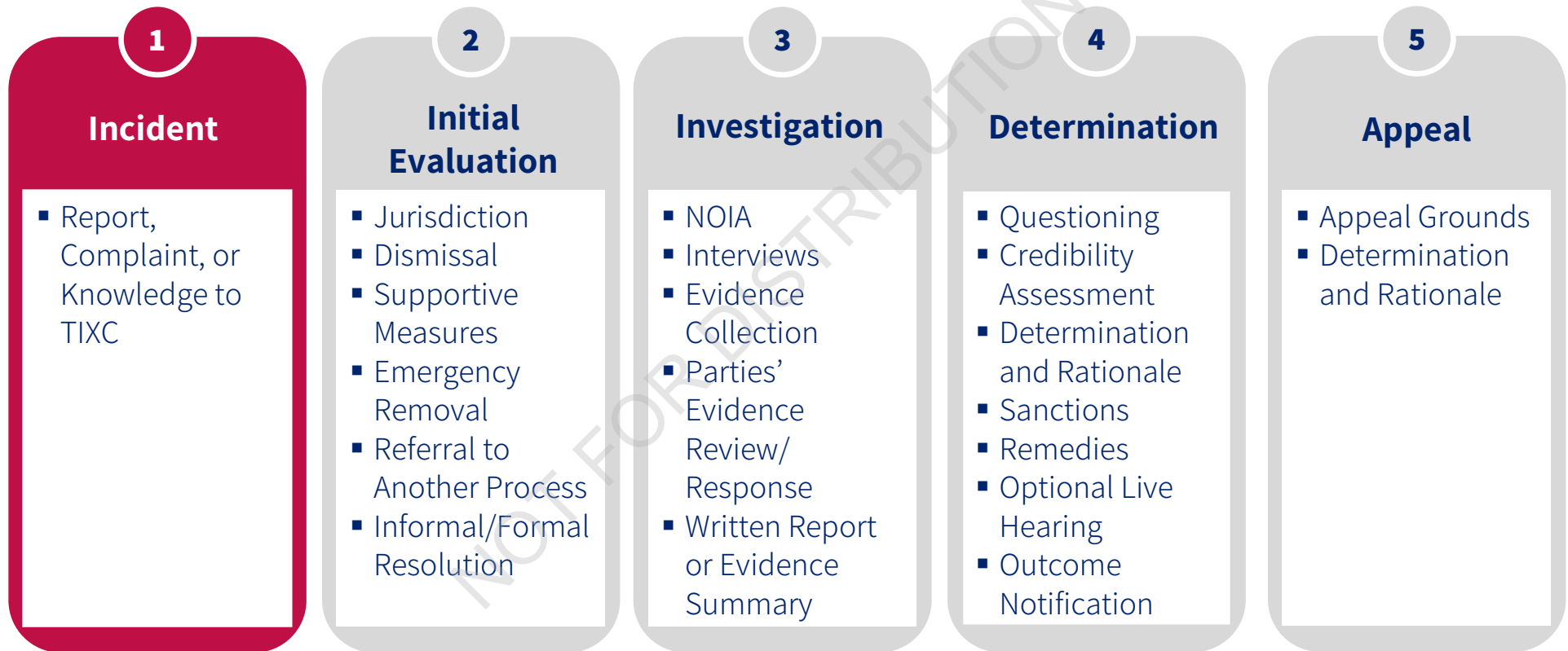
Equitable Resolution

- Treat all parties equitably
 - If the institution affords a right, privilege, benefit, or opportunity to one party, consider whether it should be provided to other parties
- Ensure that all parties have opportunity to fully participate in the Resolution Process
- Ensure that the Title IX team operates without bias and/or conflicts of interest



Reports, Complaints, and Institutional Knowledge

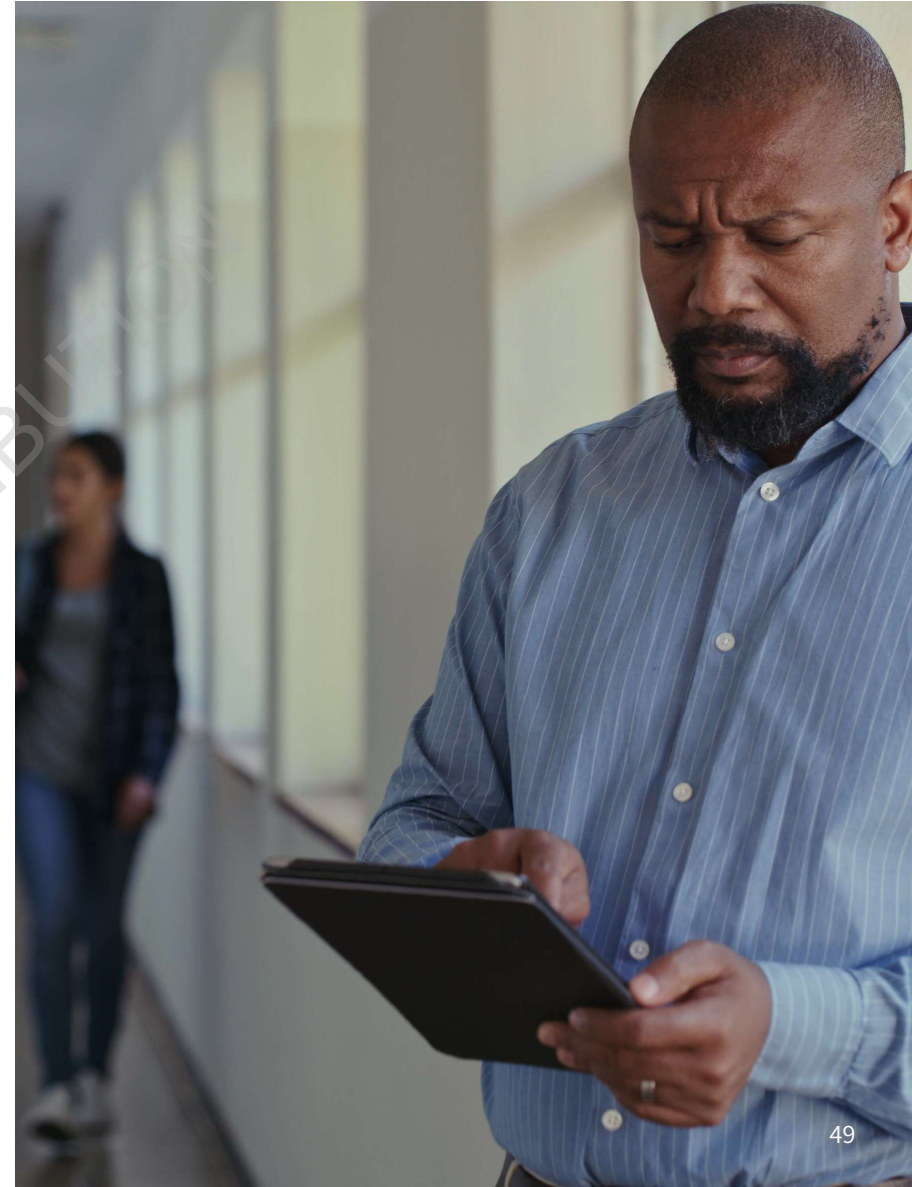
Institutional Knowledge



Knowledge

The institution has **knowledge** of sex-based harassment when information about conduct that reasonably may constitute sex-based harassment is reported to:

- **TIXC**, or
- Any non-confidential employee who:
 - Has authority to institute corrective measures on behalf of the institution, **or**
 - Has responsibility for administrative leadership, teaching, or advising in the institution's education program or activity



Reporting Obligations

EMPLOYEE ROLE	NOTIFY TIXC	PROVIDE TIXC CONTACT INFO
Confidential Employees	NO	YES
Employees with the authority to institute corrective measures	YES	YES
Employees with responsibility for administrative leadership, teaching, and advising	YES	YES
All other employees who are not confidential employees	CHOOSE ONE OR THE OTHER	

Confidential Employees

- Employees whose communications are privileged or confidential (at the time of disclosure) under federal or state law
- Employees who the institution has designated as confidential for providing services related to sex discrimination
- Institutional Review Board-approved human-subjects research study, designed to gather information about sex discrimination



Party and Witness Privacy Concerns

Privacy vs. Confidentiality vs. Privilege

1

PRIVACY

Statutory protection (FERPA) only allows disclosing records to those who need to know, but cannot guarantee confidentiality

2

CONFIDENTIALITY

Information protection by those who need not report to the TIXC because they are designated confidential or have ethical/statutory confidentiality duties (subject to exceptions)

3

PRIVILEGE

The highest legal protection (attorney giving advice to a client or clergy providing pastoral advice); client/patient/parishioner controls the privilege

Mandatory Reporting

- ATIXA recommends designating **all employees** (except for **confidential resources**) as **mandated reporters** under Title IX
 - Ensures information gets to those trained to respond
 - Enables institution to best support individuals
 - Supports tracking patterns
 - Provides for simpler, uniform, and universal training and reporting
- Many employees will also have reporting responsibilities under other state and federal laws or institutional policy
- The institution **should** also selectively designate employees as confidential when it makes sense to do so (e.g., ombuds, advocates, women's center staff)

Reporting Exceptions

- Disclosures at post-secondary public awareness events (e.g., Take Back the Night) require reporting but they are **not** disclosures obligating an institutional response
 - **Unless** there is an immediate and serious threat
 - Employees attending event must report any disclosures to TIXC for safety analysis
 - TIXC must incorporate information or trends into prevention and remedial efforts
 - Institution does not have to require TIXC presence at event
- Exception **does not** extend to classroom assignments or discussions
 - Such disclosures constitute reportable knowledge and require follow up

Complaints

- **Complaint: Verbal** or **written** request to the institution that **objectively** can be understood as a request for the institution to investigate and make a determination about alleged discrimination
- **Complainant:**
 - A student or employee alleged to have been subjected to conduct that could constitute sex discrimination, or
 - A person other than a student or employee alleged to have been subjected to conduct that could constitute sex discrimination and who was participating or attempting to participate in the institution's education program or activity at the time of the alleged sex discrimination

Complaints

- Individuals who may make a complaint depends on the **nature** of the complaint:
 - **Sex-Based Harassment:**
 - A Complainant, or parent/guardian
 - Title IX Coordinator
 - **Sex Discrimination:**
 - A Complainant, or parent/guardian
 - Title IX Coordinator
 - Any student or employee
 - Any other person participating or attempting to participate in the institution's education program or activity at the time of the alleged sex discrimination

For purposes of having Complainant process rights, there is an important distinction between being a **Complainant** and being **able to initiate** a complaint

TIXC-Initiated Complaints

In rare instances, a TIXC may initiate a complaint and/or initiate an investigation without the consent of the Complainant

- Only after determining the alleged conduct presents an **imminent and serious** threat to health or safety of the Complainant or another person; **OR**
- The conduct as alleged prevents the institution from ensuring equal access based on sex to its education programs or activities



