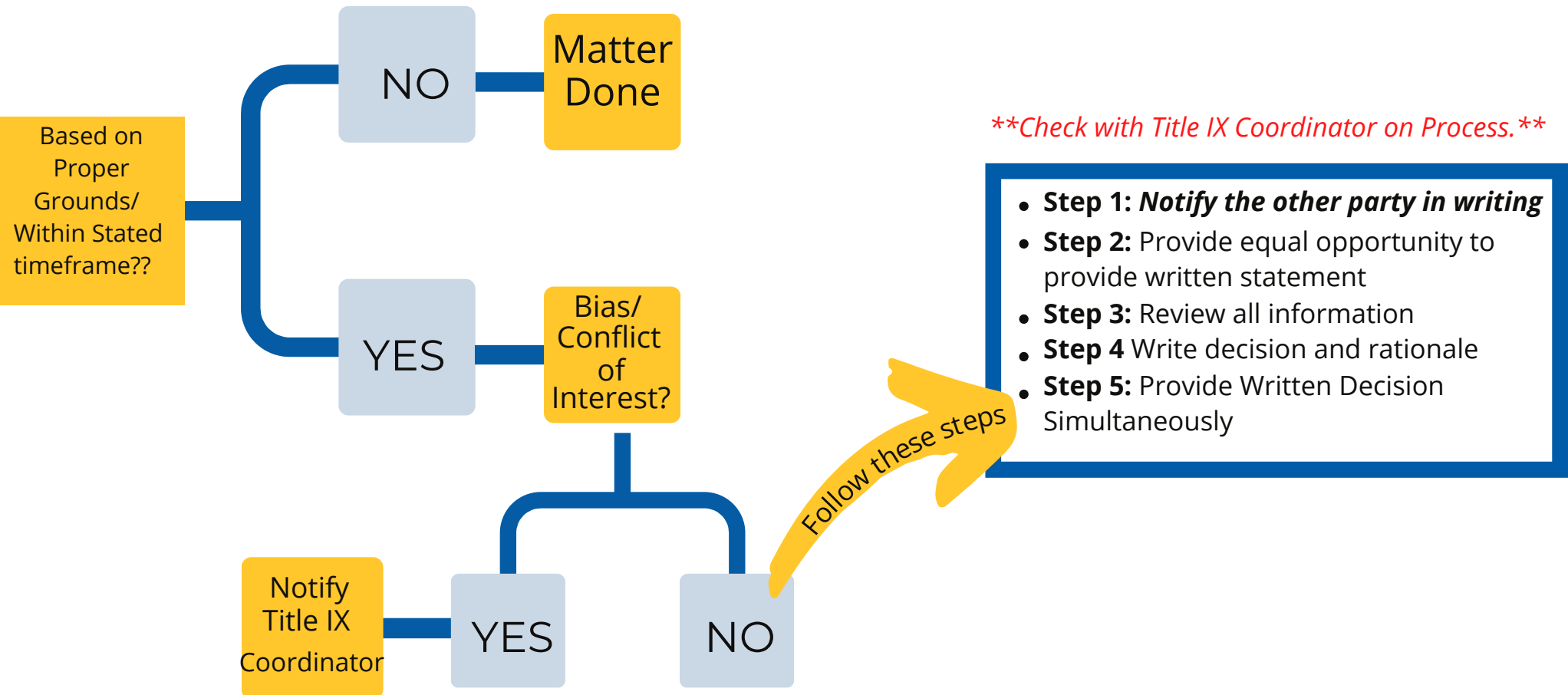


Analysis for Appeals





Appeals Checklist

☐

Provide equal opportunity to appeal

- Determination of responsibility
- Dismissal of Formal Complaint

☐

Based upon proper grounds

- Procedural irregularity that affected outcome
- New evidence that was not reasonably available at the time of the determination that could affect outcome
- Conflict or bias by Title IX Coordinator, Investigator, or Decision-Maker

☐

Notify the other Party in writing

☐

Decision-Maker(s) NOT the same as prior Decision-Maker(s), Investigators, or Title IX Coordinator

☐

Provide equal opportunity to submit written statement

☐

Issue written decision and rationale

☐

Provide the written decision simultaneously



Title IX Appellate Decision-Maker



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LESSON ONE

WELCOME



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AGENDA



- Lesson One Welcome
- Lesson Two Review and Your Role
- Lesson Three Grounds for Appeal
- Lesson Four Decision
- Lesson Five Wrap Up and Assessment of Knowledge



