

# Training for Title IX Coordinators: What You Need to Know Right Now About the New Final Rule

Fall 2020

# Disclaimer

This training video provides general legal advice about certain topics related to the U.S. Department of Education's regulation and enforcement of Title IX of the Education Amendments Act of 1972 and specifically with respect to the Title IX regulatory changes released on May 6, 2020 and effective on August 14, 2020. This is a quickly-evolving area, and substantial changes to applicable law, rules, regulations, and enforcement policies in the near term seem likely. We assume no responsibility to update this training video notwithstanding changes in the law. Please note that this presentation does not address state or local laws, rules, or regulations which may be material in evaluating the subject matter of this training video. Finally, this presentation offers general guidance about its topic and does not offer specific legal advice about any particular circumstance, investigation, hearing, or matter.

# Session Agenda

- I. Where we are: Context and Framework
- II. Overview of Required Changes
  - BREAK –
- III. Intake and Jurisdictional Analysis
  - BREAK –
- IV. Investigation & Adjudication Procedures
- V. Handling Cases the New Rule Leaves Out

# 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 education program or activity receiving Federal financial assistance.*

# Title IX's Purpose



## GENDER DISCRIMINATION

Prohibitions on participation

Unequal funding of athletics

Pregnancy Discrimination

Sexual Harassment

- Sexual Assault
- Stalking
- Domestic/Dating Violence
- Verbal/expressive



# Key Dates in the Evolution of Title IX

Discrimination  
based on sex  
should be  
prohibited in  
education

1972

Sexual  
Harassment is  
a form of  
prohibited sex  
discrimination

1997

Dear  
Colleague,  
address sexual  
assault or else

2011

You must use  
these policies  
and procedures

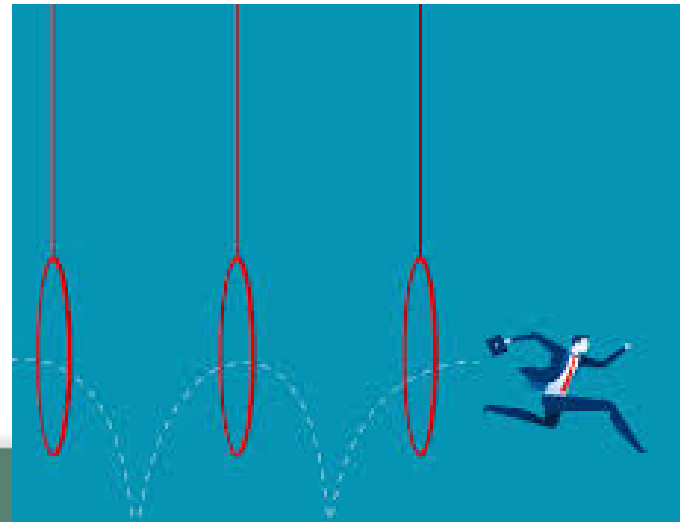
2020

# The 2011 and 2014 Guidance did...

- Focus attention on the issue of sexual violence
- Raise the profile of Title IX Coordinators
- Result in a near-universal adoption of the “preponderance” standard
- Encourage more students to report incidents of sexual misconduct
- Raise concerns that Respondents were being treated unfairly
- Not change the actual law of the land

# The Final Rule is More than Guidance

- The Title IX process is now legally mandated.
- The scope has formally expanded to include intimate partner violence and stalking.
- A Final Rule is not easily made or unmade.
- The Final Rule is about how to *implement* Title IX's prohibition of sexual harassment.



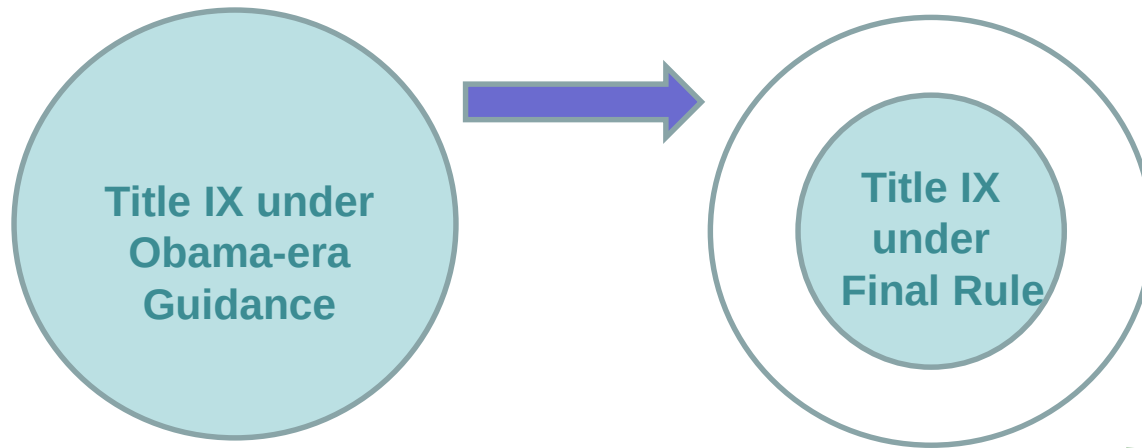
# Key Message for Your Community

More is staying the same  
than is changing.

And an important postscript for leadership:

In many instances, we have real control – freely granted by the Department of Education – over what kind of change does happen.

# Overarching Goals of Final Rule



1. Narrow the scope of incidents that fall within the law

2. Recalibrate the procedural balance between complainants and respondents





## REQUIRED CHANGES: **Extensive**

- Single policy applies to employees and students alike
- “Stop, prevent, remedy” —→ “non deliberate indifference”
- Many definitions standardized, but *consent* left up to each school
- Definition of sexual harassment narrowed
- Any discretionary elements must apply equally to complainants and respondents

# TWO BUCKETS



## Title IX Sexual Harassment (TIXSH)

Forms of harassment on the basis of sex that fall within the Final Rule's definition of sexual harassment and jurisdictional scope. These cases must be handled in accordance with the Final Rule.

## Other Sexual Harassment (OSH)

Forms of harassment on the basis of sex that do not fall within the Final Rule's definition of sexual harassment and/or jurisdictional scope.

*Schools may decide for themselves how to handle OSH cases.*

## REQUIRED CHANGES: **Moderate**

- No required training for students
- No required training for all employees
- Training required for coordinators, investigators, decision makers (hearings & appeals), and informal resolution facilitators (if any)
- Required topics: definition of sexual harassment, scope of “program or activity,” conduct of process, relevancy determinations, impartiality, technology for live hearing
- Training materials must be posted to website

## REQUIRED CHANGES: **Extensive**

- Anyone can report sexual harassment, but few are required to (by this law)
- If coordinator has actual knowledge of TIXSH, must reach out to complainant
- Coordinator must explain supportive measures and option to file a formal complaint
- Investigation required only if complainant (or coordinator) files a formal complaint
- All formal complaints must undergo dismissal analysis

## REQUIRED CHANGES: **Minor**

- Supportive measures should be provided regardless of whether formal complaint is filed
- Coordinator should engage in interactive process with complainant and document outcome
- Coordinator should also assess whether respondent needs supportive measures
- Support services are non-punitive and should not unreasonably burden the other party
- No discipline can take place prior to resolution except emergency removal/administrative leave



## REQUIRED CHANGES: **Moderate**

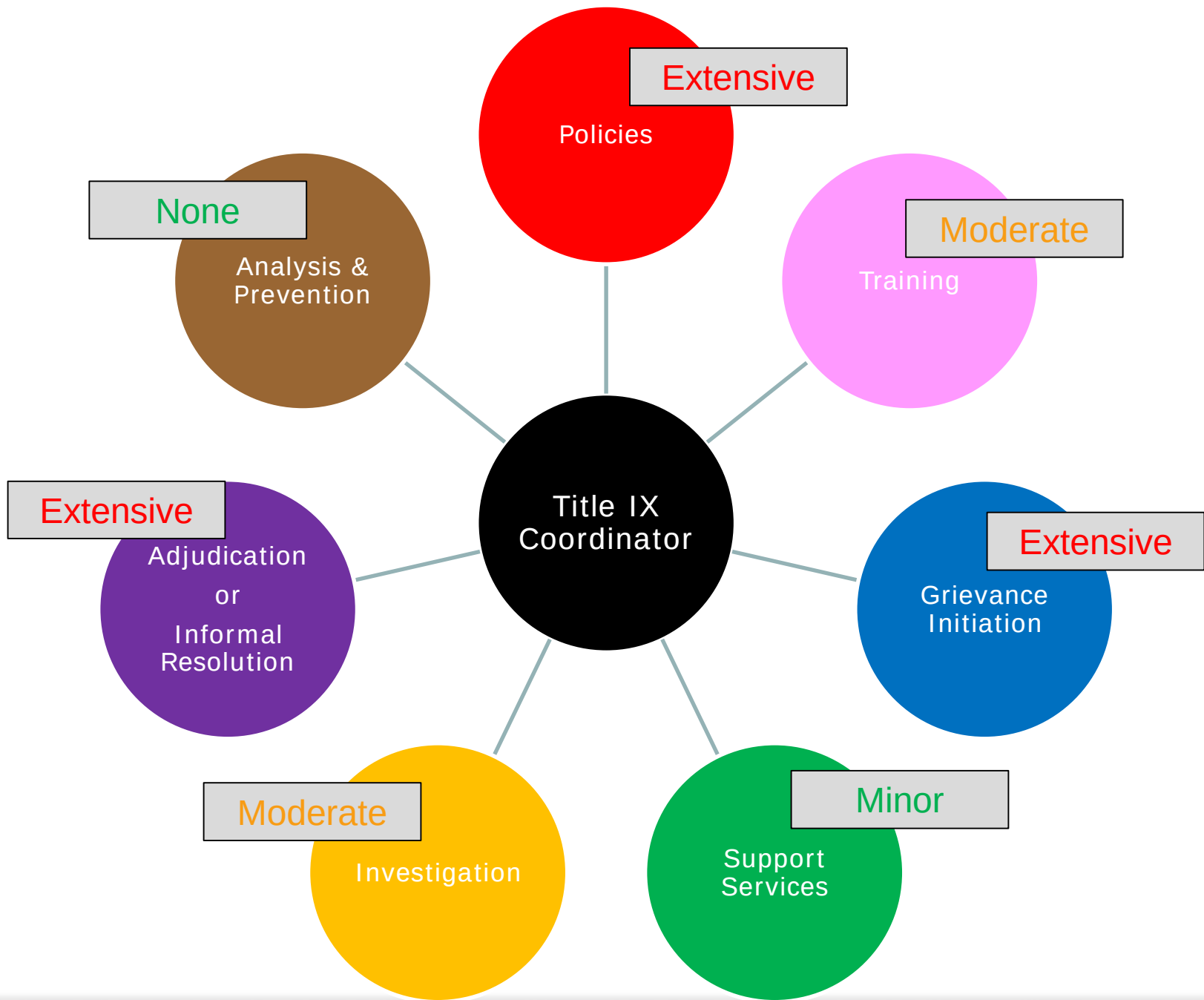
- Cannot use the “single investigator” model
- Parties must receive advance notice of the charges, investigatory interviews, etc.
- Parties must have opportunities to provide, review, and respond to evidence
- Relevant evidence must be summarized in an investigative report
- Investigators must be able to spot jurisdictional issues (dismissal) and additional potential violations (notice)

## REQUIRED CHANGES: **Extensive**

- Hearings may be virtual, but they must be live such that everyone can see and hear each other
- There must be opportunity for cross examination conducted by advisors (who may be attorneys)
- The parties must receive a written rationale for the final outcome
- Informal resolution can be an option if both parties agree to it ↓
- At any point before reaching agreement, either party can choose to resume the formal process

## REQUIRED CHANGES: **None**

- Final Rule does not address prevention efforts



# Coordinator Flow Chart



# When are you required to respond?

## Obama Era Guidance

- Whenever a Responsible Person knew of a possible incident.

(Any employee who a student might reasonably perceive to have authority to address situation or responsibility to report it.)



- Whenever a Responsible Person knew or *reasonably should have known* about a possible incident

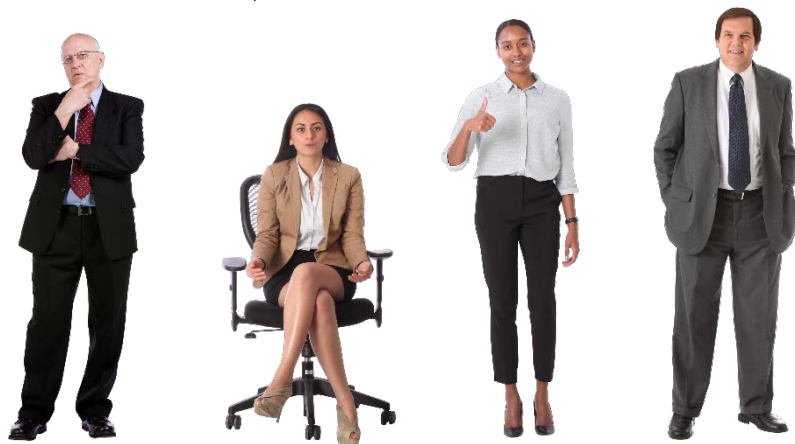


# When are you required to respond?

## Final Rule

- Whenever the Title IX Coordinator or an official with authority to institute corrective measures knows of a possible incident.

(Schools have wide discretion to designate who these officials are.)



- Only whenever one of these officials *actually knows* of a possible incident.
- And if one of them is the harasser, that doesn't count



We are  
legally  
responsible  
for  
responding  
to a  
manageable  
universe of  
incidents.

## Time to play **What's the Difference?**

A student tells Professor Torrico that she was assaulted over the weekend and can't concentrate on schoolwork. Professor Torrico gives her an extension on the upcoming paper, and promises he won't mention it to anyone. Obama era?

Final Rule era?

Same scenario as before except that this time, Professor Torrico remembers his Title IX training and calls you after the student leaves his office.

Obama era?

Final Rule era?

# Policy Point & Counterpoint



Final Rule pro:

More fair to schools. And no forced divulgence

Final Rule con:

Abuse goes undiscovered & undeterred?

