



# **TIX** Education Specialists

*“Bridging compliance and best practice.”*



## **Title IX Investigator Training** Online

# INSTRUCTOR: JACKIE SANDMEYER

Jackie Sandmeyer is the Founder and Principal of TIX Education Specialists. They received their Bachelor of Science from University of Idaho and Juris Doctor at Willamette University of Law. After creating the country's first statewide Title IX training and technical assistance program for colleges and universities, Jackie sought to fill the need for further capacity in training and consultation related to sexual harassment and interpersonal violence nationally. They have worked with colleges and universities, law enforcement,



prosecutors, and community based service providers to identify and create some of the nation's leading models in Title IX and student victim services. From pioneering education based legislation that spread to other states to developing new and emerging campus based investigation techniques, Jackie and their team bring this experience and more to TIX and its clients.

**Jackie Sandmeyer, JD**

founder | principal

Email: [jackie@tixedu.com](mailto:jackie@tixedu.com)

Phone: 503-709-8848

# MOVING BEYOND COMPLIANCE. EMERGING BEST PRACTICES.



## TRAINING

Cutting edge training integrating up to date mandates as well as emerging best practices. Each curriculum tailored to meet your needs.

## CONSULTATION

Customized consultation in all forms including policy audits and review, case consultation, program review, climate surveys and more.

## INVESTIGATION

Let our team of highly trained and experienced investigators help you stay on top of challenging cases and expanding case loads.

# ABOUT: TIX EDUCATION SPECIALISTS

## About TIX Education Specialists

TIX Education Specialists sets itself apart from other training and consultation bodies in that it offers guidance and training on not only what is compliant, but what is known to be best practice and trauma-informed. We don't believe that one model fits all. Instead, TIX brings years of expert experience to identify solutions that serve you and your community best.

## Our Mission - Bridging Compliance & Best Practice

Successful responses by schools take not only compliant policies and strategies, but must also include techniques rooted in emerging best practice. While many firms solely provide schools with what the law requires, TIX Edu goes a step further by ensuring that schools understand what implementation looks like, and how mandates integrate with institutional missions. Schools are tasked with the safety of students as well as creating and fostering an environment for students to reach their fullest potential. Let TIX Edu assist with the hard work of identifying the path to get there.

Email: [admin@tixedu.com](mailto:admin@tixedu.com)

Phone: 503-960-8261

Web: [tixedu.com](http://tixedu.com)

# **TIX** Education Specialists

*“Bridging compliance and best practice.”*

## NEED ADDITIONAL HELP?

### WEBINARS

Keep up to date through short training episodes covering emerging topics with live and recorded webinars. Don't be left behind.

### RESOURCES & TOOLKITS

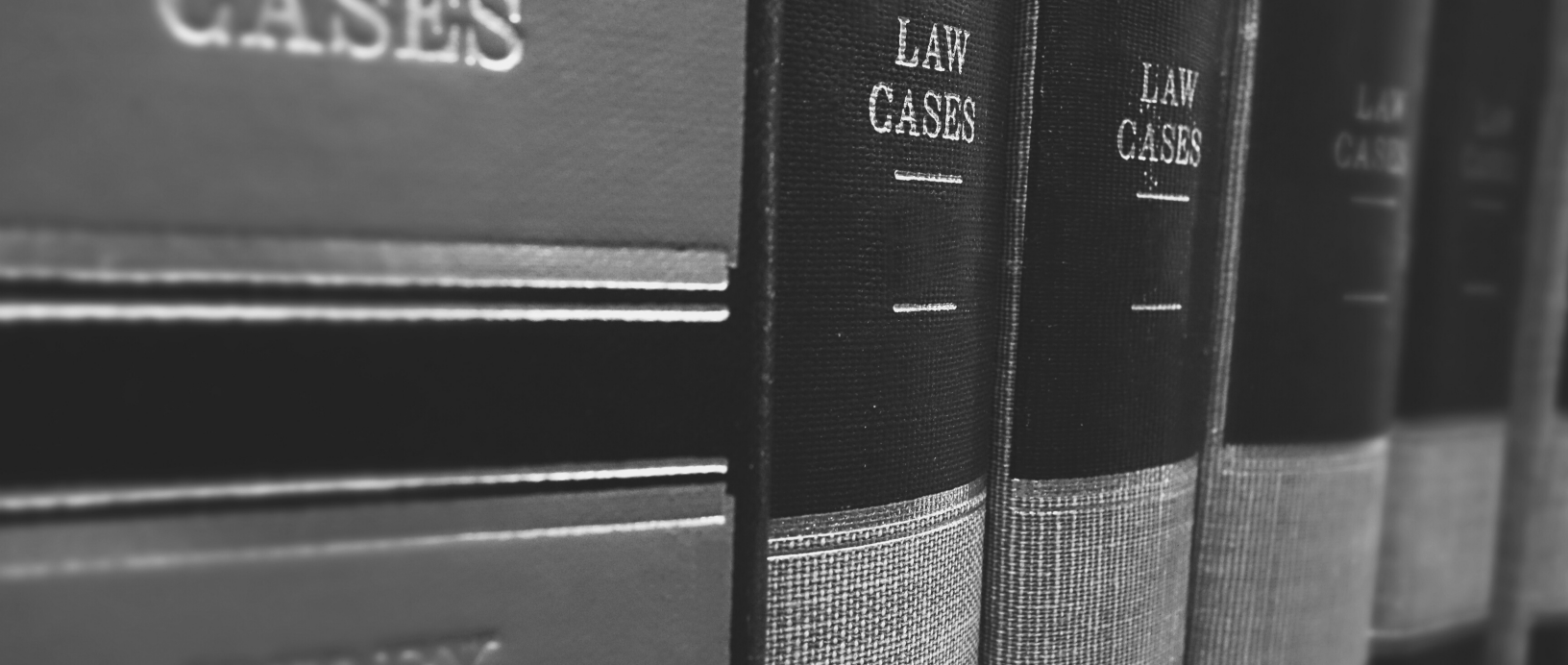
Stop recreating the wheel and take advantage of our templates, one-pagers, toolkits and other resources covering all areas.

### TRAININGS & COURSES

From topic specific certification to courses on larger Title IX and related fields we have curriculum offered both in person and online.

### MEMBERSHIP

Become a member of TIX Edu's network and receive email alerts, resources, networking opportunities, technical assistance and more.



## AN INTRODUCTION TO TITLE IX

A brief history of Title IX and its evolution since 1972. Overview and discussion of scope of issue areas covered by Title IX.

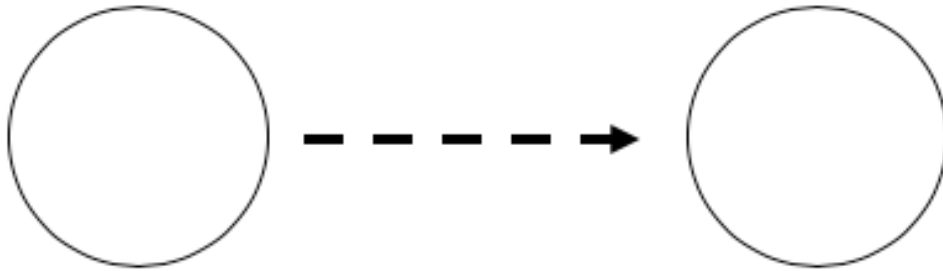
A review of basic federal requirements including notice of non-discrimination, grievance procedure and scope of Title IX Coordinator's role. Integration of relevant state law.

### Learning Objectives:

- clear understanding of requirements of Title IX
- identify how investigations fit into Title IX requirements

# INTRO TO TITLE IX

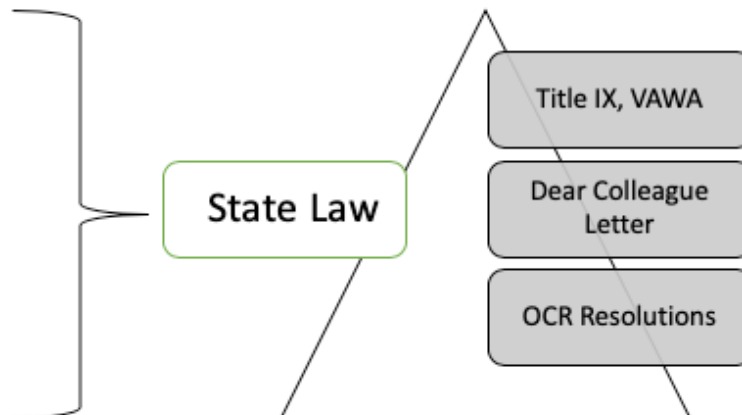
WHAT COMES TO MIND WHEN PEOPLE HEAR "TITLE IX"?



MAIN AREAS OF TITLE IX:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

**GUIDANCE THAT GOVERN RESPONSE PROCESSES:**



## LANGUAGE OF TITLE IX:

reporting party/complainant

adjudicatory process

investigation

finding

victim

investigation

### COMPLAINANT:

*"[I]ndividual who is alleged to be the victim of conduct that could constitute sexual harassment."*

### Title IX:

"A recipient with actual knowledge of sexual harassment in an education program or activity of the recipient against a person in the United States to respond promptly in a manner that is not deliberately indifferent, meaning not clearly unreasonable in light of the known circumstances."

