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## TITLE IX INVESTIGATOR

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# LESSON ONE

WELCOME AND REMINDERS



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# AGENDA

Lesson One	Welcome and Reminders
Lesson Two	Role and Scope Overview
Lesson Three	Before the Investigation
Lesson Four	Prepping for the Investigation
Lesson Five	Investigation - Interviews
Lesson Six	Investigation - Gathering Evidence
Lesson Seven	Investigation - Follow Up
Lesson Eight	Investigation - Identifying and Interviewing Witnesses
Lesson Nine	Investigation - Building and Maintaining Your File
Lesson Ten	Evidence Review
Lesson Eleven	Report Writing and Review
Lesson Twelve	After the Investigation
Lesson Thirteen	Wrap-Up and Assessment of Knowledge



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## COURSE APPROPRIATE FOR:

- Title IX Coordinators
- Title IX Investigators
- Deputies/Designees
- Title IX Decision-Makers
- Others involved in Title IX matters



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# COURSE OBJECTIVES

Understand the role and scope of the Title IX Investigator

Learn best practices for your role

Explain the grievance process and your role in it



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## REMINDERS!



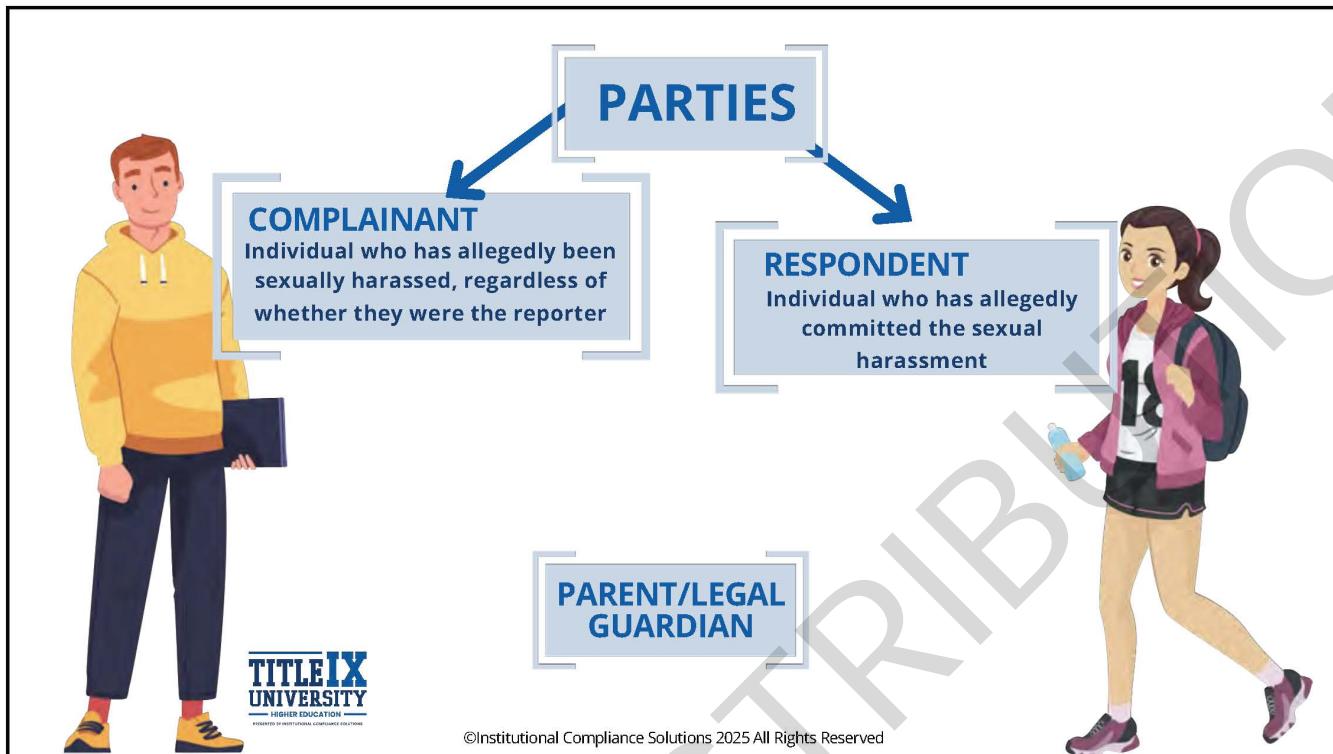
 You must still receive training on your policies and procedures

