

LEVEL I:
TITLE IX
DECISION-MAKER
TRAINING



COURSE OVERVIEW

1	An Introduction to Title IX	7	Facilitating Pre-Hearing Meetings
2	Overview of the Title IX Regulations	8	Conducting a Title IX Hearing
3	Role of the Title IX Decision-Maker	9	Drafting the Written Determination Regarding Responsibility
4	The Investigation Report and File	10	The Appeal Process
5	Evaluating Policy Violations	11	Understanding Trauma
6	Understanding Relevance		

COURSE GOALS

- ➔ Examine a comprehensive investigation report and file
- ➔ Identify the roles and responsibilities of each Party in the hearing process
- ➔ Evaluate evidence and questions for relevancy
- ➔ Conduct a compliant, due process-centered live hearing
- ➔ Synthesize information to evaluate potential policy violations and draft a written determination

Lesson Completion

Title IX Solutions, LLC

[Go to Dashboard](#)

**Level I: Title IX
Decision-Maker Training**

6% complete

Search by lesson title

☐ Course Introduction0/2

☐ An Introduction to Title IX1/5


☒ Lesson and Speaker IntroductionVIDEO · <1 MIN

☐ The History of Title IXVIDEO · <1 MIN

☐ Title IX DefinitionsVIDEO · <1 MIN

☐ Participants in the Title IX Process

Lesson and Speaker Introduction



IX INSTITUTE | TITLE IX SOLUTIONS, LLC

Up next

The History of Title IX

In this lesson we will explore the learning objectives of the chapter.

CONTINUE →

CANCEL

MARK INCOMPLETE

CONTINUE →

TITLE IX SOLUTIONS, LLC

Stepping Away



See Overview

Start Course

TITLE IX SOLUTIONS, LLC

UNCHARTED TERRITORY:
**NAVIGATING
LIVE HEARINGS**

Hon. Michael T. Jamison and Susanna Murphy, JD

0%

Uncharted Territory: Navigating Live Hearings

 See Overview

 Start Course

See Overview

Replay Course

TITLE IX SOLUTIONS, LLC


**PLOTTING THE
COURSE**

Title IX Investigation Preparation

Elizabeth Abdnour, JD

0%

Plotting the Course: Title IX Investigation Preparation

 See Overview

 Start Course

See Overview

Start Course

TITLE IX SOLUTIONS, LLC

EMPHASIZING SUPPORT AND
PREVENTION:
**A NEW DIRECTION
FOR TITLE IX**

0%

Emphasizing Support and Prevention: A New Direction for Title IX

 See Overview

 Start Course

Certificate of Completion

THIS CERTIFICATE OF COMPLETION IS AWARDED TO

TITLE IX SOLUTIONS, LLC

FOR SUCCESSFULLY COMPLETING

Level I: Title IX Decision-Maker Training

Learning Objectives: ● Examine a comprehensive investigation report and file. ● Identify the roles and responsibilities of each party in the hearing process. ● Evaluate evidence and questions for relevancy. ● Conduct a compliant, due process-centered hearing. ● Synthesize information to evaluate potential policy violations and draft a determination of responsibility.

Issued: {{ 2022-11-10 }}

Expires: {{ 2022-11-10 }}

Certificate ID: {{ Credential ID }}

Title IX Posting Requirements

In accordance with the 2020 Title IX Regulations, institutions must post “all materials used to train Title IX Coordinators, Investigators, Decision-Makers, and any person who facilitates an informal resolution process.”
34 C.F.R. 106.45(b)(10)(i)(D).

Such training materials must also be kept for seven years.

Title IX Posting Requirements

0% complete

Search by lesson title ▾

☐ Course Introduction 0/2 ▾

☐ An Introduction to Title IX 0/5 ▾

☐ Understanding Trauma as an Investigator 0/6 ▾

☐ Title IX Posting Requirements 0/2 ▲

☐ Instructions for Posting Title IX Solutions Training Materials on Institutional Websites INSTRUCTIONS

☐ Final Combined Course Materials DOWNLOAD

TEACH ONLINE WITH THINKIFIC

Instructions for Posting Title IX Solutions Training Materials on Institutional Websites


Thank you for participating in a Title IX Solutions training event!

Please follow these instructions as you post the training materials to your school's website to comply with Title IX Regulation 106.45(b)(10)(i)(d).

Contact adrienne@titleixsolutions.com with any questions regarding the posting of Title IX Solutions' training materials.

Program materials available for download:

If you haven't done so already, you can find and download the program materials for the Title IX in Motion by click on the next lesson named "Final Combined Course Materials".


Using the above training program materials are outlined below:

Step 1: Publish Authorization & Disclaimer

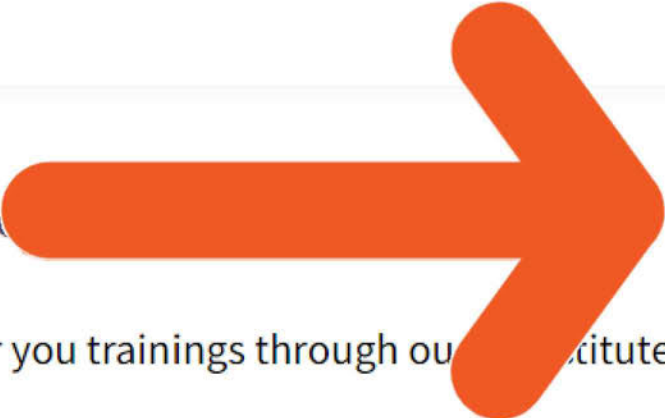
Include the following Authorization & Disclaimer on your institution's website alongside our training program materials:

COMPLETE & CONTINUE →

Course Support

- [Admin](#)
- [My Account](#)
- [Support](#) 
- [Sign Out](#)

Expert and practitioner-led



Title IX Solutions, LLC is proud to offer you trainings through our institute.

These trainings will equip you with real-world skills, knowledge, and tools to build your confidence in navigating the Title IX landscape.