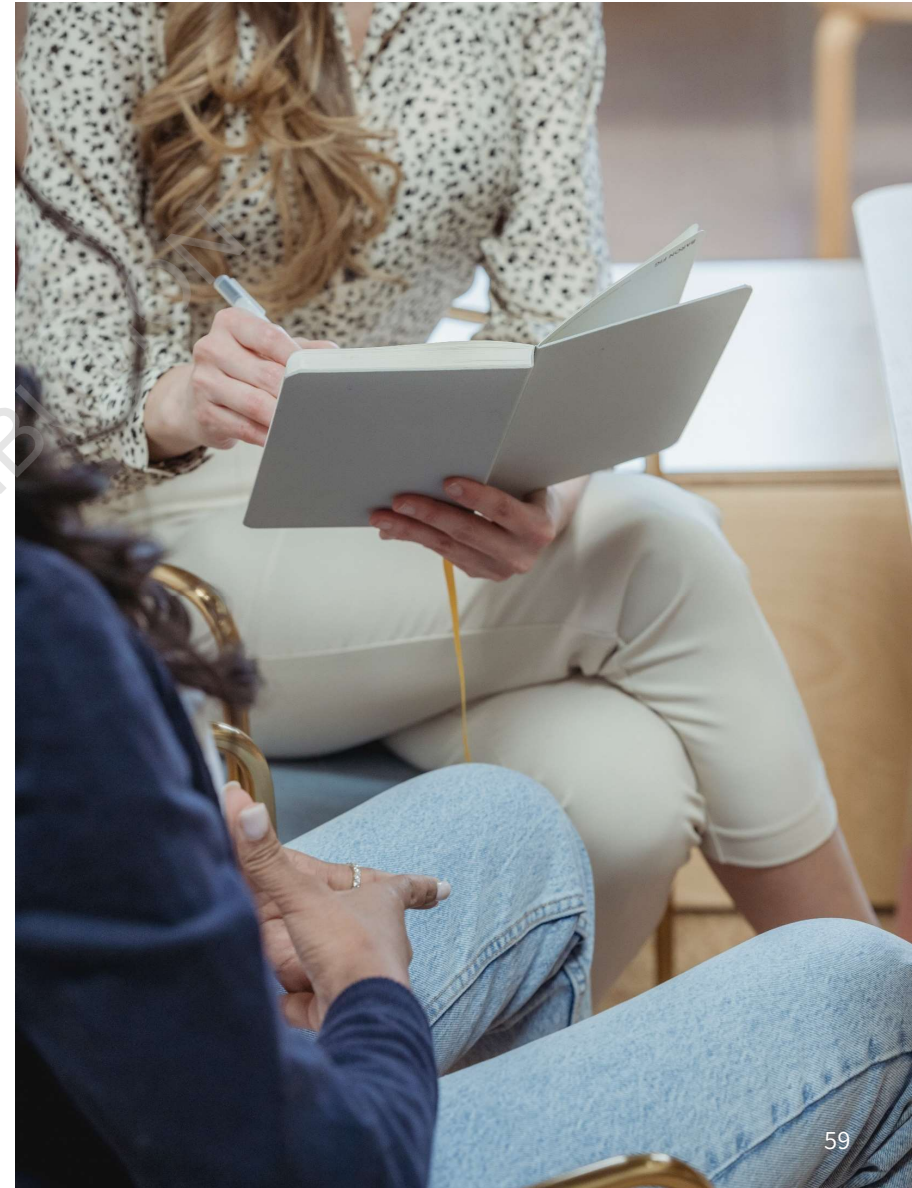
TIXC-Initiated Complaints

TIXC must consider, at a minimum, the following factors:

- Complainant's request not to proceed
- Complainant's reasonable safety concerns
- Risk of additional discrimination or pattern, if not addressed
- Severity of alleged conduct, including whether removal or other discipline is appropriate
- Parties' ages and relationship, including whether Respondent is an employee
- Scope of the alleged conduct (e.g., pattern, ongoing, impacted multiple people)
- Evidence availability
- Whether the institution could stop and prevent without the Resolution Process

Complaint Considerations

- Online reporting form
- Anonymous reports
- Requests for confidentiality
- Take all reasonable steps to follow the Complainant's wishes
 - Institution must respond effectively and prevent harassment of others or Complainant
- If TIXC takes no formal action in response to a report, document rationale



Interacting with Law Enforcement

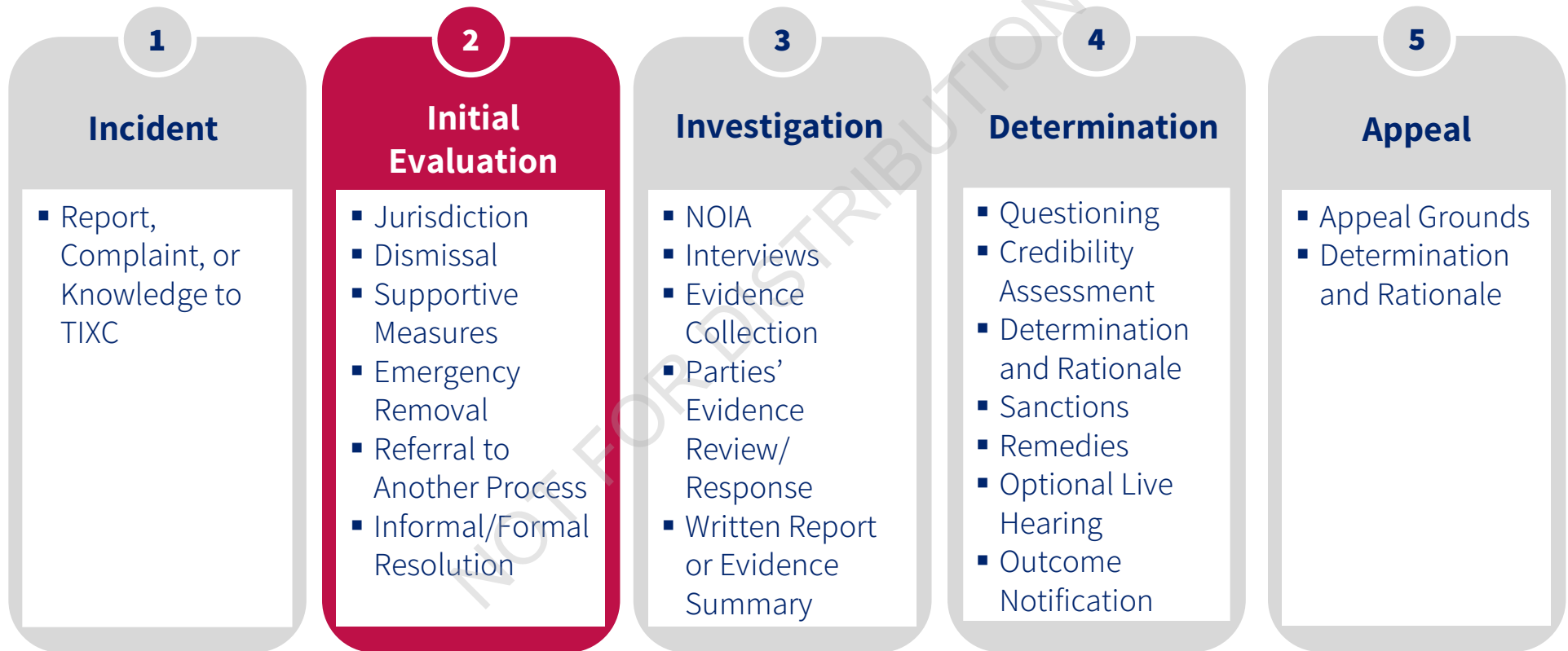
- TIXC must assist Complainants who wish to report to law enforcement
- State laws, local practices, and MOUs may facilitate information sharing with law enforcement
 - Law enforcement may not be aware of federal requirements under Title IX
 - Develop a reporting and information-sharing protocol
- VAWA requirements may also apply



Evaluation

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Initial Evaluation



Title IX Jurisdiction

- The jurisdictional analysis asks:
 - What was the incident? Who was involved? Where and when did it occur?
- TIXC is responsible for evaluating Title IX jurisdiction:
 - Is the conduct of a nature that “may reasonably constitute sex discrimination?”
 - Who is the Complainant?
 - Student or employee at the time of the incident
 - Non-student or employee subject to P/ATP standard
 - Who is the Respondent?
 - Is the incident part of the institution’s education program or activity?

Education Program or Activity

- Within education program or activity
 - Conduct subject to institution's **disciplinary authority**
 - Conduct in a building **owned or controlled by a student organization** officially recognized by a postsecondary institution
- Downstream effects
 - Including off-campus and outside the United States



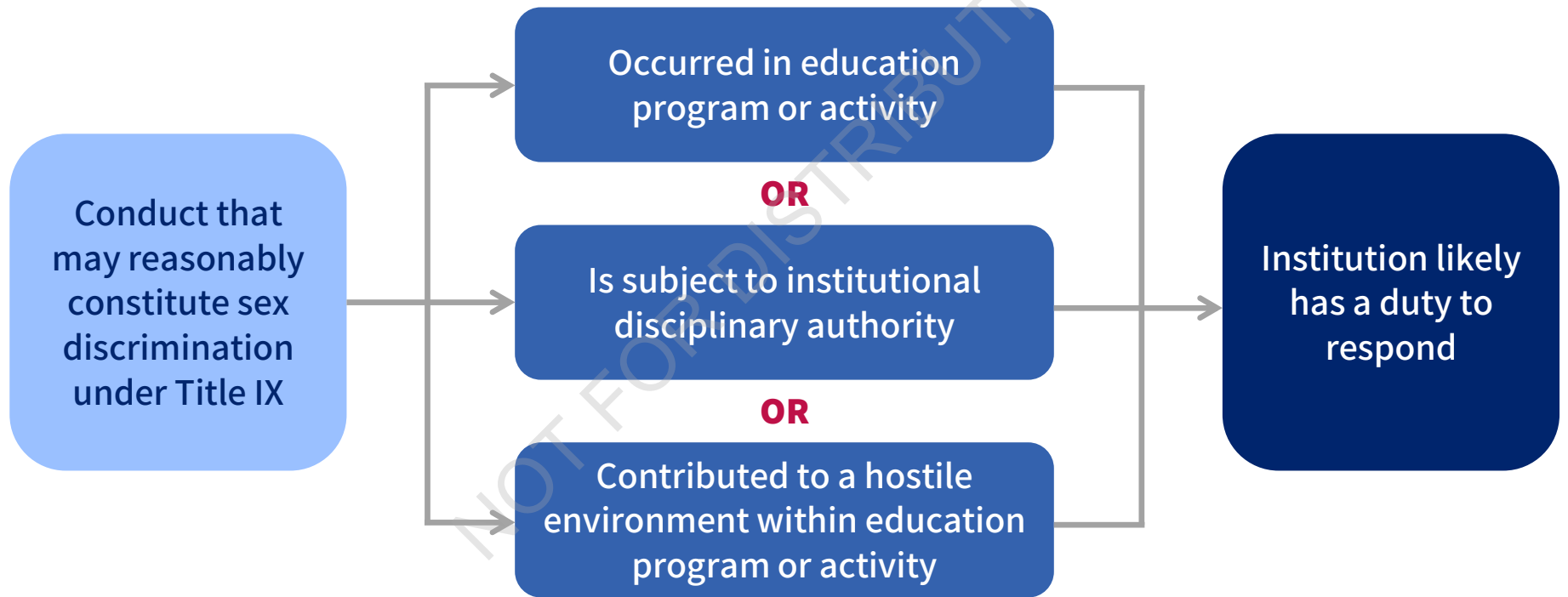
Disciplinary Authority

- “Conduct that is subject to Recipient’s disciplinary authority”
 - Fact-specific analysis
 - “To the extent a Recipient addresses other student misconduct...a Recipient may not disclaim responsibility for addressing sex discrimination that occurs in a **similar context**”
- Similar context
 - Ex: Theft or non-sexual assault; other forms of discrimination
- Obligation to **investigate** conduct occurring under institution’s disciplinary authority is only ever as broad as institution’s **reasonable ability** to do so

Downstream Effects

- “Obligation to address sex-based hostile environment under its education program or activity...
 - Even when **some conduct** alleged to be contributing to the hostile environment occurred **outside** the Recipient’s education program or activity”
- Do **not** need to determine whether the conduct occurring outside the program/activity is itself sex-based harassment
 - Alleged conduct outside the program/activity may be relevant to investigation or institutional response
 - No need to independently respond to alleged underlying conduct; remedial response will suffice unless the in-program effects are themselves a policy violation

Visualizing Jurisdiction



Outreach

- After receiving a report, TIXC (or designee), must reach out to the Complainant
 - Best practice and regulatory requirement
- **Outreach** includes:
 - Introduction to Title IX and staff
 - Reason for the outreach
 - Offer to meet/speak over the phone; include right to Advisor
 - Available resources and resolution options, including how to make a complaint
 - Discuss supportive measures and resources
 - Explain law enforcement reporting options
 - Follow up in writing with resources and information

Intake

- **Intake** includes:
 - Setting the table
 - Explaining the process and options for support and institutional response
 - Provide written materials to reference and for parties to take with them
 - Follow up with an email containing these materials
 - Include information on access to medical care and evidence preservation
 - Exploring facts, but not interviewing
 - Needed for initial evaluation and Clery timely warning
 - Answering questions
 - **DO NOT** answer the question, “What should I do?” except to offer options