 Title IX Coordinator is your ultimate resource

 Review definitions from Introduction and Overview Course

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# LESSON TWO

ROLE AND SCOPE OVERVIEW



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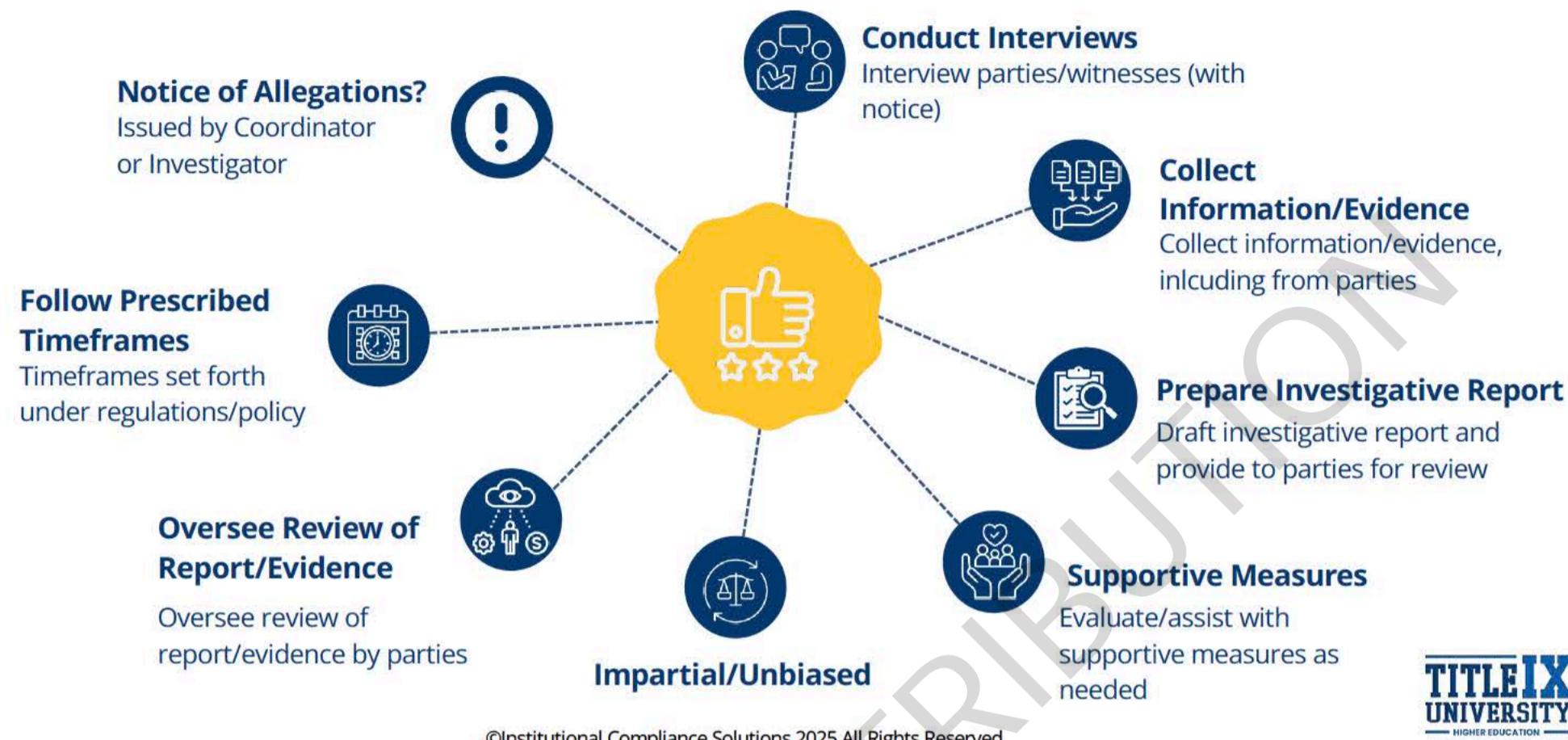


**WHAT IS THE  
ROLE/PURPOSE OF A TITLE  
IX INVESTIGATOR (WHY  
ARE WE DOING THIS  
WORK?)**



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# YOUR ROLE AND SCOPE



## Note:

You are part of the Title IX Team at your institution. Title IX Coordinator is leader of that team.

Also on the team:

- Deputies/Designees
- Decision-Maker
- Appellate Decision-Maker
- Informal Resolution Facilitator