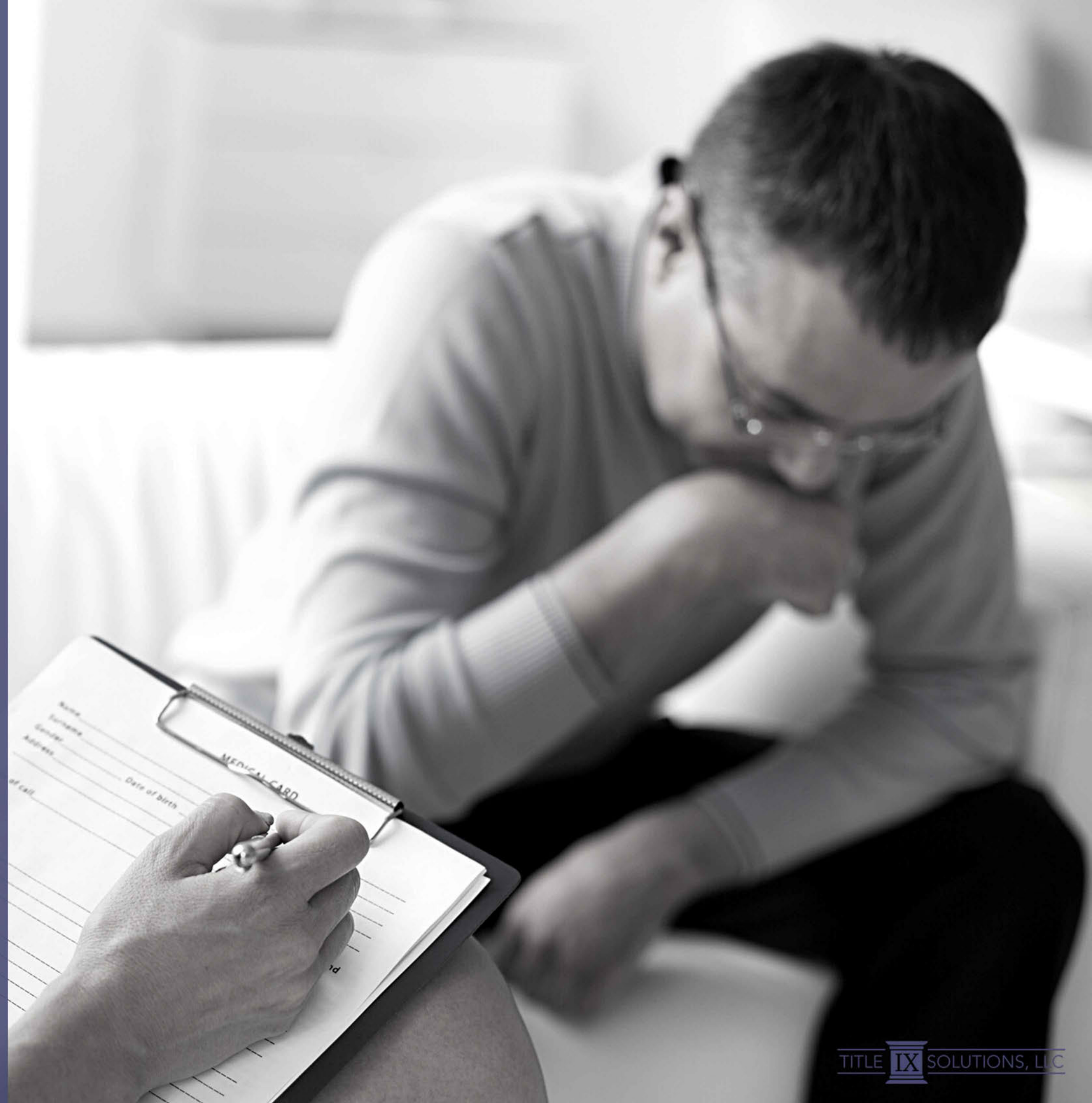
What is Title IX Solutions, LLC?

Title IX Solutions' vetted Title IX experts include a network of professional investigators as well as an unparalleled pool of experienced decision-makers, informal resolution facilitators, and advisors. This team provides a full suite of Title IX services or “solutions” to higher education institutions and K-12 school districts. Leveraging their diverse backgrounds and areas of expertise allows for comprehensive, a multidisciplinary approach to Title IX cases. Title IX Solutions establishes best practices in addressing sexual harassment at educational institutions across the United States and abroad.

THANK YOU



Understanding Trauma



IN THIS CHAPTER



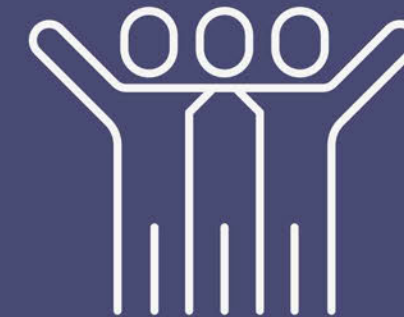
INTRODUCTION
TO TRAUMA



RECOGNIZING
PERSONAL BIAS



TRAUMA-
INFORMED
COMMUNICATION

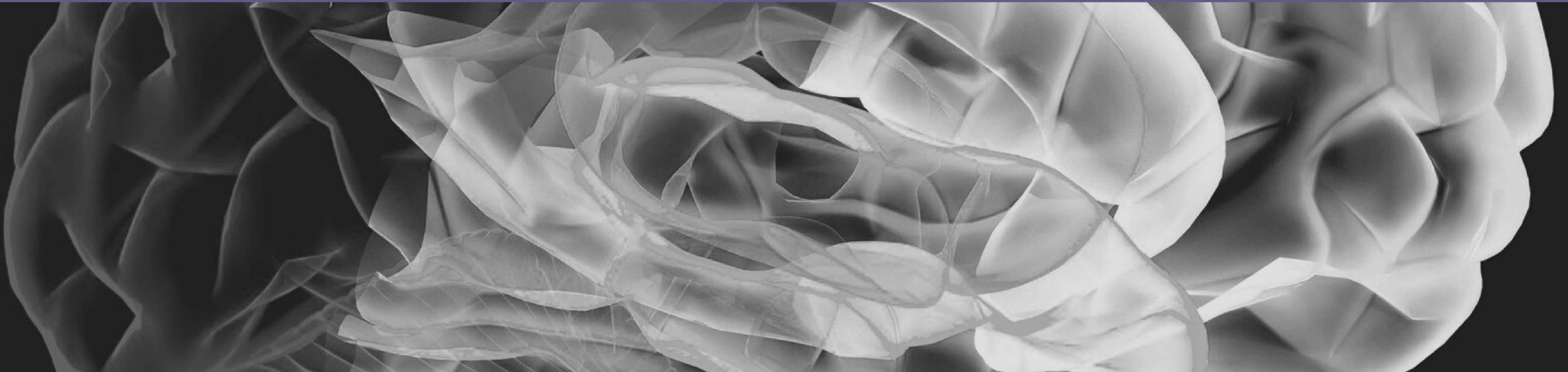


PROMOTING
EMPOWERMENT



UNDERSTANDING
TRAUMA AS A
DECISION-MAKER

Introduction to Trauma



What is Trauma?