Students/staff have a right to:



## TITLE IX IN THE COURTS:

## MAIN RESPONSIBILITIES UNDER TITLE IX:



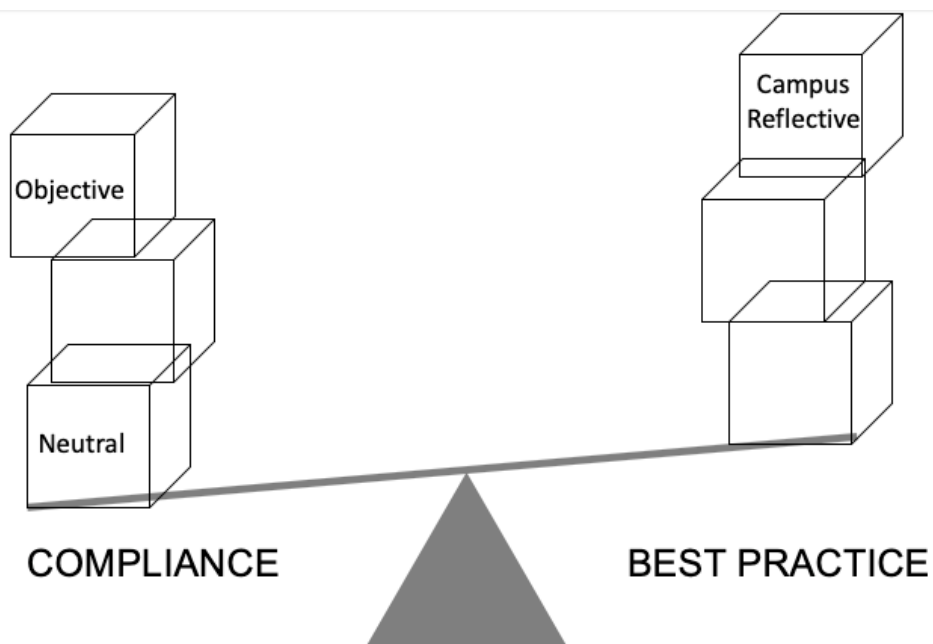
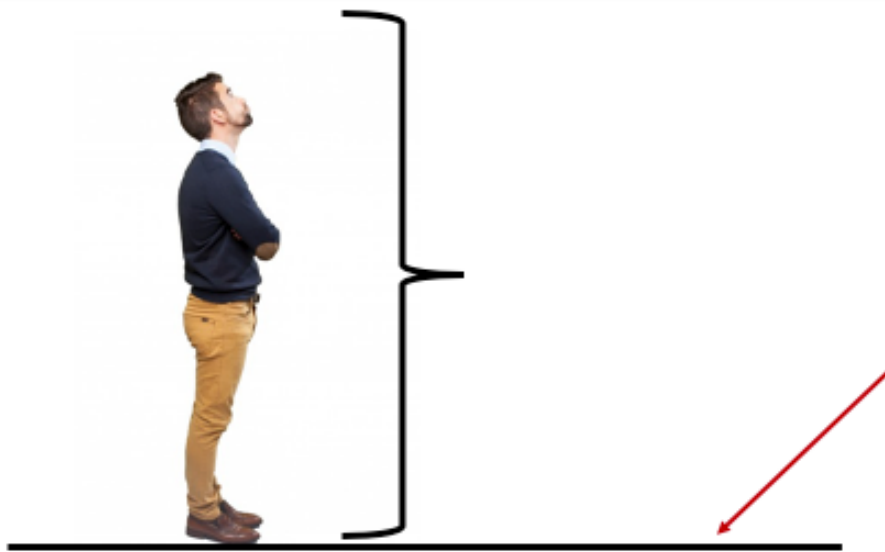
## EXEMPTIONS TO TITLE IX:

## ENFORCEMENT OF TITLE IX:

## OCR COMPLAINTS:

## New Regs:

- p.1-104 – The Department’s interpretation of Due Process, institutional liability and defining sexual harassment.
- p. 96-99 – Institutional response
- 2008-2033 – Regulatory language



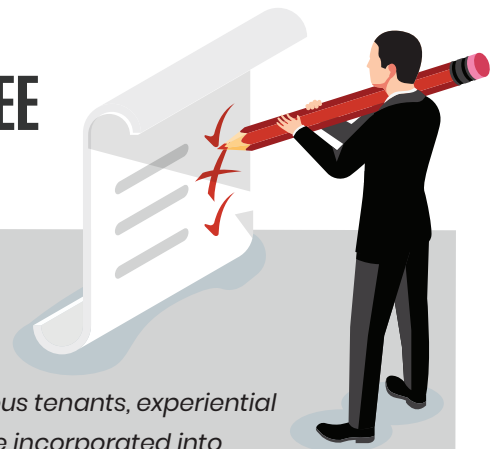
## INSTITUTIONAL ASSESSMENT: BRIDGING COMPLIANCE AND BEST PRACTICE

### WHAT IS YOUR INSTITUTION’S MISSION WHEN IT COMES TO TITLE IX?

*Students and staff often assume the purpose admission of Title IX on campus based on how the news frames Title IX, what friends and colleagues have said, as well as past experiences with institutional systems. Below write down what your institution’s goal is for Title IX response and programs on campus. For example, is prevention an element of your mission? Creating better campus culture? Responding to incidences on campus? Intervening in behavior before it escalates or perpetuates into a pattern of behavior? Creating safe space for students to earn degrees?*

### WHAT INSTITUTIONAL VALUES DO YOU WANT TO SEE INCORPORATED INTO YOUR TITLE IX PROCESS?

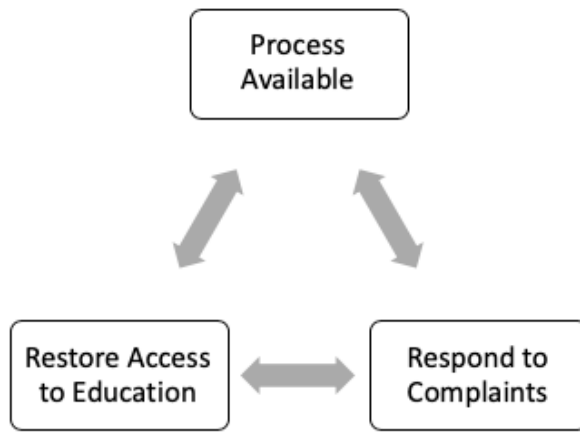
*Every institution has a unique mission and set of values that guide the work that it does. These specific values are what draw students and staff to your campus, and can be reflected to those who visit campus or partake in your programs. For example, some campuses focus on small community, diversity and inclusion, religious tenants, experiential based learning, etc. What values does your campus focus on, and how can those be incorporated into your Title IX process? How are they already reflected in your Title IX process? Title IX may be federally mandated, but how we go about meeting those mandates should reflect the campus.*



### WHAT IS YOUR DESIRED OUTCOME FOR EVERY TITLE IX CASE/REPORT?

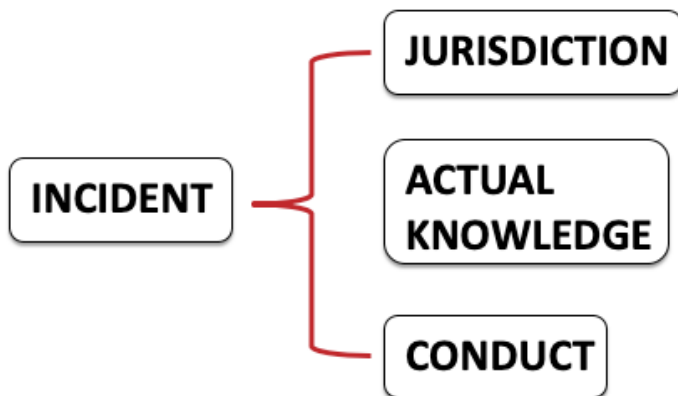
*How would we describe a case in which we would say that all the Title IX requirements were met AND we served our purpose on campus. What does an ideal outcome in a Title IX case look like? We often seen Title IX issues as a lose-lose situation, and disregard the question of what desired outcomes look like. Regardless of the incident that triggered the process, we have a wealth of control over how next steps and the path forward look for someone. What are ideal outcomes for a Title IX case for all parties involved, for the campus as a whole? What is an ideal experience through the Title IX process?*





### SEXUAL HARASSMENT:

"Unwelcome conduct that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies person's equal access to education.

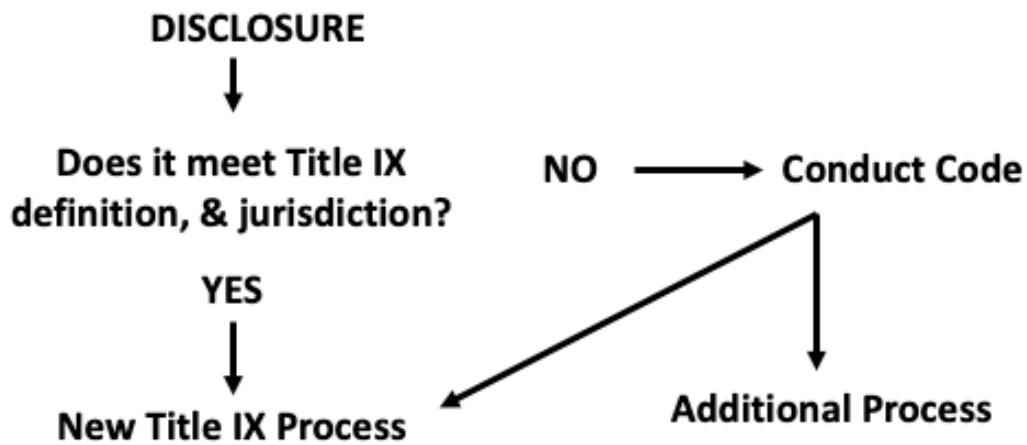


### QUESTION 1:

Does your institution want to create a policy to respond to the "other" types of sexual harassment and sex discrimination?

### QUESTION 2:

If you capture "other" types of conduct, do you use one process provided by the federal regulations or do you use two?