# LESSON THREE

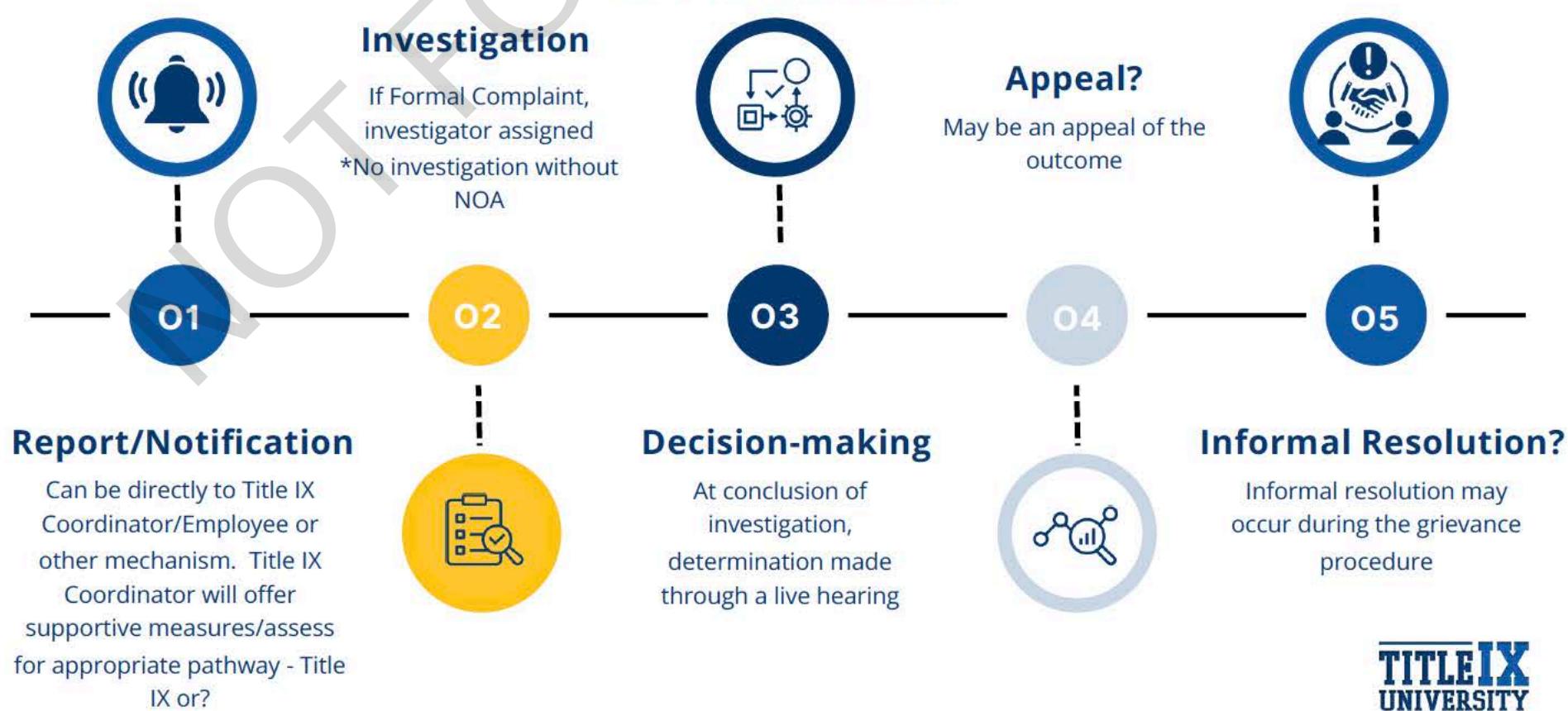
BEFORE THE INVESTIGATION

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## REPORT/NOTIFICATION PATHWAY OVERVIEW



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## BEFORE A MATTER IS INVESTIGATED...

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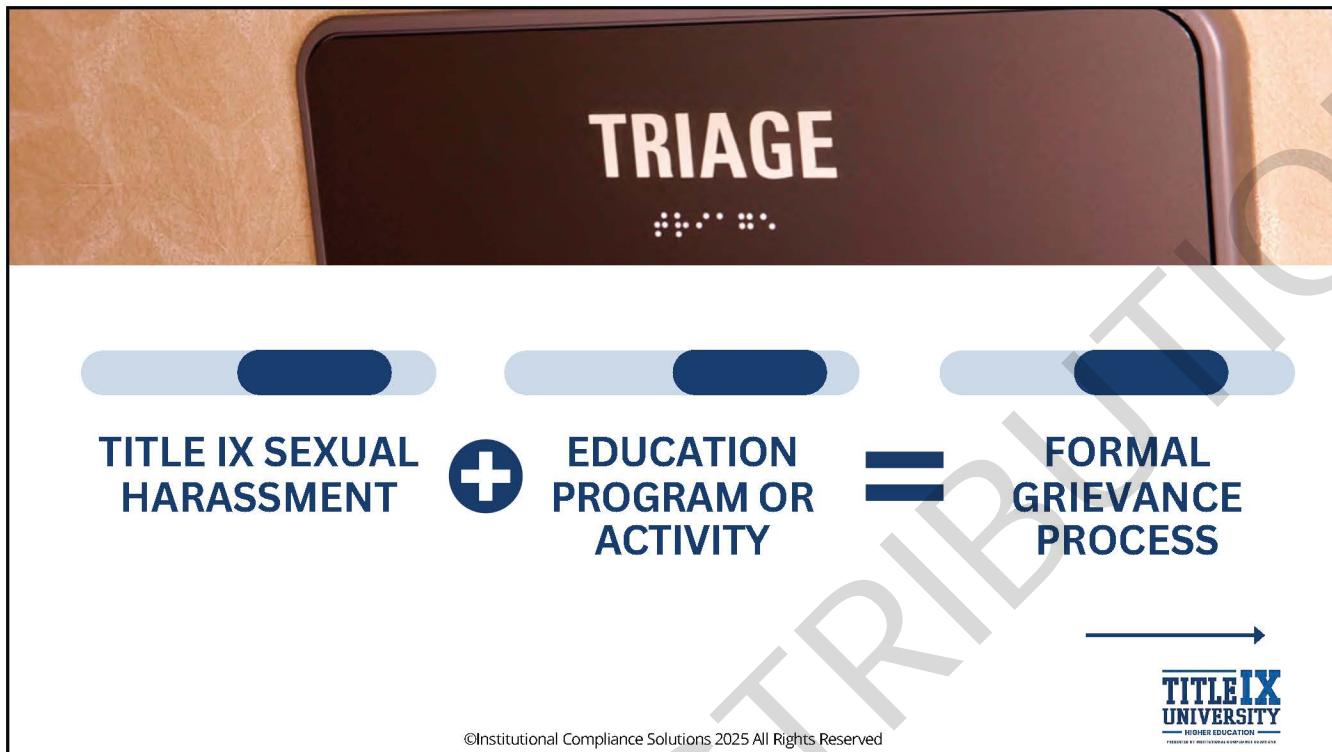


## TITLE IX COORDINATOR WILL:

- Offer Supportive Measures
- Triage/evaluate conduct for Title IX
- Determine if signing Formal Complaint, if necessary
- Consider Emergency Removal/Admin Leave of Respondent

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# ROLE OF INVESTIGATOR WITH SUPPORTIVE MEASURES?