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THIS TRAINING DOES NOT COVER:



- ❌ Training under your policies and procedures
- ❌ Employee training requirements



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TRAINING OBJECTIVES

Understand role of Title IX Appellate Decision-Maker

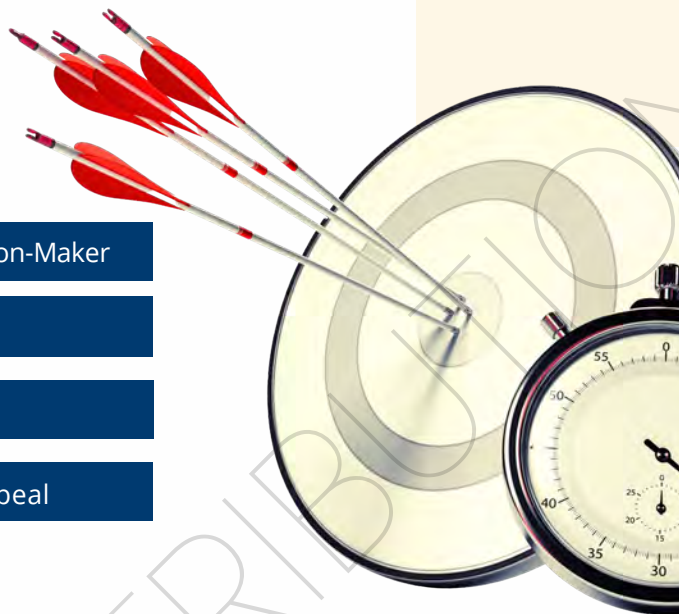
Learn best practices for your role

Explain possible grounds for appeal

Understand possible outcomes of an appeal



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SEE YOU IN LESSON 2!



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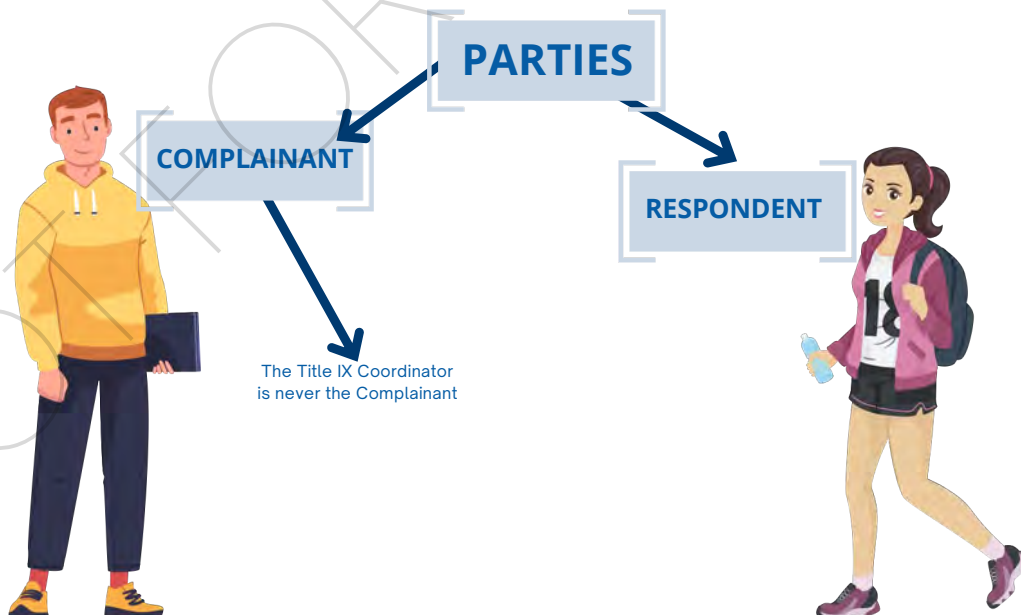
LESSON TWO

REVIEW AND YOUR ROLE



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PARTIES IN TITLE IX PROCESS



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WHAT CAN BE APPEALED?

- Dismissal of Formal Complaint
- Determination Re: Responsibility



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BASIC TITLE IX PROCESS-APPEALS



Sexual Harassment Reported



Complaints

Complaint initiated by Complainant/Parent (K12)/ Title IX Coordinator



Dismissal/Appeal?



Notice of Allegations



Investigation



Resolution



Appeal?



