

Title IX Informal Resolution Facilitator Training



ABOUT US

Courtney Bullard

Founder

Institutional Compliance Solutions

Betsy Smith

Senior Investigator & Consultant

Institutional Compliance Solutions

Celeste Bradley

Senior Investigator, Consultant, and Trainer

Institutional Compliance Solutions



PRACTITIONERS

HOUSEKEEPING

- Chat bar
- Breaks
- Understanding



TODAY

- Overview of the Law and Regulations – Definition of Sexual Harassment/Scope of Program or Activity
- Overview of the Title IX Process and IR Process
- Break
- Your Role as an IR Facilitator/Types of IR– Including Serving Impartially





Purpose of ICS Trainings

- Not Legal Advice
- Designed to provide you with options so that you can make the decisions that make the most sense for you/your campus and community
- Most decisions will be campus specific and the regulations allow for flexibility
- NO ONE HAS DONE THIS BEFORE
- We love when our participants bring information to us and provide their perspectives
- We are all in this together!



THE LAW

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in educational programs or activities operated by recipients of Federal financial assistance.





Title IX Applies to...

- Student on Student Sexual Harassment
- Employee on Employee Sexual Harassment
- *Employee on Student Sexual Harassment*
- Student on Employee Sexual Harassment



ALL EMPLOYEES



Title IX Team

THE LAW

- Informal Resolution Optional for School Districts
- No one way to conduct an IR



The diagram illustrates the Title IX Team structure. It features a large yellow square with a white border. Inside this square is a smaller yellow square containing a blue silhouette of a person. To the right of the silhouette, the text 'Title IX Coordinator' is written in blue.

Title IX
Coordinator



The diagram shows a vertical stack of five blue human silhouettes on a yellow background. To the right of each silhouette is a role title in blue text. From top to bottom, the roles are: Investigator(s), Decision-Maker(s), Appellate Member(s), Informal Resolution Facilitators?, and Advisors.

Investigator(s)

Decision-
Maker(s)

Appellate
Member(s)

Informal
Resolution
Facilitators?

Advisors



Important Terms

Complainant: Individual who is alleged to be the victim of conduct that could constitute sexual harassment

Respondent: Individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment

Sexual Harassment + Education Program or Activity







Sexual Harassment

- Conduct on the basis of sex that satisfies one or more of the following:
 - An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
 - 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 recipient's education program or activity; or
 - "Sexual Assault," "Dating Violence," "Domestic Violence" or "Stalking" as defined in the Clery Act.



SEXUAL ASSAULT

Sexual Assault: An offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI's Crime Reporting system.

A sex offense is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

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.

Domestic Violence

Domestic Violence: A felony or misdemeanor crime of violence committed

- by a current or former spouse or intimate partner of the victim;
- by a person with whom the victim shares a child in common;
- by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

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Dating Violence

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be based upon the reporting party's statement with consideration of the following factors:

(i) The length of the relationship

(ii) The type of relationship

(iii) The frequency of interaction between the persons involved in the relationship.

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

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STALKING

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to

- (1) Fear for the person's safety or the safety of others; or**
- (2) Suffer substantial emotional distress.**

For purposes of this definition:

Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

Conduct + Education Program or Activity

IT'S MORE THAN THE BEHAVIOR...
MUST EVALUATE
LOCATION/ JURISDICTION AS WELL

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JURISDICTION

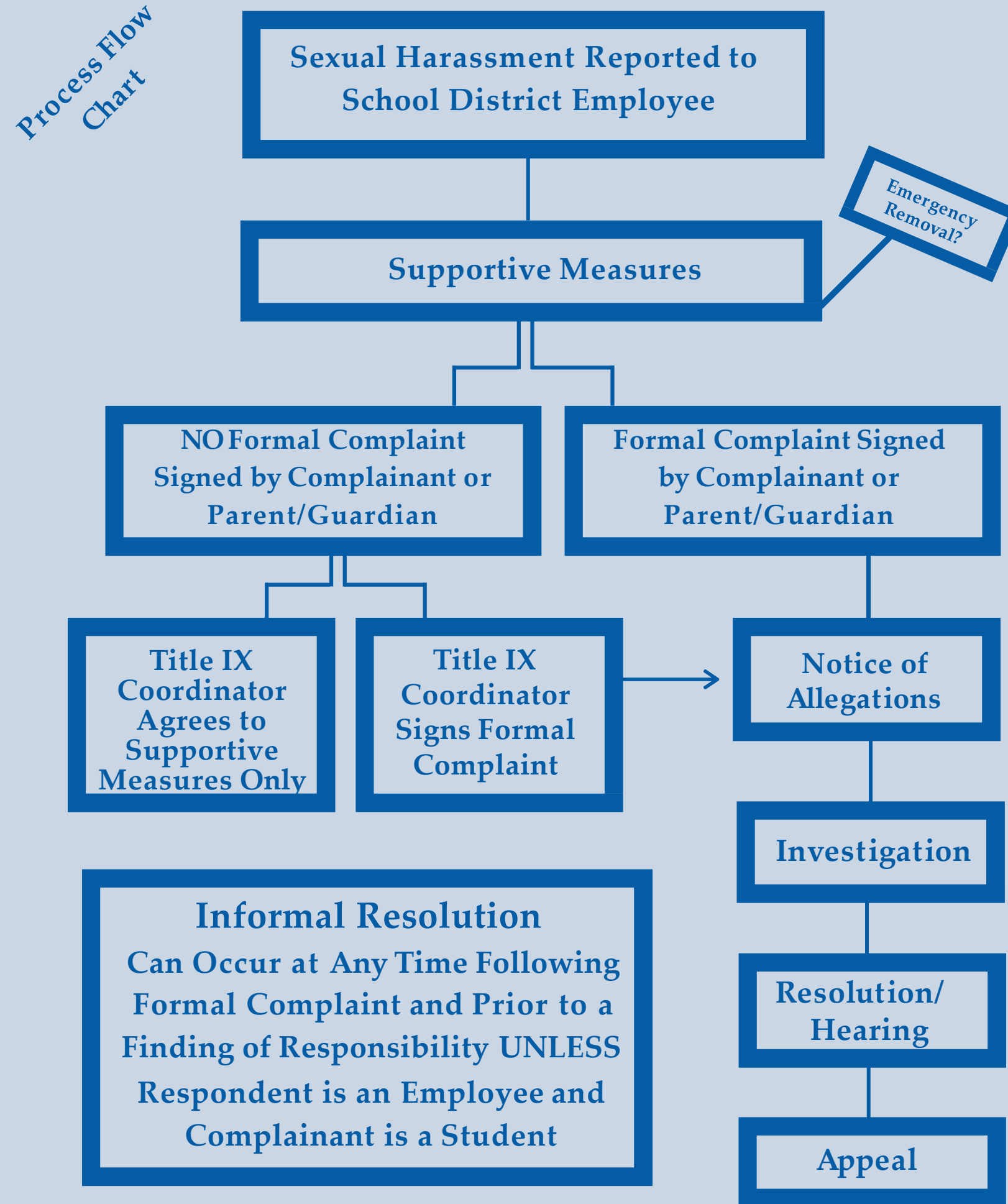
Education Program or Activity

- Locations, events, or circumstances (operations) over which the district exercised substantial control
 - over both the respondent AND the context in which the sexual harassment occurs
- Includes online sexual harassment but it must be analyzed to determine if it occurs in education program or activity
- Does not create or apply a geographic test, does not draw a line between “off campus/property” and “on campus/property,” and does not create a distinction between sexual harassment occurring in person versus online.

Informal Resolution Facilitator's Role



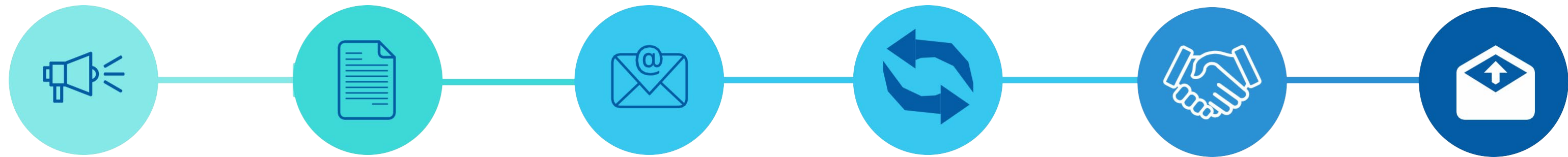
General K-12 Process Flow Chart



*A Formal Complaint MUST be dismissed if it does NOT meet definition of Sexual Harassment, occur in education program or activity, or in the U.S.

*A Formal Complaint MAY be dismissed at request of Complainant, if Respondent no longer at school district or school district is prevented from gathering evidence.

TITLE IX INFORMAL RESOLUTION PROCESS



**Report of
Title IX Sexual
Harassment**

**Formal
Complaint
w/Notice of
Allegations
including
Informal
Resolution
Process
Option**

**Notice of
Informal
Resolution
Process (if
parties and
Title IX
Coordinator
Agree)**

**Informal
Resolution
Process***

**Agreement
or Transition
Back to Formal
Grievance
Process**

**Notice of
Outcome**

POTENTIAL PARTIES



COMPLAINANT



RESPONDENT



ADVISOR



PARENT/
GUARDIAN



What is Your Role?