### SCOTUS FRAMEWORK:

1. actionable definition of sexual harassment
2. actual knowledge
3. deliberate indifference -

### DELIBERATE INDIFFERENCE + RESPONSE:

- support measures offered
- contact complainant and process counsel
- follow grievance procedures
- investigate formal complaints
- respect complainant wishes (with exception)
- dismiss complaints that don't fall under Title IX

**TITLE IX COORDINATOR:**

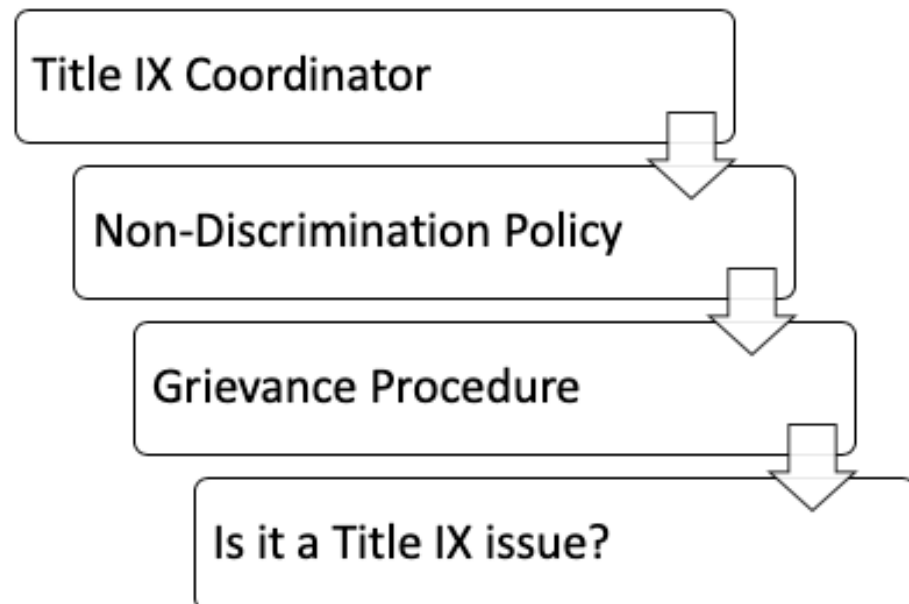
**TRAINING:**

**NOTICE OF NON-DISCRIMINATION:**

“[Institution] does not discriminate on the basis of sex in education programs or activities it operates including admissions and employment. Inquiries about the application of title IX and this part to such recipient may be referred to the recipient’s Title IX Coordinator, to the Assistant Secretary, or both.”

**DISSEMINATION:**

## GRIEVANCE PROCEDURE:





# DYNAMICS OF INTERPERSONAL VIOLENCE ON CAMPUSES

A look at sexual harassment, sexual assault, stalking and dating and domestic violence as it affects students on campus.

## Learning Objectives:

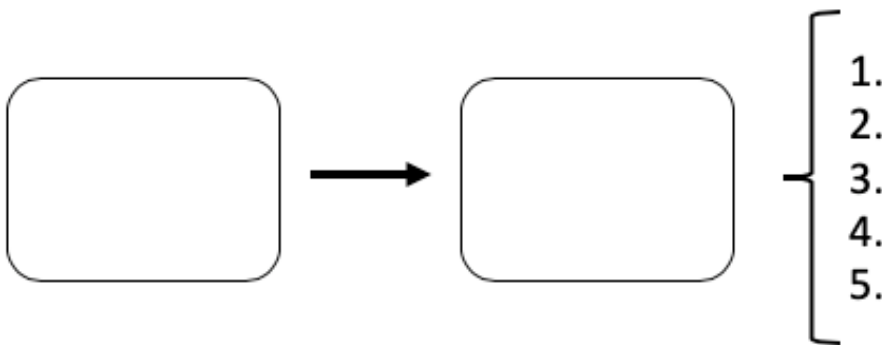
- prevalence rates on campuses and nationally
- types of interpersonal violence included in Title IX, VAWA and Clery
- dynamics of stalking on campus
- identifying and eliminating barriers to reporting within the Title IX process



# DYNAMICS OF VIOLENCE

## "INTERPERSONAL VIOLENCE" AND OTHER TERMS:

### TYPES OF IPV UNDER TITLE IX:



### PREVALENCE RATES IN SCHOOLS:

#### Nationally:

\_\_\_\_\_ in \_\_\_\_\_ women will be sexually assaulted in their lifetime.

#### Nationally on Campuses:

\_\_\_\_\_ in \_\_\_\_\_ women will be sexually assaulted by time they finish college.

**VULNERABLE POPULATIONS ON CAMPUSES:**

LGBTQ students

---

---

---

---

deaf and hard of hearing

---

---

---

students of color

---

---

---

housing instability

---

---

immigrant and refugee

---

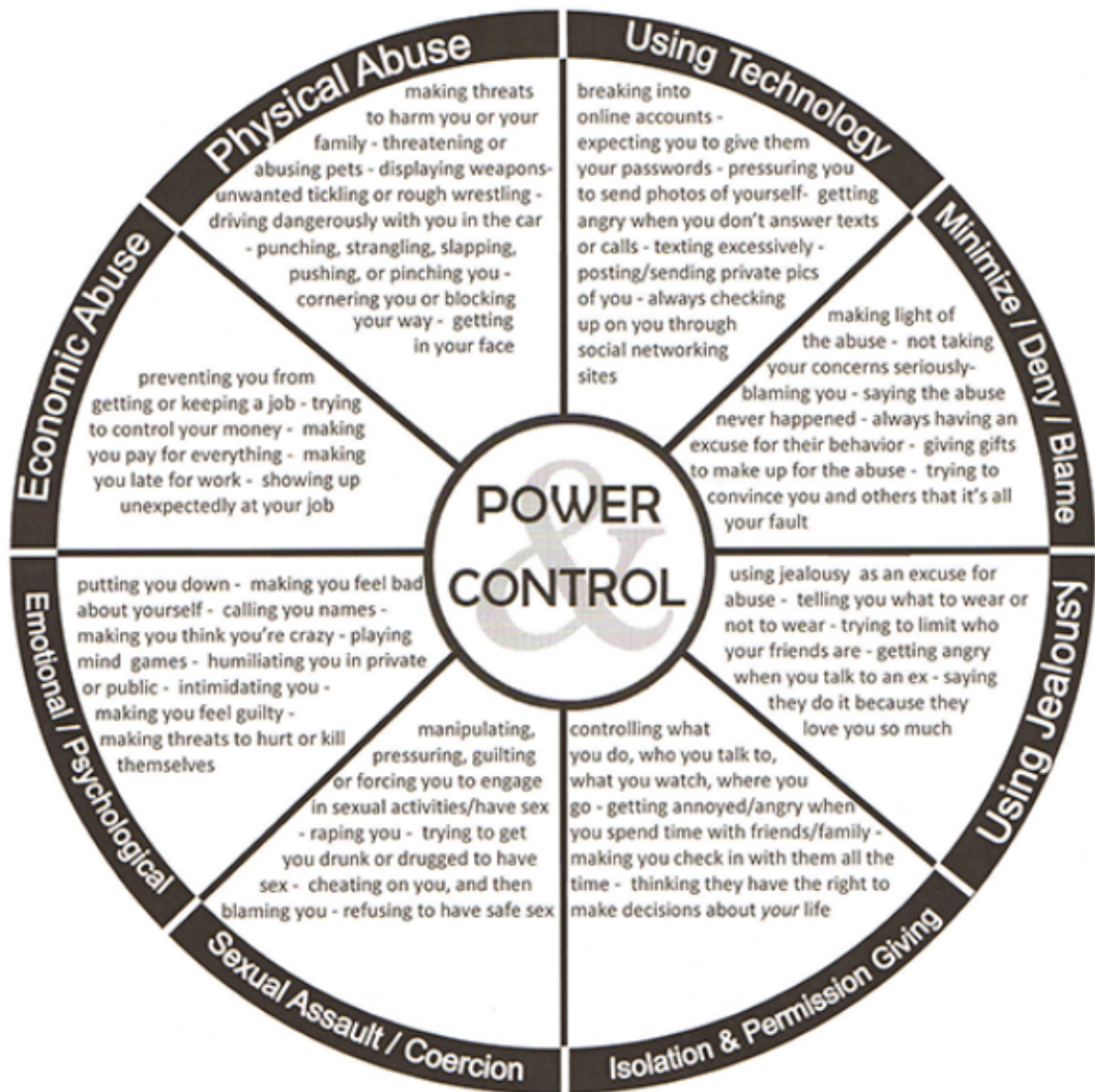
---

**INTERSECTIONS OF VIOLENCE:**

# INTERSECTIONS OF VIOLENCE:

## The Power and Control Wheel

Adapted from the Domestic Abuse Intervention Project, Duluth, MN



## STALKING:

- 13% of women report stalking while in college
- 1 in 5 female victims and 1 in 14 male victims experienced stalking between the ages of 11 and 17
- two-thirds of female victims have been stalked by a current or former intimate partner

## WHAT COMES TO MIND WHEN YOU HEAR "STALKING"?

## QUESTIONS TO CONSIDER:

1. Is there a course of conduct
2. Would a reasonable person in the reporting party's shoes be fearful?
3. Has respondent been put on notice to stop the conduct?

## DEFINING STALKING:

*“Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) Fear for the person’s safety or the safety of others; or (2) Suffer substantial emotional distress.”*

- Clery Act

## **IDENTIFYING THE BEHAVIOR:**

### **COMMON STUDENT REACTIONS:**

- wanting to be "nice" to mitigate behavior
- making contact or responding to messages
- minimizing behavior
- attempts to confront or threaten respondent

## **INTERVENTION AND RECIDIVISM:**

### **TECHNOLOGY:**

Signs of privacy being breached:

Letter of preservation:

**WHY DON'T WE SEE MORE STUDENTS COMING FORWARD?**

**MESSAGING ABOUT VIOLENCE:**

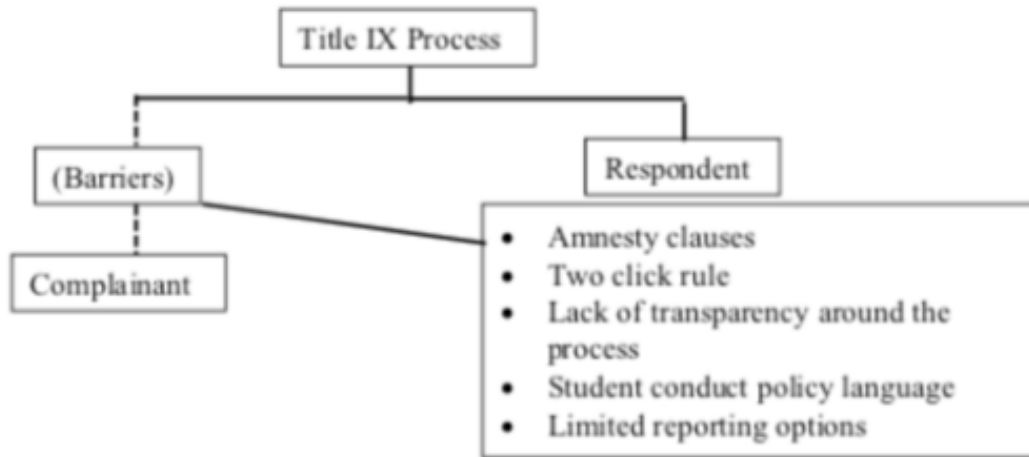
**MESSAGING ABOUT CONSENT:**

**MESSAGING ABOUT VICTIMIAZATION:**

**MESSAGING ABOUT THE CRIMINAL JUSTICE SYSTEM:**

**MESSAGING ABOUT CAMPUS RESPONSE SYSTEMS:**

## INSTITUTIONAL BARRIERS TO REPORTING:



## ELIMINATING BARRIERS TO REPORTING:

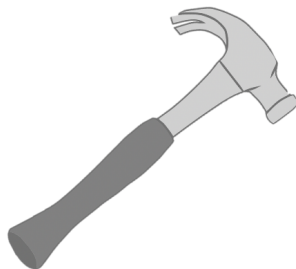
# NEUROBIOLOGY OF TRAUMA

## WHY LEARN ABOUT TRAUMA?

*"A BRAIN IN TRAUMA IS NOT A LEARNING BRAIN."*

## EVIDENCE-BASED INVESTIGATIONS:

## TRAUMA-INFORMED INVESTIGATIONS:



- Trauma-informed**
- Services
  - Interviews
  - Processes & policies



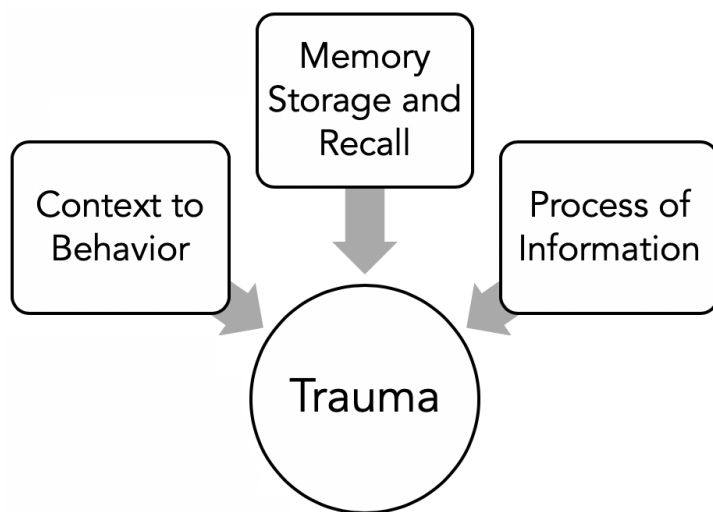
**Evidence-based**

- Objective
- Fact finding
- Neutral



## WHY UTILIZE TRAUMA-INFORMED PRACTICES?

*"A BRAIN IN TRAUMA IS NOT A LEARNING BRAIN."*



### WHAT IS TRAUMA?

A more extreme version of stress, perceived as life threatening and evoking fear, helplessness and even horror.

### COMMON TYPES OF TRAUMA

1. Secondary Trauma:
2. Vicarious Trauma:
3. Historical Trauma:
4. Institutional Trauma:

### MAIN TAKEAWAYS:

## ADVERSE CHILDHOOD EXPERIENCES

*The prevalence of adverse childhood experiences, nationally, by state and by race or ethnicity, by Vanessa Sacks and David Murphey, Feb 12, 2018. Study based on the 2016 National Survey of Children's Health (NSCH).*

**ADVERSE CHILDHOOD EXPERIENCE:** Potentially traumatic experiences and events, ranging from abuse and neglect to living with an adult with a mental illness.

### NATIONALLY:

- 1 in 10 U.S. children have experienced at least one traumatic experience.
- 1 in 4 U.S. children live in families that find it hard to pay for necessities like food or housing very or somewhat often.

### Identity and ACE's:

Pacific Region (including Oregon)	
White NH	63%
Black NH	51%
Asian NH	75%
Other NH	59%
Hispanic	53%

### HOW ACE'S AFFECT OUR STUDENTS:

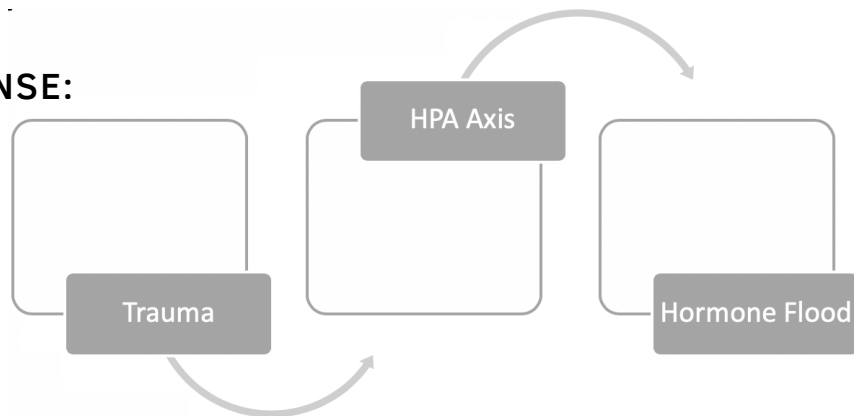
## 6 PRIMARY CAUSES OF TRUAMA:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

## WHAT HAPPENS IN THE BODY?

- physiological changes
- complex thought and decision making
- memory affected
- fight or flight

## TRAUMA RESPONSE:

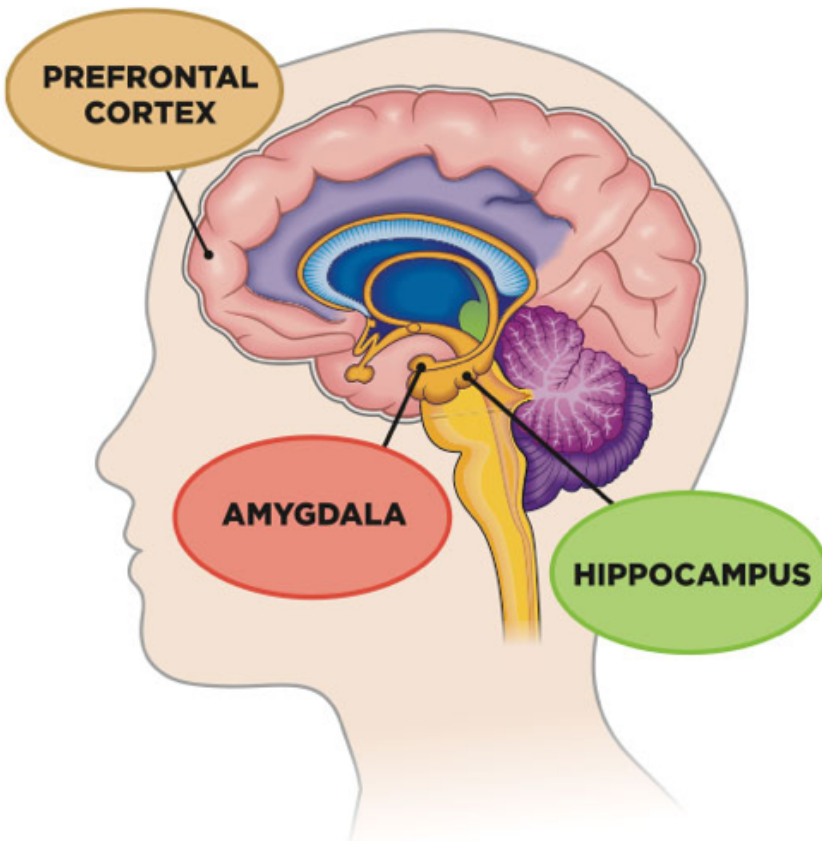


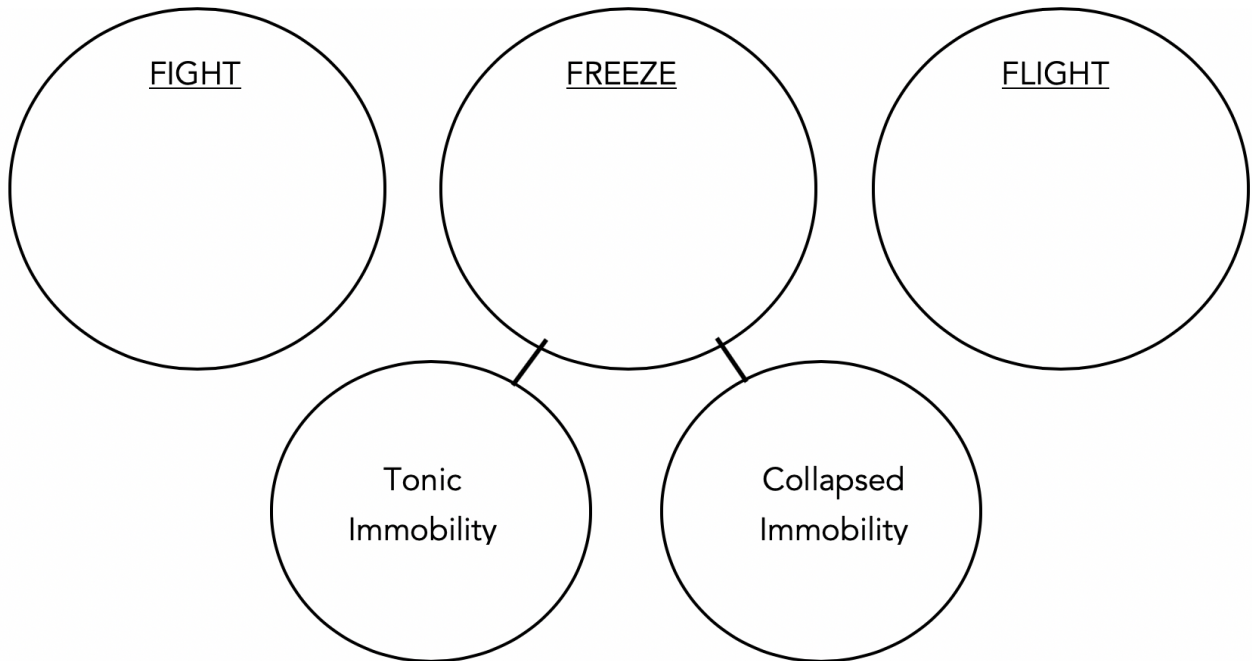
Hormone Flood		
Hormone	Hormone Function (+)	Hormone Function (-)
Catecholamine (adrenaline)		Too much causes hyperventilation, high blood pressure, impaired rational
Cortisol (hydrocortisone)		
Opioids	Prevents anticipated pain; natural morphine	Numbs the body to pain, cause flat affect, slows memory. Too much will conflict with catecholamines and cortisol. Could cause frozen fright.
Oxytocin	Promotes good feelings/manage emotions	