After Outreach and Intake

- Consider if any new information affects jurisdictional assessment
- Implement any requested supportive measures and/or remedies

If no complaint is filed:

- Determine whether TIXC needs to initiate a complaint
- Consider whether **Emergency Removal** is warranted
- Evaluate whether parties desire **Informal Resolution** and whether complaint is appropriate for IR

If complaint is filed:

- Determine whether to dismiss or proceed with investigation
- Consider whether **Emergency Removal** is warranted
- Evaluate whether parties desire **Informal Resolution** and whether complaint is appropriate for IR

Supportive Measures

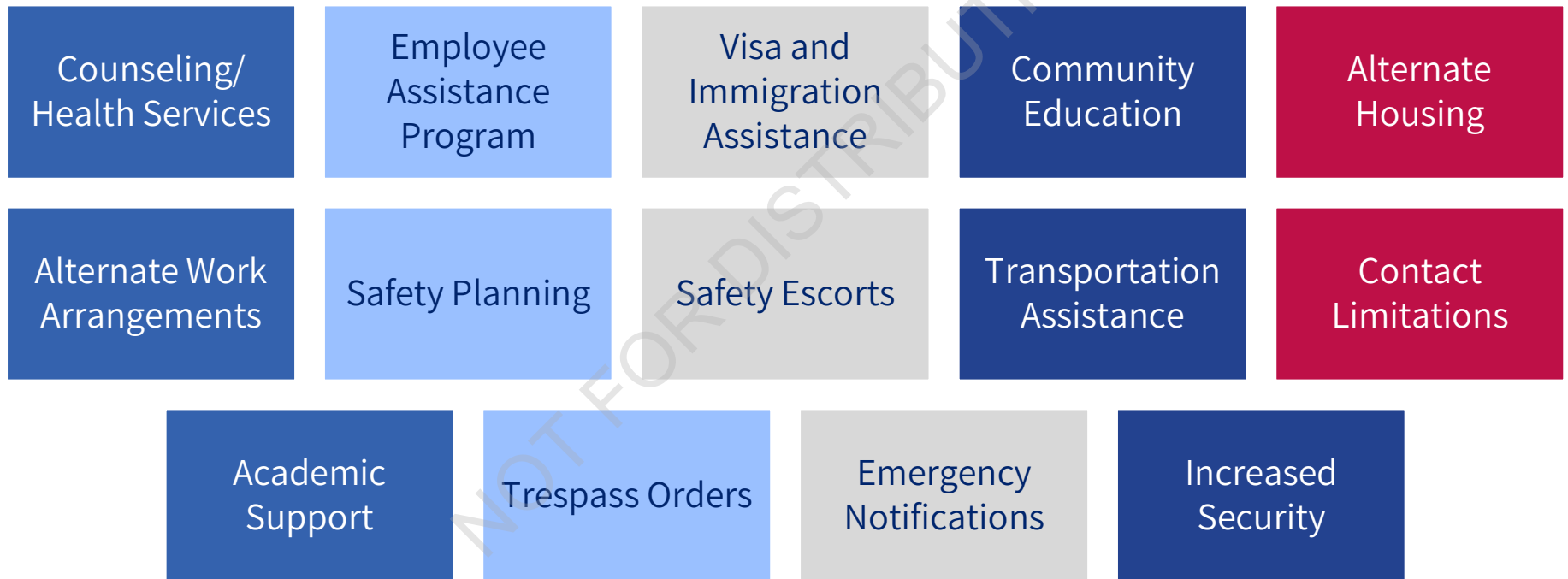
- Individualized measures designed to:
 - Restore or preserve access
 - Protect safety of parties or educational environment
 - Provide support during Resolution Process
- May **not unreasonably** burden a party
- May **not** be for **punitive** or **disciplinary** reasons
- Must be **without** fee or charge



Supportive Measures

- Institution may deem which supportive measures are **reasonably available**
 - Must provide a **timely opportunity** to seek modification, reversal, or denial
 - An impartial employee, uninvolved in initial decision, must have authority to modify or reverse
 - Review considers whether the original decision was **inconsistent** with the definition of supportive measures
 - Permit additional opportunity to contest if circumstances materially change
 - Disclosure about supportive measures is need-to-know
- Measures may be continued, modified, or ended at conclusion of the Title IX Resolution Process

Supportive Measures



Emergency Removals

- A Respondent may be removed from the education program or activity after an individualized safety and risk analysis
 - Respondent must comply with assessment or risk removal for failure to comply
 - An **imminent and serious threat** to the health or safety of the Complainant, any student, employee, or other persons must exist
 - Threat must arise from sex discrimination allegations
- Provide the Respondent an opportunity to challenge the decision **immediately**



Supportive Measures & Partial Removals

- In some circumstances, a partial removal from the education program/activity may be appropriate as a supportive measure
 - Examples: Removal from residence hall, class, committee, etc.
 - Partial removal must be consistent with the definition of supportive measures
 - May **not** be for disciplinary or punitive purposes
 - May be for preserving access, protecting safety, or providing support during a Resolution Process
- If TIXC determines that a partial removal is disciplinary or punitive, the Emergency Removal provision applies

Administrative Leave

- May remove a non-student employee Respondent using existing administrative leave procedures
- A lower bar than emergency removal of a student Respondent



Dismissals

All dismissals involving conduct occurring after August 1, 2024, are **discretionary**, and may be used under the following circumstances:

- Unable to identify Respondent after **reasonable** steps to do so
- Respondent no longer participating in education program/activity or employed by institution
- Complainant withdraws all or a portion of complaint and any remaining conduct would not be sex discrimination under Title IX
- Alleged conduct, if proven, would not be sex discrimination under Title IX
 - Institution must make reasonable efforts to clarify allegations before dismissal

Dismissals

Upon dismissal of a complaint, institution must:

- Notify Complainant
 - Notify Respondent only if Respondent has already been notified of complaint
 - Offer supportive measures, as appropriate
- Inform Complainant of their right to appeal
 - Also inform Respondent of right to appeal if they have been notified of the complaint
- Take other appropriate, prompt, and effective steps to ensure that sex discrimination does not continue or recur

Dismissal Appeals

- Implement appeal procedures equally
- Only Complainant has right to appeal dismissal if Respondent is not notified of the complaint
- If Respondent knows of complaint, both have equal right to appeal
- Appeal Decision-maker must be trained and **not** have taken part in investigation of allegations or dismissal of complaint
- Provide parties a reasonable and equal opportunity to make a statement
- Notify parties of the appeal result and rationale
 - **Written** notification not required

Informal Resolution

- At discretion of TIXC, and only with voluntary consent of the parties
 - Complaint not required
 - Available any time prior to determination
 - Institution determine available methods/structures
- Must provide Notice of Allegation and Informal Resolution Process
- Parties may withdraw from IR at any time prior to agreement
- May offer for complaints between an employee and student
- Parties precluded from initiating or resuming investigation and Resolution Process if agreement is reached

Informal Resolution

- No appeal if agreement is reached
- Resolution may include restrictions the institution could have imposed as disciplinary sanctions or remedies
 - Binding only on the parties
- IR Facilitator:
 - May **not** serve as Investigator or Decision-maker (DM) in the same complaint
 - Must be trained in IR and institutional policy
- Expanding IR options may help manage response to reporting increase

Informal Resolution

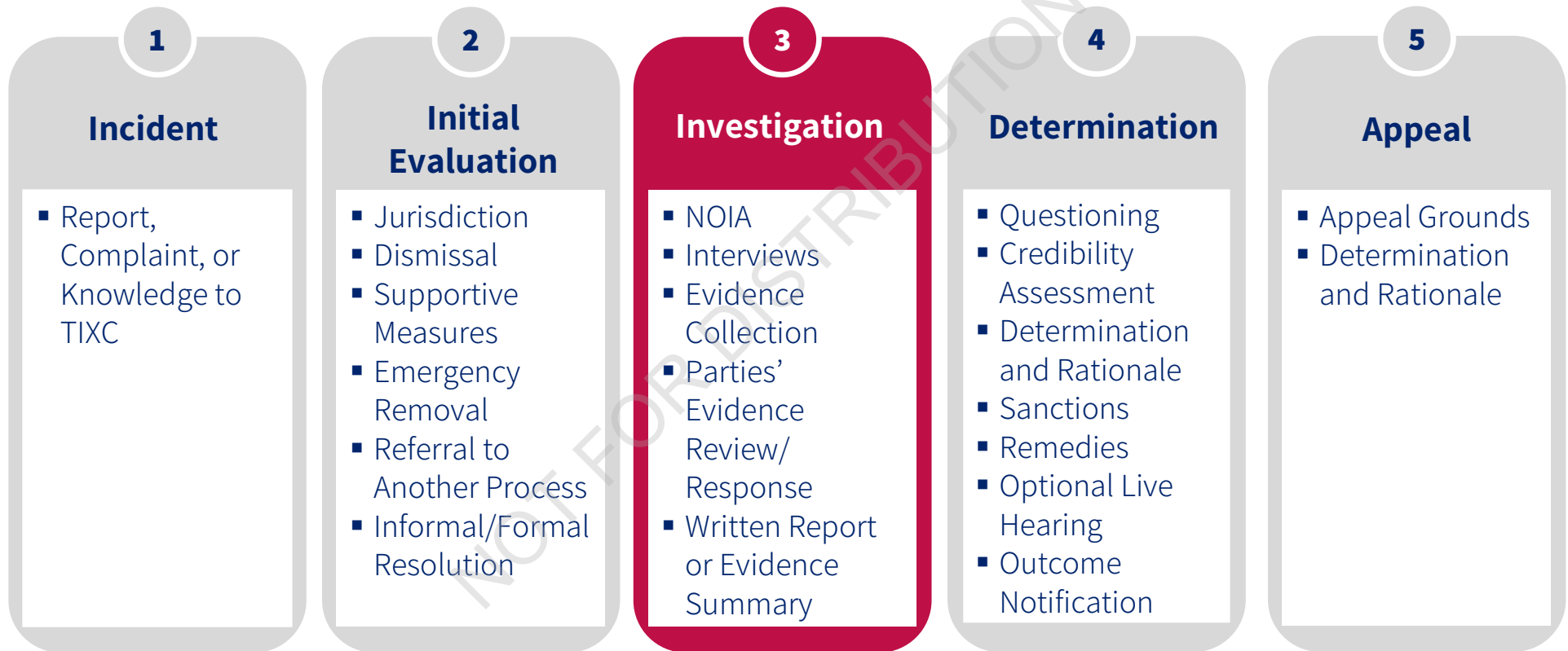
Parties must receive notice of:

- Allegations
- IR procedures
- Right to withdraw from IR and initiate/resume Resolution Process
- IR agreement would preclude initiating/resuming Resolution Process arising from the same allegations
- Potential terms in an agreement
- Records creation and sharing practices

Investigation

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Investigation



Two-Track Grievance Process

- The grievance process depends on the identities of the parties **and** type of complaint
 - Section 106.45 provides a civil rights resolution process
 - Section 106.46 incorporates § 106.45 and adds some due process protections
 - Retains many, but not all, features of the formal process from the 2020 Regulations
- Two separate processes are permitted but **not** required
 - If using only one, it must be § 106.46 (ATIXA’s recommendation)

§ 106.45	§ 106.46
<ul style="list-style-type: none">▪ All sex discrimination complaints that are not sex-based harassment▪ All sex-based harassment complaints that do not involve a post-secondary student	<ul style="list-style-type: none">▪ All sex-based harassment complaints involving a post-secondary student Complainant and/or student Respondent

Investigation Principles Applicable to Both §§ 106.45 and 106.46

Common Steps in TIX Investigations

Investigation Steps:

1. Receive Notice/Complaint
2. Initial Evaluation and Jurisdiction Determination
3. Determine Basis for Investigation
4. Notice of Investigation and Allegations (NOIA)
5. Establish Investigation Strategy
6. Adequate, Reliable, Impartial Investigation
7. Relevant Evidence Summary/Investigation Report
8. TIXC Reviews Evidence
9. Parties Review and Respond to Summary/Investigation Report or Relevant Evidence
10. Final Investigation Report/updated summary provided to Decision-maker