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## IF A COMPLAINANT DOES NOT WANT TO FILE A FORMAL COMPLAINT:

- Title IX Coordinator may initiate/sign
- Title IX Coordinator does not become the Complainant/a party
- Provide all notices as Investigator as if Complainant is participating



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# CONSOLIDATION OF COMPLAINTS



School MAY consolidate:

- Complaints related to more than one Respondent.
- Complaints related to or more than one Complainant against one or more Respondents.
- Complaints by one party against another party.



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# NOTICE OF ALLEGATIONS

- Notice of Grievance Process (including informal resolution process if one exists)
- Allegations potentially constituting Sexual Harassment
  - Identities of the parties
  - Conduct constituting Sexual Harassment
  - Date of incident
  - Location of incident
- Statement: Respondent presumed not responsible, and responsibility is determined after Grievance Process
- Right to Advisor of choice
- Code of Conduct provision(s) prohibiting false statements or false information in process

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**NOTICE OF ALLEGATIONS  
CHECKLIST**

Notice of Grievance Process; Including Informal

Allegations Potentially Constituting Sexual Harassment

- Identities of the Parties
- Conduct Constituting Sexual Harassment
- Date of Incident
- Location of Incident

Statement: Respondent Presumed Not Responsible/Responsibility Determined After Process

Right to Advisor of Choice

Code of Conduct Provision Prohibiting False Statements or False Information in Process

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**WHAT IS YOUR  
ROLE RE: NOTICE  
OF ALLEGATIONS  
AS  
INVESTIGATOR?**



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# NOTICE

Notice of Allegations tells you  
WHAT you are investigating, and  
it should be updated if needed.  
Do not investigate matters  
outside of the NOA!

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## THE TWO MOST IMPORTANT DOCUMENTS FOR AN INVESTIGATOR



- ① Formal Complaint
- ② Notice of Allegations

- Do not investigate matters outside of what is in the NOA
- If more information comes to light, you will need to update and redistribute the NOA

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SEE YOU IN LESSON 4!

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# LESSON FOUR

PREPPING FOR THE INVESTIGATION



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If a Formal Complaint is signed, you will  
be assigned as an Investigator.



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## WHAT TYPES OF CASES WILL YOU BE INVESTIGATING?

- Who are the parties involved?
- What is the conduct at issue?



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## CONDUCT AT ISSUE

*\*Review definitions from Introduction and Overview Course and your policies and procedures*



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**YOU MAY BE ASKED TO INVESTIGATE MATTERS OUTSIDE OF TITLE IX FORMAL GRIEVANCE PROCESS WITHIN THE SAME INVESTIGATION**

- It should be included in the NOA (i.e., student conduct violations)
- Get clarity if you are unsure
- If parallel processes, confirm with Coordinator on most trauma informed approach

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## NOTICE OF MEETINGS

MUST provide WRITTEN notice of the

- date
- time
- location
- participants
- purpose
- of all hearings, investigative interviews, or other meetings, with SUFFICIENT TIME for the party to prepare

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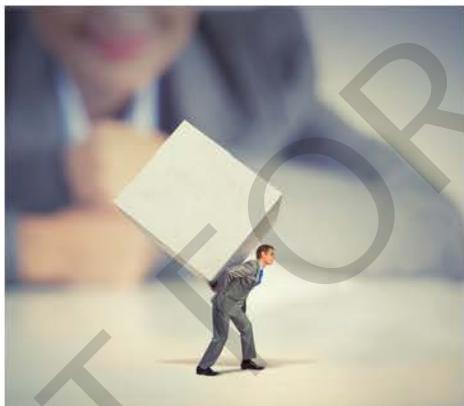
# REMINDER!!!



Don't forget to include  
advisors

\*note: not required to provide notice to  
witnesses, but we recommend it

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## IMPORTANT NOTES FOR INVESTIGATIONS:



### BURDENS

- Burden of gathering evidence on school - NOT the parties
- Burden/Standard of Proof - Preponderance of the Evidence (more likely than not) or Clear and Convincing Evidence
- May NOT access, consider, disclose, or use party's treatment records unless school obtains voluntary WRITTEN consent
- MUST provide equal opportunity for parties to:
  - Present witnesses (fact or expert--does not say character)
  - Gather and present relevant evidence
- May NOT restrict the ability of the parties to discuss the allegations or gather and present relevant evidence (no gag orders)

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## BEFORE YOU START... THE IMPORTANCE OF PREPARATION

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## WHAT INFORMATION DO YOU HAVE?

► Is there anything you need before you meet with parties and/or witnesses?



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# DEVELOPING A PLAN



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## SEE YOU IN LESSON 5!



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# LESSON FIVE

INVESTIGATION - INTERVIEWS



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Transparency

## OPENING THE MEETING... THE IMPORTANCE OF TRANSPARENCY

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# YOU ONLY GET ONE FIRST IMPRESSION

*Before they "walk in" either in person or virtually,  
CHECK YOURSELF*

- ◆ Let go of whatever is happening outside that meeting
- ◆ Refresh your mind with names and dates
- ◆ Note your facial expressions
- ◆ Prepare the room

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# TRAUMA INFORMED MEETING NECESSITIES

THE 4 - C'S



Comfortable



Clear



Consistent



Convenient

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# CHECK YOUR BIASES



Where are your potential biases in the case?