Good news:

Your school can set the balance\*

Practical note:

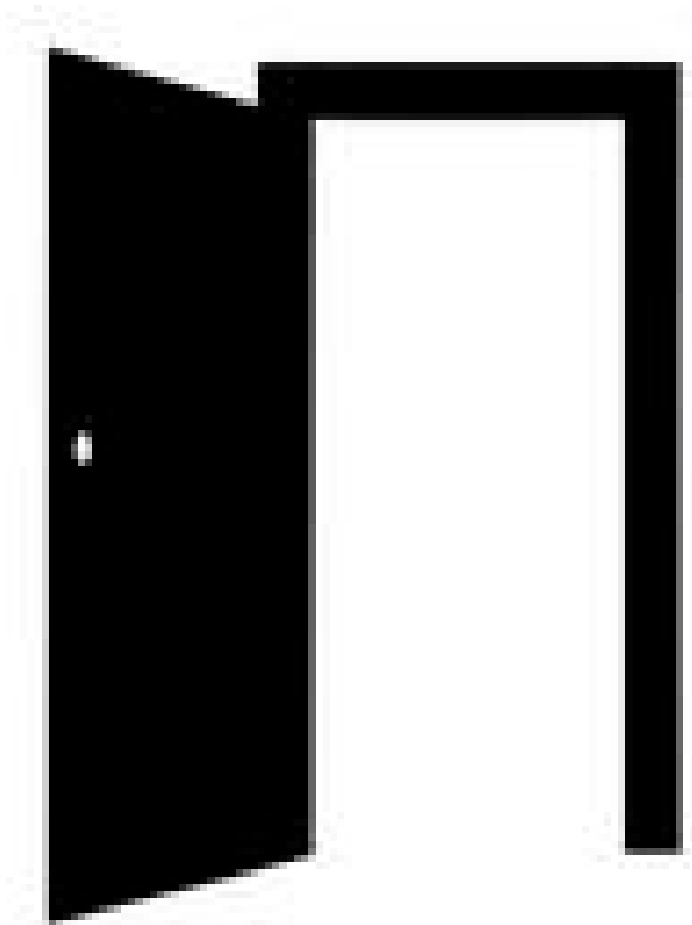
Don't make “untraining” a top priority

# WHO CAN REPORT?

Anyone. At any time. In any manner.

# WHO MUST REPORT?

A small group of administrators who have authority to institute corrective measures on behalf of the school.



# ACTION ITEMS



Designate the individuals (those who have authority to institute corrective measures) whose knowledge of a possible incident triggers an obligation to respond

# OBLIGATION TO RESPOND POP



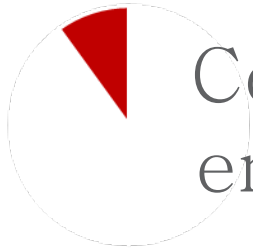
- A student informs you verbally that she is feeling pressured to date a campus security guard. **YES**
- A student emails you that she suspects her roommate is being sexually harassed by an ex-boyfriend. **YES**
- The mother of a 20-year-old student leaves a voicemail that her son is being stalked. **YES**
- An anonymous note shoved under your door complains that Professor Adams tells dirty jokes in class on a regular basis. **YES**

# Coordinator Flow Chart

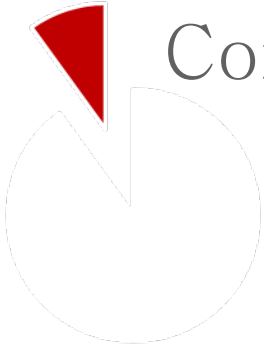




# TEN PERCENT PROBLEMS



Complainant is not a current student or employee



Complainant is not named

# Contacting the Complainant

**Document**

1

Inform the Complainant that supportive measures are available (regardless of whether they choose to file a formal complaint or not).

2

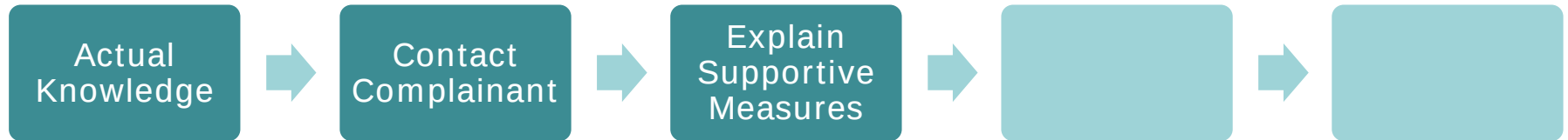
Consider the Complainant's wishes with respect to supportive measures.

3

Explain:

- \* The process for filing a formal complaint,
- \* The grievance process, and
- \* Any informal resolution options.

# Coordinator Flow Chart



# SUPPORTIVE MEASURES

- What** Individualized services offered as appropriate, as reasonably available, and without fee or charge
- When** Before or after filing of a formal complaint (or when no complaint is filed)
- Why** To restore or preserve access to education, protect safety, or deter sexual harassment
- How** May not be punitive or unreasonably burden the other party

# ALERT: DEPT OF EDUCATION PRIORITY

No disciplinary sanctions against respondent until grievance process is completed.

RHU



# PHEW – AN EXCEPTION!



## Emergency Removal

- Individualized safety and risk analysis
- Immediate threat of physical health or safety
- Immediate opportunity to challenge decision

## Administrative Leave

- For non-student employee respondents
- During the pendency of the grievance process

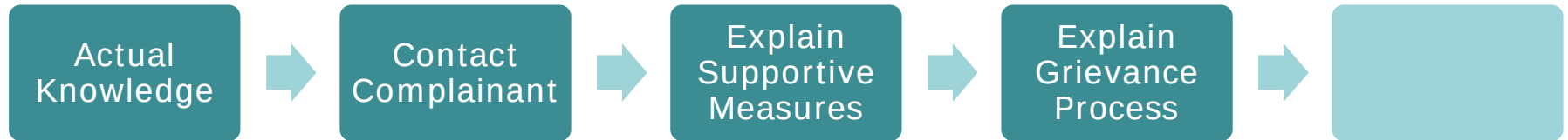
\* Watch out for IDEA/Section 504/ADA

# SUPPORTIVE MEASURES POP

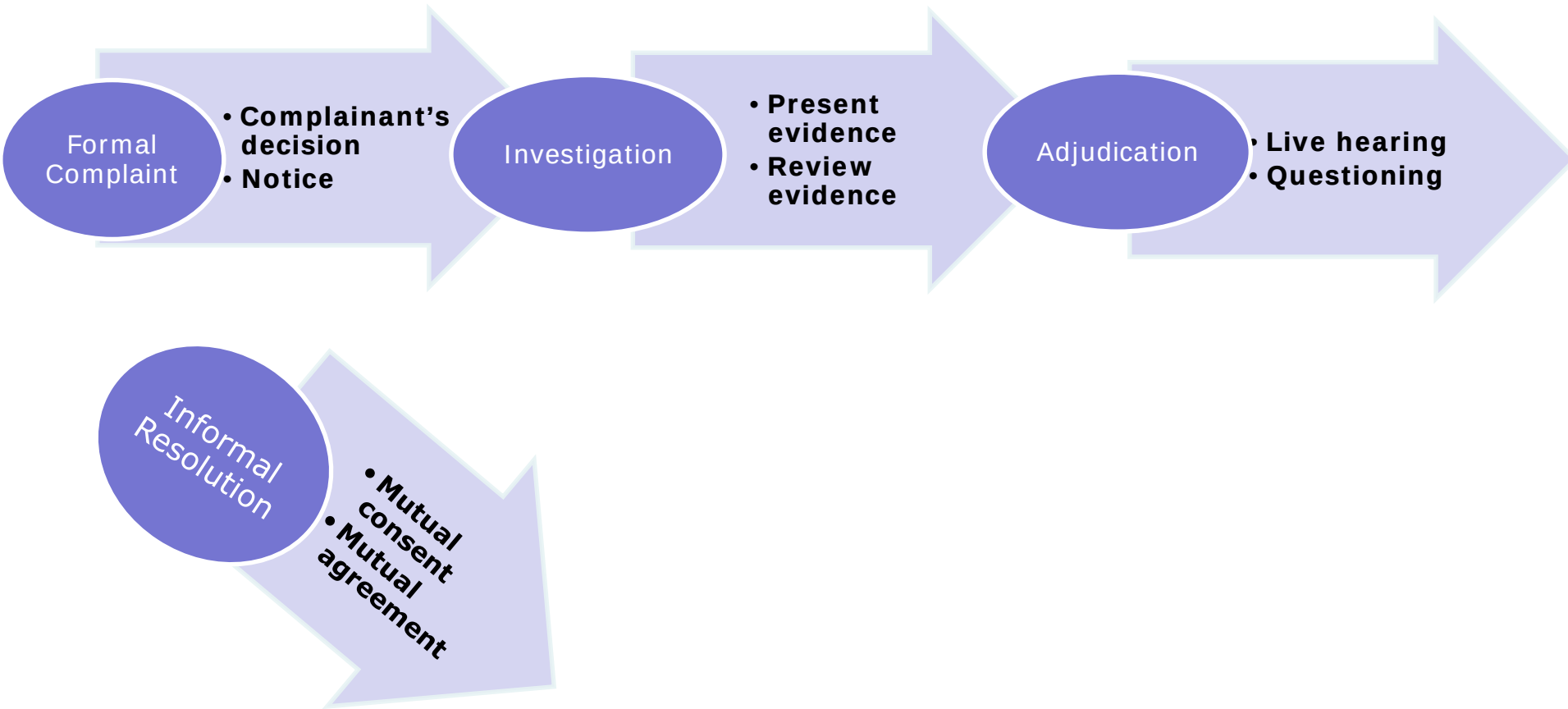


- Facilitate the complainant receiving counseling  
**YES**
- Assist the complainant with academic accommodations **YES**
- Put a hold on the respondent representing the school in athletic events or other competitions until the case is resolved **NO**
- Issue a mutual no-contact order preventing the parties from interacting with each other **YES**

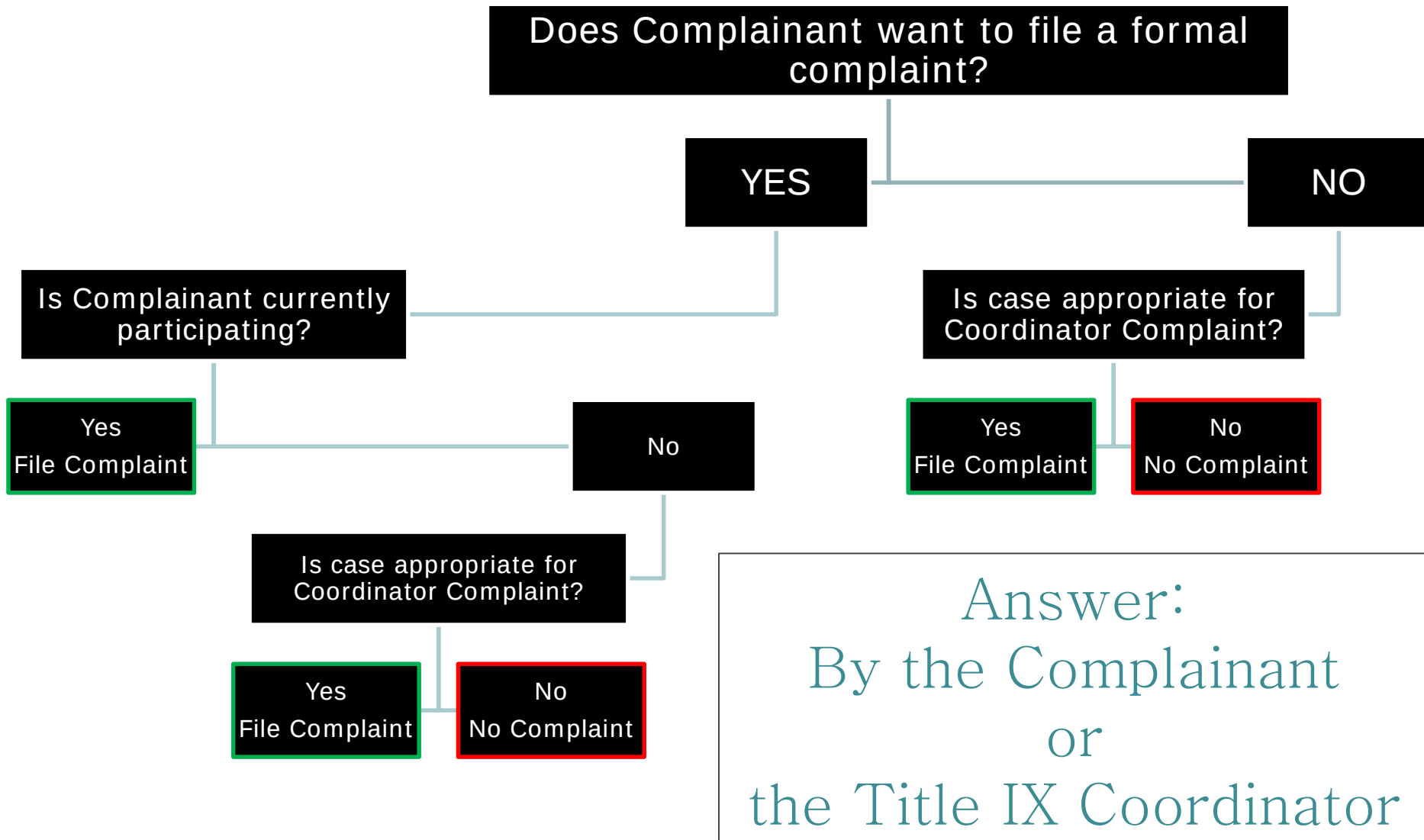
# Coordinator Flow Chart



# What *is* the Grievance Process?



# How does a Formal Complaint get filed?



# IS CASE APPROPRIATE FOR A COORDINATOR COMPLAINT?



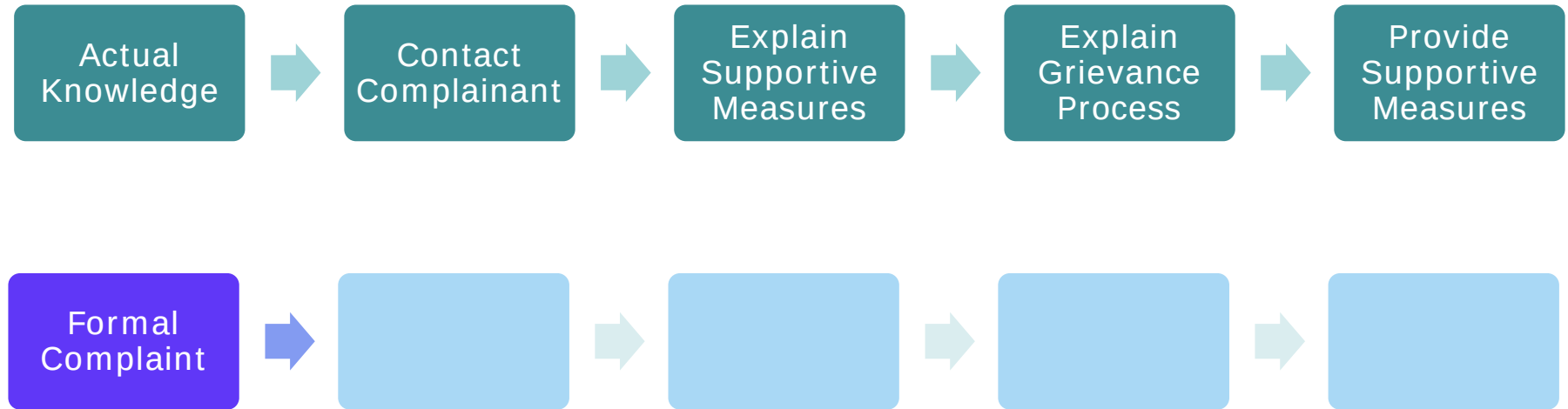
If overriding complainant wish...