Definition of Trauma

- Subjective
- Real or perceived threat
- Manifests differently in each person

Consider Each Party's Experiences

- One or both Parties have likely already experienced trauma, either:
 - Prior to the incident (childhood experiences, family history, collective memory, etc.)
 - During the incident
 - As a result of being accused of the alleged incident
 - Through a combination of these experiences
- One or both Parties may be currently experiencing trauma during the Title IX grievance process

Neurobiology of Trauma

BRAIN STEM ("REPTILIAN BRAIN")

- Involuntary survival processes (heartbeat, breathing, etc.)

LIMBIC SYSTEM ("EMOTIONAL BRAIN")

- Regulates the body's stress response
- Plays an important role in memory and learning

FRONTAL LOBES ("EXECUTIVE BRAIN")

- Responsible for cognitive skills including ability to rationalize, plan, self-monitor, and control one's responses
- Important for voluntary movement

Neurobiology of Trauma

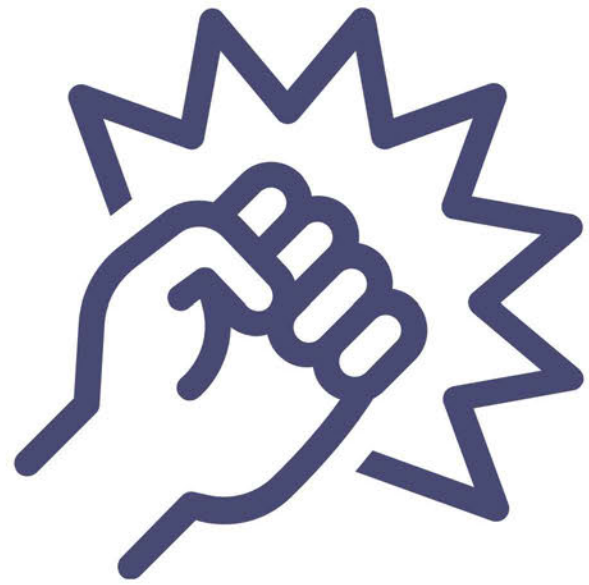
LIMBIC SYSTEM RESPONSE

- Amygdala (“fear center”) is activated
 - All resources are re-directed toward survival

DISCONNECTION OF FRONTAL LOBES

- Executive functioning goes “offline”
- Interferes with cognition, voluntary muscle movement, and ability to process the experience later on
 - This is functional and protective

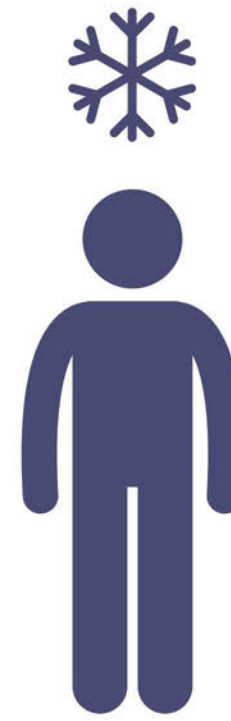
Human Stress Response



FIGHT



FLIGHT



FREEZE



FAWN

What does this mean for Title IX Processes?

- Fragmented, incomplete memories are common
- Emotional dysregulation is expected
 - Can appear in a variety of ways: inappropriate affect (laughter), extreme anxiety, numbing/disconnection
- The fawn or freeze responses may appear to be consent
- Discussing the event is retraumatizing
 - Try to limit the number of interviews, questions, etc.

Recognizing Personal Bias



Personal Bias

A tendency, inclination, or prejudice toward or against something or someone.

- Biases are universal
 - We are all products of our own personal histories, cultures, and many other factors that shape the ways in which we see the world
 - Biases are automatic and often outside of conscious control
- Biases are not always bad
 - i.e. an inclination toward healthy lifestyle behaviors
- Biases can be based on stereotypes or inaccurate information

It is crucial that you understand your biases in order to be most effective in your role.

Bias vs. Conflict of Interest

Bias

- Having a personal history with sexual misconduct
- Holding stereotyped gender beliefs about sexual violence (i.e. perpetrators are males)
- Internalization of rape culture (often leads to skepticism or blaming of the Complainant)

Conflict of Interest

- Having a personal relationship with one or more parties
- Holding multiple relationships with one or more parties
- There is any way in which you could benefit (or be harmed) from the outcome of the investigation

Recognizing Personal Bias

Is your personal bias affecting your ability to be objective?

- Introspection
 - Implicit Bias Tests
 - <https://implicit.harvard.edu/implicit/selectatest.html>
- Having implicit bias does not make you a bad person (we all have it)
 - Managing your implicit biases will make you a better Title IX professional
- Questions to ask yourself:
 - What does the information at hand cause me to believe about those involved? Why?
 - When should an individual recuse themselves from a case because they are unable to overcome personal bias?

Implicit Bias Tests

Project Implicit

- Race IAT ('Black - White' IAT)
- Weapons IAT ('Weapons - Harmless Objects' IAT)
- Age IAT ('Young - Old' IAT)
- Transgender IAT ('Transgender People - Cisgender People' IAT).
- Gender-Science IAT ('Gender - Science' IAT)
- Gender-Career IAT ('Gender - Career' IAT)
- Asian IAT ('Asian - European American' IAT)
- Disability IAT ('Physically Disabled - Physically Abled' IAT)
- Native IAT *Native American* ('Native - White American' IAT)

Project Implicit

- Native IAT *Native American* ('Native - White American' IAT).
- Presidents IAT ('Presidential Popularity' IAT)
- Religion IAT ('Religions' IAT).
- Weight IAT ('Fat - Thin' IAT)
- Arab-Muslim IAT ('Arab Muslim - Other People' IAT).
- Skin-tone IAT ('Light Skin - Dark Skin' IAT)
- Sexuality IAT ('Gay - Straight' IAT)

Copyright © Project Implicit

[TAKE A TEST](#) [ABOUT US](#) [EDUCATION](#) [BLOG](#) [HELP](#)
[CONTACT US](#) [DONATE](#)

COPYRIGHT 2011 ALL RIGHTS RESERVED [DISCLAIMER](#)