Determining a Basis for Investigation

There are three bases for civil rights investigations:

- **Incident:** a specific incident or period
 - May involve one or multiple alleged violations
- **Pattern:** repetitive or similar behaviors or targets chosen by the same Respondent over a period
 - Tend to involve multiple Complainants
- **Climate/Culture:** discriminatory policies, processes, and environments
 - May have no identifiable Respondent
 - May cue up a subsequent incident or pattern investigation based on information gathered during climate/culture investigation

Investigation Scope

- TIXC determines the scope of the investigation
- **Scope** refers to the allegations, timeframes, and parties subject to the investigation
- Considerations:
 - Collateral misconduct allegations
 - Individual vs. Group
 - Multiple Complainants or Respondents
 - Counter-complaints
 - Patterns
- If scope needs to be adjusted during the process, Investigator should consult with TIXC



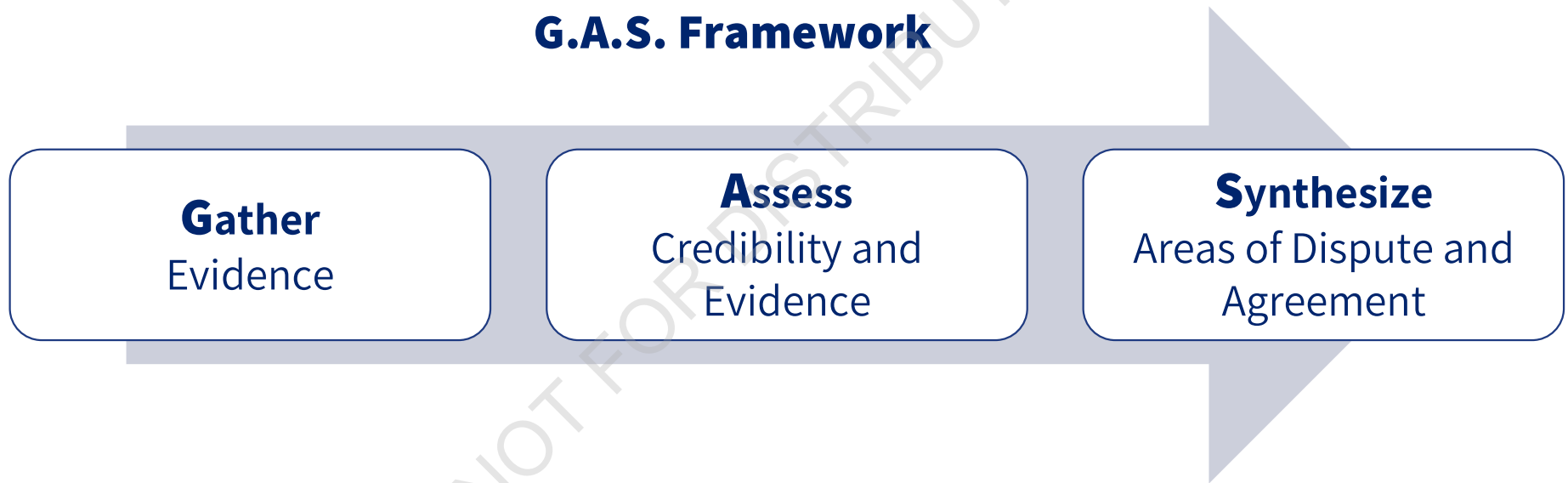
Investigation Strategy

TIXC consults with Investigator(s) to strategize and plan the investigation:

- Review elements of the specific policy provision(s) alleged to have been violated
- Develop initial witnesses and tentative interview order
- Discuss challenges with the type of complaint and the parties involved
 - Anticipate allegiances
 - Disrupt possible collusion
 - Predict obstacles and obstructions
- Assess relevant pattern considerations
- Identify preliminary undisputed and disputed facts and their significance
- Consider types of possible evidence and the plan to acquire such evidence
- Establish preliminary investigation timeline

Comprehensive Investigation

G.A.S. Framework



The burden to gather evidence is on the **institution**, not the parties

Understanding Evidence

- Duty to collect **relevant** and not otherwise impermissible evidence
 - Relevant evidence is information **related to the allegations** of sex discrimination under investigation that may aid in determining whether the alleged misconduct occurred
 - Inculpatory and exculpatory evidence
 - Some evidence may only be relevant to assessing credibility
- Relevant evidence forms the basis of the investigation report



Privileged and Medical Information

The party must provide written permission to obtain and/or include:

- Evidence protected under a legally recognized privilege, including evidence relevant to determining capacity to consent for students with disabilities
- Records made or maintained by:
 - Physician
 - Psychiatrist
 - Psychologist
 - Recognized professional or paraprofessional in reference to party or witness treatment



Impermissible Evidence: Complainant's Sexual History

- Evidence of the **Complainant's sexual interests** is never relevant
- Evidence of the **Complainant's prior sexual behavior** is not relevant except:
 - If offered to prove that someone other than the Respondent committed the alleged conduct; or
 - If offered to prove consent with respect to prior consent with the Respondent
 - Any prior consensual sexual conduct between the parties does not by itself demonstrate or imply the Complainant's consent
- Even if admitted/introduced by the Complainant
- Does **not** apply to Respondent's prior sexual behavior or sexual interests

Credibility

- **Credibility:** Largely a function of corroboration and consistency
 - Credibility and honesty are not the same
- **Credibility Assessment** involves evaluating the extent to which evidence is believable and reliable (accurate reflection of what occurred)
 - Refrain from focusing on irrelevant inaccuracies and inconsistencies
- **Note:** Memory errors alone do not necessarily diminish witness credibility, nor does some evasion



Common Investigation Report Sections

- Complaint Information
- Summary of Allegation(s)
- Relevant Background)
- Jurisdiction Statement
- Applicable Policies and Relevant Definitions
- Investigation Timeline
- Incident Timeline
- Summary of Relevant Evidence
- Credibility Assessment and Analysis
- Discussion and Synthesis
- Recommended Findings and Final Determination
- Appendices
- Evidence File

Section 106.45: Investigation Overview

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Section 106.45: Basic Requirements

- Treat parties equitably
- Require TIXCs, Investigators, or DMs have **no** conflicts of interest or bias
 - DM may be the same person as the TIXC or Investigator
- Assume Respondent is not responsible unless and until evidence supports a finding of responsibility by the standard of proof
- Establish reasonably prompt timeframes for “major stages” of the process
 - E.g., Evaluation, Investigation, Determination, Appeal
- Advisors not required

Section 106.45: Basic Requirements

- Take reasonable steps to protect the privacy of the parties and witnesses
 - Cannot restrict ability of parties to:
 - Obtain and present evidence
 - Consult with family members, confidential resources, or Advisors
 - Otherwise prepare for or participate in the Resolution Process
- Require an objective evaluation of relevant (and not otherwise impermissible) evidence
- Respondent requirements apply **only** to individuals
 - Recipients are **not** Respondents in policy or practice complaints

Section 106.45: Notice of Investigation and Allegations

- Does **not** need to be written
 - But remember, documentation proves you sent it
- **Must include:**
 - Recipient's resolution procedures, including Informal Resolution
 - Sufficient available information to permit parties to respond to the allegations, such as identities (who), allegations (what), date (when), and location (where) of the alleged conduct
 - Statement that retaliation is prohibited
 - Statement that parties have opportunity to access relevant evidence or description of the evidence

Section 106.45: Investigations

§ 106.45

- Adequate, reliable, and impartial
- Gather evidence
- Permit parties to present fact witnesses; inculpatory and exculpatory evidence
- Recipient reviews all evidence gathered through the investigation and determines relevance
- Provide parties opportunity to access relevant evidence or accurate description of such evidence
- Provide parties reasonable opportunity to respond to evidence
- Investigation report not required
- Take reasonable steps to prevent and address parties' unauthorized disclosure of information and evidence obtained through process

Section 106.45: Parties' Review and Response

- ATIXA **recommends** Investigators compile relevant evidence into an investigation report
 - Send to each party and Advisor (if any) in an electronic format or hard copy
- Investigator must:
 - Provide parties a reasonable opportunity to respond to investigation report/accurate summary
 - Provide all relevant evidence upon a party's request (if Investigator only provides an accurate evidence summary)
 - Consider parties' feedback and incorporate where appropriate

Section 106.46: Investigation Overview

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Section 106.46: Notice of Investigation and Allegations

Incorporates elements of NOIA from § 106.45, with alterations:

- Notice must be in writing, with time for parties to prepare before any initial interview
- Right to an Advisor of choice
- Parties will have an opportunity to present relevant evidence to a DM
- Presumption of non-responsibility
- Statement that parties will be able to access relevant evidence or an investigation report
- Any prohibition against false statements

Section 106.46: Investigations

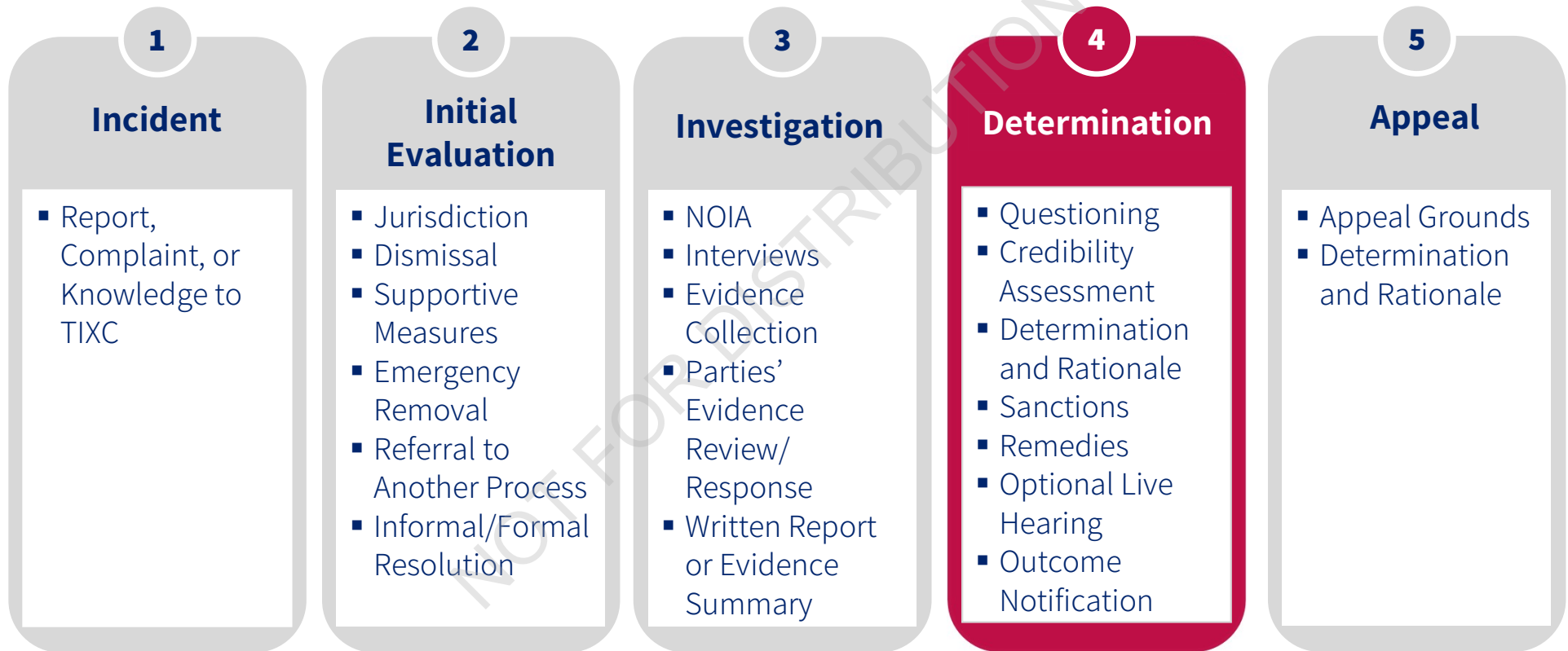
§ 106.46 (+ non-conflicting elements of § 106.45)