# TRAUMA AND THE BRAIN

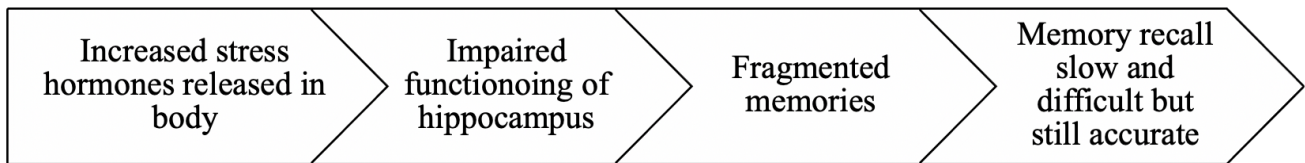


→ Prefrontal cortex  
P.F.C.  
"THE WISE LEADER"





**TRAUMA AND MEMORY:**

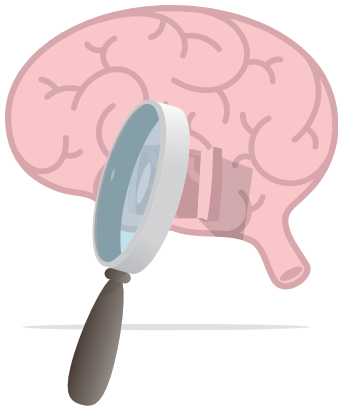


**PUTTING TOGETHER A PUZZLE:**



**PUTTING TOGETHER A PUZZLE:**

## TRAUMA & THE BRAIN



### Why learn about trauma and the brain?

Integrating trauma-informed practices into our policies and everyday practices is critical to creating a process that not only responds to complaints of harassment and violence, but serves people best.

### Adverse Childhood Experiences

Nationally, 1 in 10 children have experienced at least one traumatic experience according to the National Survey of Children's Health.

We often discuss trauma in terms of acute trauma after an assault. It's important to know that students can experience a wide spectrum of traumas that can intersect with each other.

Vicarious Trauma

Historical Trauma

Institutional Trauma

Cultural Trauma

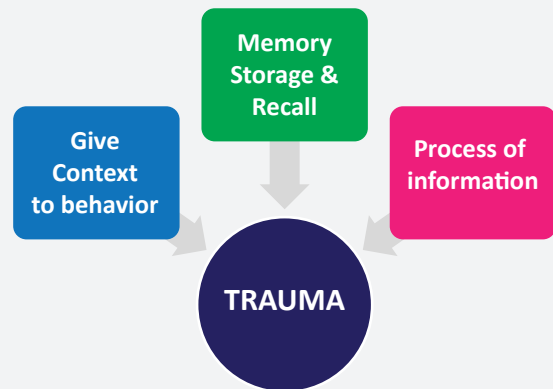


Prefrontal Cortex  
"THE WISE LEADER"



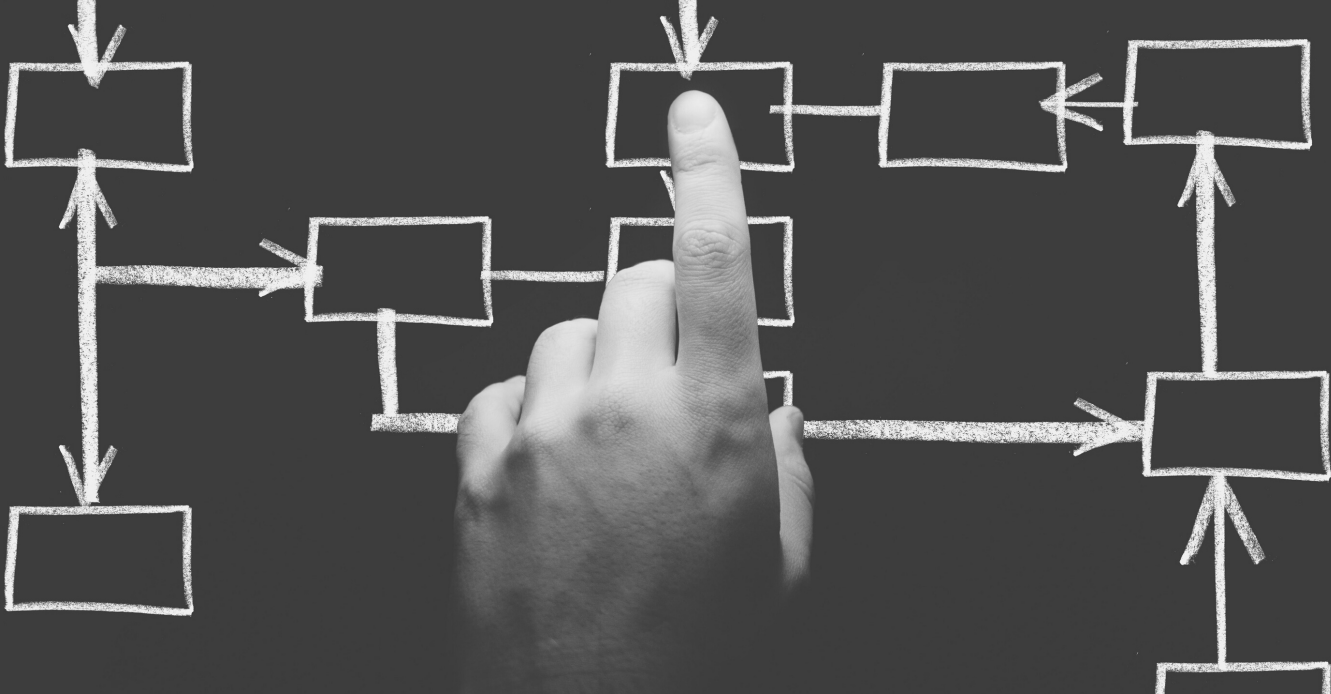
"Flipped Your Lid"

Better understanding trauma and how it affects the brain gives us an additional tool to better serve students and staff through the Title IX process. Trauma can affect the brain in many ways.



### Tips to mitigate institutional trauma triggers:

- Check website search keywords to include common terms for Title IX conduct such as "sexual assault" and "rape".
- Ensure that Title IX Coordinator contact information and reporting information is easily accessible.
- Use vacation responders on email to let students know if you are absent from email or if you frequently have delayed email responses.
- Write down information given verbally in meetings including dates and times of next meeting.
- Avoid terms such as "remember," "why," and "alleged" that might have negative connotations.



## BIAS, EQUITY & RESPONDENTS

Identifying personal bias as an investigator, equity as defined by Title IX in both investigations and policies as well as best practices in serving respondents.

### Learning Objectives:

- develop clear understanding of different types of bias that may affect an investigation.
- respondent rights within an equity lens
- definition of equity within Title IX
- best practices in striving for equity within Title IX

# BIAS, EQUITY & RESPONDENTS

## RECENT GUIDANCE:



## 2017 DCL CALL TO ACTION:

*"[Procedures] lack the most basic elements of fairness and due process, are overwhelmingly stacked against the accused..."*



## WHAT IS EQUITY?

## EQUITY NOT EQUALITY:

1. individualized
2. appropriate



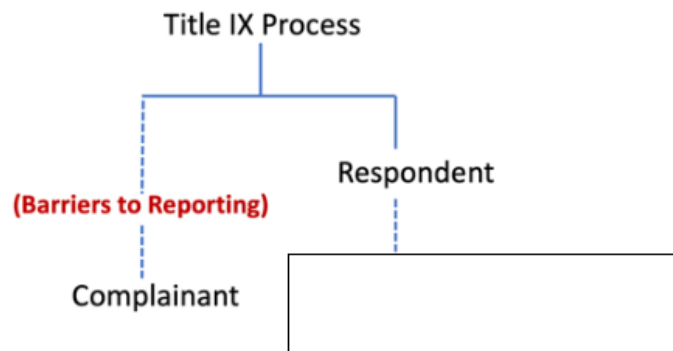
## EQUITY VERSUS EQUALITY:

### QUESTIONS TO ASK:

1. access to the process
2. long-term support and "success"

### OTHER VARIABLES:

Race and ethnicity, institutional knowledge, generational knowledge, resources, familial support, peer group support.