Violence, threats, indications of predation, ability to prove case without complainant cooperation.

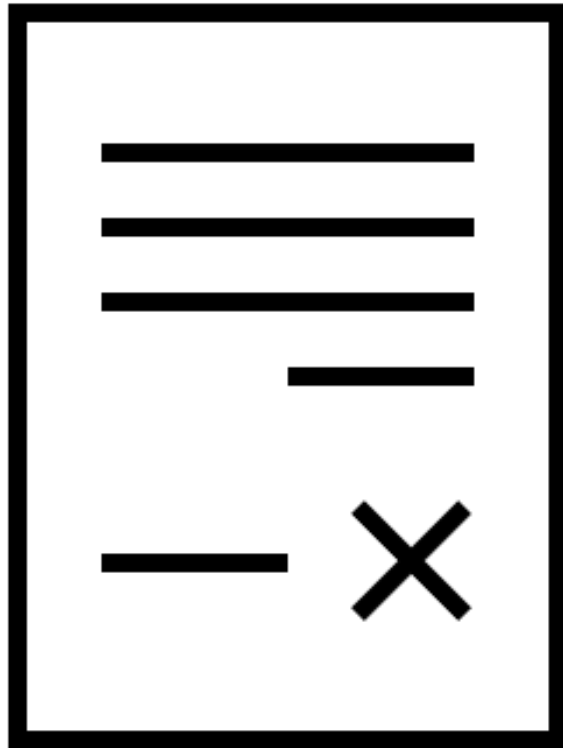
If overriding eligibility problem...

Continuing risk to current students/employees or educational environment

# Coordinator Flow Chart

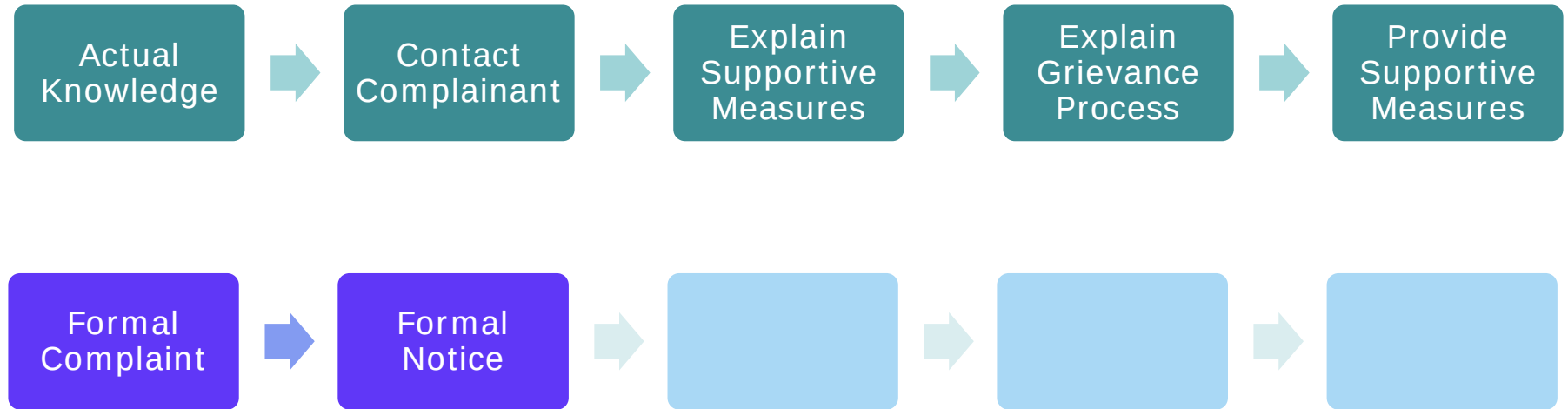


# FORMAL COMPLAINT



- Must be in writing (document or electronic)
- Must allege sexual harassment and request investigation
- Must be signed (physically or digitally)

# Coordinator Flow Chart



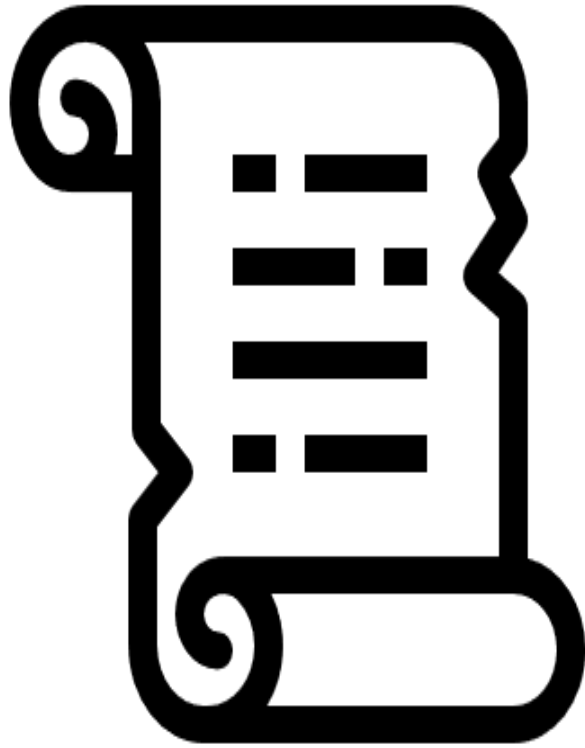
# ALERT: DEPT OF EDUCATION PRIORITY

No secrets from the respondent or last-minute surprises.

RHU



# FORMAL NOTICE TO ALL PARTIES



If additional allegations will be investigated, supplemental notice must be given

- Explanation of grievance process and informal resolution
- Sufficient details of allegations (who, what, when, where)\*
- Presumption of non-responsibility; determination made at conclusion of process
- May have an advisor of choice who may be an attorney
- May inspect and review evidence
- Note any “false statement” rule in code of conduct

# YOUR POLICY ON FALSE STATEMENTS



- Materially false statement
- Made in bad faith
- By itself, adverse determination on responsibility is not enough to support a charge

## ACTION ITEMS



Designate the individuals (those who have authority to institute corrective measures) whose knowledge of a possible incident triggers an obligation to respond

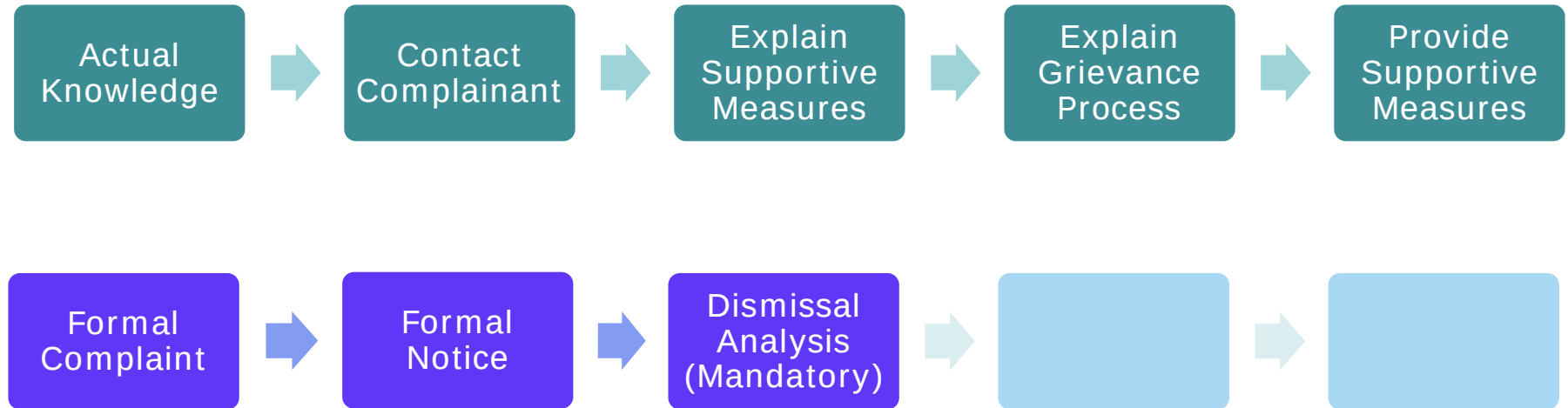


Check Code of Conduct re false statement provision

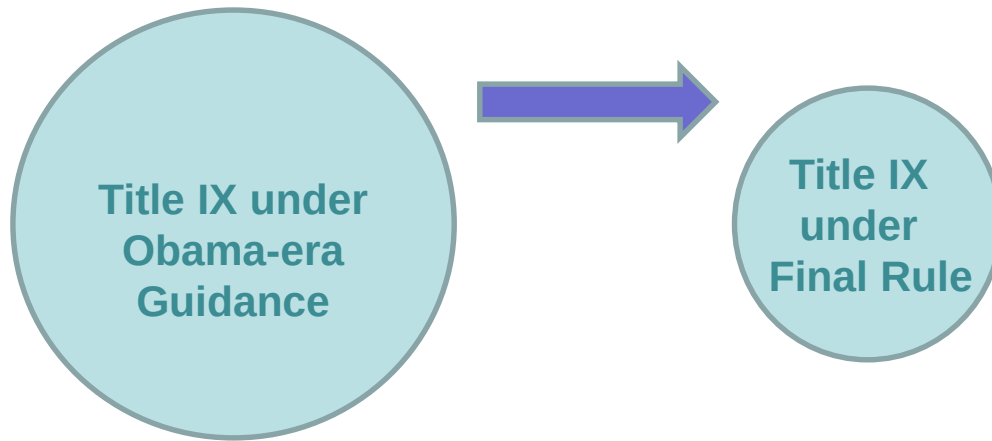
# ADVISORS

| You Must...                                                       | You May...                                                      |
|-------------------------------------------------------------------|-----------------------------------------------------------------|
| Allow each party to use their advisor of choice                   | Limit each party to one advisor                                 |
| Allow the advisor to be present at all meetings, interviews, etc. | Place limits on the advisor's role                              |
| Have the advisors conduct the live questioning at the hearing     | Require that questions be relevant, respectful, and non-abusive |
| Ensure that each party has an advisor at the hearing              | Provide an advisor of your choice                               |

# Coordinator Flow Chart



# Overarching Goals of Final Rule

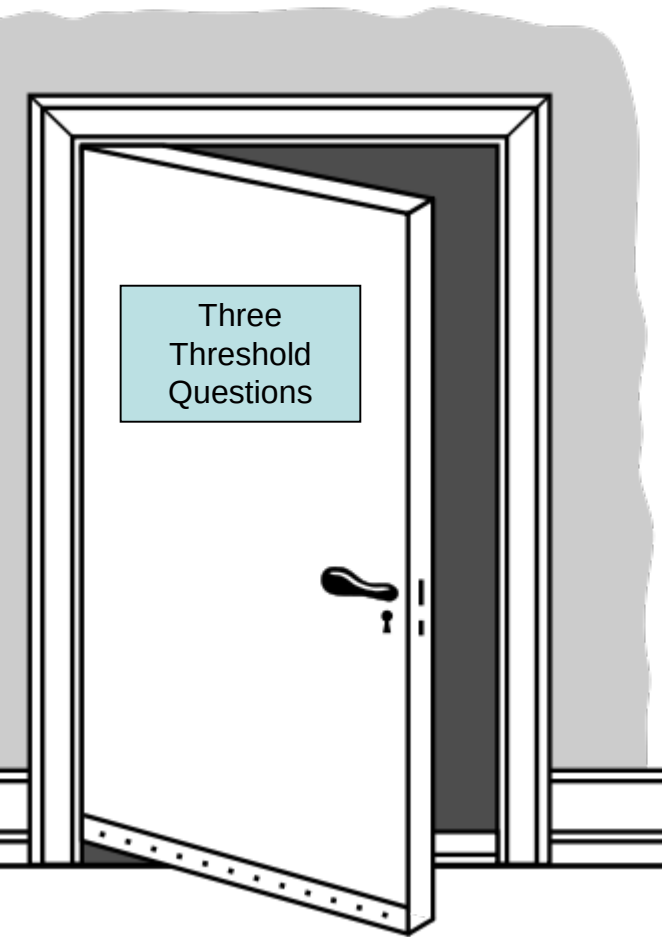


1. Narrow the scope of incidents that fall within the law

2. Recalibrate the procedural balance between complainants and respondents



# IF A FORMAL COMPLAINT IS FILED...



1. **Who** is the complainant?
2. **Where** did the incident(s) take place?
3. **What** type of conduct occurred?

THRESHOLD QUESTION 1: **WHO**  
WAS THE COMPLAINT “A PERSON IN THE US” AT  
THE TIME OF THE INCIDENT?