Recognizing Personal Bias

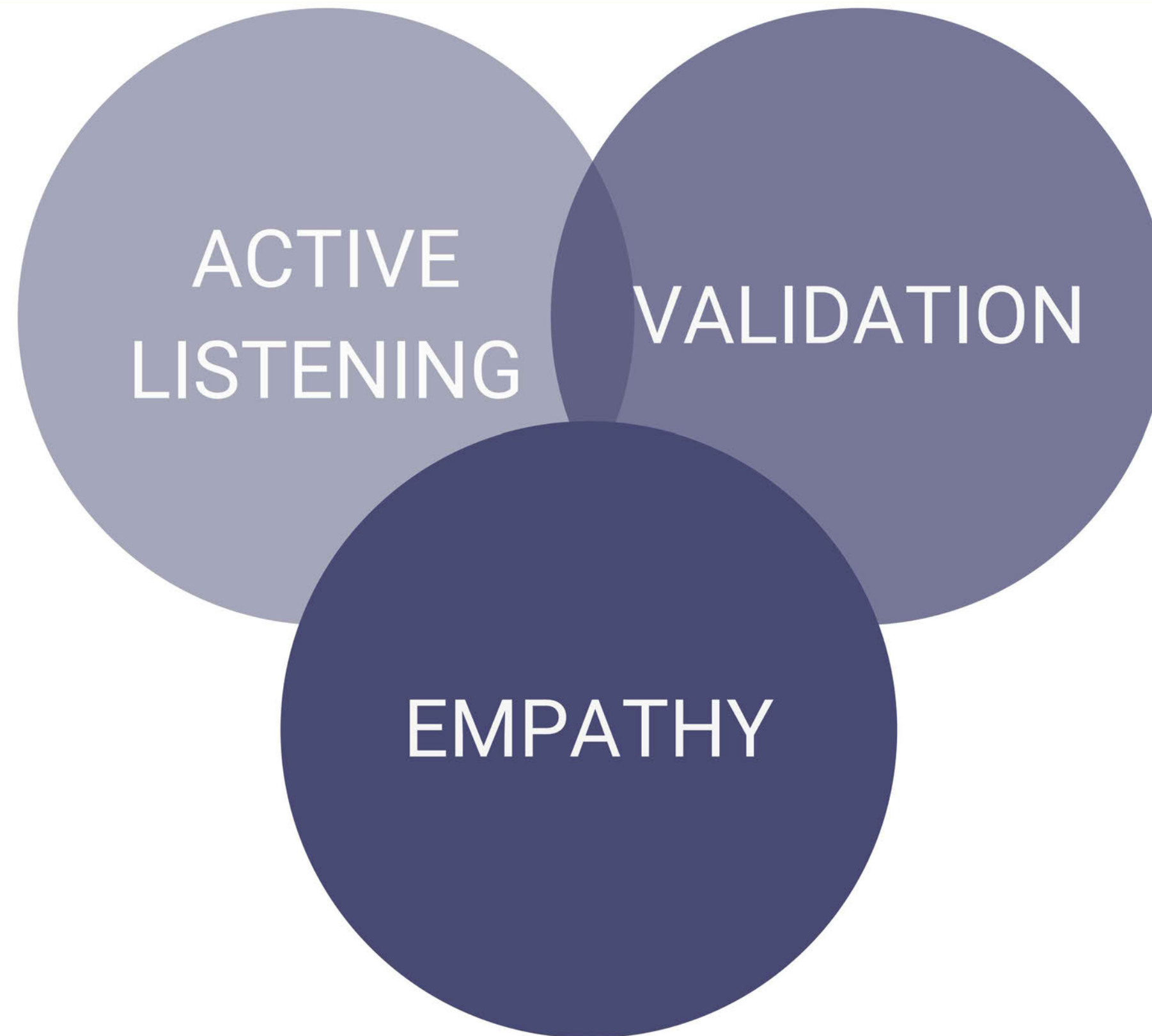
Is your personal bias affecting your ability to be objective?

- Introspection
 - Implicit Bias Tests
 - <https://implicit.harvard.edu/implicit/selectatest.html>
- Having implicit bias does not make you a bad person (we all have it)
 - Managing your implicit biases will make you a better Title IX professional
- Questions to ask yourself:
 - What does the information at hand cause me to believe about those involved? Why?
 - When should an individual recuse themselves from a case because they are unable to overcome personal bias?

Trauma-Informed Communication



Foundations of a Trauma-Informed Approach



Empathy

- The ability to understand and share the feelings of another
 - Doesn't mean that you fully "get it" – because you don't
 - You can try to put yourself in your party's shoes
- Not the same as sympathy!
 - Sympathy is rarely helpful in these situations
 - Most trauma survivors report that sympathy exacerbates feelings of shame/embarrassment

Communicating Empathy

“I can see how painful this is for you to talk about.”

“That sounds incredibly scary.”

“There are resources here on campus to support you through this.”

Validation

Recognition or affirmation that a person or their feelings, opinions, and experiences are real or worthwhile.

DO

Share your own similar reactions, if you have them:

"I would feel really angry too."

"It makes sense that you would feel that way."

DON'T

Tell someone how they should feel:

"You shouldn't let this bother you so much."

Question their responses:

"Are you sure that is what happened?"

Validation ≠ Agreement

Active Listening

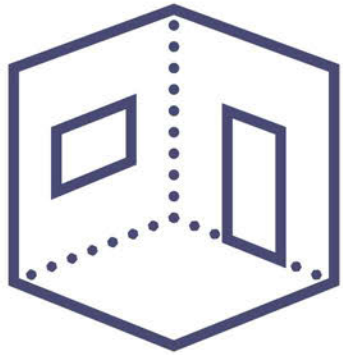
A communication technique that serves the following purposes:

1. Ensures that you understand what the other person is saying accurately
2. Communicates to the other person that you are listening

Strategies for Active Listening

- Avoid distractions
 - Cell phones, emails, knocks on the door
- Use frequent brief paraphrases of what you heard
- Use nonverbal cues
 - Nodding, smiling or frowning, leaning forward
- Remain neutral and nonjudgmental
- Use phrases to communicate your desire to understand:
 - *"Did I understand that correctly?"*
 - *"I want to make sure I am hearing you."*
- Ask open-ended questions:
 - *"Can you tell me more about..."*

Additional Strategies



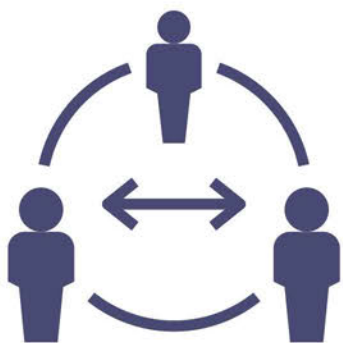
Consider the environment

- Allow each Party to choose the meeting place, if possible
- Consider comfortable seating, tissues, water, privacy, etc.