## REPORTING PARTY RIGHTS:

## RESPONDING PARTY RIGHTS:

## **EQUITY IS FACIAL AND ABSTRACTLY INDIVIDUALIZED:**

1. policies and protocols
2. support services

## **FRAMEWORKS TO UTILIZE:**

- student-centered
- trauma-informed
- critical race theory
- restorative justice

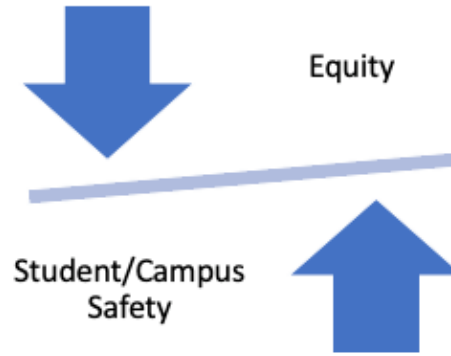
## **WHAT IS BIAS?**

## **TYPES OF BIAS:**

## **FACIAL EQUITY FOR RESPONDENTS:**

- interim measures
- appeals
- advisors
- opportunity to provide evidence and witnesses
- written notice

## CHALLENGES TO EQUITY:



## NOTIFICATION OF RIGHTS:

## ADVISOR OF CHOICE:

## "OPT-OUT MODEL"



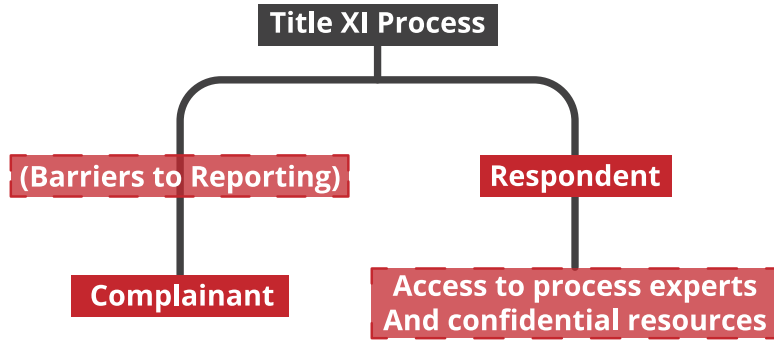
**OUTSIDE ADVISORS:**

**SUPPORT SERVICES:**

# Equity & Respondent Rights

## What does process equity look like?

Remember, equity is both facial with written policies and protocols as well as uniquely individualized for the specific person’s needs.



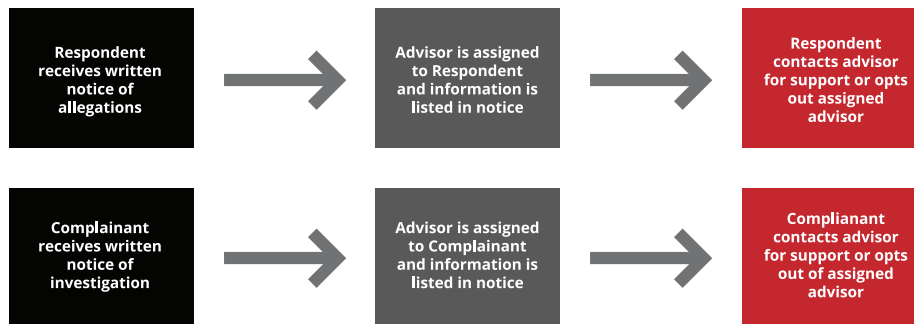
## Frameworks to learn from:

- Trauma-informed best practices
- Student-centered best practices
- Victim-centered
- Critical race theory
- Restorative justice



## “Opt-Out Advisor Model”

Every student has a right to an advisor of choice. Who that advisor is can often be a point of inequity within the Title IX process. Especially for those students who don’t have a strong support system on or off campus, as well as those who can’t afford legal representation. The “opt-out” model is one tool that can provide more equity within advisors between parties. Either party ultimately can choose a different advisor of their choice, but both are provided with a well-trained and knowledgeable option to start with.





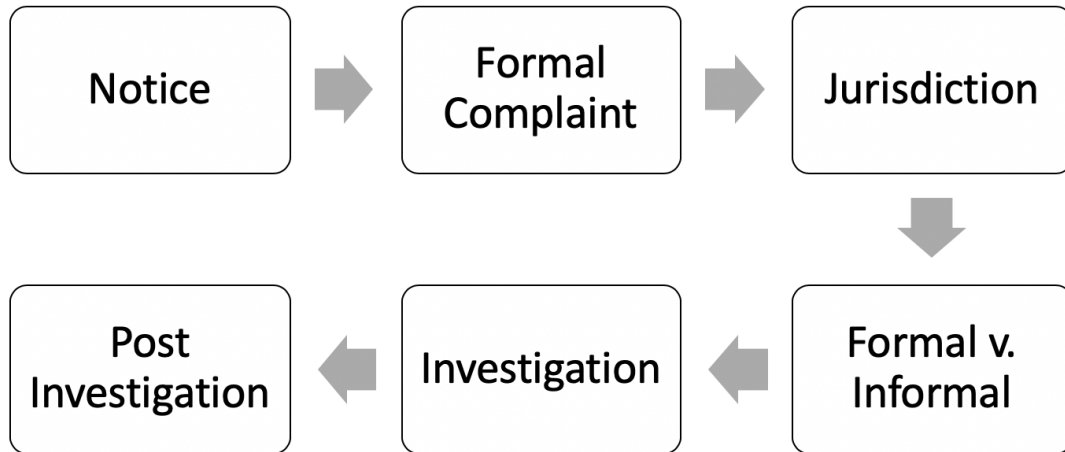
# TITLE IX INVESTIGATIONS

Look at investigations starting with notice to finding, what is required in a Title IX investigation and what are the different models and practices for accomplishing them.

## Learning Objectives:

- understand what stages of Title IX investigation are from disclosure to finding and sanctions
- identify rights of parties and requirements under Title IX
- look at role of investigator, Title IX Coordinator and other actors within an investigation

**STAGES OF AN INVESTIGATION:**



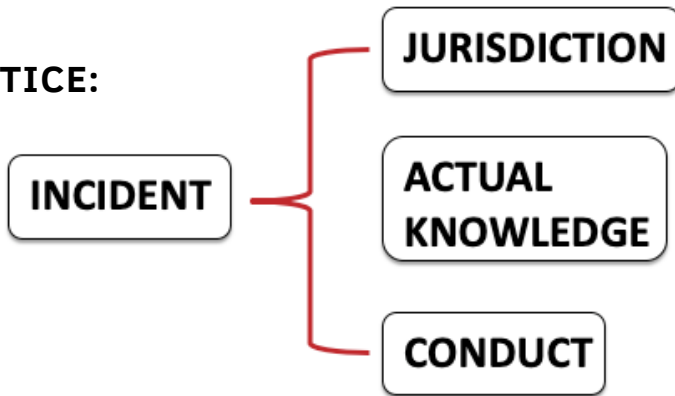
**DECISION MAKER:**



**NOTES:**

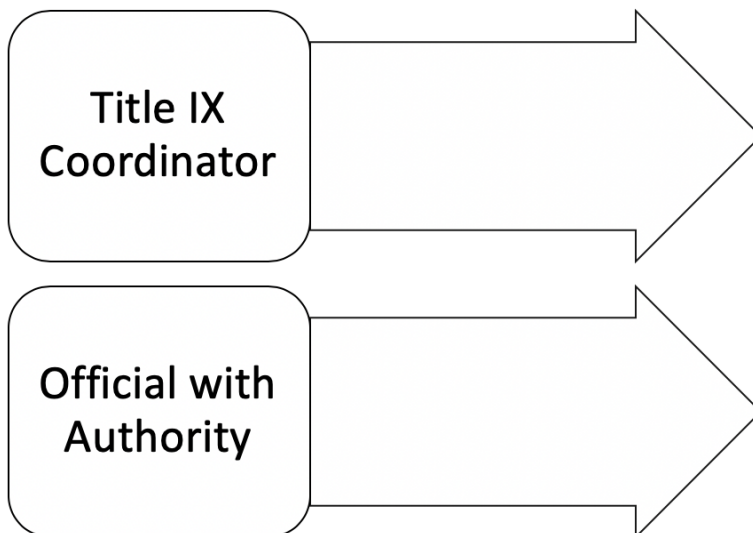
[Large grey rectangular area for notes]

**NOTICE:**



**ACTUAL NOTICE:**

“[A]ctual knowledge means notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient”





## **PROCESS COUNSELING:**

### **SUPPORT MEASURES:**

“individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.”

### **SUPPORT MEASURES:**

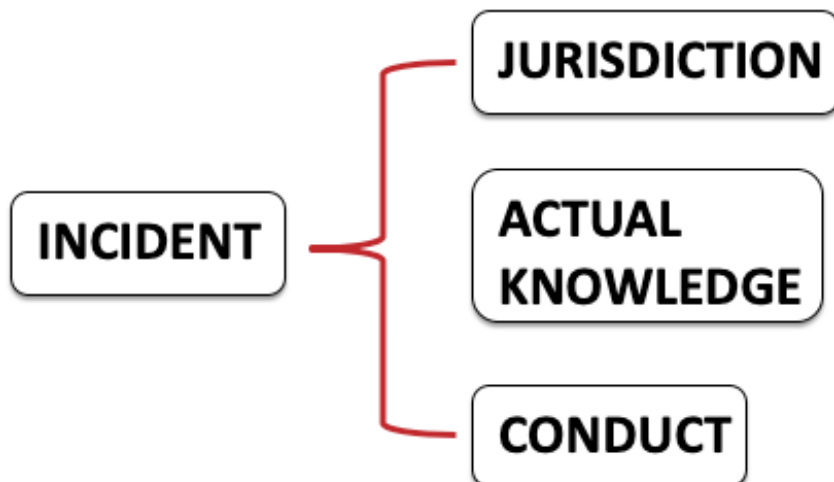


**FORMAL COMPLAINT REQUIREMENTS:**

- 
- 
- 
- 
- 

“[D]ocument filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment.”