Can you overcome any biases that exist?



Is your mind in a neutral position?

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# INTRODUCTION

Who are you?



What is your responsibility?



What policy/policies & procedures are you using?



Something to connect you with the party or witness



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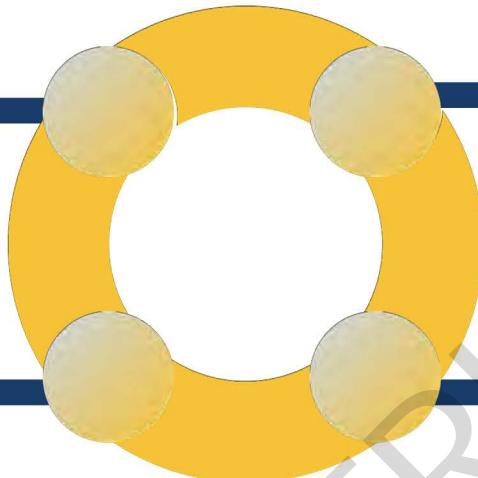
# GET TO KNOW THE PARTY/WITNESS

What name do they prefer?

What is their position? (year in school, employment role, etc.)

Find a similarity

Something to discuss?



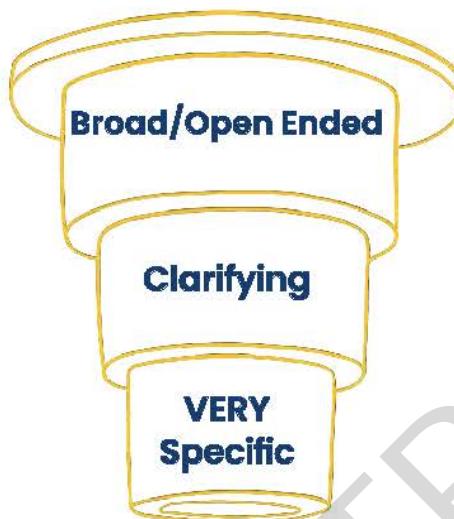
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## ASKING QUESTIONS... THE IMPORTANCE OF GAINING CLARITY



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# FUNNEL METHOD



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- What happened?**
- How do you know about it?**
- How did it happen?**
- Who did it happen to?**
- How do you know these parties?**
- Who else was there?**
- When did it happen?**
- Where did it happen?**
- Why - without saying WHY**

# THE NEED TO KNOW QUESTIONS



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## THE FORMULA FOR QUESTIONING



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# CHALLENGING WITNESSES / PARTIES

The "Hulk"



The Rabbit Chaser



The "Turtle"

The Big Reveal



The Reluctant Participant

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# NOTE-TAKING

Detailed, but not so much that it slows down the interview

Decide what is most important

Extra person in the room?

- Give notice and explain their role as note-taker

Use quotations if possible

Note-taker vs. dual investigator

Ask for a pause or clarification if necessary

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# LESSON SIX

INVESTIGATION - GATHERING EVIDENCE



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## THE IMPORTANCE OF CURIOSITY WHEN GATHERING EVIDENCE



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# SLEUTH

## Noun

a person who investigates a crime; a detective



## Verb

carry out a successful investigation into a crime or mystery

"there's nothing you can do but sleuth around until you find the answer"