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APPELLATE DECISION- MAKERS

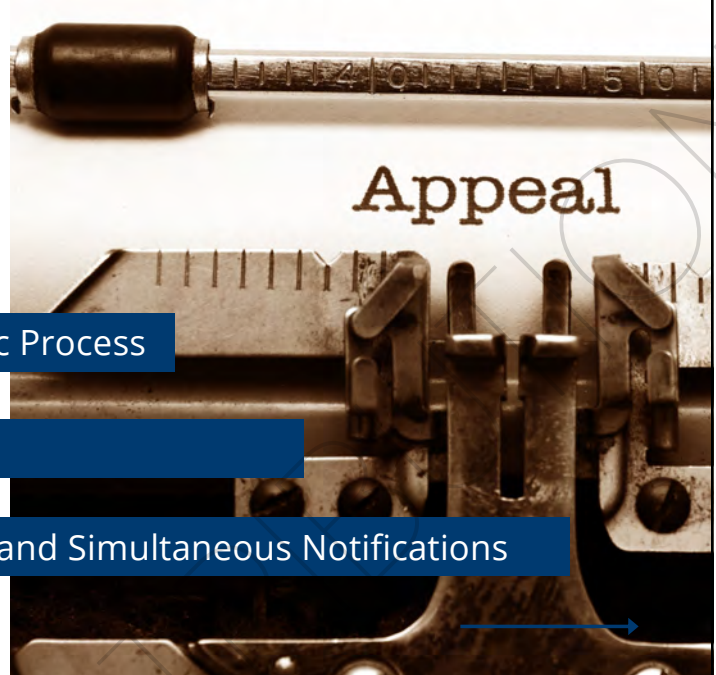
Understand RECIPIENT Specific Process

Review Appeals

Make Timely Decisions and Simultaneous Notifications



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Who will serve as your appellate officer?

- Building Level (not recommended)
- Central/District Office Level
- Superintendent/Director of Schools
- Chancellor/President
- Vice Chancellor/Provost/etc?



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NOT YOUR ROLE TO:

- Re-investigate the matter
- Re-interview parties or bring in additional witnesses to interview
- Re-hear the matter or to re-do the determination

Review is limited to the record

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SEE YOU IN LESSON 3!



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LESSON THREE

GROUNDS FOR APPEAL



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APPEAL OPTIONS

- Conflict of Interest or Bias by Title IX Coordinator, Investigator(s), Decision-Maker(s)
Generally toward Complainants or Respondents or toward specific party
- New Evidence
- Procedural irregularity that affected the outcome of the matter
- May include additional bases under your policies and procedures

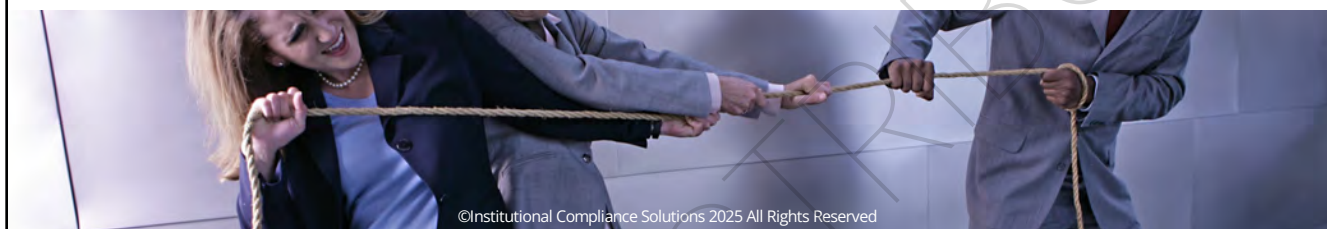


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WHO MAY HAVE CONFLICT?

- » Coordinator
- » Investigator
- » Decision-Maker

**You should also analyze to ensure no conflict*



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NEW EVIDENCE



New evidence not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter.



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PROCEDURAL IRREGULARITY

Review process

Was it followed?

What was the impact?



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NOTE: "COULD AFFECT THE OUTCOME OF THE MATTER"

Ground + Outcome



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EQUITABLE PROCESS

Equal Appeal Procedures for Both Parties

- Appellate decision-maker cannot be the same as the decision-maker regarding responsibility, or the Title IX Coordinator
- Appellate decision-maker must be trained
- Parties must have a reasonable, equal opportunity to submit written statement in support of or challenging the outcome



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SEE YOU IN LESSON 4!



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LESSON FOUR

THE DECISION



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What is the record?

- Formal Complaint and Notice of Allegations
- Investigative file
- Decision-Maker file (hearing transcript/Q&A)
- Appeal submitted by a party and any responses



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WRITTEN DECISION

- Appellate decision-maker must issue a written decision describing the result of the appeal and the rationale for the result
- Appellate decision-maker must provide the written decision simultaneously to both parties
- Appeal information (and the entire Title IX file) must be maintained for at least 7 years



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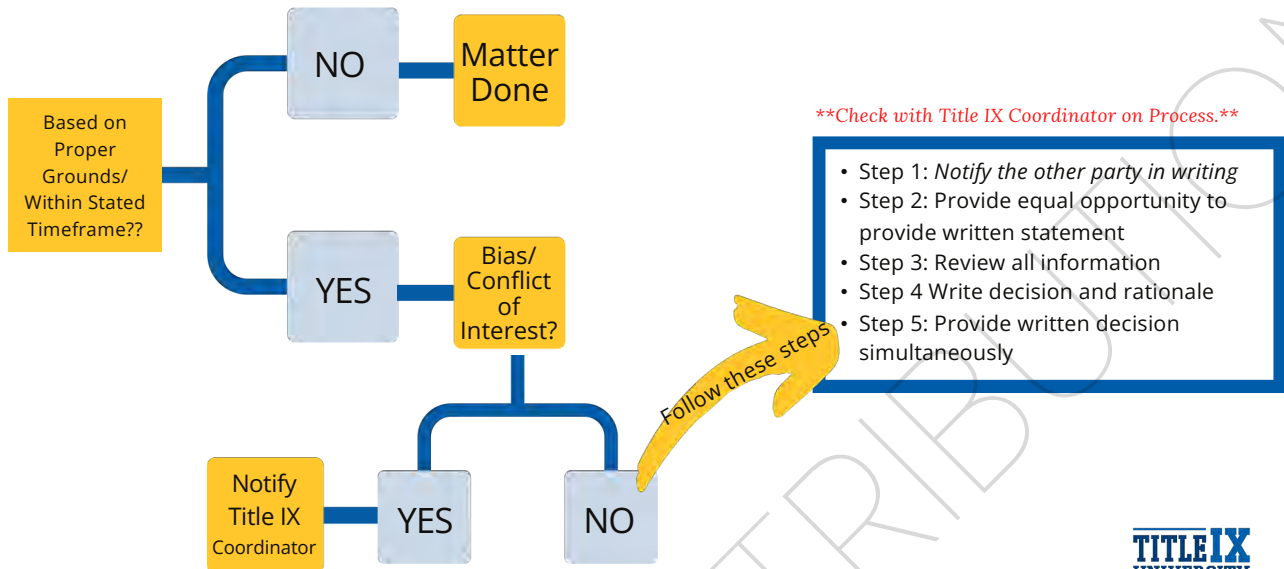
POSSIBLE OUTCOMES

- Uphold the entire determination made by the Decision-Maker
- Uphold a portion of the determination and overturn/remand a portion
- Overturn the determination made by the Decision-Maker in its entirety and/or remand
- Send the matter back to the Decision-Maker/Investigator/Title IX Coordinator for reconsideration due to new evidence/procedural error/conflict of interest/bias (remand)
- Overturn Formal Complaint Dismissal and remand back to Title IX Coordinator
- Any others dictated by your policy/procedure



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ANALYSIS FOR APPEALS



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SCENARIOS

Complainant appeals a determination of no responsibility. As grounds for the appeal, she alleges that she never received the Notice of Allegations. Upon review of the record, the school sent Complainant the NOA via email at the beginning of the Formal Title IX Grievance Process.



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SCENARIOS

Respondent is found responsible for Sexual Assault/Rape and Sexual Harassment (severe, pervasive and objectively offensive). Respondent appeals alleging that the NOA only listed the allegations as Sexual Harassment under the severe, pervasive and objectively offensive bucket. He was unaware that he was also being investigated for Sexual Assault/Rape.



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SCENARIOS

Respondent appeals on the grounds that she did not have an advisor through the investigation process and was not informed of her right to an advisor during the interviews. The Respondent was found not responsible.



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SEE YOU IN LESSON 5!



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LESSON FIVE

WRAP UP AND ASSESSMENT



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TITLE IX COORDINATOR IS YOUR RESOURCE ON QUESTIONS

Need to be trained on YOUR specific policies and procedures.



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Your Homework:



Get clarity on
your role

Templates/
forms

Bookmark and
Understand
policies/
procedures

Get to know
your Title IX
Coordinator

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TRAINING PATHWAY

Title IX Appellate Decision-Maker



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