Focus on each party and their needs

- Refrain from sharing own stories & experiences
- Create an open space for them to talk (no judgement)
- Aim to understand each Party's perspective



Keep a healthy emotional distance

- Self-care is crucial
- Boundaries are okay (and even healing!)
- Direct each Party to campus resources that can provide support

De-Escalation

Confrontation is possible

- Title IX processes may be intense, and emotions may run high
- Confrontation may occur between you and either Party or their Advisor

Strategies for de-escalation

- Keep personal emotions in check
- Create physical space
- Allow for silence & patience for decisions
- Practice validation, active listening & empathy

Promoting Empowerment



Empowerment

Empowerment = Voice and Choice

- ① What could empowerment look like for each Party?
- ② How can you, as an administrator in the Title IX process, identify resources to help empower a Party?
 - You need to be neutral and objective, but you can refer each Party to other sources of support or advocacy
- ③ What may each Party consider to be possible obstacles to empowerment?
- ④ How may you address them?

Tools for Empowering a Party

Ask the Party:

How are you feeling?

Do you feel safe?

How can I help you feel safer?

What do you need right now?

What do you need throughout the duration of the Title IX process?

How do you feel about participating in the Title IX process?

What steps of the Title IX process concern you?



Remember the foundations of empathy, validation, and listening.
How can you best support each Party and address their needs?

Understanding Trauma as an Decision-Maker



Decision-Maker Q&A

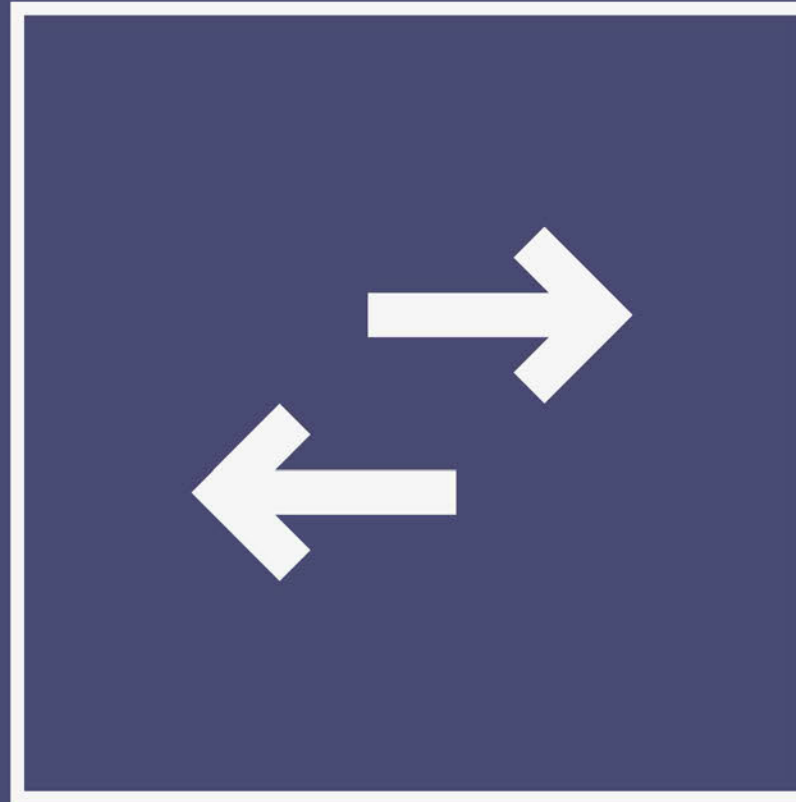


1. What biases do I need to confront in order to be most effective in my role?
2. What can I do to minimize re-traumatization throughout the Title IX process?

Understanding Relevance

YES
NO →

IN THIS CHAPTER



UNDERSTANDING
RELEVANCE

The Importance of Relevance

The Title IX Regulations make it clear that ALL questions asked within a Title IX hearing must be relevant.

What does this mean and how will it be determined?

When Will the Decision-Maker Rule on Relevance?

The Decision-Maker will be responsible for ruling on the relevancy of EVERY question asked during the hearing. They must also explain any decision to exclude a question as irrelevant.

This may be accomplished in one of two ways:

- 1** Questions may be submitted to the Decision-Maker to review prior to the hearing.
- 2** Decision-Makers may rule on each question before a Witness or Party answers at the hearing.

*In the K-12 setting, questions may be submitted in writing and "shuttled" between the Parties by the Decision-Maker.

Questioning Cadence

- Following the Advisor's question, prior to the Party or Witness answering, the Decision-Maker will rule on the relevance of the question
- Can be awkward at first, but provides a pause before an answer is given
- Will become easier as the hearing progresses



What is Never Relevant Under Title IX?

As outlined in the Title IX Regulations, the following evidence is NEVER relevant:

- "Evidence about a Complainant's prior sexual behavior, except when:
 - Questions and evidence are offered to prove someone other than Respondent committed alleged conduct;" or

EXAMPLE:

"She has dated, and slept with, me and my roommate in the past. We kind of look alike. She was so intoxicated that she thought I was him and went into his room. It wasn't me. Ask anyone at the party."

What is Never Relevant Under Title IX?

As outlined in the Title IX Regulations, the following evidence is NEVER relevant:

- "Evidence about a Complainant's prior sexual behavior, except when:
 - Questions and evidence concerning specific incidents of the Complainant's prior sexual behavior with respect to the Respondent are offered to prove consent."

EXAMPLE:

"We have a safe word during sex. I have an entire email thread about it. We agreed that if we weren't comfortable with something, we would say the word. They never said the word that night and they have every single time we've engaged in something they're not comfortable with. How else would I know that wasn't ok?"

Note: The same rules do not apply to the sexual predisposition or history of the Respondent

What is Never Relevant Under Title IX?

Additionally, "a school's grievance process must not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege."

EXAMPLES:

- Medical records
- Academic records protected under FERPA
- Conversations with privileged individuals such as counselors or clergy

Directly Related vs. Relevant

Neither term is explicitly defined in the Title IX Regulations.

Directly Related

Evidence that is connected to the complaint but **does not** tend to prove or tend to disprove the complaint or allegations.