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## VIDEO QUESTIONS

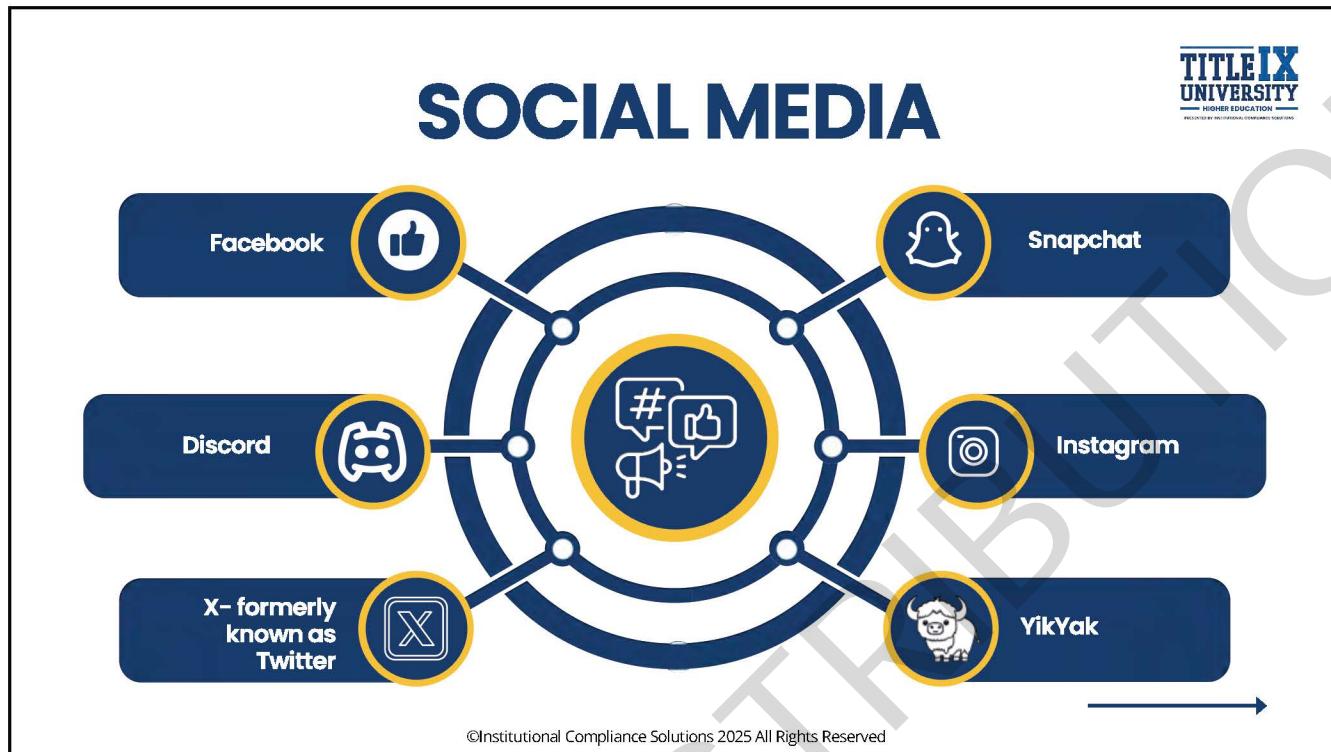


- ? Do you have access?
- ? Who else has access?
- ? How long is it stored?
- ? Do you know how to save it?
- ? Does someone make sure all cameras are working regularly?



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## BURDEN

*The burden is on you to ASK for information.  
The burden is NOT on the party or witness to  
“offer it”.*

-  Do you have any phone or texts?
-  Was anything shared on social?
-  Did you email about this?
-  Is there any geo-tracking?



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# INDEPENDENT INVESTIGATIVE ACTIONS

Think outside the box



Make the phone call



Find the witness



Visit the location



Google the term



Take the photo

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## SEE YOU IN LESSON 7!

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# LESSON SEVEN

INVESTIGATION - FOLLOW-UP



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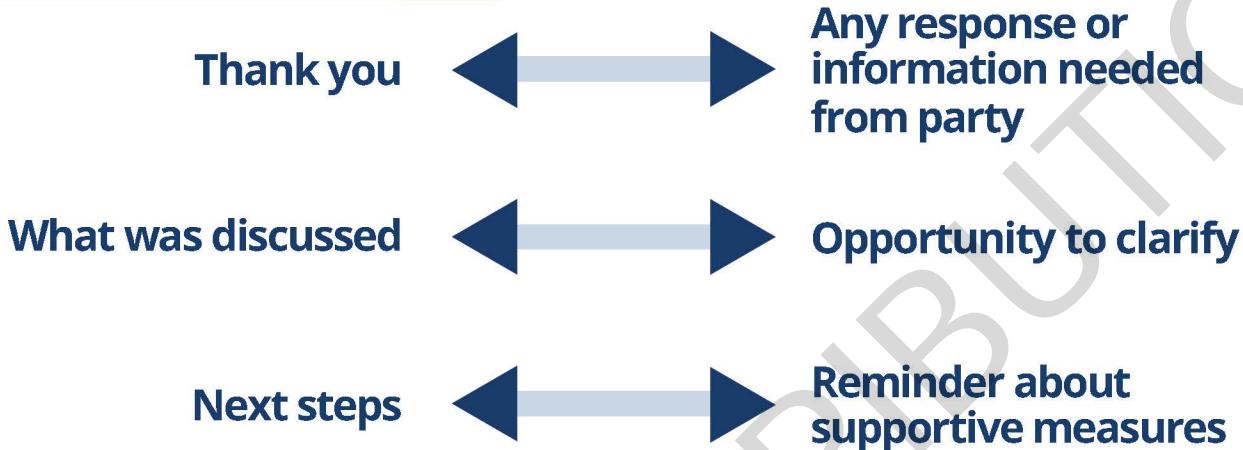
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## ASSESS SUPPORT NEEDS

- How was the party?
- Do they need additional support?
- Counseling?
- Academic support?
- No contact directives?
- Concerns about retaliation?



# EMAIL FOLLOW UP



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# DOCUMENTATION

- ✓ Clean up notes
- ✓ Save notes
- ✓ Save evidence collected
- ✓ Create to do list
  - Witnesses to connect with
  - Evidence to collect
  - Follow up meetings to schedule



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If you were unable to continue with the investigation starting tomorrow, would the person picking up the file know what had been done and what is left to do?

## Sustainability Planning



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## REMINDER!



Information for case needs to be saved for 7 years



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# LESSON EIGHT

IDENTIFYING AND INTERVIEWING WITNESSES



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## WHO ARE YOUR WITNESSES AND WHO IDENTIFIED THEM?

Witnesses  
identified by the  
Complainant

Witnesses  
identified by the  
Respondent



Witnesses  
identified by you

Witnesses  
identified by other  
witnesses



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## TYPES OF WITNESSES



- Eye Witnesses
- Fact Witnesses
- Expert Witnesses
- Hearsay Witnesses
- Character Witnesses



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## MOST IMPORTANT QUESTIONS

- How do you know the Complainant?
- How do you know the Respondent?
- How do you know the other witnesses?
  - *How long?*
  - *In what capacity?*
  - *Describe your relationship with them*

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# MEMORY

- How much do witnesses actually remember?
- What impacts memory?