- Must permit Advisor of choice
- Provide written notice of all meetings or proceedings with time to prepare
- Provide parties with the same opportunities to have support persons present, if any
- Provide equal opportunity to review relevant evidence or an investigation report
- Provide opportunity to respond to evidence or an investigation report
 - If using a hearing, must permit review of evidence prior to hearing
- May equitably permit expert witnesses

Decision-Making

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Determination



Decision-Making Principles Applicable to Both §§ 106.45 and 106.46

Decision-Making

All complaints **must** be resolved through a decision-making phase unless an Informal Resolution is reached, or the complaint is dismissed

Title IX Coordinator

- Oversees process
- Facilitates scheduling and communication
- Ensures sanction compliance
- Implements remedies
- Provides institutional memory and precedent information
- Trains Decision-makers
- Maintains institutional records

Decision-maker(s)

- Facilitates Decision-making process, including questioning
- Determines relevance
- Assesses credibility
- Makes a finding of fact
- Determines whether policy was violated
- Assigns sanctions (if applicable)
- Writes determination rationale

Decision-Making

Finding

- Decision-maker(s) determine(s) what occurred based on the standard of proof

Final Determination

- Decision-maker(s) determine(s) whether what occurred is a policy violation applying the standard of proof
- Consider each allegation individually for each Respondent



Sanctions and Remedies

Sanctions

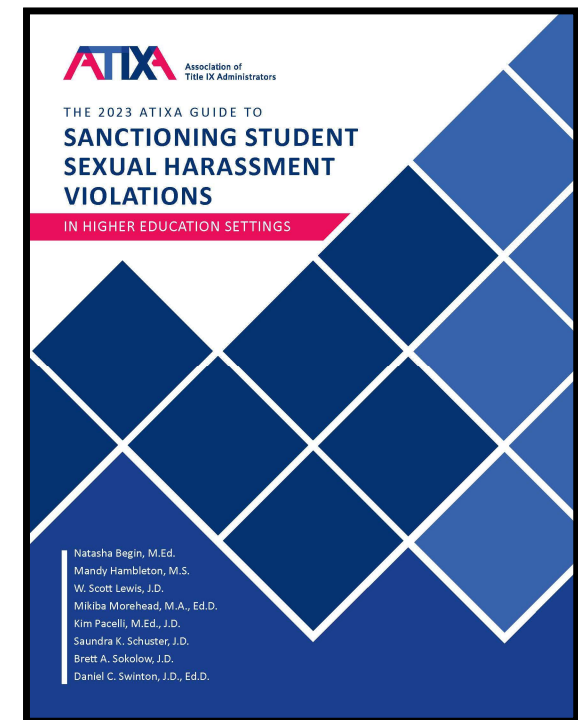
- Only implemented after a determination of responsibility
- Nexus between sanctions and misconduct
- Goal: stop, prevent, and remedy
- TIXC assures sanction compliance
 - Failure to comply could lead to discipline

Remedies

- May be implemented before or after a determination
- TIXC determines remedies that are equitable and not clearly unreasonable given the circumstances
- Goal: preserve or restore access to education program and activity
- TIXC ensures remedies are implemented

Sanctions

- May consider prior misconduct, precedent, acceptance of responsibility, and collateral or multiple violations
- Sanctioning Pitfalls
 - Failure to stop, prevent, and remedy
 - Conflating the finding, the determination, and the sanction
 - Unwillingness to suspend, expel, or terminate
 - Inconsistent or disparate sanctions for similar behavior
 - Failure to consider aggravating or mitigating circumstances
 - Lockstep or prescribed sanctioning; failing to address incident-specific circumstances



Decision-Making Reminders

Recipients must:

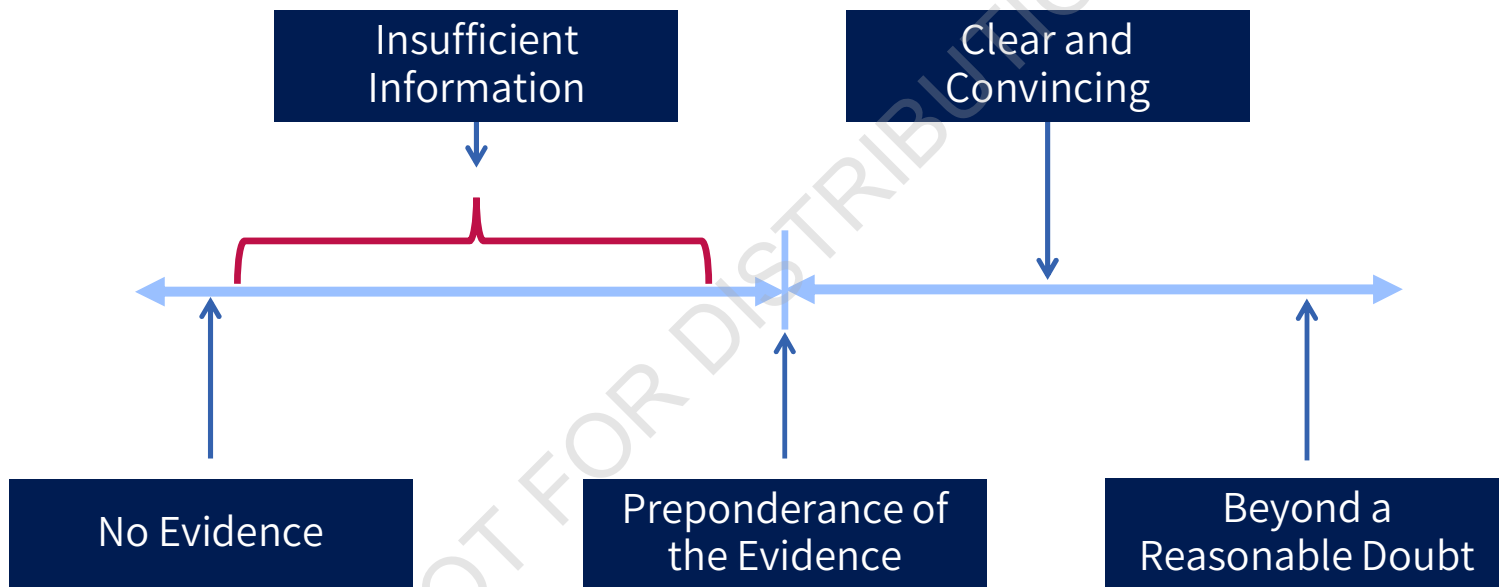
- Describe the range of disciplinary sanctions and remedies in procedures
- Notify parties of the outcome of the complaint
 - Overrides FERPA protections
- Refrain from disciplining parties for false statements based solely on the determination
- Provide and implement remedies to restore access and prevent recurrence
 - Not just sanctions

Section 106.45: Decision-Making

Section 106.45: Decision-Making

- Provide a process enabling DM to question parties and witnesses to assess credibility
 - DMs may be the same person as the TIXC or Investigator
- Use **preponderance of the evidence** standard
 - Unless clear and convincing is used for other “comparable proceedings”
 - “Comparable proceedings”
 - Proceedings for other discrimination complaints involving the same **category of respondents** (students vs. employees)
 - Similar types of “person-to-person offenses” that are physical in nature but do not pertain to sex

Standard of Proof



DM Models: Separation of Roles

- Investigators make non-binding recommended findings and recommended final determinations
- A separate Decision-maker
 - Meets with parties in individual meetings to ask questions and assess credibility
 - May meet with investigators or witnesses as needed
 - Makes findings and policy violation determinations
 - Determines sanctions and remedies
- Offer a robust appeal opportunity

Section 106.46: Decision-Making

Section 106.46: Decision-Making

- Incorporates non-conflicting elements of § 106.45
- Institution must provide opportunity for parties and DM to propose and ask relevant questions
- In all cases, the DM must make relevance determinations of all questions prior to a party or witness answering
 - May not permit questions that are unclear or harassing, but may rephrase



Section 106.46: Decision-Making

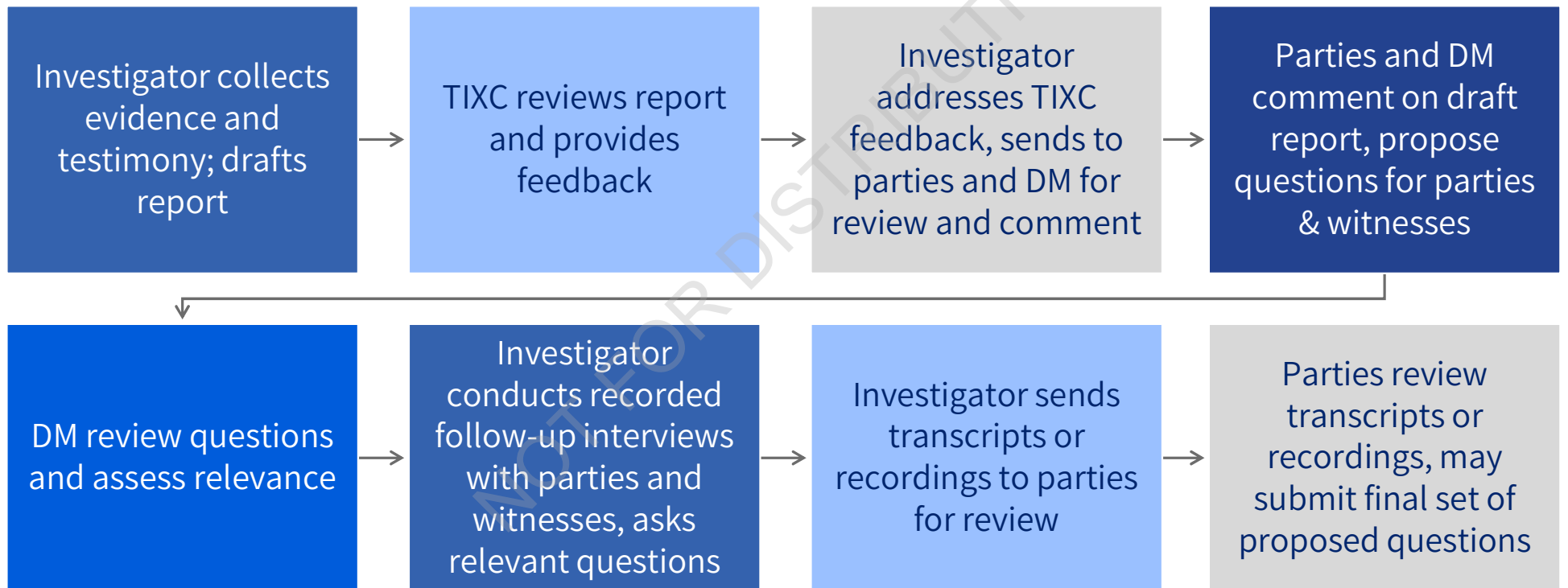
- A DM may place **less or no weight** on statements by a party or witness who refuses to respond to relevant questions
- A DM may **not** draw an inference about whether sex-based harassment occurred **solely** on a party or witness's refusal to respond to relevant questions