Example: A receipt from a movie the Complainant and Respondent attended on the night of an alleged sexual assault.

Relevant

Evidence that is connected to the complaint or allegations that would make a disputed fact more or less probable.

Example: A receipt from a bar the parties attended after the movie showing the Complainant consumed seven mixed alcoholic drinks.

Directly Related vs. Relevant

Directly related evidence is a broader term than relevant evidence. All directly related evidence is included in the investigation file.

Only relevant evidence, however, is summarized in the investigation report.

Directly
related

Relevant

Inculpatory vs. Exculpatory

Witness
statements

Physical
evidence such as
text messages to
friends bragging
about the
conduct

Prior
complaints
alleging similar
conduct

Inculpatory=
Corroborating Evidence

Inculpatory vs. Exculpatory

Exculpatory= Contradicting Evidence

Physical evidence,
such as an audio
recording,
demonstrating the
incident did not
happen as alleged

Respondent
was with
someone else
during incident

Complainant told
another person
the conduct
didn't happen

Evidentiary Rules of Admissibility

Schools do not have the same rules of admissibility for evidence as courts of law, nor may they impose such rules that would exclude relevant evidence.

What about relevance of the following?

- Polygraph test results
- Voice stress analysis
- Sexual assault forensic exam kits
- Character witnesses
- Expert witnesses

Relevance Determination Practice

Let's discuss some examples and rule on their relevance:

The Complainant's clothing

Use of alcohol or drugs by any Party or Witness

Emotional state of Parties or Witnesses

Mental health diagnoses of Parties or Witnesses

Relevance Determination Practice

Let's discuss some examples and rule on their relevance:

Arrest record of a Party or Witness

Criminal record of a Party or Witness

Occupation of a Party or Witness

Prior complaints filed by the Complainant
(and if so, their disposition)

Relevance Determination Practice

Let's discuss some examples and rule on their relevance:

Prior complaints filed against the Respondent
(and if so, their disposition)

Dating history of the Parties

Previous sanctions imposed by the institution or another institution

Party telling a mental health professional they need to apologize

Relevance Determination Practice

Let's discuss some examples and rule on their relevance:

A Party's grade in class

A statement from the party's coach about outstanding leadership and conduct on the team

Key Takeaways



Relevancy does not exist in a vacuum. It is contextual, situational, and specific to the fact pattern of the case.



What is relevant in one case will not always be relevant in another. The totality of the circumstances will dictate what is relevant (*with the exception of those items never allowed under Title IX Regulations*).

Did you find this section relevant?



Facilitating Pre-Hearing Meetings

IN THIS CHAPTER

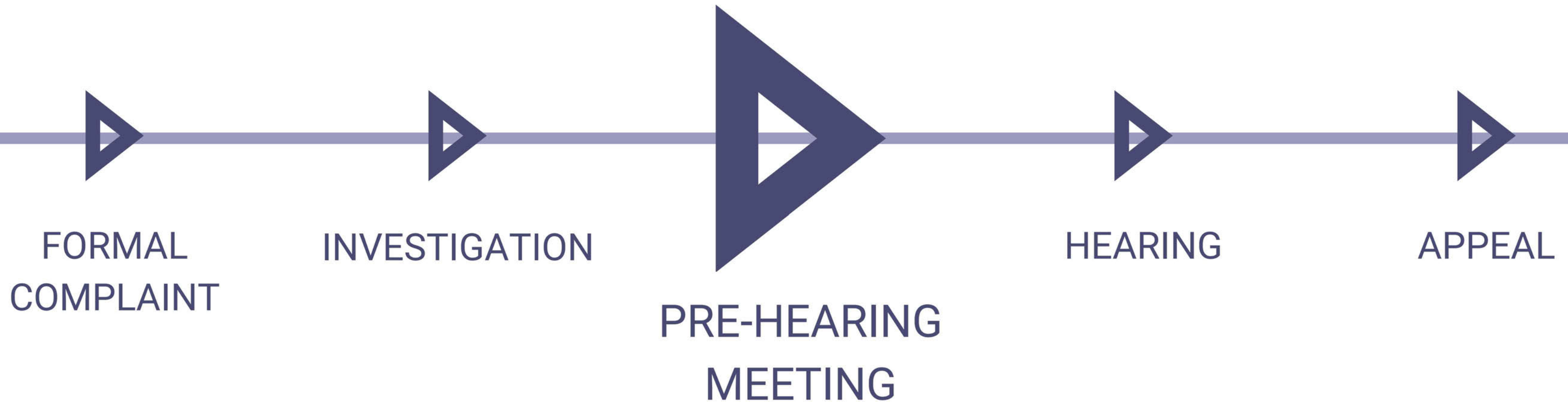


FACILITATING PRE-
HEARING MEETINGS

What is the Pre-Hearing Meeting?

- Meeting before the hearing to walk through guidelines, expectations, and more for Parties, Advisors, and the Decision-Maker
- Led by the Title IX Coordinator or Decision-Maker(s)
- Not mandated by Title IX regulations, but permitted
- Prepares all Parties (and the Decision-Maker) for the live hearing
- Seen as a best practice for Title IX hearings
- If allegations involve staff or faculty, pre-hearing meetings are particularly important

When is the Pre-Hearing Meeting?



It is held following the issuance of investigation report and after Parties and their Advisors have had the opportunity to review and respond to evidence.

Pre-Hearing Checklist



Clarify purpose of hearing



Reiterate standard of evidence



Discuss hearing procedures



Review rights and responsibilities

Pre-Hearing Checklist



Confirm Witness attendance



Explain relevancy of evidence

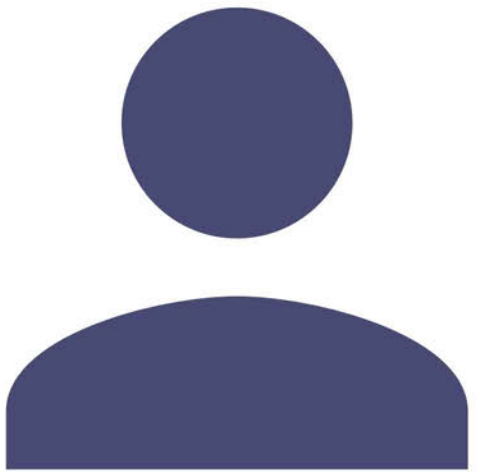


Review logistics and needs



Answer Parties' questions

Who is Seated at the Table?