*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 education program or activity receiving Federal financial assistance.*

# MANDATORY DISMISSAL

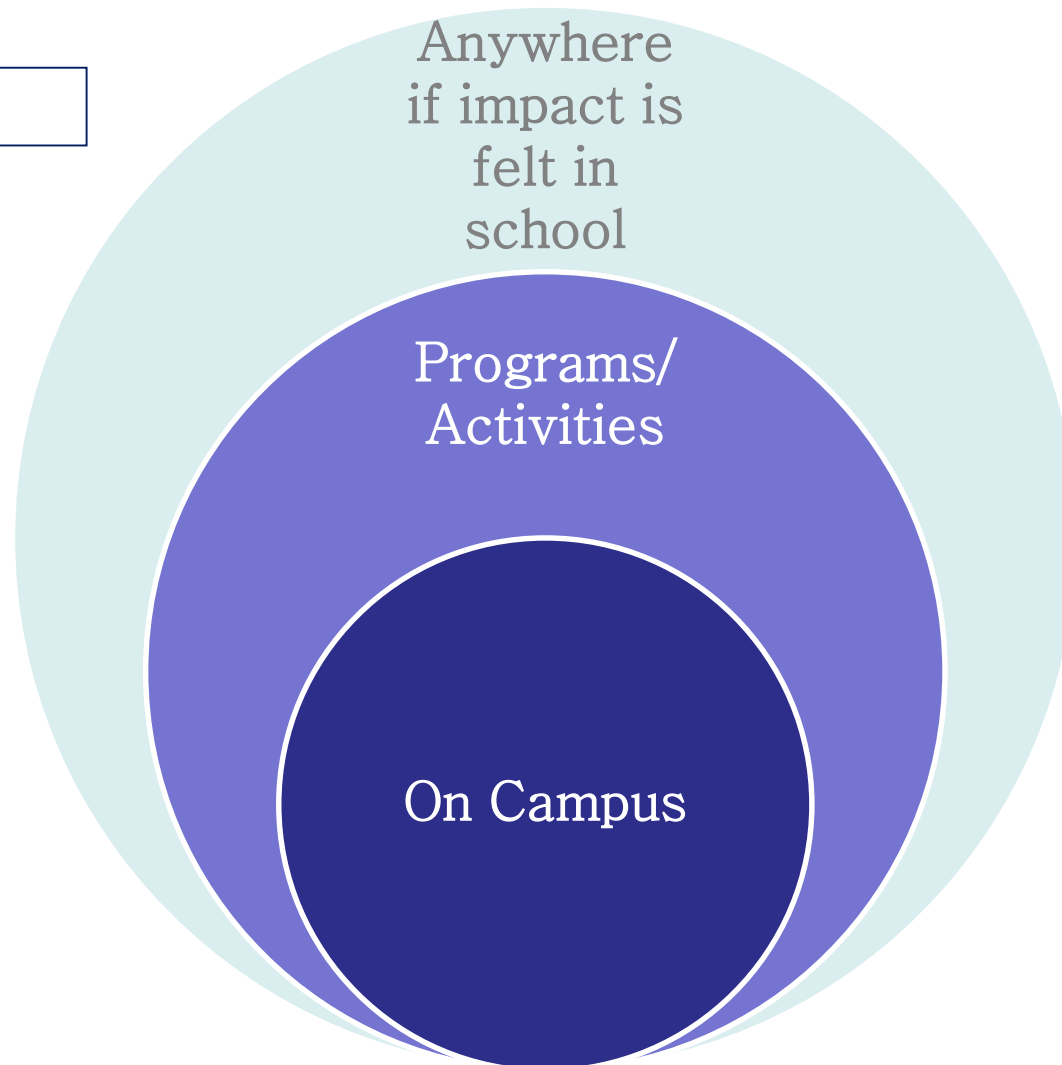


If the complainant was not in the United States at the time of the incident...

the school must dismiss that portion of the formal complaint *as a Title IX matter*.

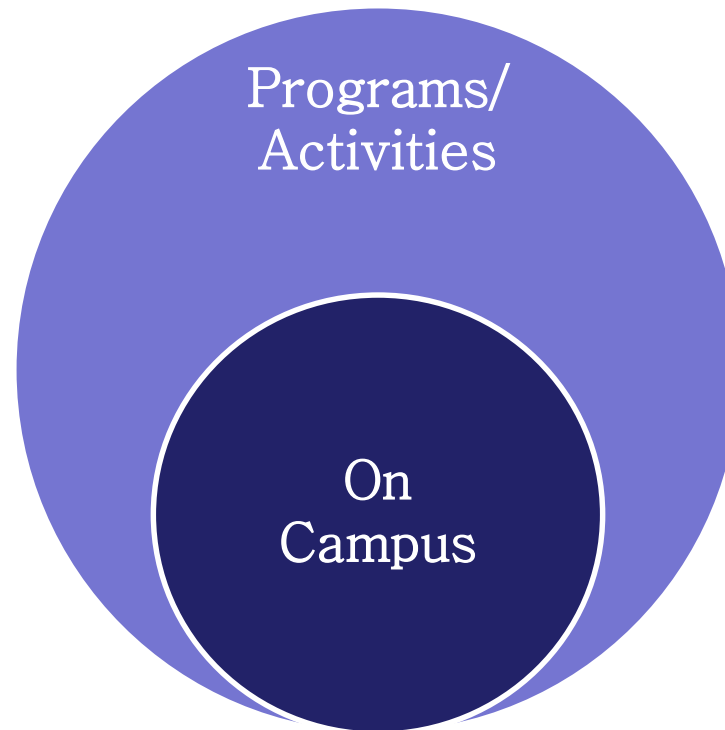
# THRESHOLD QUESTION 2: WHERE DID THE INCIDENT(S) TAKE PLACE?

Obama Era

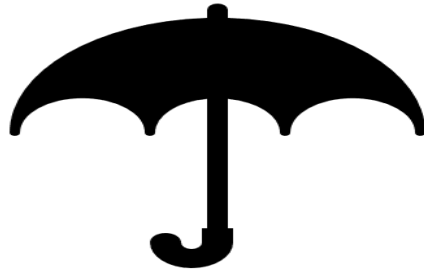


# THRESHOLD QUESTION 2: WHERE DID THE INCIDENT(S) TAKE PLACE?

Final Rule



# Substantial Control over Context (**Where**)



## Your education programs & activities

### Locations

Residence halls  
Classrooms  
Campus grounds  
Greek houses

### Events

School sporting events  
School festivals

### Circumstances

Athletics  
Extracurriculars  
Clinics/Internships



## Everything Else

Private off-campus housing

Off-campus bars or restaurants

Off-campus parties

Personal travel

# When do e-interactions take place in our education program or activity?



- Physical Location of Parties
- Hardware
- Platform/Network
- Event/Activity

# E-INTERACTIONS POP



- Working from home on a school-issued laptop, a professor sends pornography to colleague

\* Hardware      \* Platform/Network

- Students are listening to a Zoom lecture from home on personal devices. One sends another a harassing note in the private chat.

\* Platform/Network      \* Event/Activity

- A student uses an iPhone to send nude photos of their ex to three friends. One of the friends is on campus.

\* Physical location

# Did this e-interaction take place in our education program or activity?

One student keeps texting another explicit messages despite being asked to stop.

Physical Location of Parties?

Both off campus

Hardware?

Both using personal cell phones

Platform/Network?

Both on cellular or home networks

Event/Activity?

Always happens late at night



# MANDATORY DISMISSAL



If the incident did not take place within the school's education program or activity...

the school must dismiss that portion of the formal complaint *as a Title IX matter.*

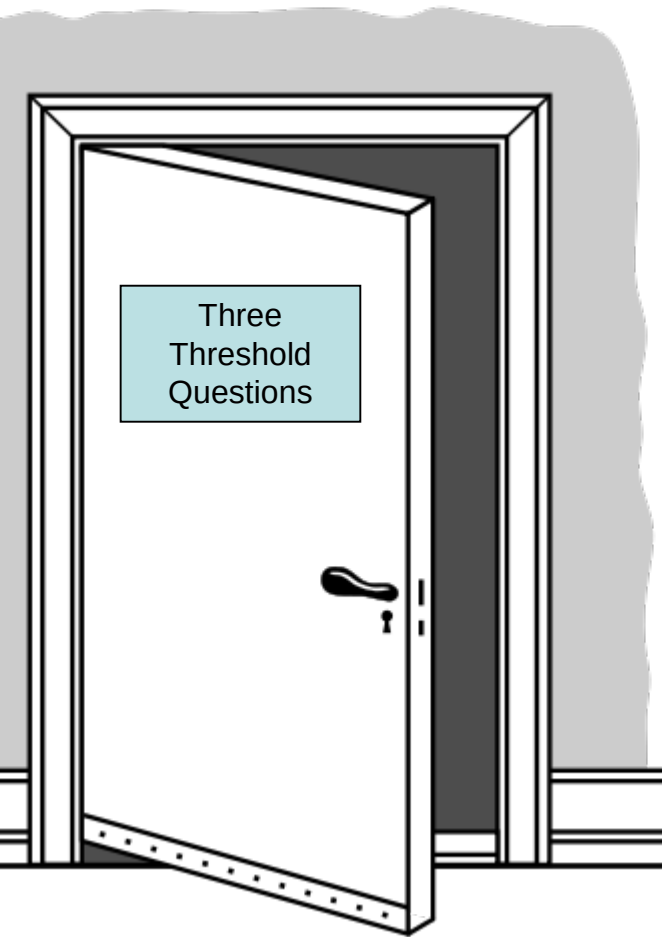


# TEN PERCENT PROBLEMS



Partnership in which your institution participates

# IF A FORMAL COMPLAINT IS FILED...



1. **Who** is the complainant?
2. **Where** did the incident(s) take place?
3. **What** type of conduct occurred?

# THRESHOLD QUESTION 3:

## WHAT TYPE OF CONDUCT OCCURRED?

1

Sexual Assault

Dating and Domestic Violence

Stalking

Clery Act Conduct

2

A school employee conditioning the provision of an aid, benefit, or service on participation in unwelcome sexual conduct

Quid Pro Quo

3

Unwelcome conduct\*

(Expressive: verbal, written, electronic, body language)

Level 4 Expressive Conduct

\* determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity

# What constitutes sexual harassment?

OBAMA ERA: “Unwelcome conduct of a sexual nature,” that includes “unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.”

FINAL RULE: “Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school’s education program or activity”

# ALERT: DEPT OF EDUCATION PRIORITY

Title IX is not a “civility code”  
prohibiting all unwelcome conduct.

RHU



## New Definition of Sexual Harassment



A single threat of rape (not pervasive)



Catcalls on the way to class on a daily basis (not severe)



Daily threat of rape that results in student failing a class



Conduct that is severe and pervasive, but not objectively offensive



Conduct that is severe, pervasive, AND objectively offensive, but does not effectively deny equal access

# MANDATORY DISMISSAL



If the incident does not fall within one of the three prongs of Title IX Sexual Harassment (TIXSH)...

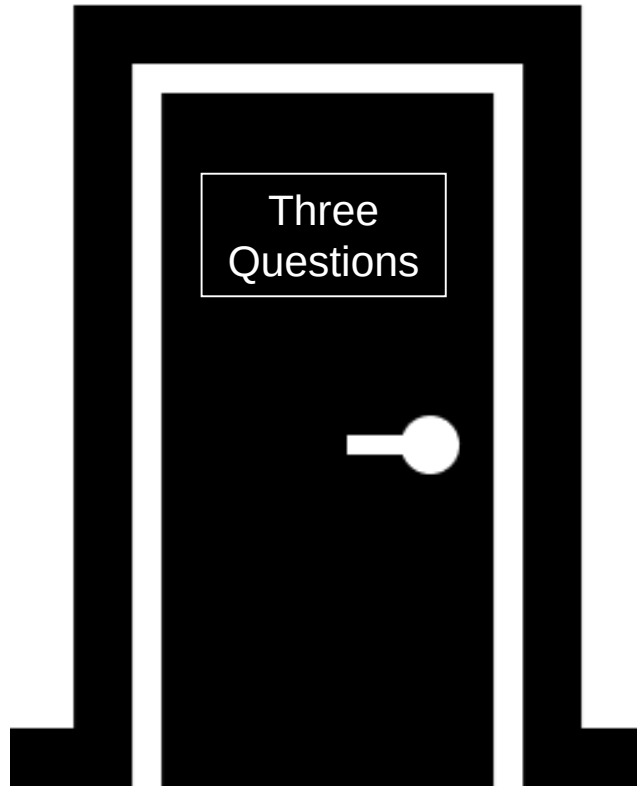
the school must dismiss that portion of the formal complaint *as a Title IX matter*.

# MANDATORY DISMISSAL POP



- Complainant sexually assaulted by fellow student at his off-campus apartment. **DISMISS**
- Complainant propositioned by professor and offered higher grade at University's study abroad program in Luxembourg **DISMISS**
- Student in clinical nursing program sexually harassed by patient at hospital **KEEP**
- Student pushed to the ground on athletic field by angry boyfriend – just one occasion **KEEP**
- Professor tells student that he is her type and she could give him the climax of his life **DISMISS**

# YOUR ANALYSIS OF THE FORMAL COMPLAINT



What happens if the answer  
to any of the three  
questions

Who

or

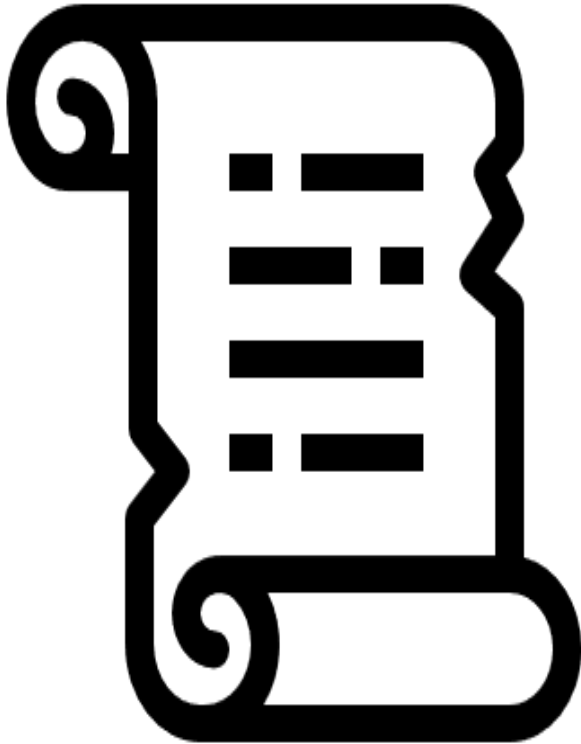
Where

or

What

doesn't take the case over  
the Title IX threshold?