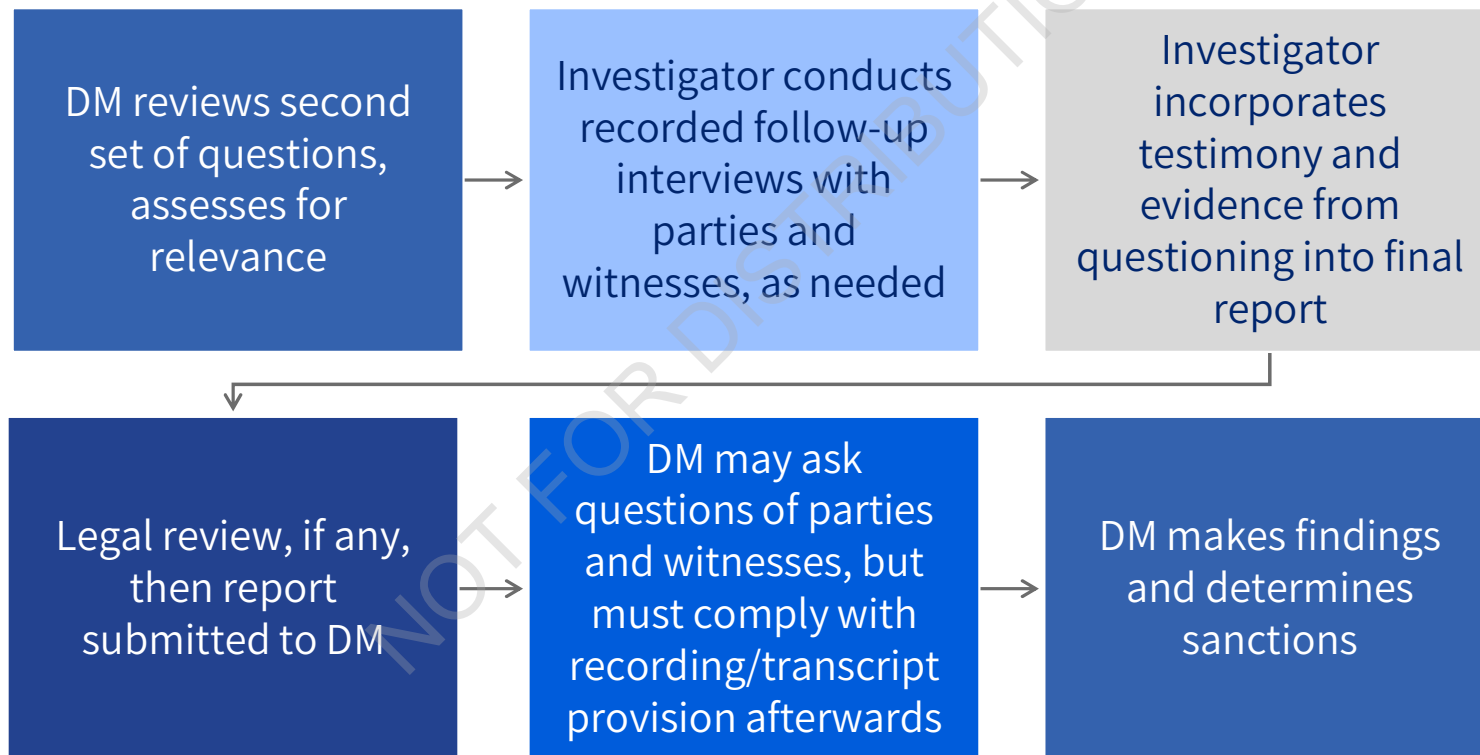
Section 106.46: Administrative Resolution

- If an institution does **not** conduct a live hearing, it may use individual meetings
 - Investigator or DM asks relevant and follow-up questions during individual meetings
 - Each party may propose questions to be asked of any party or witness, **AND**
 - Has the right to have those relevant questions asked by the Investigator or DM during individual meetings, **AND**
 - Each party has the right to a recording or transcript of the meetings with a reasonable opportunity to propose follow-up questions
 - DM must have the ability to ask more questions, if needed

DM Models: Administrative Resolution



DM Models: Administrative Resolution



DM Models:

Investigator as Decision-Maker

- One person serves as Investigator and Decision-maker
 - Could be the TIXC
- ATIXA does **not** recommend this model, but recognizes institutions may determine this is the best option for them
- If institutions decide to use this model, ATIXA recommends institutions offer a robust appeal opportunity
 - Expand upon the three appeal grounds in the regulations
 - Permit substantive appeals of findings and sanctions (for separation-level offenses)
- Could use in § 106.45 proceedings

Section 106.46: Live Hearings

Questioning

- DM asks questions directly of the parties and witnesses
- Questioning by parties can be through DM **or** directly by Advisors
 - **DM-Facilitated Questioning:** The institution may permit each party to propose questions to the DM to be asked of another party and witnesses; **OR**
 - **Advisor-Led Questioning:** Advisors ask questions directly of another party and witnesses on behalf of their advisee, subject to rulings by the DM on relevance and permissibility
 - Choose one or the other

Section 106.46: Live Hearings

- If an institution uses Advisor-led questioning, the institution must provide an Advisor for the purpose of questioning if a party does not have an Advisor and wishes to conduct questioning
 - Institution-appointed Advisor may **not** be a confidential employee
- Hearings via technology (e.g., Zoom or Teams) are permitted
 - DM and parties **must** be able to simultaneously see and hear the party or witness while they are speaking
- Institution must create recording or transcript of hearing
- **Note:** Some public colleges and universities may need to use some sort of hearing based on:
 - Case law
 - State law
 - Governing body policy

Written Determination: § 106.45 vs. § 106.46

§ 106.45

- Rationale
- Appeal procedures (if applicable)
- TIXC to implement remedies and disciplinary sanctions as appropriate

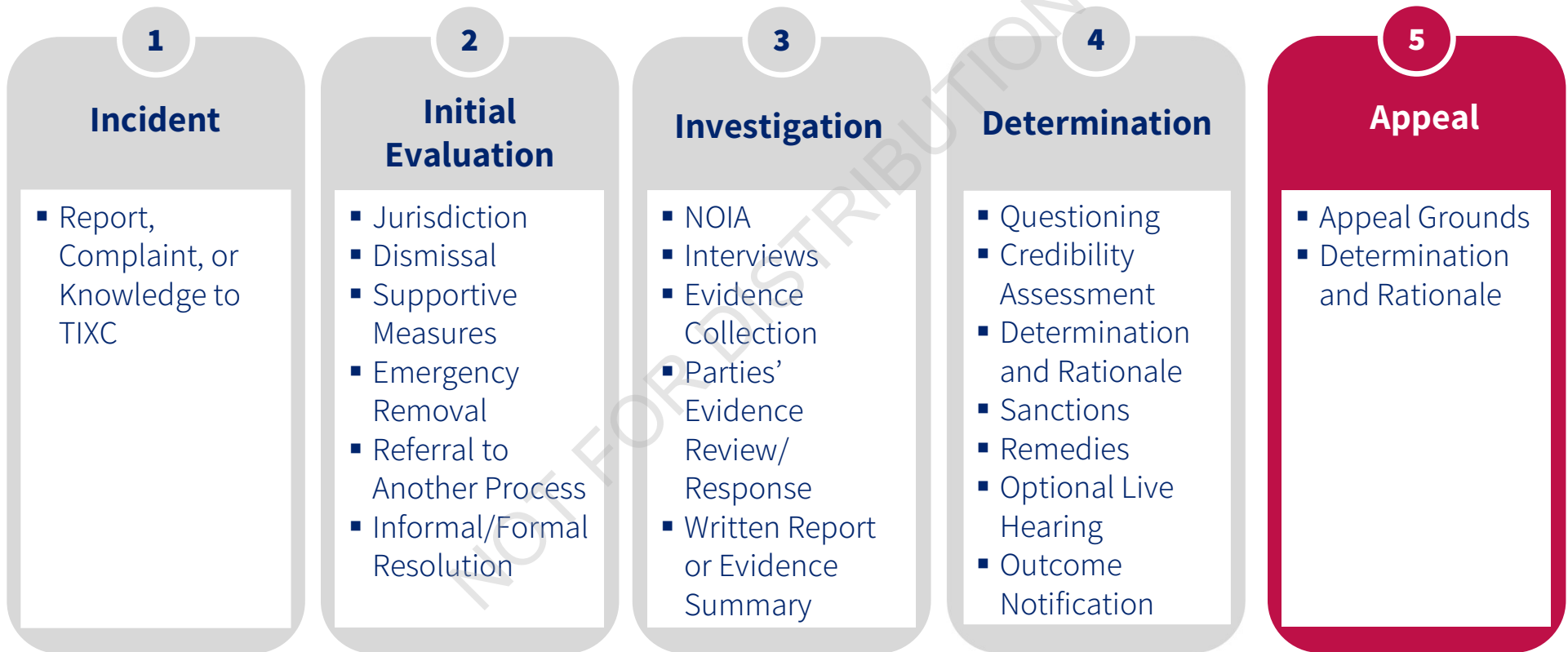
§ 106.46

- Simultaneous to the parties
- Description of allegations
- Applicable policy and procedures
- Evaluation of relevant evidence
- Determination
- Sanctions and remedies
- Appeal procedures

Appeals

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Appeals



Appeals

- **Under § 106.45**, offer an appeal process mirroring those in **comparable proceedings**:
 - If there is no appeal in comparable proceedings, none is required
 - Institutions may exceed this requirement
 - Comparable proceedings may include those used to resolve other discrimination complaints
- **Under § 106.46**, Recipients **must** offer an appeal
 - Written determination required
 - ATIXA recommends written determinations for all appeals (§§ 106.45 and 106.46)
- ATIXA recommends permitting only one level of appeal

Appeal Grounds

1

Procedural irregularity that would **change the outcome**

2

New evidence that would **change the outcome** and that was not reasonably available when the determination of whether sex-based harassment occurred, or dismissal was made

3

TIXC, Investigator, Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would **change the outcome**

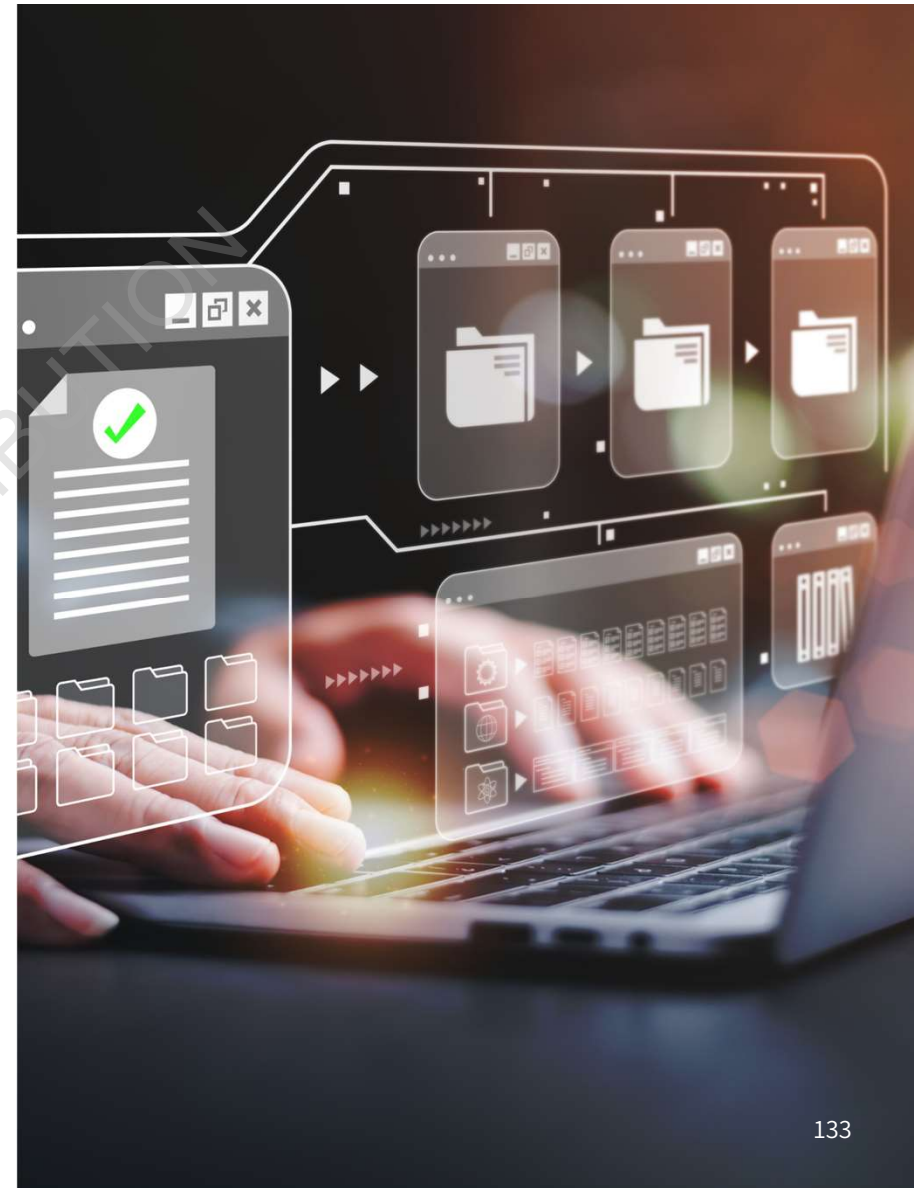
Institutions have the discretion to add additional appeal grounds