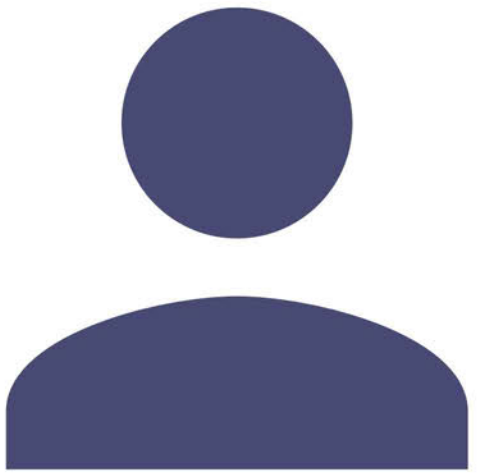


Decision-Maker

- Conducts the pre-hearing conference
- Sets deadlines for Witness disclosures
- Sets the hearing date
- Advises all present of the rules and procedures to be followed at the hearing

The Decision-Maker sets the “rules of the road.”

Who is Seated at the Table?

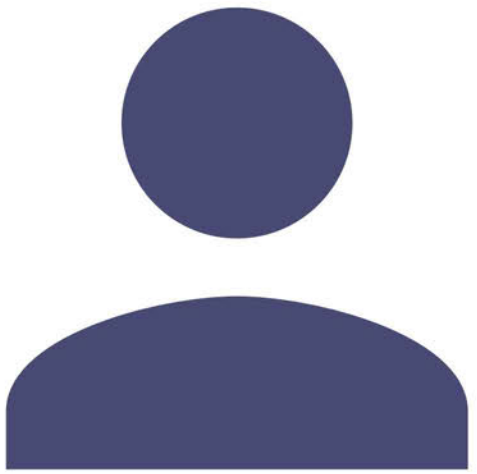


Title IX Coordinator

- Requests Witnesses to appear at the hearing
- Facilitates the hearing itself (logistical)
- Serves as the record-keeper of the hearing

The Title IX Coordinator is the overseer of the Title IX process.

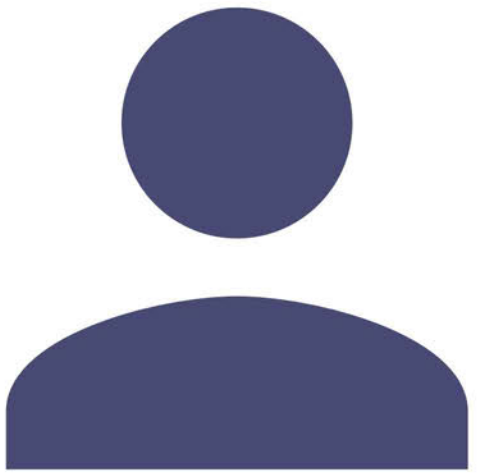
Who is Seated at the Table?



Complainant

- Victim of the alleged misconduct (may also be the reporting party)
- May have questions about the process and how it works
- Pre-hearing conference allows them to “put a face” to the Decision-Maker

Who is Seated at the Table?



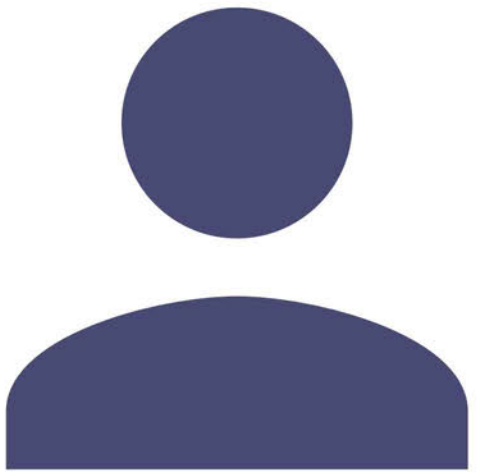
Complainant's Advisor

- Represents the interests of the Complainant
- Only individual allowed to cross-examine Respondent and Witnesses, as the Complainant is prohibited from conducting cross-examination
- Has the opportunity to clarify evidentiary issues and questions during the pre-hearing conference
- Establishes Witnesses expected to be called for the hearing
- Becomes acquainted with the rules and procedures of the hearing

Remember an Advisor can be an attorney or not.

It is the Complainant's choice.

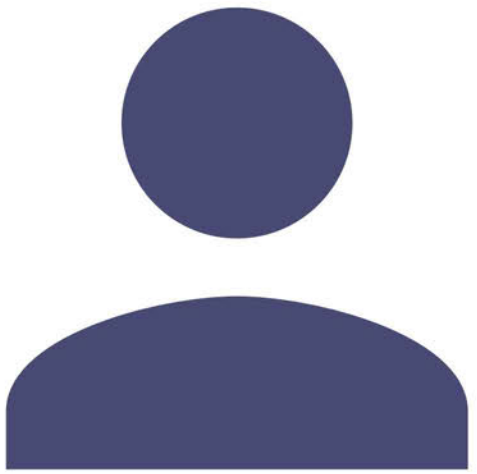
Who is seated at the table?



Respondent

- Reported to be the perpetrator of the alleged misconduct
- May have questions about the process and how it works
- Pre-hearing conference allows them to "put a face" to the Decision-Maker

Who is seated at the table?



Respondent's Advisor

- Represents the interests of the Respondent
- Only individual allowed to cross-examine Respondent and Witnesses, as the Complainant is prohibited from conducting cross-examination
- Has the opportunity to clarify evidentiary issues and questions during the pre-hearing conference
- Establishes Witnesses expected to be called for the hearing
- Becomes acquainted with the rules and procedures of the hearing

Remember an Advisor can be an attorney or not.
It is the Respondent's choice.

Pre-Hearing Checklist



Be aware that parties may select non-attorney Advisors.

Acknowledge power imbalances that might be created.

Importance of the Pre-Hearing Meeting

Most individuals have not participated in this type of hearing.