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**SEE YOU IN LESSON 9!**



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# LESSON NINE

INVESTIGATION - BUILDING AND MAINTAINING YOUR INVESTIGATIVE FILE

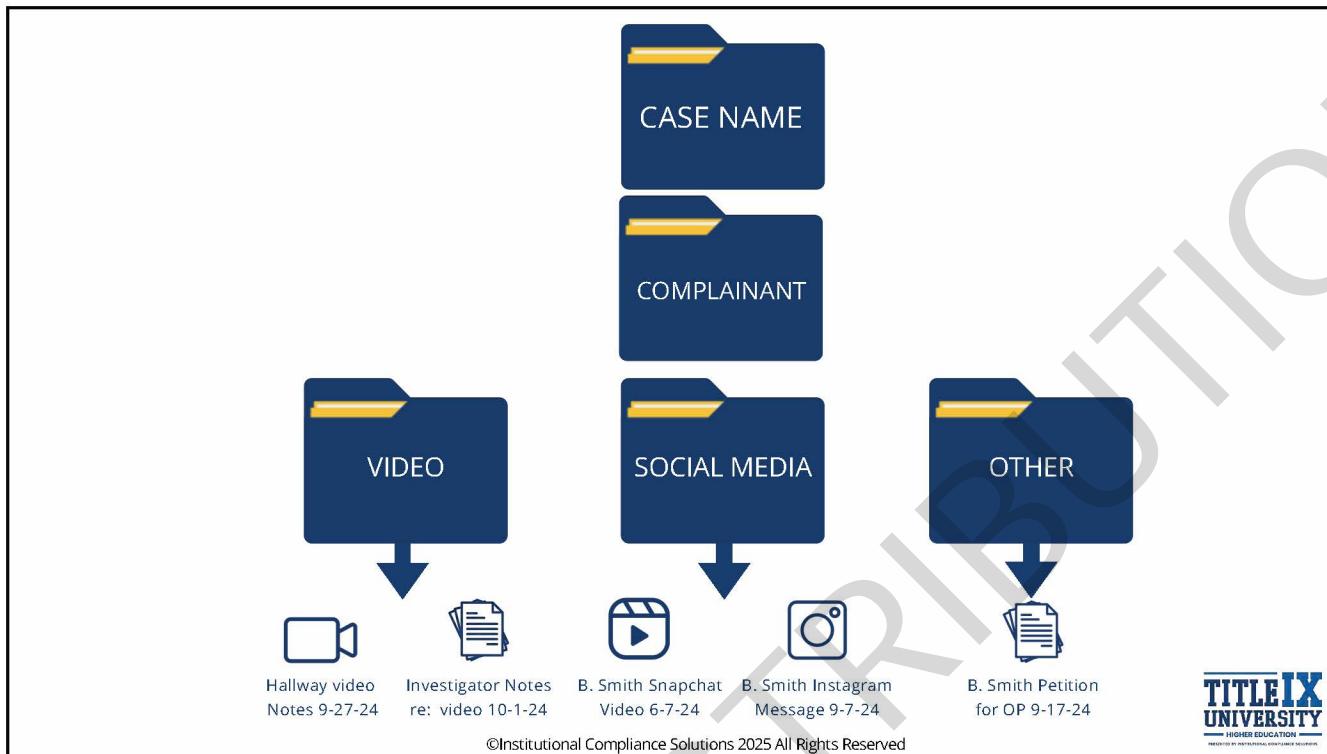


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# LESSON TEN

EVIDENCE REVIEW



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**MUST: PROVIDE BOTH PARTIES AN EQUAL OPPORTUNITY TO INSPECT AND REVIEW ANY EVIDENCE OBTAINED AS PART OF THE INVESTIGATION THAT IS DIRECTLY RELATED TO THE ALLEGATIONS INCLUDING:**

- The evidence upon which the school does not intend to rely in reaching a determination
- Inculpatory or exculpatory evidence



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# CHALLENGES WITH REVIEW:



01 Sending securely

02 The anxiety it may cause (PROVIDE SUPPORT)

03 The VOLUME of information

04 Some of the information may not be  
"Relevant"



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## REMINDER!



How Long?

10 days

(business or calendar?)

*Define in policy*



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# WHAT TO DO WITH THEIR RESPONSE (if any)?

Review it

Take a deep breath (it may be a critique of your work)

Evaluate if there is anything that you missed and need to complete

Document

Move on

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## SEE YOU IN LESSON 11!



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# LESSON ELEVEN

REPORT WRITING AND REVIEW



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A TITLE IX REPORT IS A SUMMARY OF RELEVANT EVIDENCE

THIS IS **NOT** A DUMP OR COPY OF YOUR NOTES.



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# ORGANIZATION



## Easy to Follow, Clear, Concise

Can the reader follow the report and understand who reported/said what?



## Roadmap for the Decision-Maker

This report will guide the decision maker, help them ask questions, and provide a roadmap for their process



## Includes the Basics

Assume the reader knows NOTHING



## Reviewed by Colleague

Trusted counterpart



## Consistent but Not Identical

There is room for a little flexibility

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# LANGUAGE MATTERS



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# WHO IS YOUR AUDIENCE?



Judge



Family



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# THE ART OF SUMMARIZING



What is important?



What is relevant?



What is outside the scope?



What needs to be quoted?