Appeal Decision-Maker and Outcomes

- Appeal Decision-maker may not have been involved in the Resolution Process prior to the appeal
- Determinations may include:
 - **Upholding** the original determination and sanctions (if any)
 - **Remanding** the complaint back to the DM for reconsideration or to the Investigator for further investigation
 - **Modifying** the original determination and/or sanctions (if any)
 - **Overturing** the determination (not recommended)

Recordkeeping

- Recipient must maintain records for a minimum of **seven (7)** years:
 - Sex discrimination complaints, including records re: Informal Resolution or Resolution Process and their outcome
 - Notices, reports, or information about conduct that may be sex discrimination
 - All training materials



Clery Act/VAWA Section 304 Intersections

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Clery/VAWA Section 304 Intersections

Clery Act

- Designed to improve reporting and transparency of campus crime statistics
- Clery Geography and Title IX jurisdiction are separate and overlapping
 - Timely Warning requirement
 - Clery Annual Security Report (ASR)

Violence Against Women Act (VAWA)

- Intended to improve community-based responses to domestic violence, dating violence, sexual assault, and stalking
- VAWA § 304 Amended the Clery Act
 - Added new awareness, training, and procedural requirements
 - Officials conducting disciplinary proceedings must be trained annually

Clery/VAWA Section 304 Intersections

- Inform Complainants about:
 - Importance of preserving evidence
 - Institutional reporting
 - Law enforcement reporting
- Complainants should receive written information regarding:
 - Common action items or resources victims should consider
 - Supportive Measures
 - Services available on- and off-campus
 - Reporting options
 - Protection options

Policy Management

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Title IX Policy and Procedures

Title IX requires policies and procedures that facilitate resolution of sex discrimination, sex-based harassment, and retaliation complaints

- **Policy**
 - Clearly defined expectations and prohibited conduct
- **Procedures**
 - Govern how to resolve alleged policy violations in an equitable manner



Policy and Procedure Development

Inventory Existing Policies & Procedures (P&P)

- Harassment and discrimination P&P
- Student Conduct
- Human Resources
- Collective Bargaining Agreements
- Athletic policies
- State and federal laws
- System-based policies

Create and Implement Policies & Procedures

- TIXC-led effort
- Values and mission alignment
- Reporting mechanisms
- Compliant
- Comprehensive
- Comprehensible
- Accessible
- Coordinate overlap and align with other policies

Avoid Discriminatory Policies & Procedures

- Consistency across all related policies and procedures
- No variations based on parties' identities
- No differential treatment

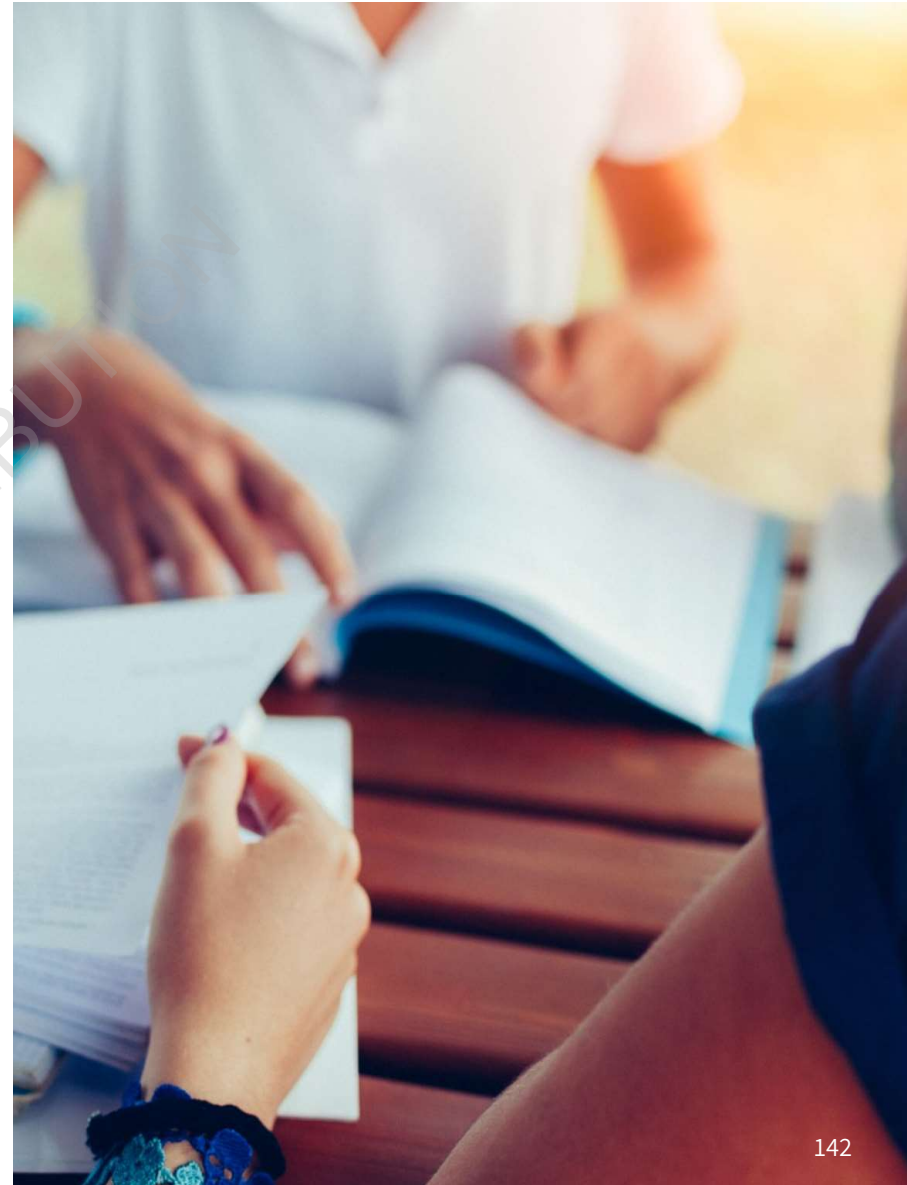
Notice of Non-Discrimination

- Provide to students, employees, applicants, and all unions or professional organizations with collective bargaining agreements
- Publish **prominently** on institutional website and in handbooks or catalogs
- Required elements:
 - A statement that the institution does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity
 - TIXC contact information
 - Location of policy and grievance procedures
 - Instructions on how to make a report
 - Information about filing a complaint with Title IX and OCR

Assessing the Title IX Program

Assessing the Title IX Program

- Needs assessment
 - Identify strengths
 - Identify program gaps
 - Barrier analysis
 - Address areas for improvement
 - Assess resources
- Internal reviews/audits/assessments
- Complaint/investigation debriefing
- Benchmarking
- Climate assessment



Building the Title IX Team

Title IX Coordinator

- Trained and agile
- Consider title, office location or department, supervisory responsibilities, and supervisor
- ATIXA recommends reporting to President/Cabinet-level
- Must have autonomy and independence

Considerations for Building a Team

- Individual's workload and availability
- Conflict of interest or bias
- Role at institution
- Educational credentials or professional experience
- Social media activity
- Social group memberships
- Volunteer affiliations

Title IX Team

Deputy TIXCs

- Designation by location, population, or responsibilities
- Consider broad Title IX compliance needs
- Can step in for TIXC when there is a conflict or the TIXC is otherwise unavailable
- Not required, but a best practice

Title IX Team Members

- Deputy Title IX Coordinators
- Investigators
- Decision-makers
- Informal Resolution Facilitators
- Appeal Decision-makers
- Decision-maker for supportive measure/emergency removal challenges
- Dismissal Appeal Decision-makers
- Advisors

Title IX Team

Extended Title IX Team Members

- Legal Counsel
- Public Safety/Campus Police
- Mental Health Counselors
- Residence Life
- Student Conduct
- Fraternity and Sorority Life
- Prevention Services
- Student Health

Assessing the Title IX Team

Assess the Title IX team's:

- Mental and emotional health
- Reliability and resilience
- Impartiality/neutrality
- Confidentiality and privacy
- Trustworthiness
- Training and competence/professionalism
- Investigation report writing
- Decision rationales (complete, appropriate, and well-reasoned)
- Cultural competence



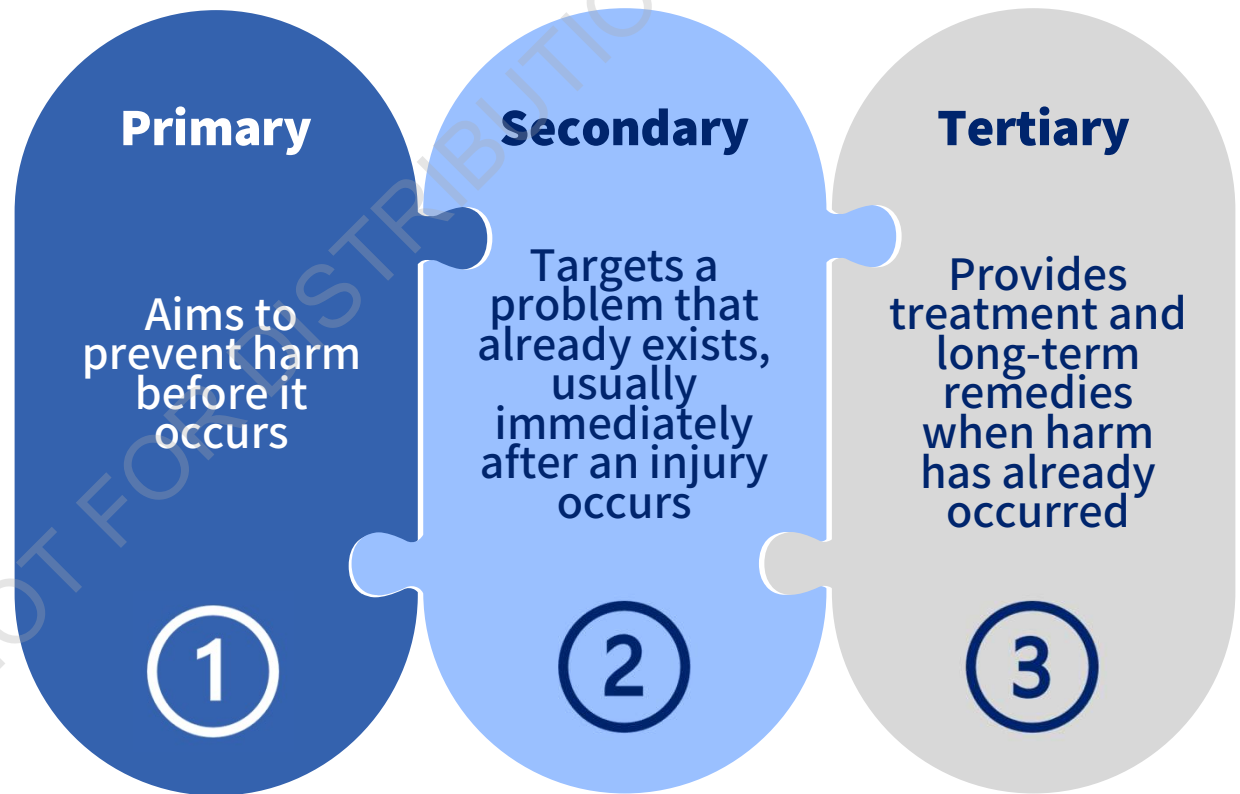
Prevention

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What is Prevention?