**FORMAL COMPLAINT:**



## JURISDICTION:

- type of conduct
- educational program or activity
- person in the United States



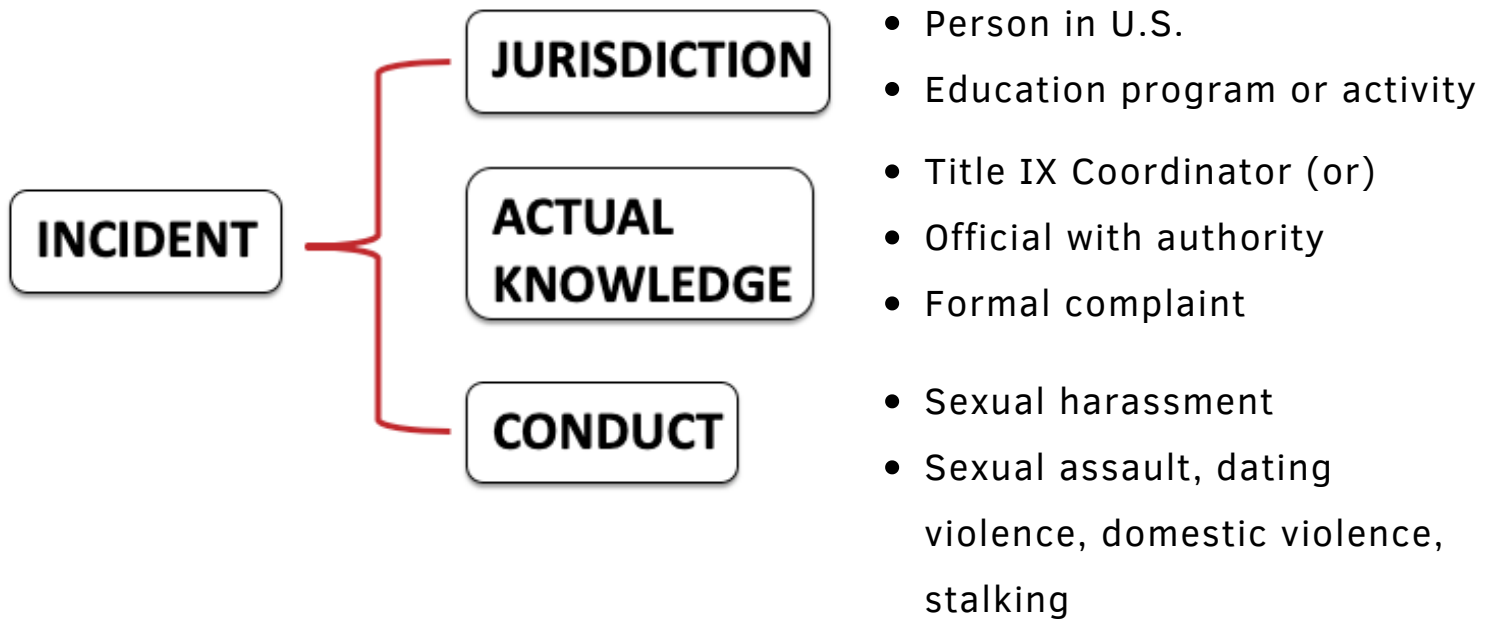
“Clery Act/VAWA offenses are NOT evaluated for severity, pervasiveness, offensiveness or denial of equal educational access ... because such conduct is sufficiently severe...”

## SEXUAL HARASSMENT:

“Unwelcome conduct that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies person’s equal access to education.”

## EDUCATION PROGRAM OR ACTIVITY:

**PERSON IN THE UNITED STATES:**



**INFORMAL V FORMAL COMPLAINT:**

## **INFORMAL PROCESS:**

## **INVESTIGATION:**

### **DISMISSAL OF COMPLAINT:**

- If conduct definition or jurisdiction not met
- If complainant no longer accessing educational program or activity

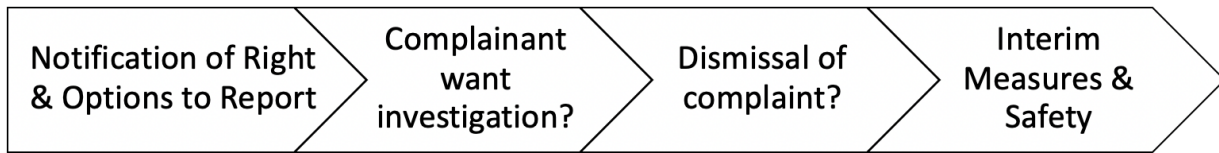
### **MAY DISMISS WHEN:**

- If complainant desires to withdraw complaint
- If respondent no longer enrolled or employed
- If school can't gather sufficient evidence to reach determination

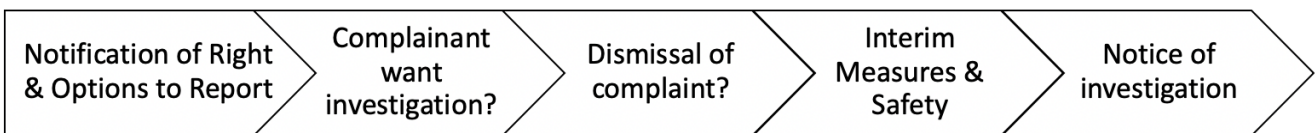
## **CONSOLIDATE COMPLAINTS:**

**APPEALS:**

- procedural irregularity
- newly discovered evidence
- conflict of interest or bias
- other\*



**INTERIM MEASURES:**

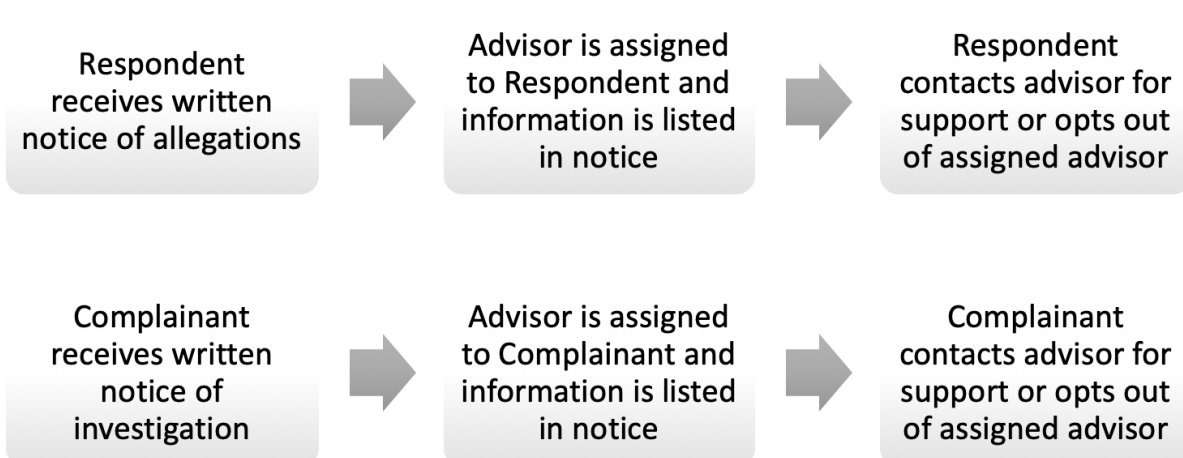


**WRITTEN NOTICE:**

ongoing notice requirement - additional allegations

**ADVISOR OF CHOICE:**

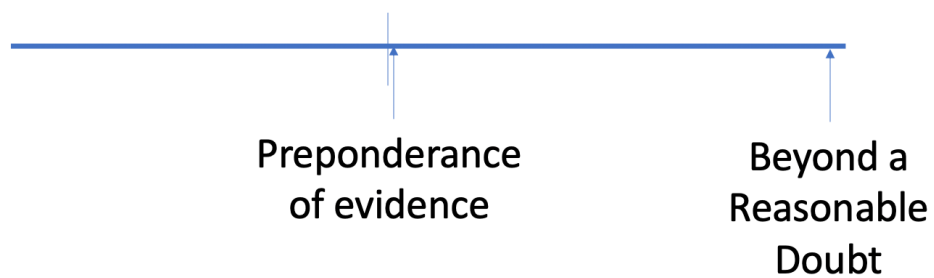
**OPT-OUT APPROACH:**



**INTERVIEWS:**

**EVIDENCE:**

Preponderance of evidence  
Clear and convincing



**REPORT:**



**HEARINGS:**

**REMEDY:**

“[Title IX] evaluates a school’s selection of supportive measures and remedies based on what is not clearly unreasonable.... And does NOT second guess a school’s disciplinary decisions...”

**FINAL REPORT:**

**CLOSING A CASE:**

# INTERVIEWING & REPORT WRITING

WHAT DOES AN INTERROGATION LOOK LIKE?

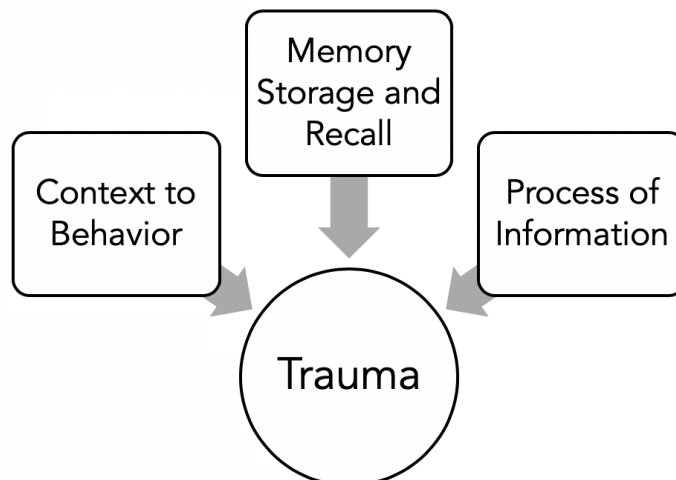
WHAT DOES AN INTERVIEW LOOK LIKE?