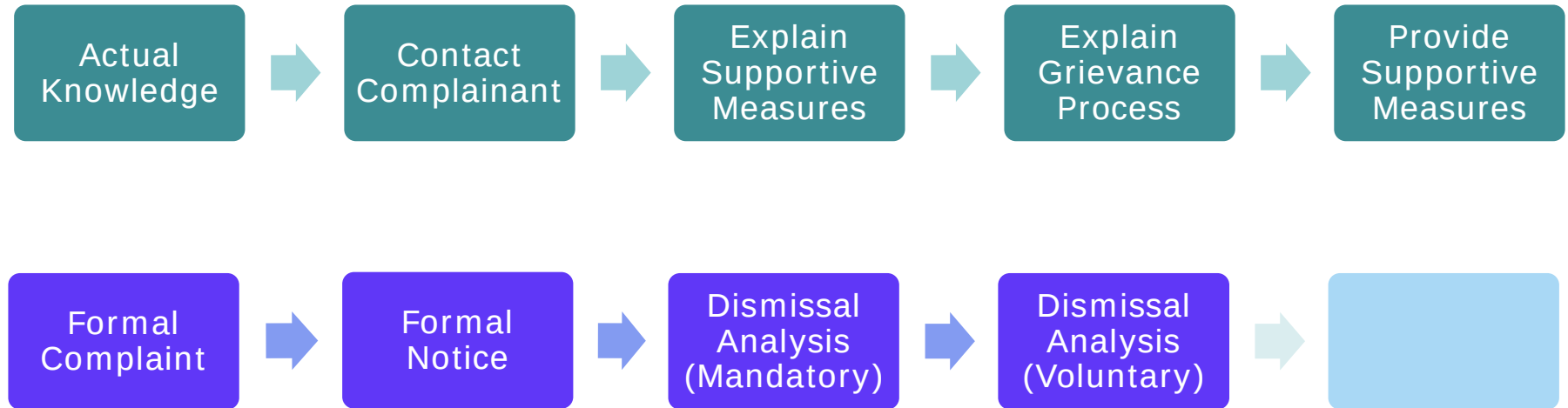
# MANDATORY DISMISSAL



The school must dismiss that portion of the Formal Complaint *as a Title IX matter*.

Promptly send notice written notice of the dismissal (and reasons therefore) to the parties simultaneously.

# Coordinator Flow Chart

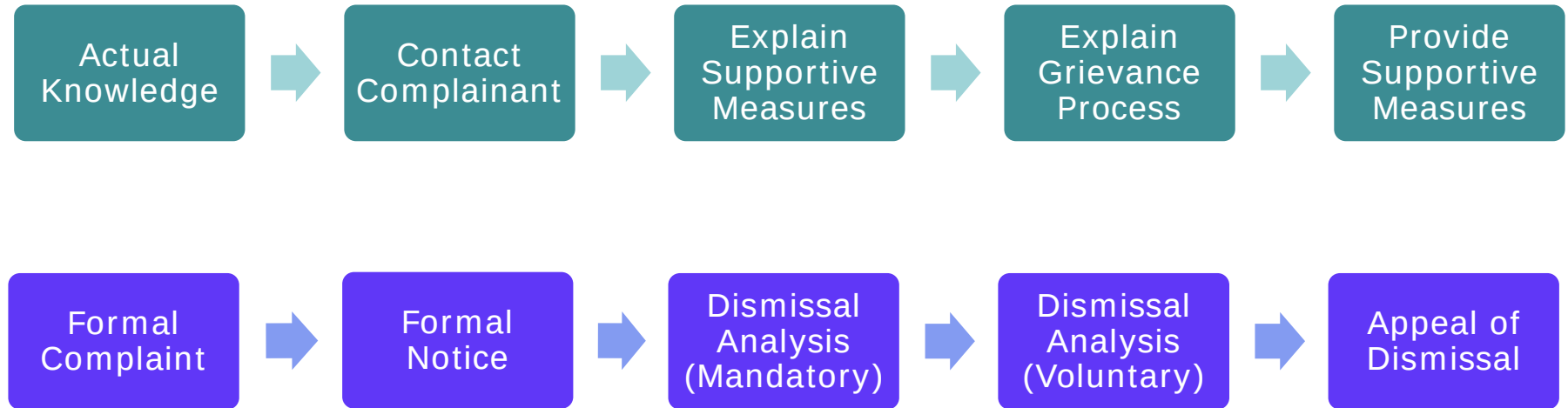


# VOLUNTARY DISMISSAL

1. Complainant no longer wishes to proceed
2. Respondent no longer works at/attends the school
3. Not enough information available to pursue case

Promptly send written notice of the dismissal (and reasons therefore) to the parties simultaneously.

# Coordinator Flow Chart



# Appeal of a Dismissal



- Required for both parties on these grounds:
  1. Procedural irregularity
  2. New evidence
  3. Bias that affected the outcome
  4. Any other ground school allows
- Different decision maker than decided dismissal (and not Coordinator or Investigator)
- Both parties may submit written statement
- Written decision must give result & rationale

## ACTION ITEMS



Designate the individuals (those who have authority to institute corrective measures) whose knowledge of a possible incident triggers an obligation to respond

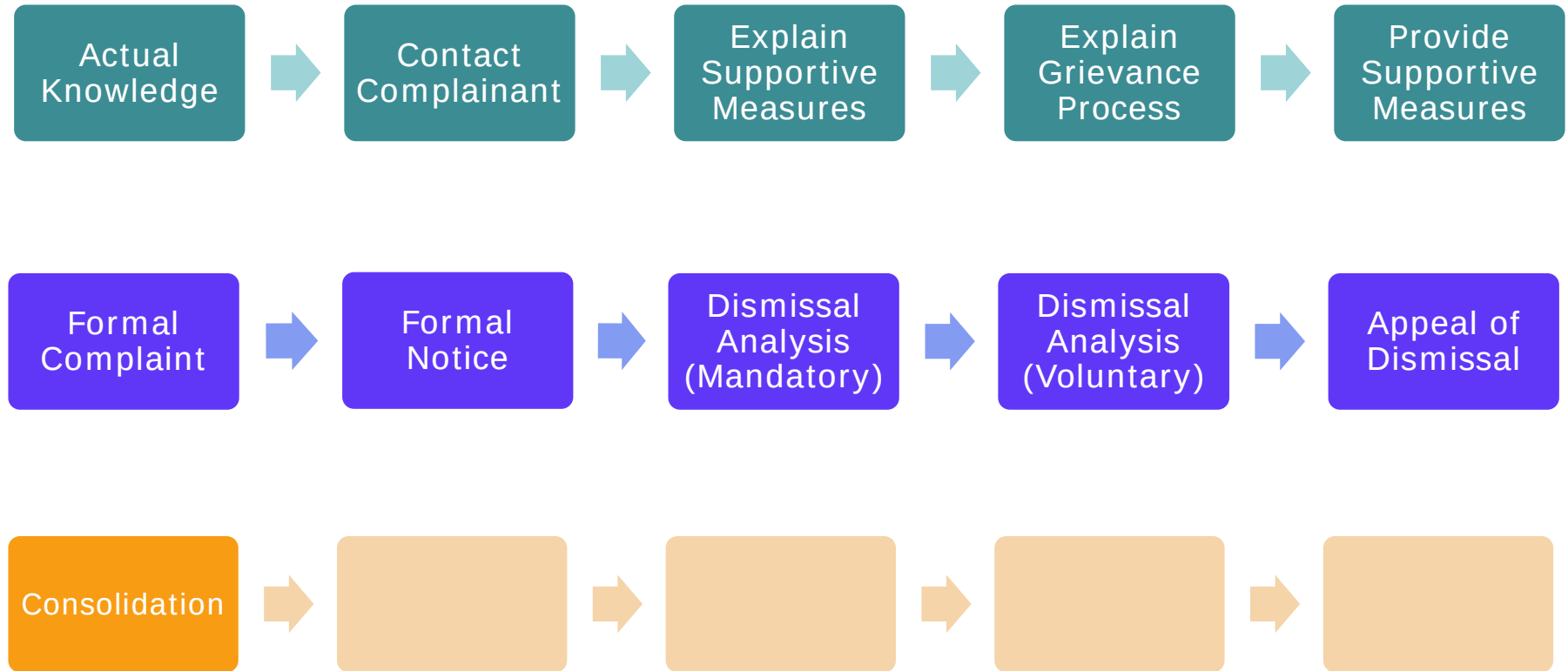


Check Code of Conduct re false statement provision

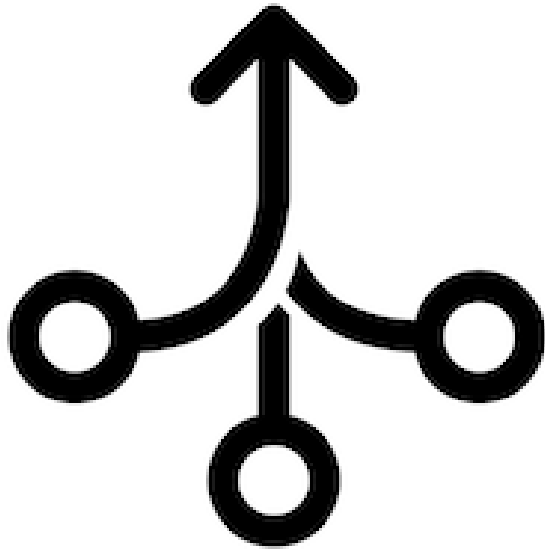


Consider adding grounds for appeal of dismissal

# Coordinator Flow Chart



# CONSOLIDATION



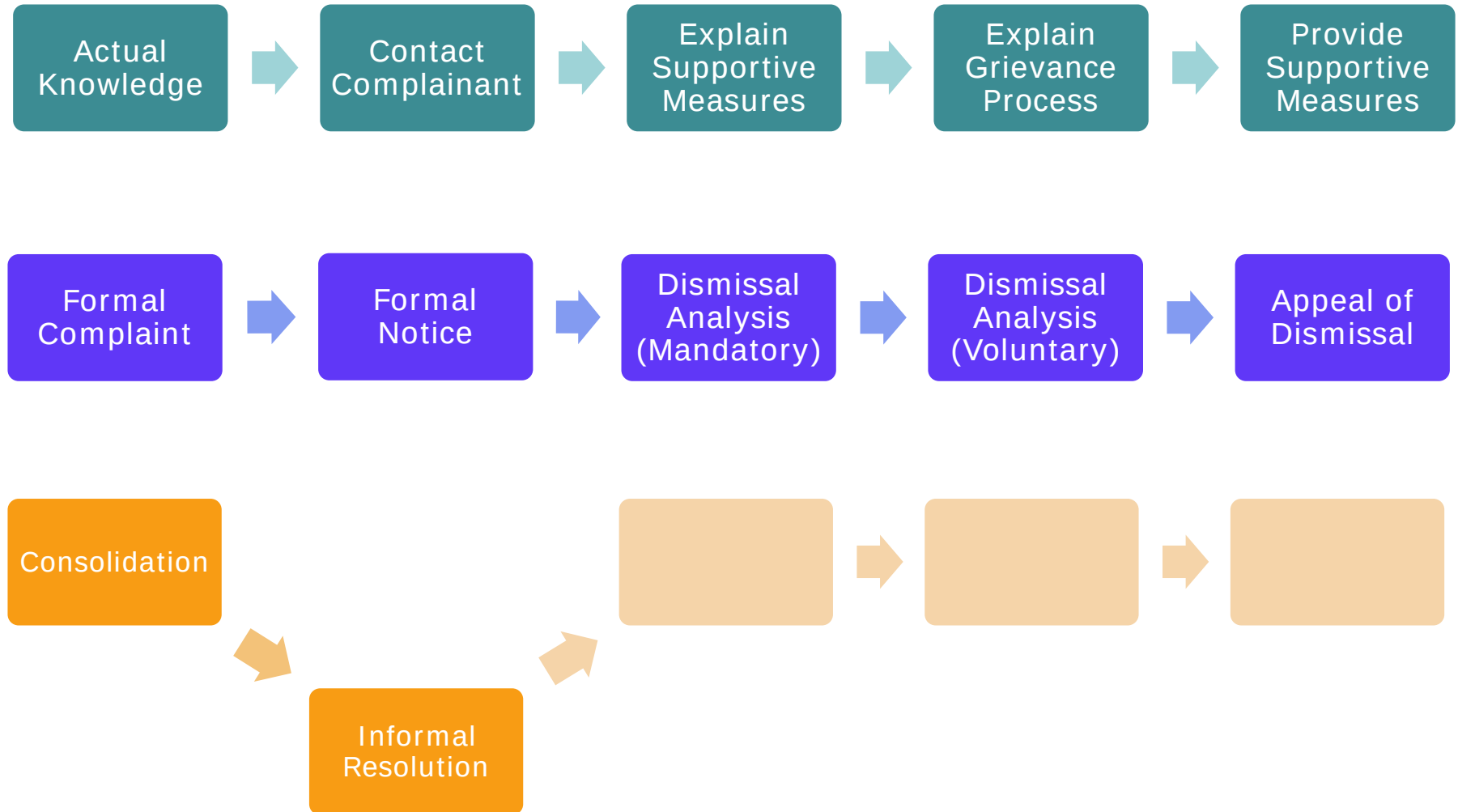
- Complainant's allegations against multiple respondents
- Multiple complainants' allegations against one or more respondents
- The parties' allegations against each other

Note: In each case the allegations must arise out of the same facts or circumstances

# CONSOLIDATION POP QUIZ

- Student A alleges ex-girlfriend hit her; ex-girlfriend alleges Student A stalked her **YES**
- Five students who attended a fraternity party allege they were groped by a gauntlet of members **YES**
- Student alleges that after assault by soccer player, she was repeatedly sexually harassed by player's teammates **YES**
- Three students allege that they were “roofied” and sexually assaulted by the same respondent, one in March, one in April, and one in May **NO**

# Coordinator Flow Chart



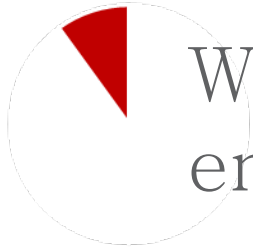
# INFORMAL RESOLUTION PROCESS(ES)

- Parties must opt in (in writing)
- Either party may opt out and resume formal process at any point prior to agreement
- Must be clear with parties about when return to formal process is foreclosed
- Must be clear about records that could be maintained or shared
- Can't use if complainant is student and respondent is employee





# TEN PERCENT PROBLEMS



What if the respondent is a *student* employee?