An integrated and collaborative approach to addressing multiple areas of wellness that is:

- Evidence-based
- Multi-layered
- Directed at individual, community, and environmental levels



VAWA Prevention Programming

- Programs tailored to each institution and its populations
- Ongoing prevention and awareness campaigns
 - Responsive to community needs
 - Tailored to be culturally relevant and inclusive
- Direct programming to **all** incoming students and new employees
 - Make a **good faith effort** to reach all incoming students and new employees
 - Include a statement that the institution prohibits sexual assault, dating and domestic violence, and stalking
 - Consent definition
 - Provide risk reduction information
 - Increase bystander action
 - Increase empowerment for victims

VAWA Training

- Annual training for officials involved in investigating and/or resolving complaints:
 - Sexual assault, dating and domestic violence, and stalking
 - Conducting an investigation
 - Conducting a hearing
- Ensure training materials are neutral, follow Title IX regulations in effect

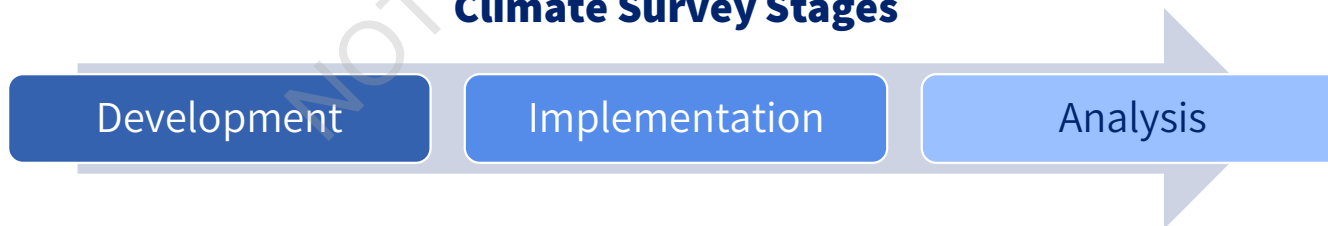
Climate Surveys

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Climate Surveys

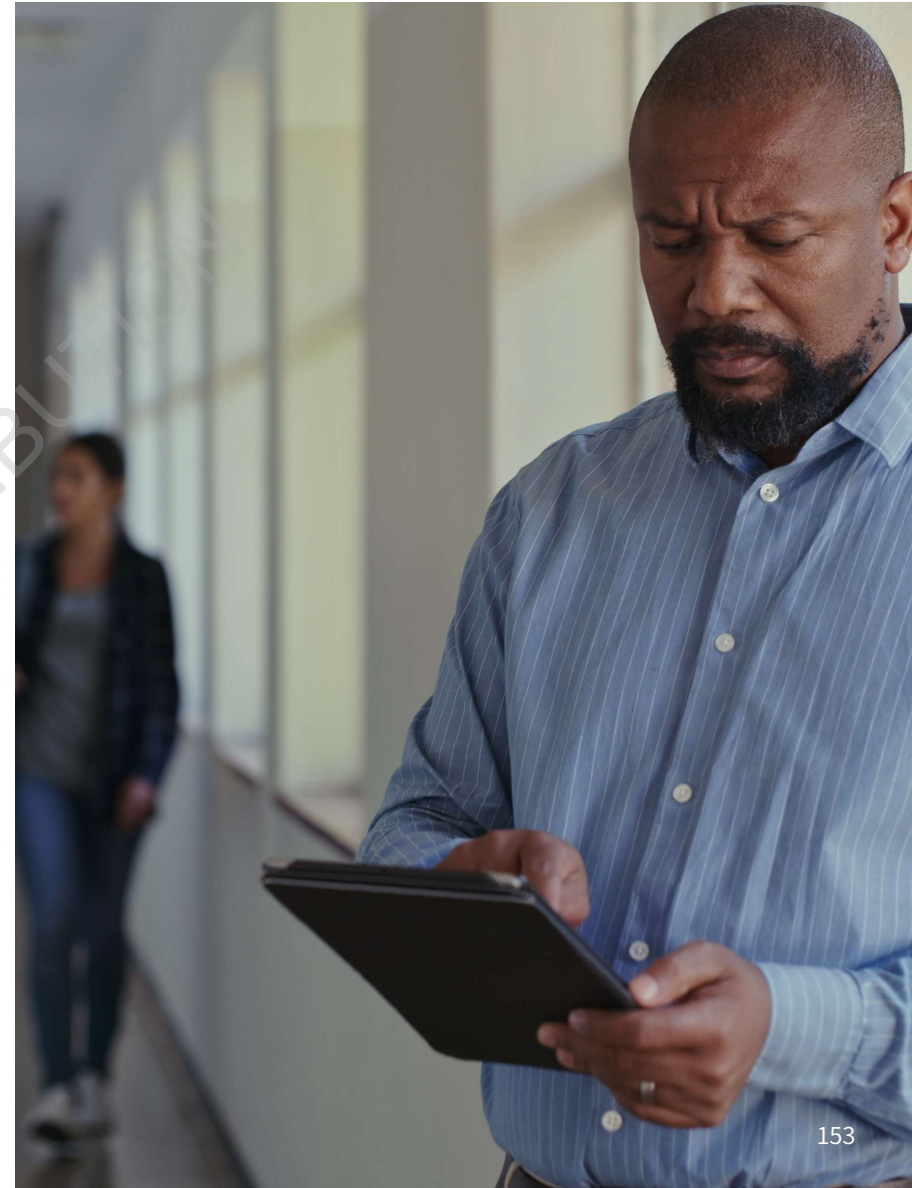
- Learning about experiences with sex-based harassment, sexual assault, dating and domestic violence, and stalking
 - Measure policy, procedure, and resource awareness levels
 - Gather feedback about institutional prevention and response
- Assist TIXC with **monitoring** the education program for barriers to reporting
- Avoid framing climate surveys as unpleasant or source of liability

Climate Survey Stages



Climate Survey Structure

- Demographic questions
 - Narrow results
 - Basis for comparison
- Experience and perception questions
 - Bulk of the survey
 - Gain a better understanding of the participants' experience
- ATIXA recommends targeted questions to evaluate how well individuals understand existing policy and procedures



Preview: VAWA Climate Survey

- Included in 2022 VAWA Reauthorization
 - Not yet released
- Once released, required every two years
- Institutions must publish campus-level results on website
- Questions will include:
 - Demographics
 - Incidence and prevalence of sex-based harassment, sexual assault, dating and domestic violence, and stalking
 - Students' awareness of policies
- Institutions can add additional questions

Trauma-Informed Practices

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Trauma-Informed Practices

- **Trauma** is exposure to an event or events that create a real or perceived threat to life, safety, sense of well-being and bodily integrity
 - Acute, chronic, or complex
 - Neurological, biological, psychological, social, and emotional impacts
 - Developmental, intergenerational, historical, secondary, vicarious, or collective
 - Responses to trauma can vary, depending on a variety of factors
- Provide support to make Title IX services and processes accessible, including to those who may have experienced trauma

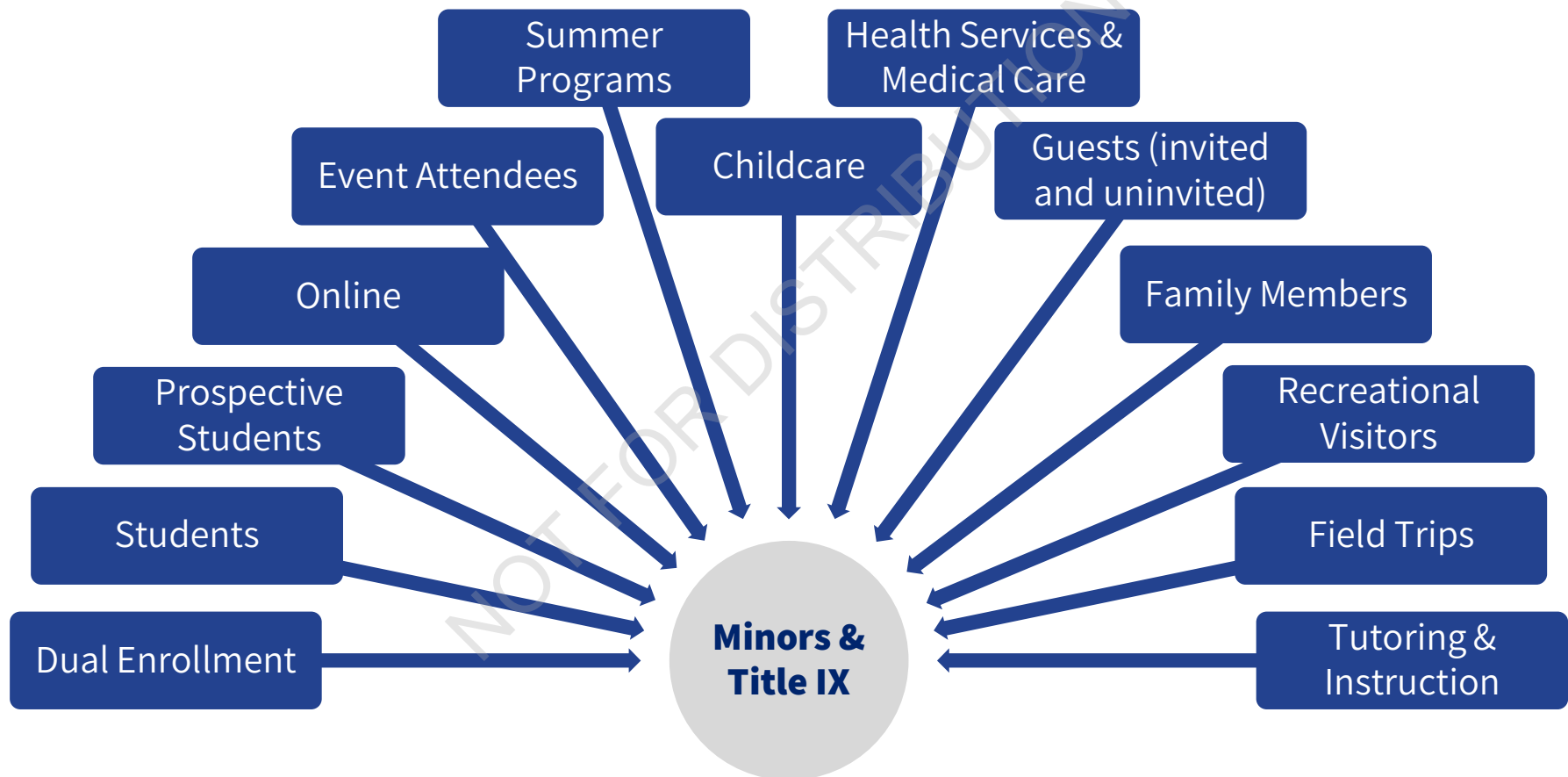
Trauma-Informed Practices

- Key principles of trauma-informed practice:
 - Safety
 - Trustworthiness and transparency
 - Collaboration and mutuality
 - Empowerment, voice, and choice
 - Cultural, historical, and gender issues
- **ATIXA Position Statement:** Application of trauma-informed practices in our field has gotten ahead of the actual science
 - **ATIXA Recommendation:** Incorporate trauma-informed investigation and interviewing methods without compromising gathering credible, relevant evidence
 - Trauma-informed practices should not significantly influence evidence evaluation

Minors and Title IX

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Minors on Campus



Common Challenges

- Policy provisions for minors on campus
- Consider:
 - Number of minors, location, access
 - Restrooms, locker rooms, residential facilities
 - Training for those with access to minors or supervision of minors
 - Mandatory reporting for child abuse
- Children in classrooms
- Dual Enrollment/Early College



Camps and Programs: Significant Assistance



Not Ours

- Run by a different entity
- Other entity hires the staff
- Institution only rents out space at fair market value



Kind of Ours

- The money comes through a shell or through the institution
- Employees are students or temporary hires
- May use institution's name



Completely Ours

- The money comes into the institution
- Staff are institutional employees
- Uses institution's name



Sample Policy

Abuse of Minors

In addition to having students who are minors enrolled, College/University hosts minors as guests and as participants in youth activities. State law narrowly imposes duties to report certain crimes involving minors and abuse to appropriate officials including mental health professionals, medical providers, school counselors, clergy, and law enforcement officers. Institution's protocol is that in addition to fulfilling the requirements of state law [insert here] **all employees will also promptly report all suspected child abuse, sexual abuse of minors, and criminal acts by minors** to the campus police/security office without delay. Clery Act reporting of offenses for statistical purposes occurs whether victims are minors or adults.



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Questions?

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