- The many “unknowns” surrounding the live hearing may be anxiety-inducing for the Parties
- Pre-hearing meetings may help ease some anxiety because the Decision-Maker addresses many of the “unknowns” associated with the live hearing
- Unfortunately, this does not mean that the Parties will not be anxious during the hearing

Benefit to the Parties and Advisors

Allows Parties to put a face with the name of the Decision-Maker

Parties may begin to fully understand the hearing process

The process and potential consequences of the Title IX process may become "real"

Benefit to the Parties and Advisors

After the pre-hearing meeting, some parties may decide to move forward with informal resolution (if permitted)

May make the live hearing more efficient, focused, and effective

Benefits to the Decision-Maker

- Clarifies the authority of the Decision-Maker(s) in front of the Advisors and Parties
- Ensures Parties and Advisors have the same understanding of and expectations for the live hearing
- Anticipates any issues and troubleshoot before the hearing begins
- Slows the process down to allow more thoughtful decision-making

Coordinating the Pre-Hearing Meeting

- Schedule with the Parties separately
- Ensure the meeting occurs well before the anticipated hearing date to accommodate any requests for changes or special needs
- Provide an Advisor if the Party does not already have one
- Ask Parties to bring their list of cross-examination questions for review
- Select your videoconferencing platform for the hearing
- Send a written summary of the pre-hearing meeting to all Parties and Advisors upon conclusion

Sample Meeting Agenda

1

Introductions

- Parties
- Advisors
- Title IX Team

2

Hearing preparation

- Confirm Parties' access to investigative report and evidence
- Confirm Witness participation

3

Review procedure

- Consult your school policy
- If your policy does not establish procedures, create a flow for the hearing

Sample Meeting Agenda

4

Outline live hearing rules

- Authority of the Decision-Maker at the hearing
(Permission to speak, requests for breaks, etc.)
- Consequences of not submitting to cross-examination
- Expectations of rules and decorum
(punctuality, inclusive language, prohibited behavior, etc.)
- Relevance under Title IX

Sample Meeting Agenda

5

Establish Timeframe

- Share date and time for live hearing
- Explain potential length of hearing
- Discuss technology logistics

6

Answer Questions

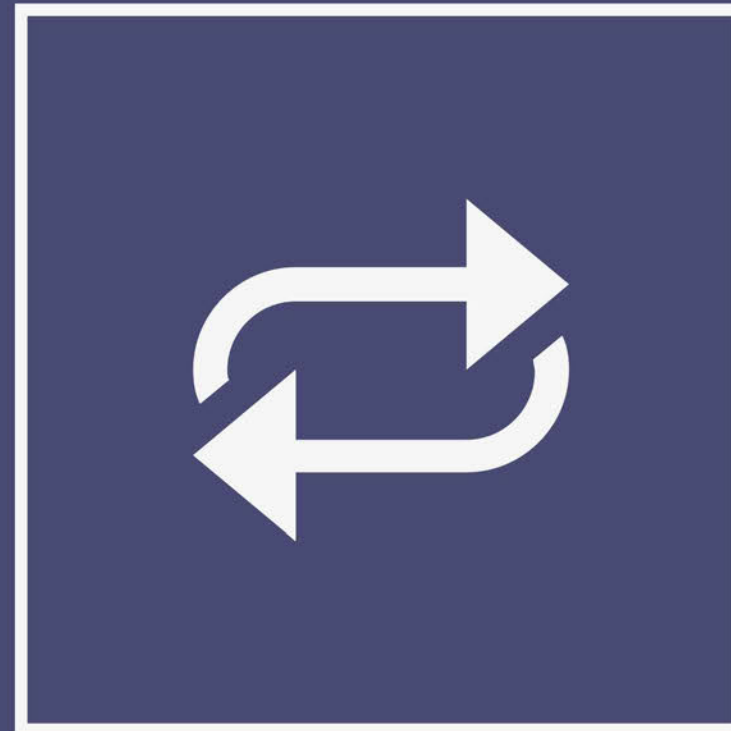
- Discuss any barriers, concerns, needs, or worries
- Ensure no questions are left unanswered, this is the time to clarify for all parties

A Decision-Maker's Perspective



The Appeal Process

IN THIS CHAPTER



THE APPEAL PROCESS

Appealing a Decision

- Title IX Regulations stipulate that a school must provide an appeal from a determination regarding responsibility
- The appeal process is available to both the Complainant and Respondent
- The Appellate Decision-Maker cannot be the Decision-Maker that made the determination, the Title IX Coordinator, or the Title IX Investigator for the case

Appealing a Decision

- Parties must be notified in writing when an appeal is filed
- Appeal procedures must be implemented equally for both Complainant and Respondent
 - Consult school policy for specific procedure
- Parties must have a reasonable opportunity to submit a written statement supporting or challenging the determination
- Parties must be issued a written decision describing the result of the appeal and the rationale, drafted by the Appellate Decision-Maker
 - This must occur simultaneously

Bases of Appeal Required Under Title IX

Procedural irregularity that affected the outcome of the matter. §106.45(b)(8)

Respondent was only given four days to inspect evidence and provide a written response when the Title IX Regulations stipulate parties have ten days.

Complainant was not allowed to cross-examine one of the Respondent's witnesses who was present during the hearing due to "time constraints"

The Respondent was not allowed an Advisor in the pre-hearing meeting.

Bases of Appeal Required Under Title IX

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. §106.45(b)(8)

A previously unknown Witness came forward with information regarding the incident after hearing about the incident from a friend.

A Respondent was able to recover an email containing a conversation with the Complainant he previously believed to be deleted.

Bases of Appeal Required Under Title IX

The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

§106.45(b)(8)

Respondent discovered the Decision-Maker has made several public statements on social media about their unwavering support for sexual assault survivors and their extreme distrust of males.

Complainant learned the Title IX Investigator is an involved athletic booster for the football team which the Respondent plays on.

Optional Bases of Appeal

Schools may provide other bases of appeal as long as they apply equally to both parties.

- Review your school policy to see if other bases are outlined
- Example- Sanction is inadequate or excessive.

Complainant appeals, citing a sanction of a mandatory counseling issued to the Respondent for stalking was not severe enough.

Respondent appeals, stating a sanction of termination of employment was excessive for his offense of sexual harassment as a previous co-worker received a written warning for a similar offense.

Appeal Outcomes

If a request for appeal is denied, the original determination stands and the Title IX grievance process concludes.

- This does not mean Parties will not seek action or resolution outside of Title IX (*i.e.- filing a complaint with the Office for Civil Rights, pursuing other disciplinary processes, legal action*)

Additionally, if the Parties do not submit their appeal within the timeframe specified in policy, the original determination will stand and the Title IX grievance process concludes.

Appeal Outcomes

If a request for appeal is accepted, the Appellate Decision-Maker will review and consider the information. At the conclusion of their review, the following are possible:

Appellate Decision-Maker upholds original determination

- Title IX grievance process ends

Appellate Decision-Maker determines the appeal was valid under one of the bases listed in school's policy

- New investigation may take place
- New hearing may take place
- If policy allows sanctions to be appealed, a new sanction may be determined