## ACTION ITEMS



Designate the individuals (those who have authority to institute corrective measures) whose knowledge of a possible incident triggers an obligation to respond



Check Code of Conduct re false statement provision

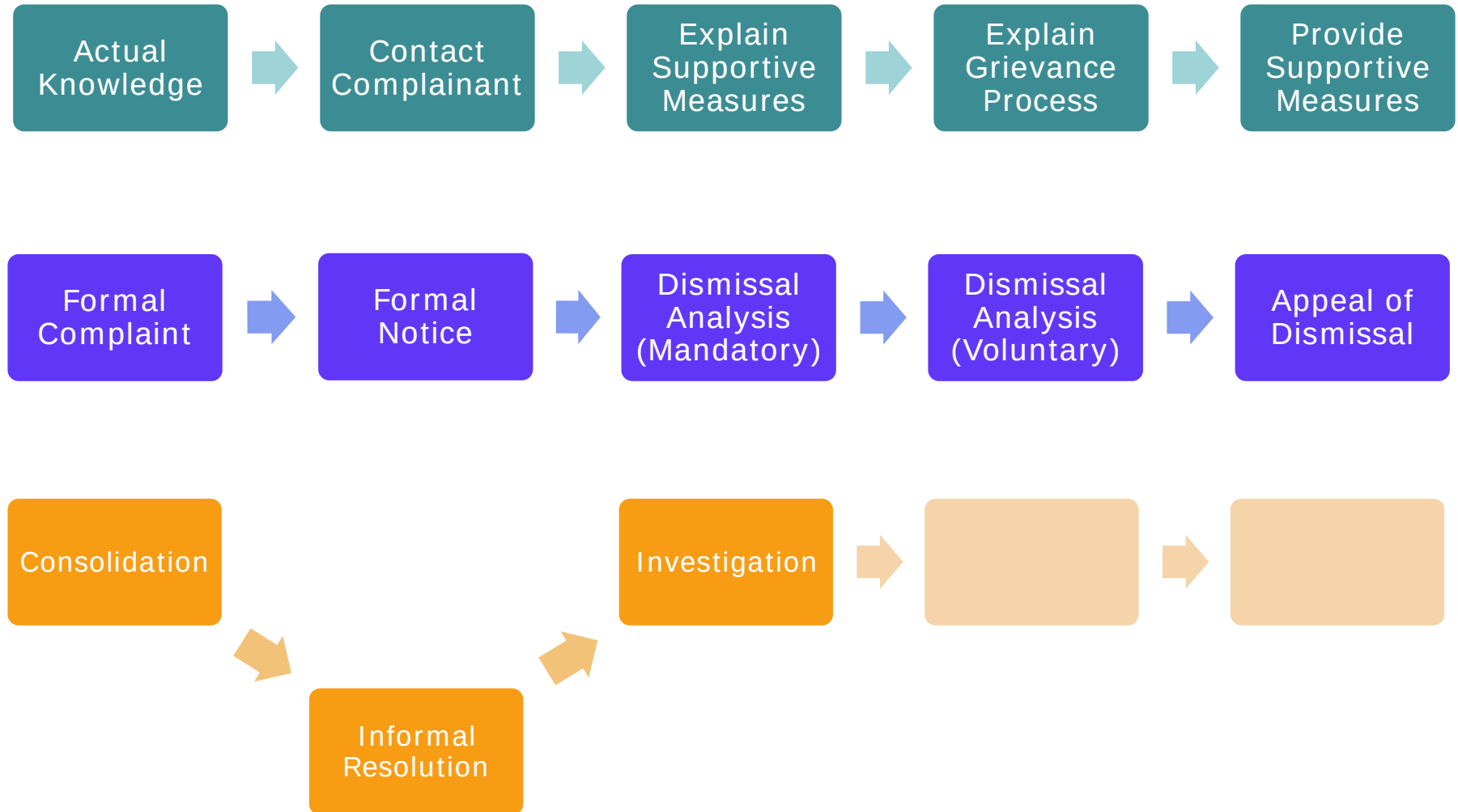


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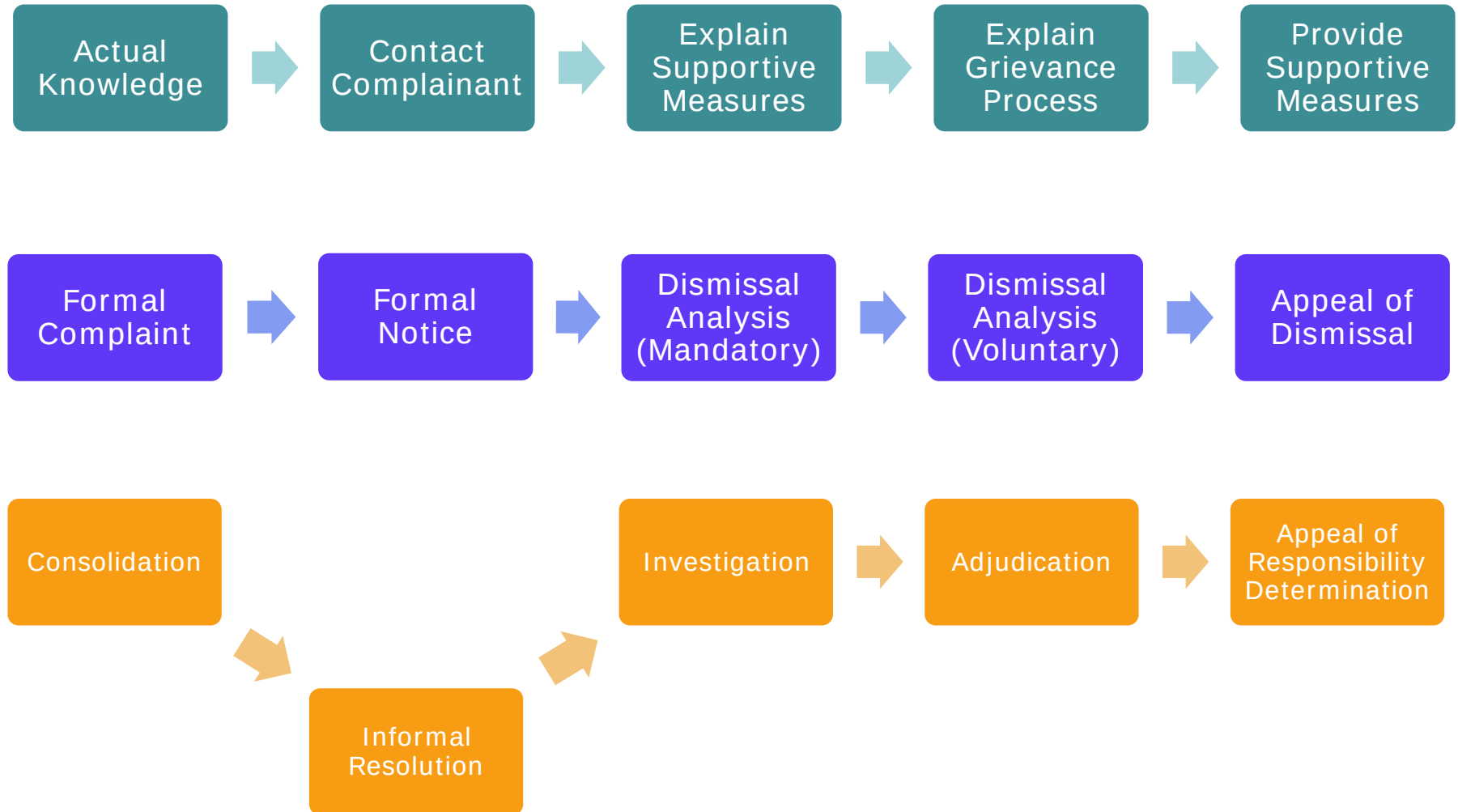


Create/reform informal resolution process

# Coordinator Flow Chart

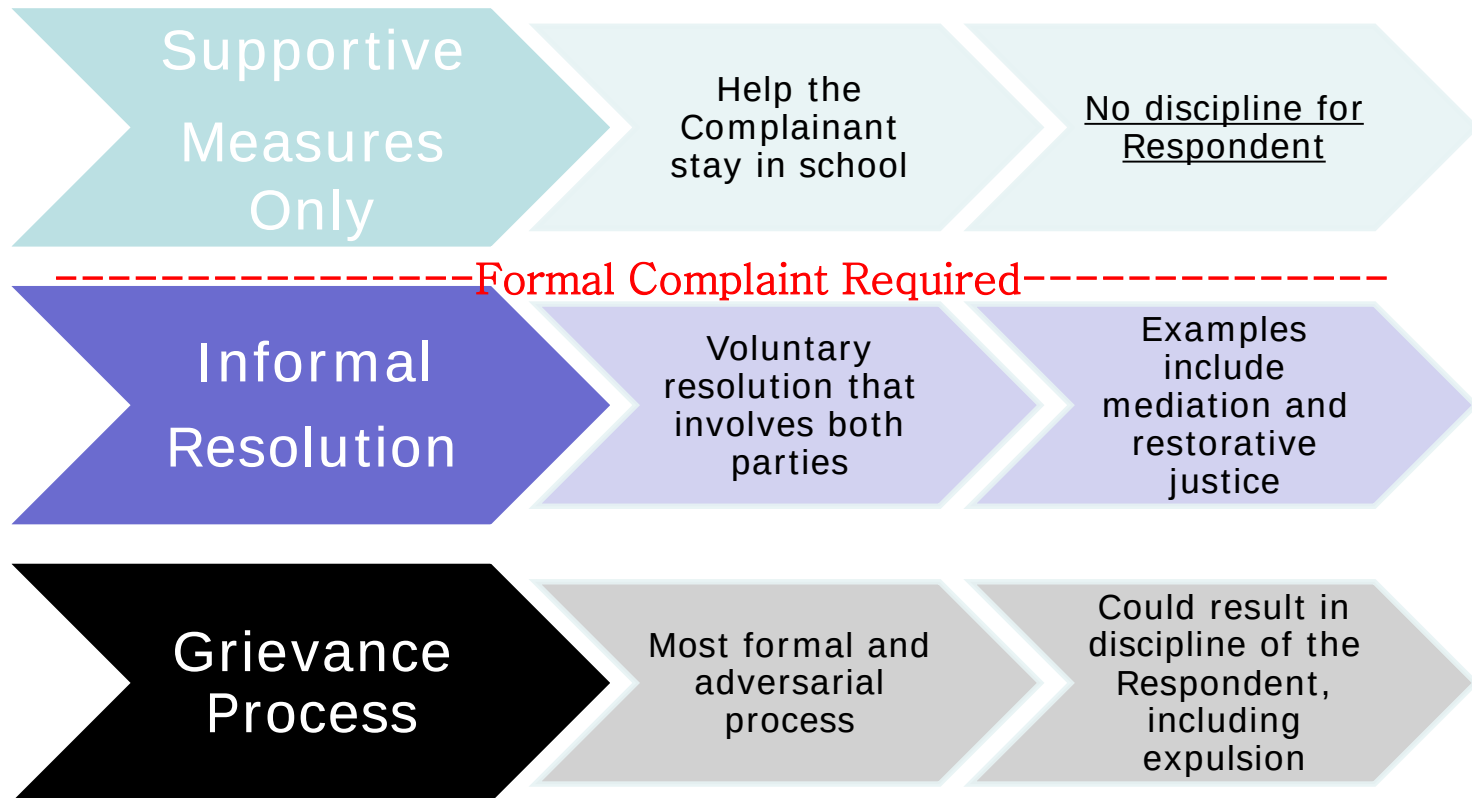


# Coordinator Flow Chart



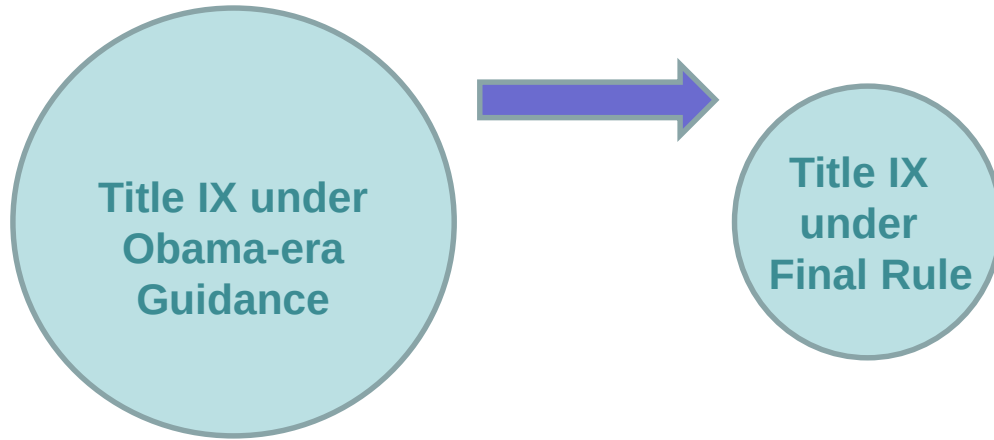
So you have a Title IX case, now what?

# Three Possible Paths



The decision of which path to take is driven primarily by the Complainant

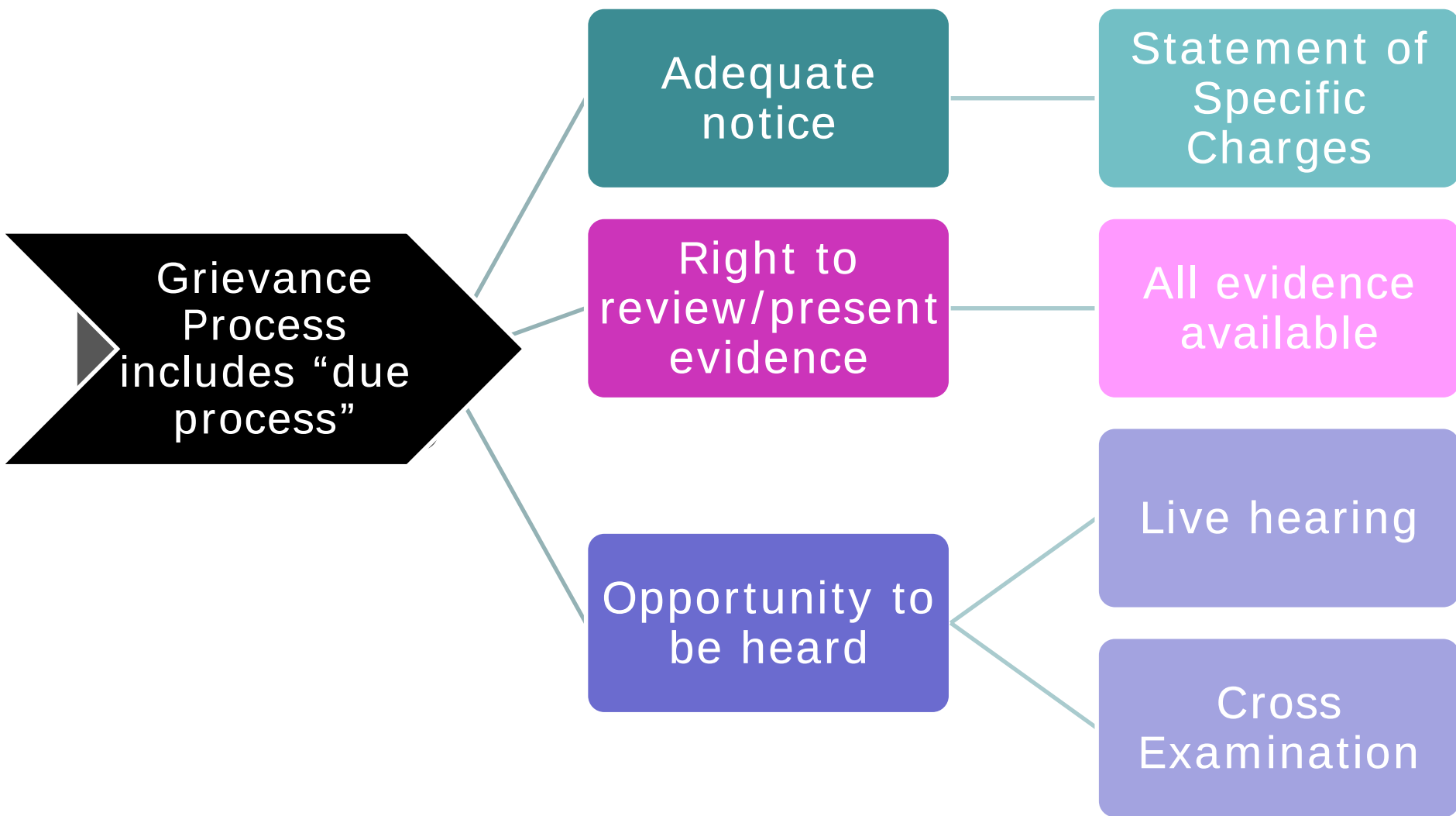
# Overarching Goals of Final Rule



1. Narrow the scope of incidents that fall within the law

2. Recalibrate the procedural balance between complainants and respondents





# Investigation



- No use of the single investigator/adjudicator model
- Training required for investigators (published)
- Investigators must be impartial
- Burden of gathering evidence is on school
- Parties entitled to equal opportunity to present evidence
- No gag orders
- Parties entitled to review evidence (10-day response period) prior to finalization of investigative report

# Report



- Investigator(s) must create an investigative report that fairly summarizes the relevant evidence.
- At least 10 days prior to the hearing, the report must be provided to each party and advisor.

# Hearings



- May be virtual, but must be live
- Recording or transcript required
- Decision maker(s) can't be coordinator or investigator
- If party does not have an advisor, school must provide an advisor (not necessarily attorney) of school's choice at no cost to student

# Cross Examination



- Questioning done by advisor (parties may not question each other directly)
- Direct, in real time, with audio & visual
- Relevancy requirement, vetting by decision maker(s)
- Rape shield and other and limitations
- Refusal to submit to cross exam = all other statements (including documents) disqualified
  - Even if witness unavailable
  - Even statements against interest

# Standard of Evidence



- Either preponderance of the evidence or clear and convincing
- Apply the same standard of evidence to all formal complaints of TIXSH
- Apply the same standard for formal complaints by/against students as for formal complaints by/against employees, including faculty

# ACTION ITEMS

- ☑ Designate the individuals (those who have authority to institute corrective measures) whose knowledge of a possible incident triggers an obligation to respond
- ☑ Check Code of Conduct re false statement provision
- ☑ Consider adding grounds for appeal of dismissal
- ☑ Create/reform informal resolution process
- ☑ Select standard of proof, taking into account that it must be applied in all TIXSH cases

# Determination of Responsibility



- Written, simultaneous notification to both parties

Identification of the allegations

Description of all procedural steps

Findings of fact supporting the determination

Conclusions regarding the application of the recipient's code of conduct to the facts

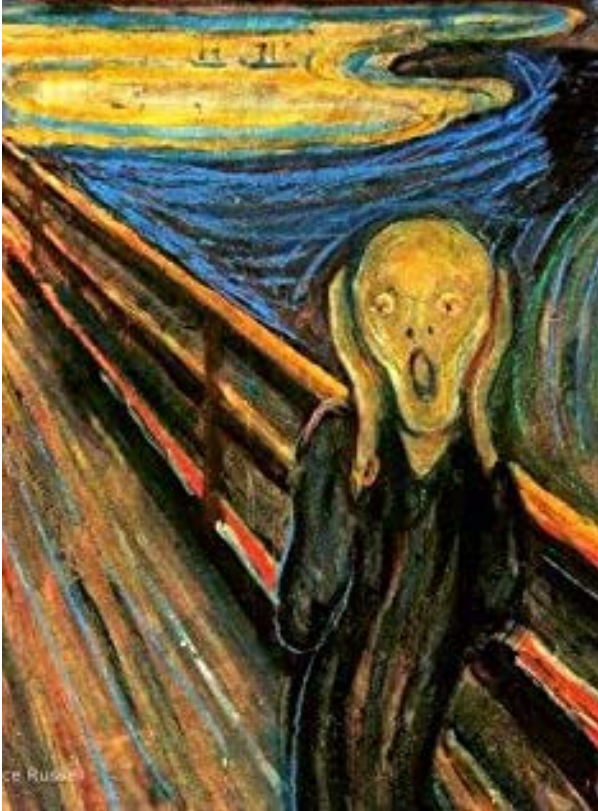
Statement/rationale for result as to each allegation including determination regarding responsibility, and any disciplinary sanctions or remedial measures

Appeal rights

# Appeal of a Determination

- Required for both parties on these grounds:
  1. Procedural irregularity
  2. New evidence
  3. Bias that affected the outcome
  4. Any other ground school allows
- Different decision maker (and not Coordinator or Investigator)
- Each parties may submit a written statement
- Written decision must describe result and rationale

# HOLD ON – LET’S GET BACK TO...



- One student raping another in an off-campus apartment
- A professor making regular inappropriate remarks that aren't "severe"
- Level 4 harassment on social media of student who is taking online class from outside the country

SO WE CAN'T DO ANYTHING ABOUT  
THOSE INCIDENTS????

Yes  
You  
Can

“Dismissal does not preclude action under another provision of the school’s code of conduct.”

# TWO BUCKETS



## Title IX Sexual Harassment (TIXSH)

Forms of harassment on the basis of sex that fall within the Final Rule's definition of sexual harassment and jurisdictional scope. These cases must be handled in accordance with the Final Rule.

## Other Sexual Harassment (OSH)

Forms of harassment on the basis of sex that do not fall within the Final Rule's definition of sexual harassment and/or jurisdictional scope.

*Schools may decide for themselves how to handle OSH cases.*

# WHAT TO DO WITH OSH?

Student complains that a public safety employee makes flirty remarks to him whenever he sees him, about once a week.

Not Level 4 – not severe

Student complains she was sexually assaulted by two older students in the restroom of a local bar.

Not in school's program or activity

Professor complains that the Dept. Chair told her, “women don't belong in this field, but I sure do like to watch you coming and going.”

Not Level 4 – not pervasive

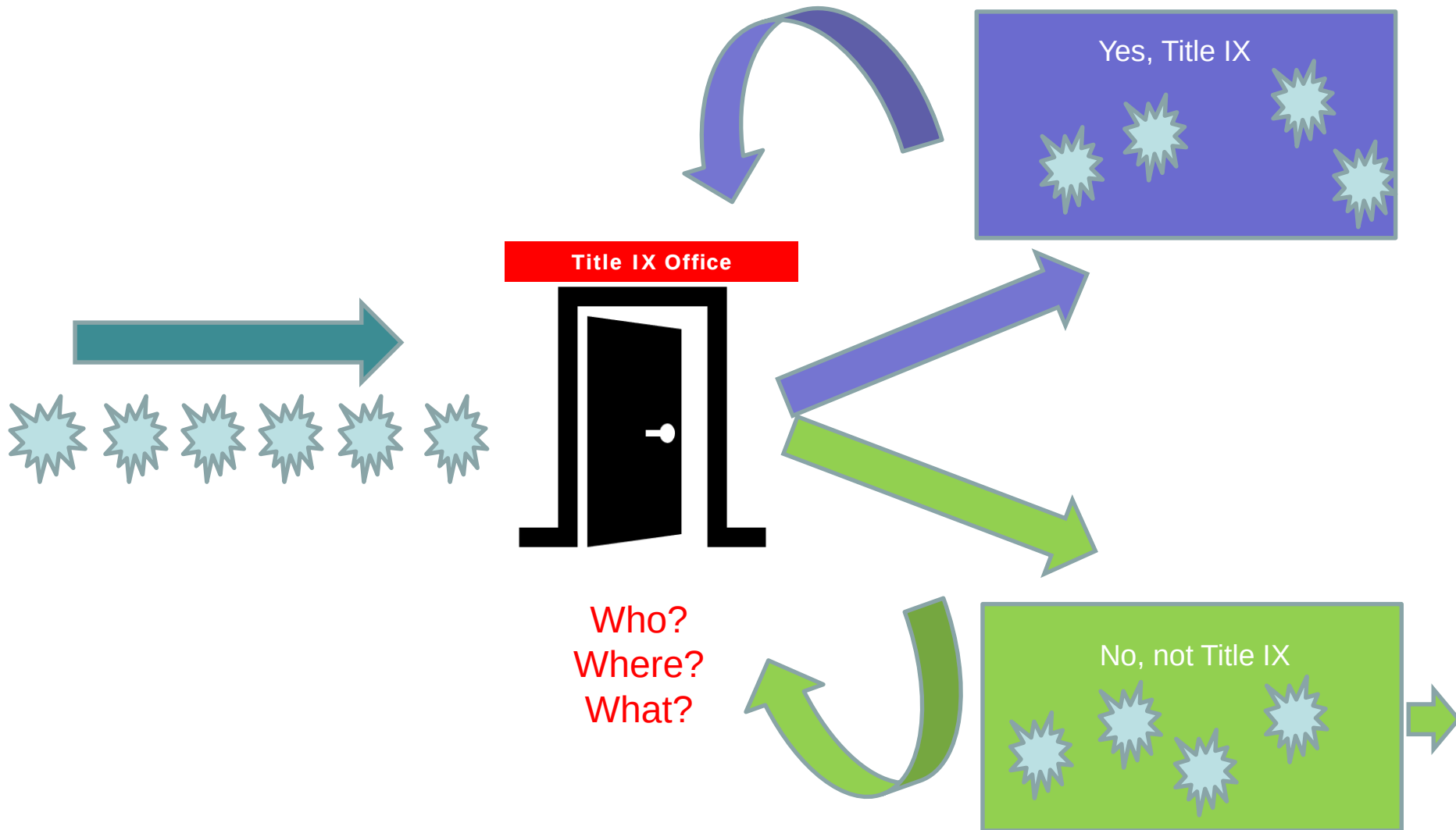
Student complains that his ex-girlfriend, also a student, has been following him home every time he leaves campus and sitting outside his house in her car for hours.

Not in school's program or activity

*A school may address sexual harassment affecting its students or employees that falls outside Title IX's jurisdiction in any manner the school chooses, including providing supportive measures or pursuing discipline.*

– Department of Education's Summary of Major Provisions of the Title IX Final Rule

# JURISDICTIONAL ANALYSIS



## WAIT, ARE YOU TELLING ME THAT DOE WILL LET US...

- Refer OSH cases to other offices for investigation and discipline?

YES

- Use the same procedures and personnel we will be using for Title IX cases to investigate and discipline OSH cases?

YES

- Use our current Obama-era procedures (or our old pre-Obama procedures) to investigate and discipline OSH cases?

YES

- Run simultaneous parallel procedures for different aspects of the same course of conduct?

YES

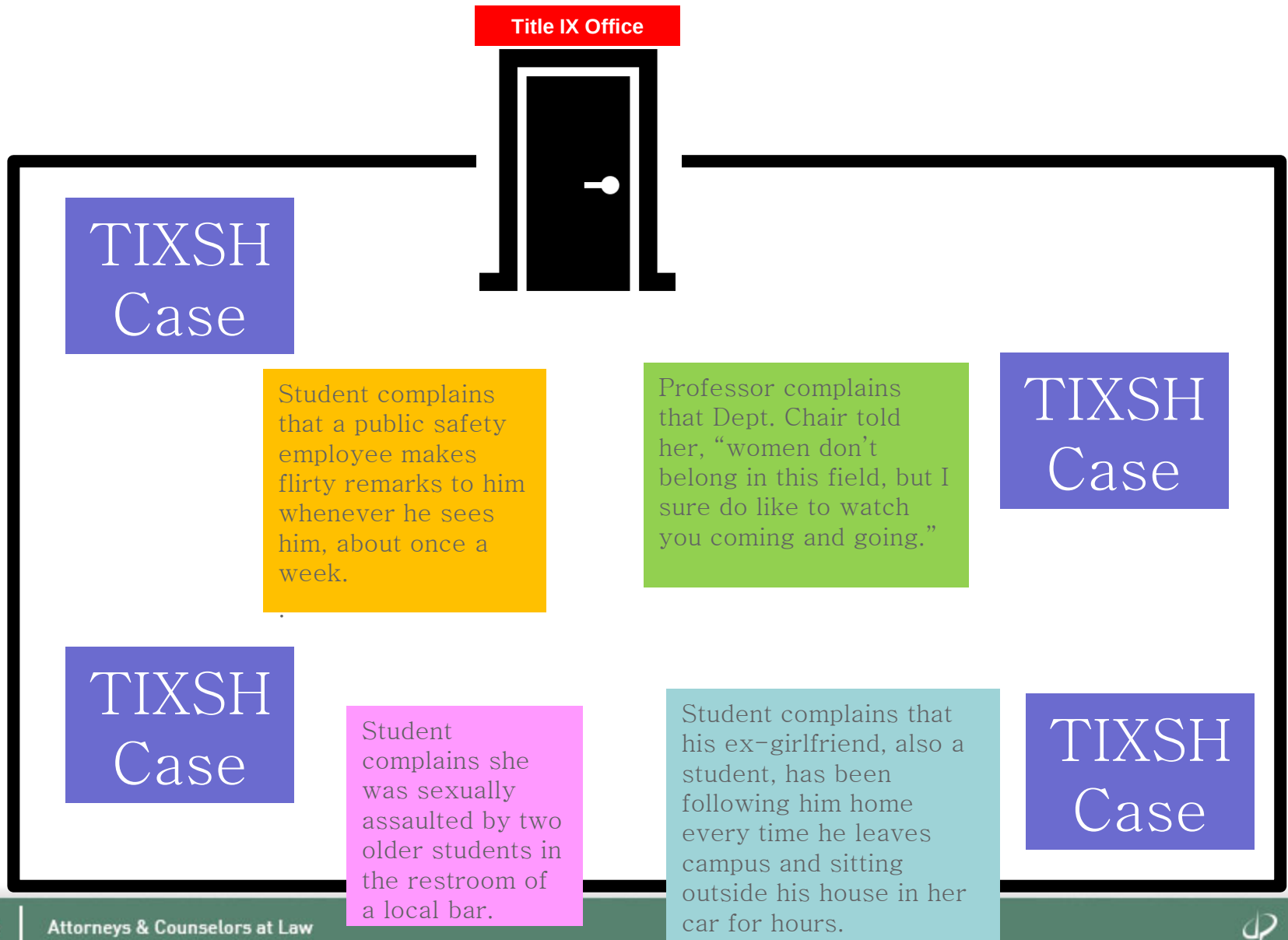
- Just ignore non-Title IX cases and do nothing about them?

MAYBE

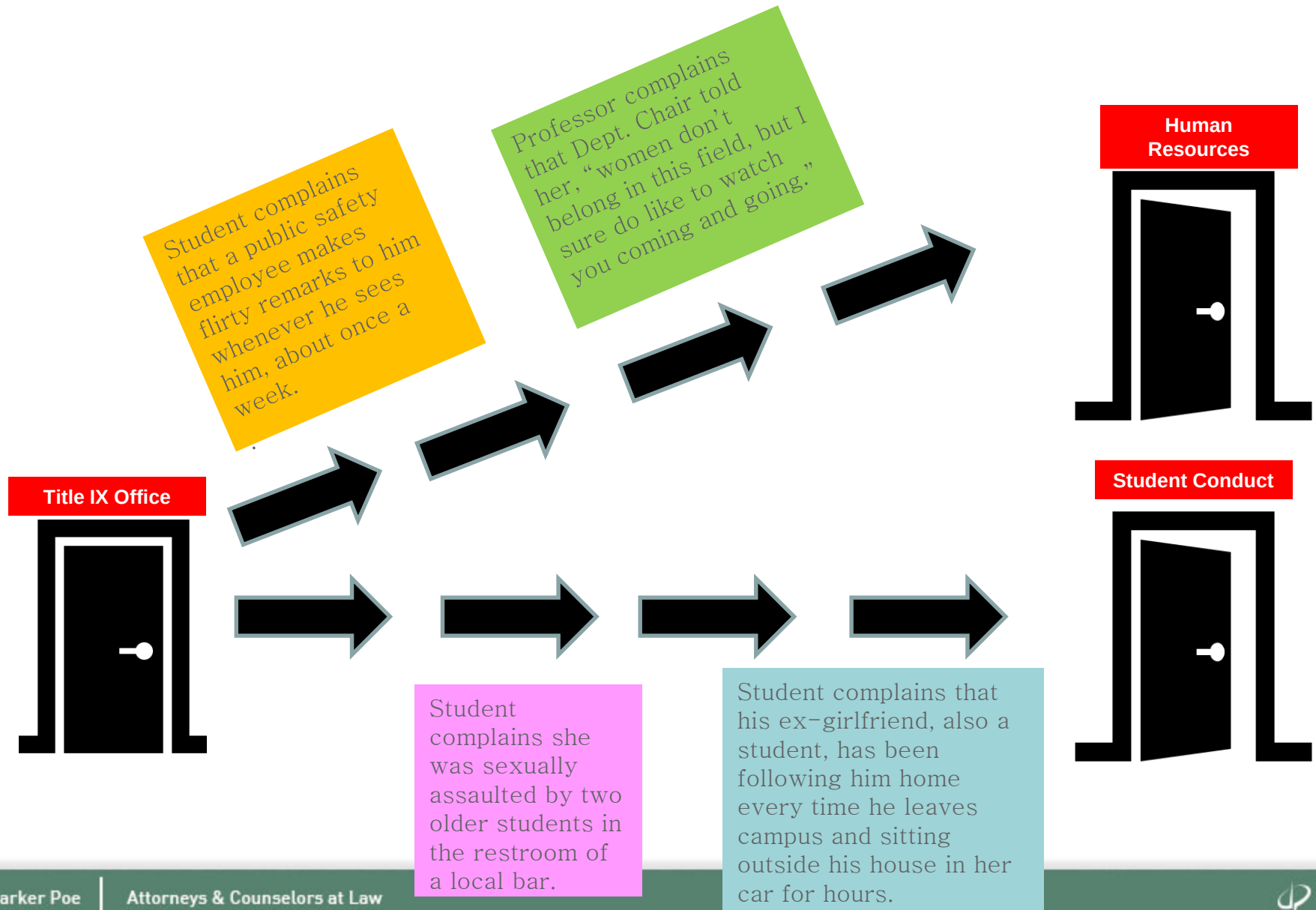
- Charge an individual with non-Title IX code of conduct violations so that we don't have to deal with Title IX at all?

NO

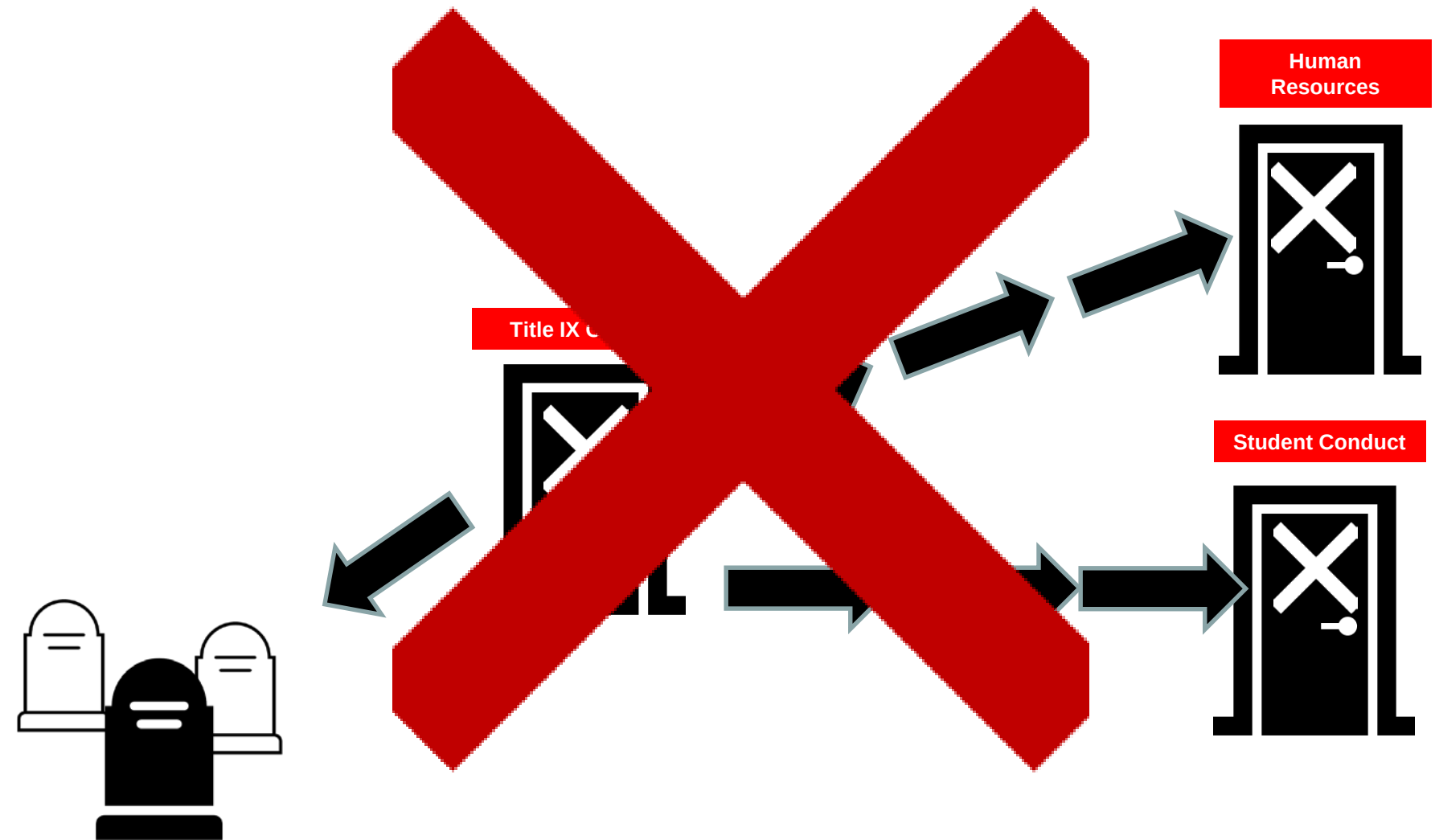
# YOU CAN KEEP OSH CASES IN THE TITLE IX OFFICE



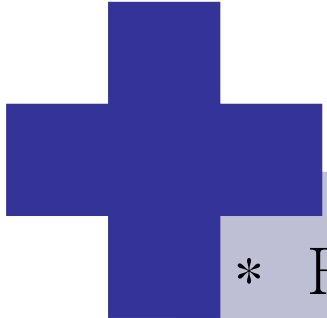
# YOU CAN FARM OUT OSH CASES TO OTHER OFFICES



# YOU CAN IGNORE (SOME) OSH CASES



# HANDLING OSH CASES USING TITLE IX PROCEDURES

- 
- \* Reduced need for jurisdictional sorting
  - \* Increased consistency and reduced confusion about procedures
  - \* Feels less arbitrary & reduced risk of due process suits

- 
- \* Stuck with onerous Title IX procedures for handling every case

# POSSIBLE APPROACHES TO OSH CASES

## Option A Maximize use of new TIX procedures

- Keep all sexual harassment (TIXSH and OSH) in the Title IX Office and handle them under the Final Rule's Title IX procedures.

## Option B Push to HR & Student Conduct

- Send all OSH cases out of the Title IX office. Limit the Title IX office to handling TIXSH cases under the Final Rule's Title IX procedures.

## Option C Use existing Title IX procedures

- Keep all sexual harassment (TIXSH and OSH) in the Title IX Office. Handle TIXSH cases under the new Final Rule and OSH cases under existing Title IX procedures.

# ACTION ITEMS

- ☑ Designate the individuals (those who have authority to institute corrective measures) whose knowledge of a possible incident triggers an obligation to respond
- ☑ Check Code of Conduct re false statement provision
- ☑ Consider adding grounds for appeal
- ☑ Create/reform informal resolution process
- ☑ Select standard of proof, taking into account that it must be applied in all TIXSH cases
- ☑ Determine how to handle OSH cases

# Determine how to respond to OSH cases

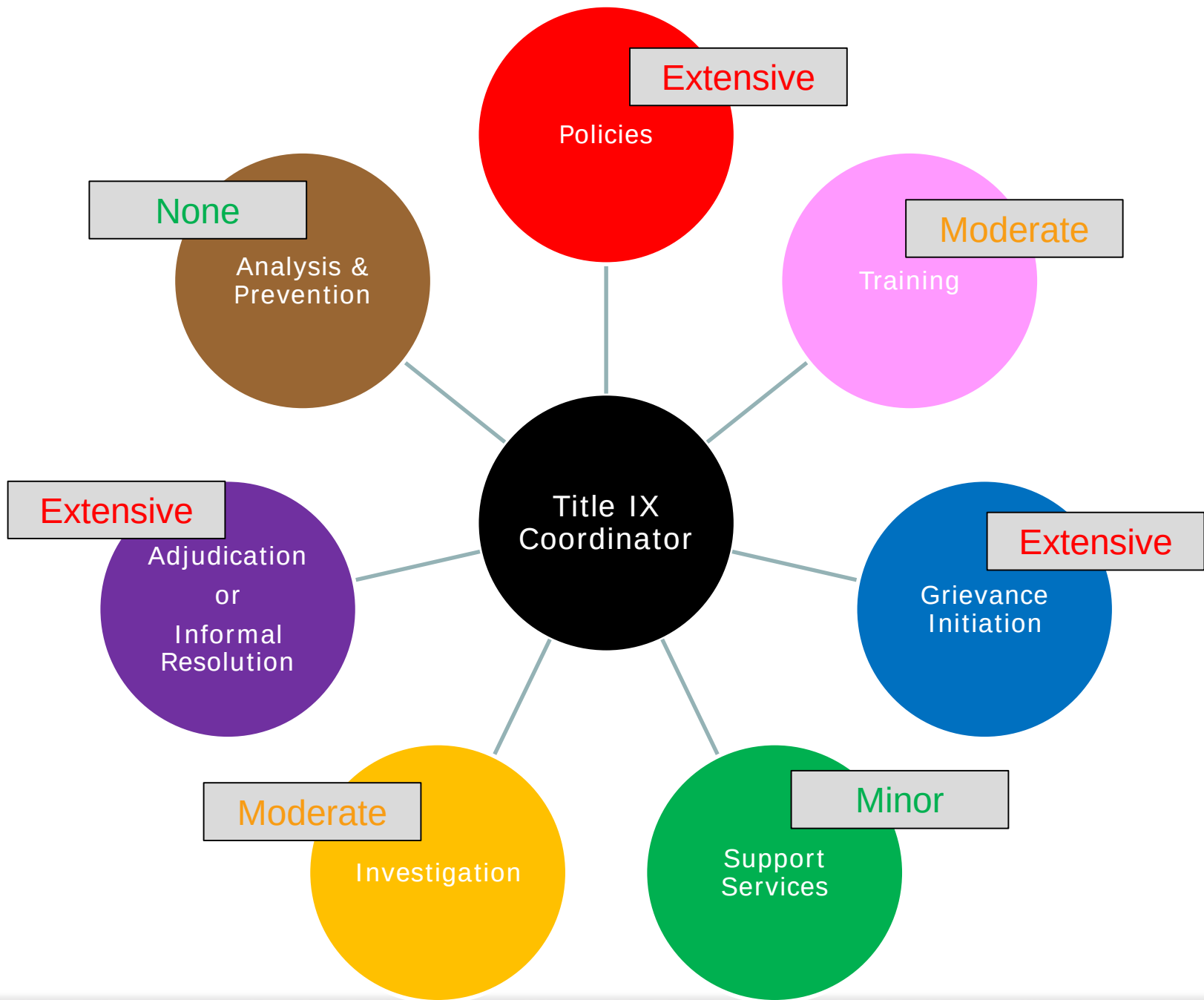
Ensure that Codes/Handbooks cover all OSH that you wish to be able to address

Determine which office will be responsible for handling which type of OSH

Determine (if relevant) how cases will be transferred from one office to another

Determine which procedures the relevant office will use in addressing OSH

Determine whether/how supportive measures will be provided to OSH victims



# Your Parker Poe Title IX Team



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*This presentation is not intended and should not be construed as legal advice.*

*Understanding of the law is evolving rapidly in this area. This presentation is our best attempt to summarize the current state of the law and is subject to change.*