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# RELEVANCY

Information that has a tendency to make a fact more or less probable than it would be without the information—and the fact must be of consequence to the allegations.



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# ORGANIZATION IS KEY



By party/witness?



By time/chronological?



By event?



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## OTHER REPORT MUST HAVES

Page numbers

Footnotes?

Timeline(s)

- Investigation
- Events



Appendix/Attachments  
WITH PAGE NUMBERS

- Table of Contents  
for appendix/  
attachments
- 



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DELIVERY OF THE  
REPORT...  
THE IMPORTANCE  
OF SUPPORT

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# THE DELIVERY OF THE REPORT CAN BE TRAUMATIC



Witnesses may say things that are surprising to the parties



Changing the trajectory of individual's lives



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## CONSIDERATIONS

-  **WHAT IS THE BEST WAY TO DELIVER THE REPORT**
-  **ARE THERE SUPPORT RESOURCES IMMEDIATELY AVAILABLE**
-  **DO YOU NEED TO PROVIDE A HEADS UP THAT IT IS COMING**
-  **NEXT STEPS**
-  **APPEAL OPTIONS**



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**REPORT REVIEW...  
THE IMPORTANCE  
OF NOT TAKING IT  
PERSONAL**

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**REVIEW OF REPORT**

REQUIRED 10 DAY REVIEW AND RESPONSE PERIOD (BEFORE DETERMINATION)

CONSIDER WAITING FOR RESPONSE BEFORE SENDING TO DECISION-MAKER

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# WHAT TO DO WITH THEIR RESPONSE

*(if any) Similar to Evidence Review?*

Review it

Take a deep breath (it may be a critique of your work)

Evaluate if there is anything that you missed and need to complete

Note the information in the report, footnotes, or appendix for the Decision-Maker

Move on

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## SEE YOU IN LESSON 12!



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# LESSON TWELVE

AFTER THE INVESTIGATION



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**ICS INSTITUTIONAL COMPLIANCE SOLUTIONS**

**Decision-Maker Determination  
Regarding Responsibility Checklist**

Identification of the Allegations

Description of Procedural Steps Taken
 

- Notifications to the Parties
- Interviews with Parties and Witnesses
- Site visits
- Methods used to gather other evidence
- Hearings held

Findings of Fact Supporting Determination

Conclusions Regarding the Application of the Code of Conduct to the Facts

Result of Each Allegation Including Rationale
 

- Determination Regarding Responsibility
- Disciplinary sanctions
- Whether remedies designed to restore or preserve equal access to education program or activity provided to the Complainant

Procedures and Permissible Bases for Appeal

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**STANDARD  
OF PROOF**



- Preponderance of Evidence unless Clear and Convincing for all other proceedings.
- Preponderance of the Evidence - 50% plus a feather - more likely than not
- School investigation vs. Criminal investigation

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# APPEALS



Offered to both parties

Can appeal dismissal of Formal Complaint or any allegations therein or determination regarding responsibility

On the following basis:

- Procedural irregularity that affected the outcome of the matter
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter
- Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter
- Additional bases if offered equally to both parties

Notify the other party in writing when an appeal is filed

Give both parties a reasonable opportunity to submit a written statement in support of or challenging the outcome

Written decision describing the result and rationale for the result

Provide written decision simultaneously to both parties



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**SEE YOU IN LESSON 13!**



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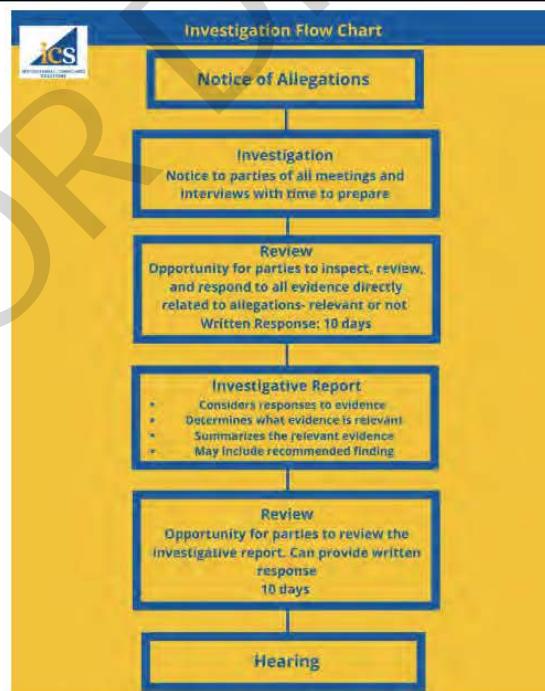


# LESSON THIRTEEN

WRAP UP AND ASSESSMENT OF KNOWLEDGE



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**BURDEN**

Burden to collect/gather evidence is on the institution (investigator)... NOT THE PARTIES

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**PAY ATTENTION  
TO THE TIMELINES  
REQUIRED BY  
YOUR POLICIES  
FOR THE  
INVESTIGATIVE  
STAGE**

→

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# FINAL THOUGHTS

Translation services

Accommodations



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# FINAL THOUGHTS

Investigation skills take time to develop

No one way to conduct an investigation, but need to follow grievance procedures and policies/procedures

Clarity on your role is critical

Report writing takes time

Consider templates/process now before there is a matter



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# QUESTIONS?

Title IX Coordinator  
[info@titleixu.com](mailto:info@titleixu.com)



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# CONGRATULATIONS!!



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