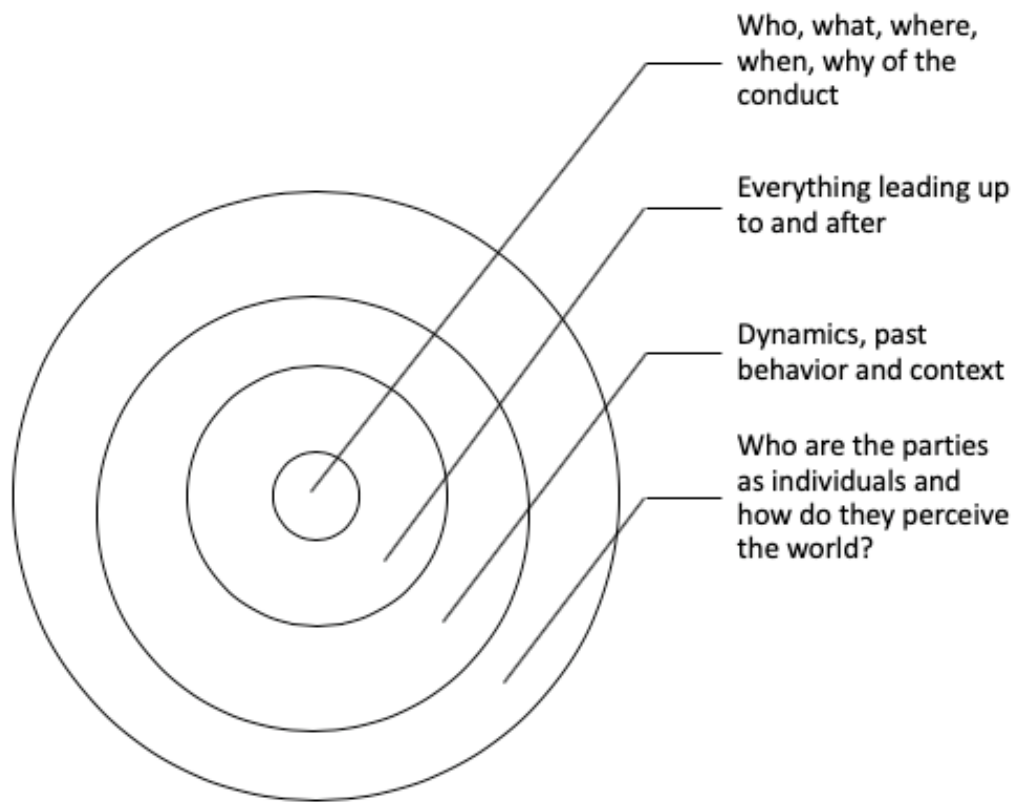
WHAT ARE THREE SIGNS OF DECEPTION?

- 1.
- 2.
- 3.

THREE THINGS WE EXPECT A WITNESS TO KNOW:

- 1.
- 2.
- 3.





### **LANGUAGE:**

- "why"
- "alleged"
- "remember"
- "claimed"

### **MIRROR LANGUAGE:**

## CLARIFYING LANGUAGE:

"We hooked up"

"When you say you 'hooked up,' help me better understand what you mean by that."

**Report:** "complainant stated that they had 'hooked up' with repondent. When asked what 'hooked up' meant, C stated...."

## TRAUMA INFORMED INTERVIEWING:

## WHERE TO DO INTERVIEW:

- privacy
- access to door
- limiting movement
- options in seating
- sit in interviewee seat
- personal photos
- interruptions
- accesibility of location

## SCHEDULING INTERVIEWS:

## BODY LANGUAGE:

## HOW DO WE ASK QUESTIONS?

### BETTER PRACTICES:

- where would you like to begin?
- do not interrupt or ask follow-up questions initially
- be patient
- awkward silences are ok

[experience based question] → [clarifying question]

### THINGS TO AVOID:

"What happened, starting from the beginning." →

"Why did you...." →

"Who, what, where, when, why" →

### CONTEXT TO BEHAVIOR:

- consent
- intoxication
- coercion, threats, fear
- power dynamics

## **COMMON TYPES OF BEHAVIOR:**

1. tend and befriend
2. normalization of behavior
3. mitigation of harm

## **TONIC IMMOBILITY:**

## **COLLAPSED IMMOBILITY:**

## **SENSORY BASED QUESTIONS:**

- smell
- taste
- hear
- see
- feel

## **"WHAT CAN'T YOU FORGET?"**

## EVIDENCE COLLECTION:

Reports are:	Reports are not:
An accurate compilation of the facts	Your impression or takeaway of the facts
Interviews and evidence provided	Your analysis
Quotes or specific terms used	Paraphrases or synonyms
Clarifications and words defined by the parties	Your assumptions of the meanings of terms

## BEST PRACTICES:

- keep your report up to date as investigation goes
- give yourself time
- re-read and proof read
- do not fill in "holes"
- correct transcripts if used
- quotes

## NOTES:

## LETTERHEAD

### Investigation Report

**School Name**  
**School address**

**Investigator:** **Name of Investigator**  
**Title and Department**

**Date of Report:** **xx/xx/xxxx**

#### I. **Background**

**[Complaint, parties and conduct begin investigation.]** The complaint brought forward. The Respondent and Complainant as well as when and how the complaint was brought. List parts of the complaint if there are multiple. *For example: (1) harassing language 92) inappropriate physical contact (3) sexual misconduct incident.* Include dates of incident(s).

**[Background and timeline prior to investigation.]** What has been the response thus far. Who was the complaint sent to? Did someone reach out to the complainant or respondent? Were there any interim measures or no-contact orders put into place? Include dates and names/title/department of those who has contact with the parties or received or retrieved any information prior to the investigation.

#### II. **Jurisdictional Statement**

**[Insert institution's jurisdictional statement. Identify if third party investigator was used.]**

#### III. **Applicable Policy and Scope of Investigation**

**[Policy name, citation and date.]** Insert the exact and full text of the policy that is being used to determine whether there is a policy violation. Institutional policies are often amended or changed, and placing the text in the report keeps from confusion if a report needs to be reviewed at a later date. *Example: "Sexual Misconduct 1.44(A)(bb) 2018 Institutional Student Conduct Policy."*

**[Additional Policy Name, citation and date if necessary.]**



## LETTERHEAD

### IV. Summary of Findings

A brief sentence citing the investigator's conclusions of fact including types of conduct that could be corroborated. Let the reader know that this finding will be further detailed within the rest of the report.

Note: Investigators can and should come to conclusions of factual findings but should not come to findings of violation. The Decision Maker, through the hearing process, should be utilizing the investigative findings, along with statements and documents provided during the hearing, to apply the institution's standard of evidence and policy definitions to come to a finding of violation.

### V. Investigation

#### A. Parties

List the parties to the complaint and whether they are the respondent, witness or complainant. Include any necessary information (for example, whether one party is a supervisor of another, or whether a party identifies with a specific cognitive disability) that may affect how the interviews were done or how consent was determined. This portion should be brief.

After naming the parties, the writer should use "Respondent" or "Witness 1" throughout the rest of the report instead of names. This helps to uphold privacy as well as making it easier for the reader to follow along. *Example: Student Name (hereafter referred to as Witness 1)...*

#### B. Interviews and Evidence Collected

##### 1. Interviews

**[Complainant] [Respondent] [Witness1]** This portion of the report reflects the narrative from that specific party's point of view. Begin with contextual information – when was interview conducted and where? Was it in person, over the phone, skype, etc.?

List out the statement of the part, including the questions asked of each party in relation to which part of the complaint. Try to use quotes where possible. If the party names another party, use brackets and replace the name with "Respondent" or "Witness 1." As much as possible, write this section in chronological order. Include dates and any necessary contextual information that is provided by the party or additional evidence. If there is specific evidence (such as correspondence between parties) that support the party's statement or

## LETTERHEAD

is mentioned by the party, add a citation to the piece of evidence or quote a portion of it.

### 2. Evidence

List any evidence such as emails, text message screenshots, calendars, job descriptions, maps, etc. that each party provides the investigator.

## VI. Factual Findings and Analysis

### A. Institutional Standard of Evidence

Provide a brief description of how that standard of evidence is to be interpreted as well as the policy number or citation that states that this evidence is used by the institution for these types of complaints.

### B. Factual Findings

List out each conduct under investigation. *Example: "Regarding whether Respondent sent unwelcome sexually explicit text messaged to Complainant."*

Under each type of conduct, list the elements that need to be proven under the institution's policy and whether such elements were met based on party statements and additional evidence. Each complaint should have a paragraph or two describing what information could be corroborated or was disproven that either supported or negated the claim. Include what pertinent information lead you (the fact finder) to come to the conclusions you did.

## VII. Factual Conclusion

Similar to the summary of findings at the beginning of the report, this section is a brief sentence citing whether each incident of conduct reported in the complaint occurred using [your institution's standard of evidence, such as "*more likely than not*"] under [your institution's conduct policy].

Submitted on: xx/xx/xxxx

Name,  
Title and Department



# INVESTIGATING CONSENT

A look at campus policy, federal and state definitions of consent as well as challenges to investigating consent.

## Learning Objectives:

- develop skills in how to interview when trying to identify whether consent was present in a case
- clear language relating to consent for report writing
- better understand consent and what consent may look like in a Title IX case

# CONSENT

## WHAT IS CONSENT?

### CASE STUDY:

Complainant: Professor reporting about student

A professor comes to your office to report an incident with a student named Michael. Michael is an exchange student. Michael reported to his professor that upon arrival in the U.S. 9 months ago, his host family took his passport, claiming they needed it to complete paperwork related to his stay. After several weeks, Michael asked to have his passport returned but his host family refused.

His host family owns a local family restaurant where he works as a dishwasher when not attending school. Michael initially was glad for the job and hopeful for the opportunity to earn money. After Michael recently missed several classes in a row, the professor asked him why he had not attended. Michael reported to the professor that he had to pick up extra shifts in the restaurant. When he picks up additional shifts the host family does not pay him, keeping his pay to cover “additional costs” related to his room and board.

He also knows that his family has sent him money in letters addressed to him that arrive at the house, but he has never received any of it. He is usually at school when the mail arrives, and when he returns home, the letters from his family have been opened and the money removed. Although the professor has noticed a deterioration in Michael over the past 8 months, Michael is just now telling him all of this. The semester is almost over, and Michael is worried that he won't make his required GPA minimum.

**INVESTIGATION STANDARDS:**

- prompt
- equitable
- objective
- independent
- document reasonable delays

**ISSUING NOTICE OF INVESTIGATION:**

**ADVISOR OF CHOICE:**

**WITNESSES AND EVIDENCE:**

**NOTES:**

WHAT DOES COSENT LOOK LIKE?

WHAT DOES LACK OF CONSENT LOOK LIKE?

HOW WE VIEW CONSENT:

- institutional policy
- personal bias



INVESTIGATING CONSENT:

