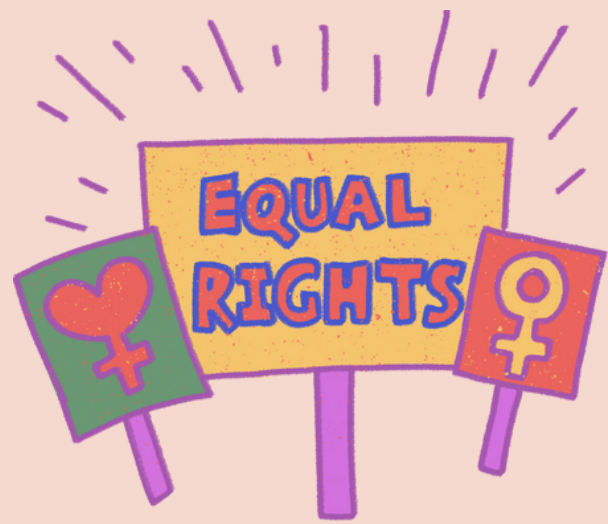


TITLE IX TRAINING 2024-2025

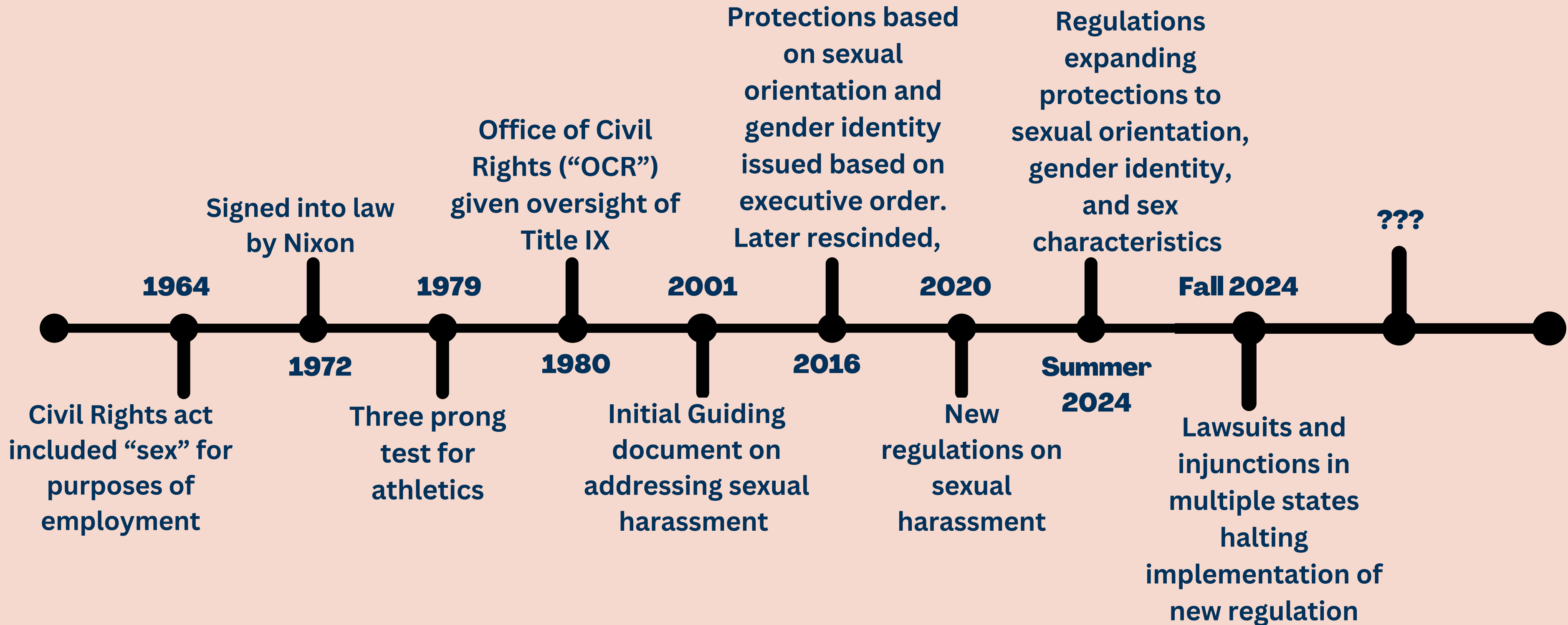




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PAST-PRESENT-FUTURE CIVIL RIGHTS: GENDER



TITLE IX



“No person in the United States shall, on the **basis of sex**, be **excluded from participation in**, be **denied the benefits of**, or be **subjected to discrimination** under **any program or activity** receiving Federal financial assistance.”

- Modeled after Title VII of the Civil Rights Act of 1964.
- Title VII of the Civil Rights Act, as amended, protects employees and job applicants from employment discrimination based on race, color, religion, sex and national origin.



DISCRIMINATION UNDER TITLE IX

- Treat differently or deny aid, service, aid, or benefit based on sex.
- Subject any person to separate or different rules of behavior, sanctions, or other treatment.
- Failure to respond to sex-based harassment, bullying or retaliation.
- Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

TITLE IX APPLIES TO EMPLOYEES

- Cannot discriminate against or exclude from employment any employee or employment applicant on any of the protected areas.
- Allegations of Discrimination, including allegations of sex-based harassment, employees should report to Human Resources.
- Some allegations may also be addressed under Title VII.





DISCRIMINATION UNDER TITLE IX

Differential Treatment

Inequity in application of policies

Harassment

Retaliation

Grievance Procedure

Complaint

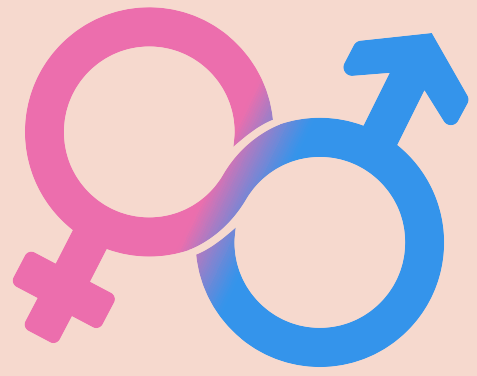
Notice

Investigation

Findings



DEFINITIONS



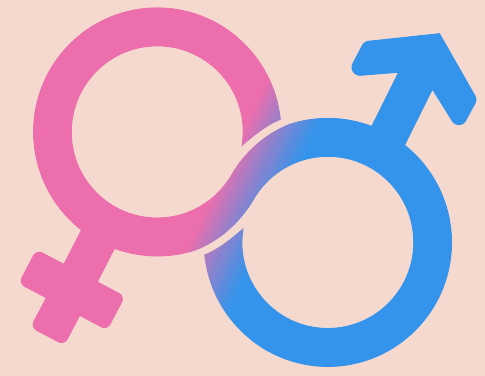
SEX/GENDER DEFINITIONS

- **Sex characteristics:**

- physiological sex-based characteristics associated with male, female, or intersex bodies.
 - Anatomy
 - Hormones
 - Chromosomes

- **Sex Stereotypes:**

- Includes **Gender Expression:** an individual's way of reflecting and expressing the individual's gender to the outside world, typically demonstrated through appearance, dress, and behavior.
- fixed or generalized expectations regarding a person's
 - Aptitudes
 - Behavior
 - Self-presentation
 - Other attributes based on sex



SEX/GENDER DEFINITIONS

Gender Identity: Gender identity to describe an individual's sense of their gender, which may or may not be different from their sex assigned at birth.

Sexual Orientation: an individual's identity, or another individual's perception thereof, in relation to the gender or genders to which the individual is sexually or emotionally attracted and the behavior or social affiliation that may result from the attraction.



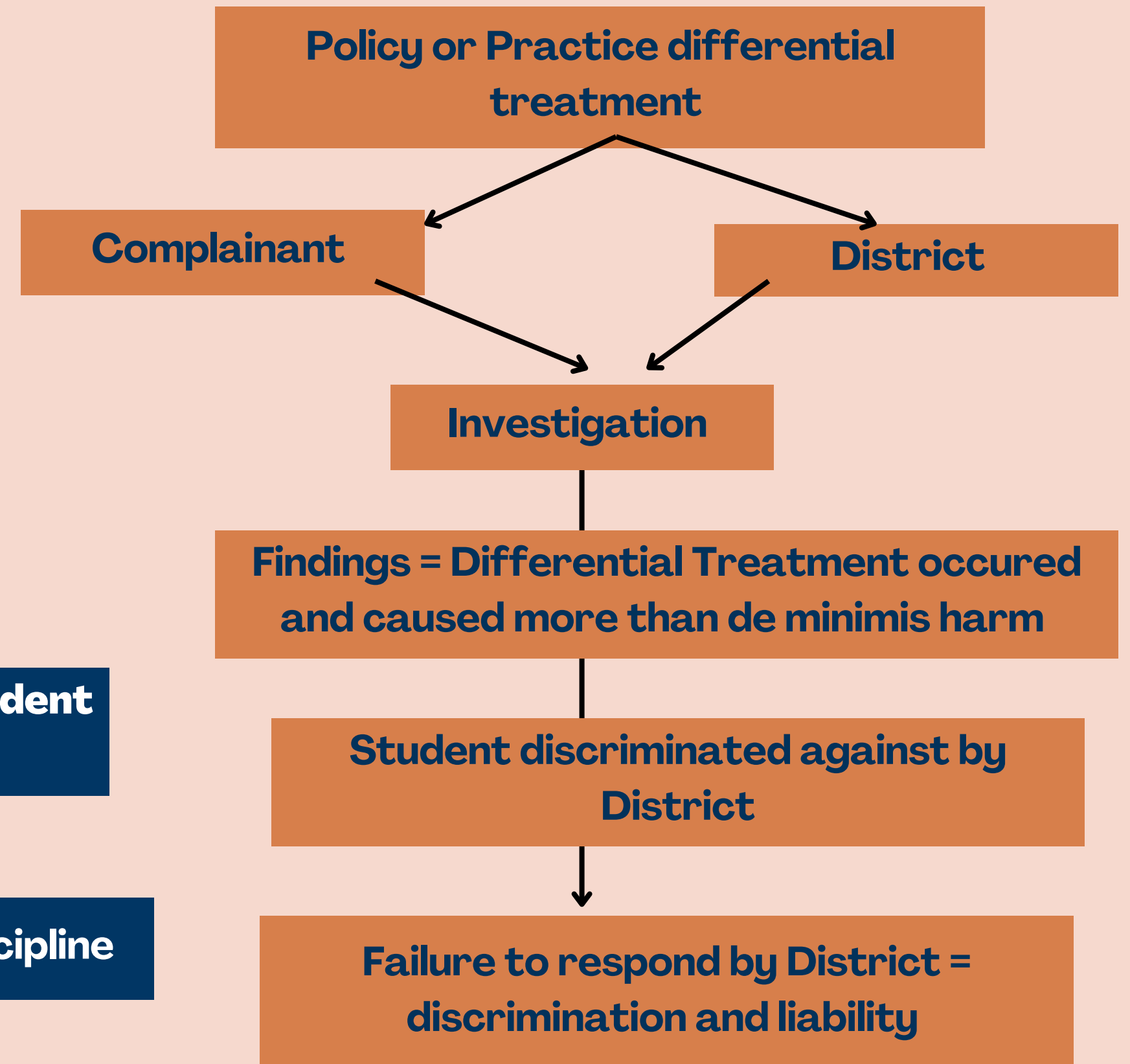
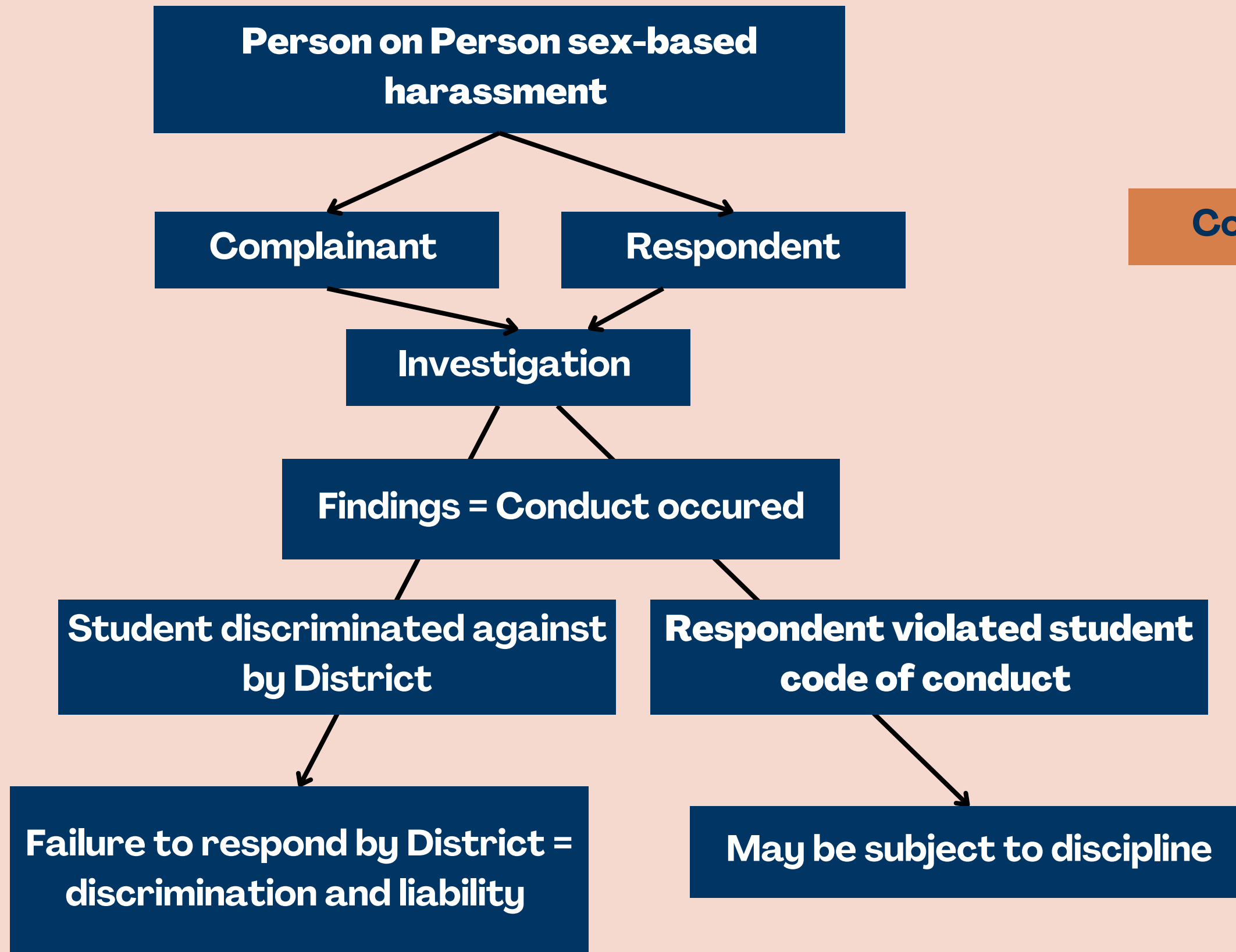
PREGNANCY AND RELATED CONDITIONS AND FAMILY STATUS DEFENITION

Schools must not discriminate against any student, or exclude any student from their education program or activity based on a student's:

- Pregnancy
- Childbirth
- False pregnancy
- Termination of pregnancy
- Recovery therefrom.

Family status is the configuration of one's family or one's role in a family.

GRIEVANCE PROCEDURE: SEX-BASED DISCRIMINATION





DIFFERENTIAL TREATMENT: SINGLE-SEX CLASS

34 CFR 106.34

- Access to an educational program or activity cannot be based on sex
- Classes and activities cannot be designated or separated by sex
- **Except:**
 - **physical education classes** during participation in sports the purpose or major activity of which involves bodily contact
 - portions of classes in elementary and secondary schools which deal **exclusively with human sexuality.**



SINGLE-SEX CLASS EXCEPTION



- The Diversity Objective. Each single-sex class is based on the recipient's **“important objective”**. (STEM)
 - To improve educational achievement
 - To provide diverse educational opportunities.
- The Needs Objective. To meet the particular, identified educational needs of its students and the **single-sex nature of the class is “substantially related” to achieving that important objective**. (Chorus)
- **Participation must be entirely voluntary.**
- Equal coed classes must be available; no student may be denied a coeducational class.

DIFFERENTIAL TREATMENT: DISPROPORTIONANT ENROLLMENT



- Not a violation of Title IX if a class is open to members of both sexes, even if students of only one sex, or a substantially disproportionate number of students of one sex, enroll.
- The school must ensure that the disproportionate enrollment is not the result of discrimination on the basis of sex, including in counseling or guidance of students or applicants for admission.

DIFFERENTIAL TREATMENT: DE MINIMIS HARM



- In the limited circumstances in which Title IX or this part permits different treatment or separation
 - cannot carry out in a way to subject an individual to **more than de minimis harm**
- **Policy or practice** that denies access based on person's **gender identity** subjects a person to more than de minimis harm on the basis of sex

PREGNANCY AND RELATED CONDITIONS: DIFFERENTIAL TREATMENT

- **Provide notice of nondiscrimination**
- **Student is permitted to:**
 - Participate in classes and extracurricular activities
 - Transfer to online or alternative schools or continue in their current program
 - Not be subject to unreasonable medical documentation
 - Accommodations or reasonable adjustments, like a larger desk, elevator access, frequent bathroom breaks ,lactation space



ATHLETICS: DIFFERENTIAL TREATMENT

34 CFR 106.41



Equal athletic opportunities in interscholastic, club, and intramural athletics.



(1) The number of male and female athletes is **substantially proportionate** to their respective enrollments; or

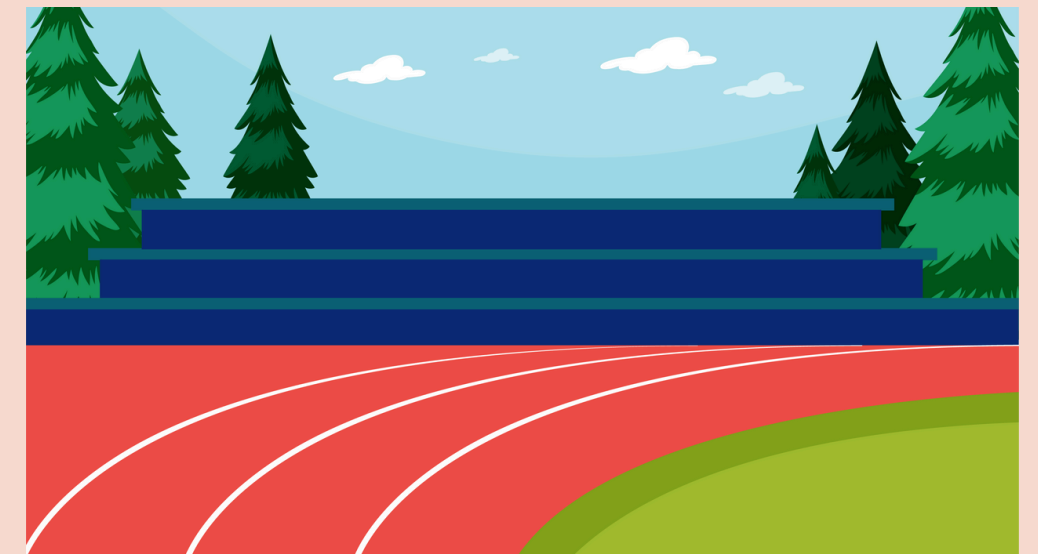


(2) The institution has a history and continuing practice of **expanding participation** opportunities responsive to the **developing interests and abilities of the underrepresented sex; or**

(3) The institution is **fully and effectively accommodating** the interests and abilities of the underrepresented sex.

ATHLETICS: DIFFERENTIAL TREATMENT

- equipment and supplies;
- scheduling of games and practice times;
- travel and per diem allowances;
- opportunities to receive coaching and tutoring;
- assignment and compensation of coaches and tutors;
- locker rooms and practice and competitive facilities;
- medical and training facilities and services;
- housing and dining facilities and services; and publicity.





COLORADO HIGH SCHOOL ACTIVITIES ASSOCIATION

- The student and parent(s)/guardian must provide written notice
 - that the student has a consistent gender identity different than the student's gender assigned at birth
 - list the sanctioned event(s) in which the student would like to participate
- School will perform a confidential evaluation to determine the gender assignment for the prospective student-athlete
- CHSAA will review athletic eligibility decisions
- School may not require medical documentation or diagnosis
- Gender-Fluid students must pick either male or female season

SEX- BASED HARASSMENT



Includes sexual harassment and harassment based on **sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity:**

- Quid pro quo harassment
- Hostile environment harassment
- Clery Act: Specific Offenses

DO NOT FORGET MANDATORY REPORTING



- Report ALL allegations of any **Specific Offenses and Quid Pro Quo** to Law Enforcement or Department of Human Services
- Some instances of Hostile Environment harassment may be required to be reported.



QUID PRO QUO

Any **employee, agent, or other person authorized by the recipient** to provide an **aid, benefit, or service explicitly or impliedly** conditioning the provision of such an aid, benefit, or service on a **person's participation in unwelcome sexual conduct**.

K-12- Presumed all adults have authority over all students

HOSTILE ENVIRONMENT

- Unwelcome sex-based conduct
- Based on the totality of the circumstances
- Subjectively and objectively offensive and
- Severe or pervasive
- And, limits or denies a person's ability to participate in or benefit from the recipient's education program or activity



Obligation to address even when some conduct alleged to be contributing to the hostile environment occurred outside the recipient's education program or activity or outside the United States.

UNWELCOME SEX-BASED CONDUCT

- Based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity.
- Unwelcome
 - Different than consent
 - Encouraging, welcoming the conduct



SEVERE OR PERVASIVE



- **Severe**

- Very great, intense
- Takes into account the circumstances facing a particular Complainant, such as, age, disability status, sex, and other characteristics.

- **Pervasive**

- More than once or conduct by multiple students

LIMITS OR DENIES ACCESS



- Requires evidence of the impact of the alleged conduct on the complainant
- Some impact on ability to participate or benefit from the education program or activity
- Not just grades or missing class

HOSTILE ENVIRONMENT CONSIDERATIONS



- The degree to which the conduct affected access
- The type, frequency, and duration of the conduct
- Ages, roles within the recipient's education program or activity, previous interactions, and other factors
- The location of the conduct and the context
- Other sex-based harassment in program

SPECIFIC OFFENSES

- Specific Offenses
- Sexual Assault
- Dating Violence
- Stalking



SPECIFIC OFFENSES

- **Sexual Assault:**

- **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

SPECIFIC OFFENSES

- **Dating violence** meaning violence committed by a person:
 - Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship;
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship;

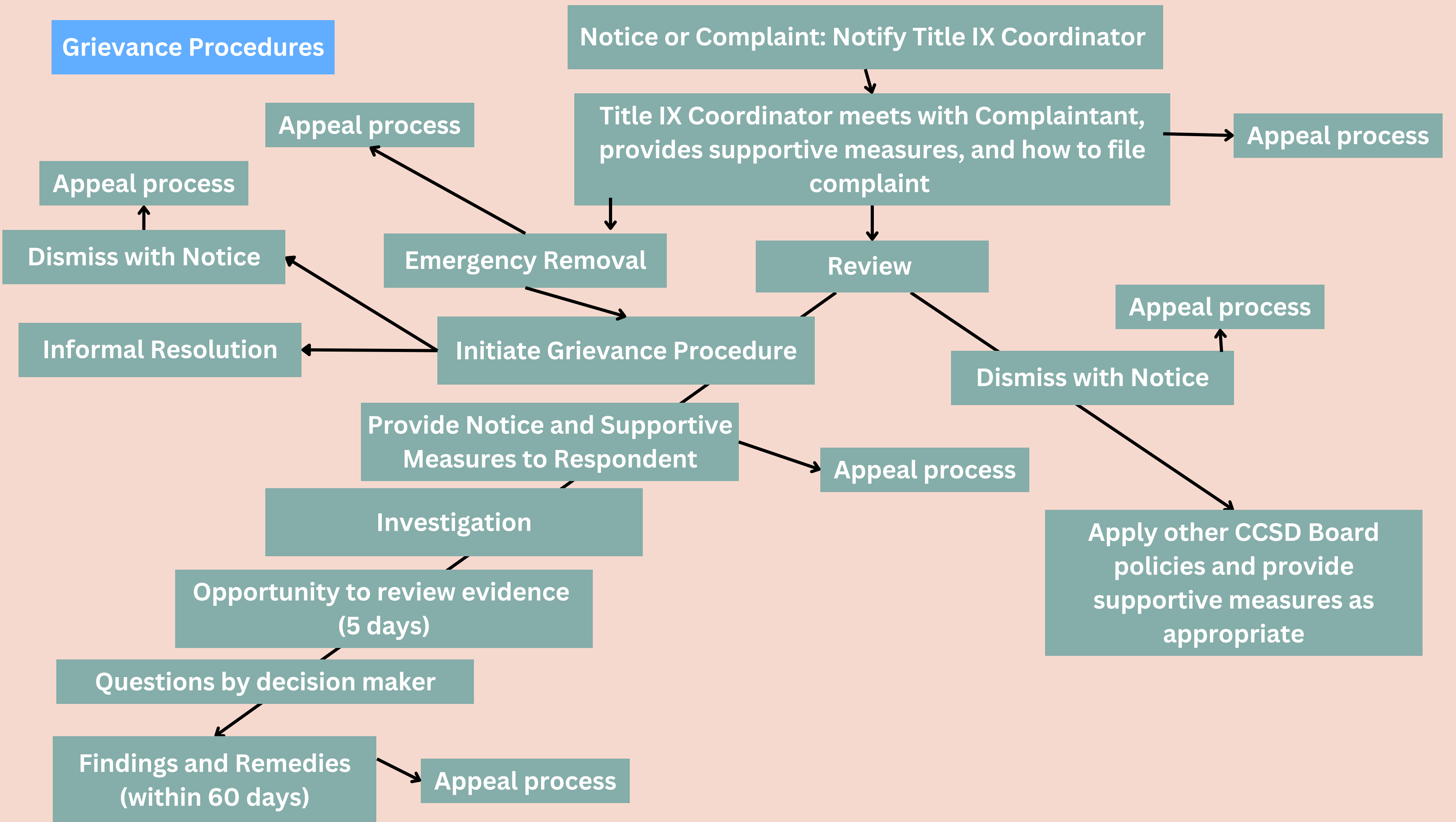
SPECIFIC OFFENSES

- **Domestic violence meaning felony or misdemeanor crimes** committed by a person who:
 - Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
 - Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - Shares a child in common with the victim; or
 - Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction

SPECIFIC OFFENSES



- **Stalking** meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - Fear for the person's safety or the safety of others; or
 - Suffer substantial emotional distress.



NOTICE



- Any adult in K-12 must notify the Title IX Coordinator when they have information about conduct that reasonably may constitute sex discrimination.
- School must respond promptly and effectively to address sex discrimination when an employee has knowledge of conduct that **reasonably may** constitute sex discrimination in its education program or activity.

NOTICE OF RIGHTS

- Title IX Coordinator should promptly contact Complainant and inform them they are entitled to Supportive Measures whether a formal complaint is filed or not.
- They are entitled to request and have input in their supportive measures, and the Title IX Coordinator should consider their wishes.
- Title IX Coordinator must provide the the Complaint form and and explain how to file a complaint.



COMPLAINANT

Complaints of Sex-Based Harassment

- Complainant: A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination.
- Parent, Guardian, other legal representative, Student

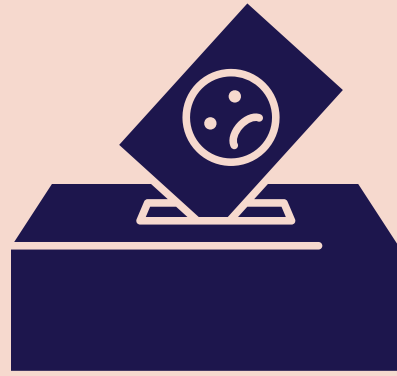
Complaints of sex discrimination other than sex-based harassment

- Complainant: A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination.
- Parent, Guardian, other legal representative
- Any person other than a student or employee who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

COMPLAINT



Complaint means an **oral or written** request to the recipient that **objectively** can be understood by a reasonable person as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX or this part.



COMPLAINT: TITLE IX COORDINATOR

- Must consider,
 - Complainant's request not to proceed
 - Complainant's reasonable safety concerns
 - Risk that additional acts of sex discrimination would occur
 - Severity of the alleged sex discrimination and whether would require disciplinary sanction to end the discrimination and prevent its recurrence
 - Age and relationship of the parties, including whether the respondent is an employee
 - Scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
 - Availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
 - Whether the recipient could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures

COMPLAINT: TITLE IX COORDINATOR

After considering of the factors, the Title IX Coordinator determines that the conduct as alleged

- **presents an imminent and serious threat to the health or safety of the complainant or other person,**
- or that the conduct as alleged **prevents the recipient from ensuring equal access** on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.

RESPONDENT



- Individual alleged to be responsible for the sex-based harassment
- Not the District or Title IX Coordinator
- Could be any person regardless of gender, race, age, religion, national origin, sexual orientation, gender identity
- Right to be presumed non-responsible for the alleged conduct
- Right to not have supportive measures be unreasonably burdensome, disciplinary, or punitive

SUPPORTIVE MEASURES

- Individualized measures offered to Respondent and Complainant
 - Cannot unreasonably burden other party
 - Not for punitive or disciplinary reasons
 - Without fee or charge to the party
- Restore or preserve that party's access to the recipient's education program or activity
 - measures that are designed to protect the safety of the parties or the recipient's educational environment
- For allegations of sex discrimination other than sex-based harassment or retaliation
 - supportive measures does not require the School to alter the alleged discriminatory conduct for the purpose of providing a supportive measures
- Confidential unless need to know





SUPPORTIVE MEASURES

- **Students with disabilities (504 or IEP)**
 - Title IX Coordinator must consult with case manager or Section 504 Coordinator or other relevant team member to address whether IEP or Section 504 review are necessary to address additional supports or accommodations for student.
 - Example: IEP Student is **harassed by multiple students** in his class about his **sexual orientation**, including the use of **derogatory terms and threats of violence**. After the harassment student struggles to attend class and developed anxiety related to the harassment. **The IEP team should convene to determine if additional accommodations or services such as additional breaks or mental health services are necessary for the student to access his FAPE.**



SUPPORTIVE MEASURES

- Parties may request to add, modify, or terminate Supportive Measures if circumstances change materially.
- The School may modify or terminate supportive measures at the conclusion of the grievance procedures under or at the conclusion of the informal resolution process
- Supportive Measures may continue.
- **Appeal**
 - Parties may appeal the denial, modification, or termination of supportive measures provided to them.
 - Must be someone other than the person who implemented or removed the supportive measures with authority to modify supportive measures.

EMERGENCY REMOVAL



- Supportive measures may not be disciplinary or punitive
- Schools may remove Respondent after a individualized safety risk analysis
 - Suicide Risk Assessment or Threat Assessment
 - determines that an **immediate threat**
 - to the **physical health or safety of any** student, employee, or other individual
 - arises from the **sex-based harassment**
 - Justifies removal
 - Provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal
- May count in calculating a change of placement under IDEA or Section 504

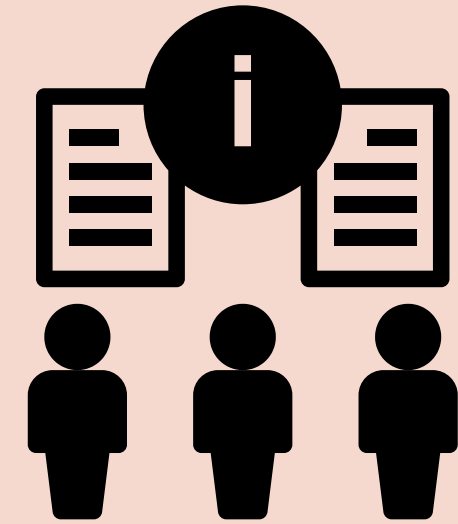
INFORMAL RESOLUTION



- At any time **prior** to determining whether sex discrimination occurred Parties can **voluntarily** agree to informal resolution
 - Unless the complaint includes allegations that an employee engaged in sex-based harassment of a student
- The informal resolution coordinator may not be the Title IX Coordinator, Investigator, or Decision maker
 - No conflict of interest
 - must be trained

INFORMAL RESOLUTION NOTICE

- Notice must include
 - Allegations
 - The requirements of the informal resolution process
 - Any party has the right to withdraw from informal resolution
 - Any agreement precludes the parties from initiating or resuming grievance procedures arising from the same allegations
 - Potential terms that may result in any agreement and that the agreement is binding
 - Information the recipient will maintain and that it may be used if the grievance procedure is continued



NOTICE GRIEVANCE PROCEDURE TO PARTIES



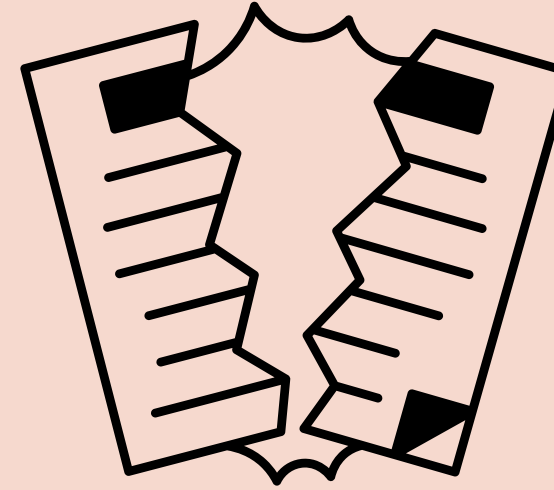
- **Notice of the Grievance Process**
- **Notice of the allegations including,**
 - sufficient detail known at the time with sufficient time to prepare a response before any initial interview.
 - Identities of the Parties
 - Certain disclosures of personally identifiable information to the parties is required to provide an equal opportunity to access the evidence that is relevant to the allegations
 - Conduct alleged
 - Date and location of incident

NOTICE PROVIDED TO BOTH PARTIES



- **Notice of Rights**
 - To be treated equitably
 - Presumption of non-responsibility for Respondent
 - Right to confidentiality
 - Right to present and review relevant evidence and information
 - Retaliation is prohibited
 - Notice of additional allegations to be investigated

DISMISSAL



- MAY dismiss a complaint of sex discrimination:
 - Unable to identify the Respondent after taking reasonable steps to do so
 - Respondent is not participating the education program or activity and is not employed by the District
 - Complainant voluntarily withdraws some or all allegations and Title IX Coordinator declines to initiate a complaint
 - The Title IX Coordinator determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX
 - Prior to dismissing the complaint under this paragraph, the recipient must make reasonable efforts to clarify the allegations with the complainant.

DISMISSAL



- If Complaint is dismissed the School MUST,
 - Offer supportive measures to the complainant as appropriate.
 - For dismissals where Respondent has been notified, offer supportive measures to the respondent as appropriate.
 - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the recipient's education program or activity.



DISMISSAL APPEAL

- Notice of the dismissal and right to appeal must be provided to Complainant.
 - If Respondent has been notified of allegations, notice and appeal right must also be provided to Respondent.
- Notify the parties of any appeal, including notice of the allegations.
- Designate appeals Officer that is not the decision maker, investigator, or Title IX Coordinator.
- Provide parties an opportunity to provide a statement.
- Notify the parties of the result of the appeal and the rationale for the result.

DISMISSAL APPEAL



- Parties may appeal a dismissal based on:
 - Procedural irregularity that would change the outcome;
 - New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
 - The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

A party must file a request for appeal within ten (10) school days of the notice of the dismissal

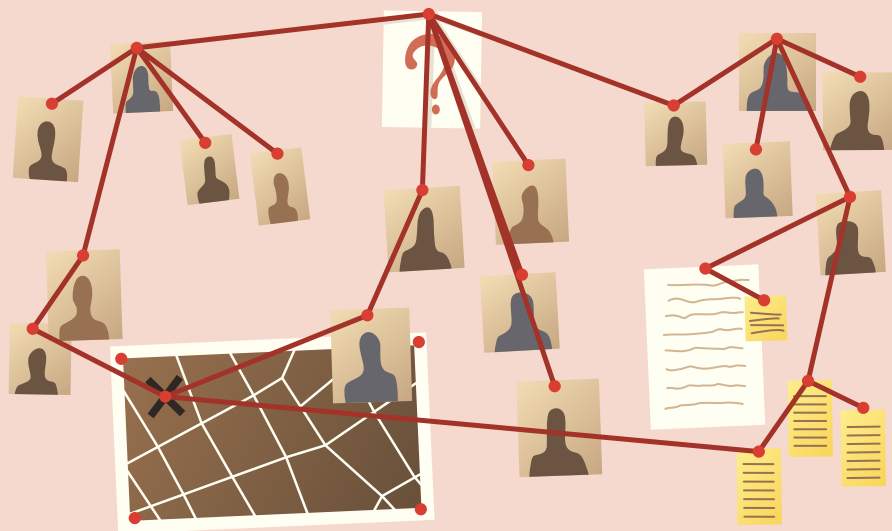
CONSOLIDATION OF COMPLAINTS

- May consolidate complaints of sex discrimination when the allegations of sex discrimination involve multiple Respondents or multiple Complainants arise out of the same facts or circumstances.



INVESTIGATION

- Title IX Coordinator may be the investigator or may designate investigators
 - Investigator may not have a conflict of interest or bias
- Must provide for adequate, reliable, and impartial investigation of complaints. Must:
 - Ensure that the burden is on the investigator
 - Provide an equal opportunity for the parties to present information and evidence
 - Review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible



EVIDENCE



- Evidence may include:
 - Student or witness statements, videos/photographs , relevant documents and information
- Impermissible evidence includes:
 - Evidence protected by privilege
 - Records that are made or maintained by a physician or clinical psychologist, or other treatment provider.
 - Release of information for other purposes is not sufficient
 - Evidence that relates to the complainant's sexual interests or prior sexual conduct
 - unless offered to prove that someone other than the respondent committed the alleged conduct or
 - offered to prove consent to the alleged sex-based harassment.
 - The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent

OPPORTUNITY TO REVIEW

- Prior to the completion of the investigation the Investigator will provide an **opportunity to each Party to review the evidence in the investigation.**
- Parties will have a **minimum of five (5) school days** to submit a response to the evidence
- Must take steps to prevent unauthorized disclosures
 - May redact information that is not relevant to the allegations but that is contained within documents or evidence
 - Must redact imperissable evidence



REQUEST FOR EXTENSION

- The Investigator or Decisionmaker may provide notice to both Parties of an **extension on case-by-case basis for good cause that includes the reason for the delay**.
 - Law enforcement investigations may be good cause for a delay





QUESTIONS BY DECISION MAKER

The decision maker can also question parties in order to assess a party's or witness's credibility if:

- Credibility is in dispute
- Credibility is relevant to evaluating one or more allegations of sex discrimination

DETERMINATION

- Decisionmaker may be Title IX Coordinator or investigator
- Must apply the **preponderance of evidence standard** (more likely than not)
- Must notify the parties in writing of the determination whether sex discrimination occurred



DISCRIMINATION OCCURRED

Decisionmaker must determine whether,

1. Respondent is responsible for the sex-based harassment?
2. the conduct constitutes sex-based harassment?
 - a. Quid pro quo
 - b. Hostile Environment
 - c. Specific Offenses
3. The Complainant has been subject to sex based discrimination?

- If discrimination occurred, develop remedies
- May continue supportive measures even if discrimination did not occur

REMEDIES



- Measures provided to a complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination.
- These measures are provided to **restore or preserve that person's access** to the recipient's education program or activity **after a recipient determines that sex discrimination occurred.**

DISCIPLINE

- May only discipline Respondent if Respondent is responsible for sex-based harassment
 - Must provide appropriate due process protections to Respondent
 - ex: Expulsion hearing
- Provide notice of any disciplinary consequences to Complainant

If student is **found not responsible**, you cannot discipline based solely on the findings for the making of false statements and cannot discipline students for consensual sexual contact.



APPEAL

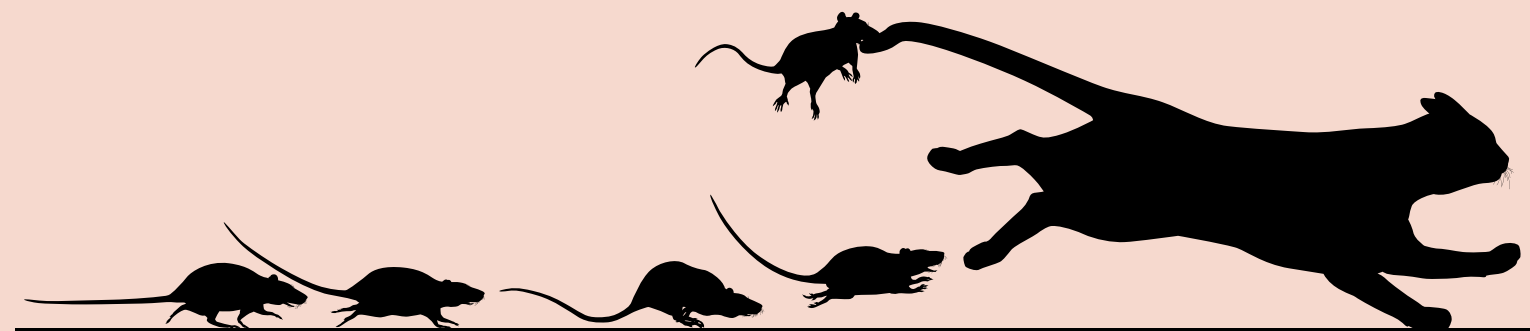


- Parties may appeal a dismissal based on:
 - Procedural irregularity that would change the outcome;
 - New evidence that would change the outcome and that was not reasonably available when the final determination was made; and
 - The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.
- The appeal process may not be utilized to solely challenge disciplinary consequences.

A party must file a request for appeal within ten (10) school days of the notice of the dismissal

RETALIATION PROHIBITED

- Means intimidation, threats, coercion, or discrimination against any person by
 - the District or an employee
 - a student,
 - or other person authorized by the District to provide aid, benefit, or service under the recipient's education program or activity,
 - for the purpose of interfering with any right or privilege secured by Title IX
 - because the person has participated or refused to participate in the Title IX process.
- Nothing precludes the District from requiring an employee to provide aid, benefit, or service under the recipient's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this part.



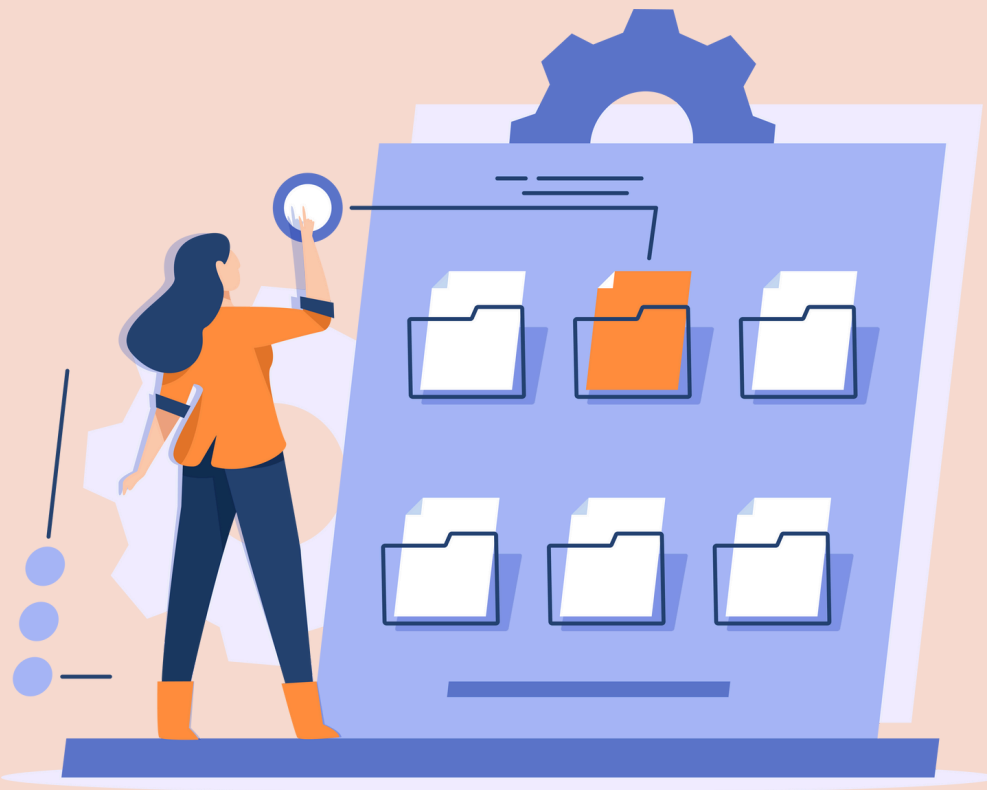
RETALIATION PROHIBITED

- Must prohibit retaliation, including **peer retaliation**, in its education program or activity.
- When District has information about conduct that reasonably may constitute retaliation under Title IX or this part, **the recipient is obligated to provide supportive measures.**
- Upon receiving a complaint **alleging retaliation, a recipient must initiate its grievance procedures.**
 - Retaliation may also constitute sex-based discrimination.



RECORD KEEPING

- The District must maintain for a period of at least seven years:
 - For each **complaint**,
 - records documenting the **informal resolution process or the grievance procedures, and the resulting outcomes.**
 - For each **notification**
 - **the conduct that reasonably may constitute sex discrimination under Title IX or this part, records documenting the actions the District took to meet its obligations.**



Law Enforcement /Criminal	Title IX Grievance Procedures
Violations of criminal law. Criminal law penalizes the individual.Individuals are responsible for not violating criminal laws.	Sex Discrimination under Title IX. District must provide remedies, which may include discipline if student code of conduct is violated.
Perpetrator has a presumption of innocence.	Respondent has a presumption of non-responsibility for the conduct.
A Perpetrator must be found guilty beyond a reasonable doubt.	A Respondent must be found responsible by a preponderance of the evidence (more likely than not).
Criminal court may order a protection order that protects victim at all times (home, school, work, community) and violations can lead to further criminal charges. They are enforced by police.	No contact agreements are an option for a supportive measure under Title IX. It is an administrative process that requires both students to stay away from each other at school/CCSD programs. Violations of no contact agreements may lead to more restrictive supportive measures, but cannot lead to discipline because discipline cannot be given in the Title IX process until the Grievance procedure is complete.
Victim may have resources to victim advocate and victim services which may provide support in accessing rape kits, medical care, counseling, support in court proceedings, or mental health treatment.	Title IX Coordinator will implement supportive measures and remedies to ensure the student can access CCSD programs and activities.

QUESTIONS