- Establish expectations
 - For you
 - For the parties
- Define goals/objectives
- Listen
- Document
- Receive permission before sharing
- Stay flexible
- Remain neutral
- Serve as the "go between"

Informal Resolutions Will Take Significant Time



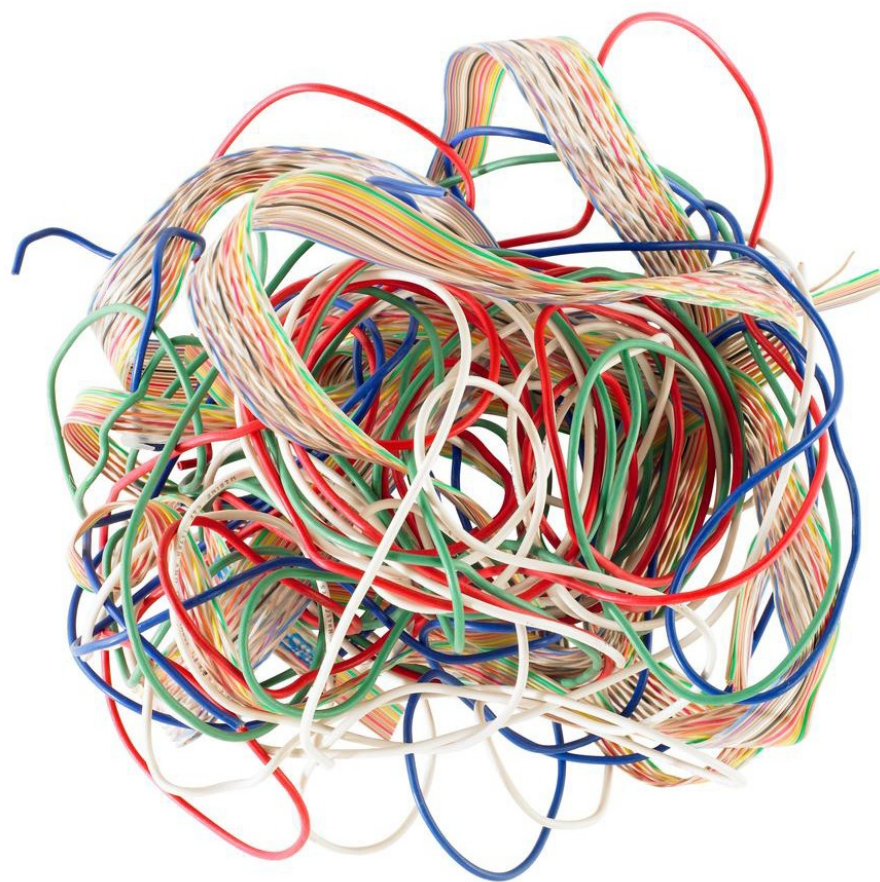
- Discussion between parties/parents-guardian through you in person in writing
- Be patient, don't rush
- Set deadlines





Put in the Effort

- If parties request and agree to this process they will have to put in the work...and so will you.
- Every outcome will look different.
- It may get messy.
- Give breaks during meetings with either or both parties.
- Parties may put up walls- therefore, you may have to resume the Formal Grievance Process.





- Be Kind
- Be Patient
- Be Understanding
- Include/ Update Supportive Measures

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Serving Impartially

- Avoiding Conflicts of Interest and Bias
- Reserving Judgment





CONFLICTS OF INTEREST/BIAS

- Generally toward Complainants/Respondents
- In a specific case
- Legal Definition of conflict of interest
 - a conflict between the private interests and the official or professional responsibilities of a person in a position of trust
 - a conflict between competing duties (as in an attorney's representation of clients with adverse interests)

Explicit Bias

- “Explicit bias” refers to the attitudes and beliefs we have about a person or group on a conscious level.
 - Expressed directly
 - Aware of bias
 - Operates consciously
- Example: Statement- "I don't think a woman would make a good CEO... Women are too emotional."





Implicit Bias

- "Implicit bias" refers to the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner.
 - Expressed indirectly
 - Unaware of bias
 - Operates subconsciously
- Example: Assuming that a woman entering a hospital room is a nurse instead of a doctor because of her gender.

Suspend Your Mind

Withhold/ Reserve Judgment



Types of Informal Resolution



Resolution

Resolution Agreement

- Respondent accepts responsibility
- Title IX Coordinator recommends sanction and remedies
- Parties agree to sanctions and remedies as recommended



Facilitated Dialogue

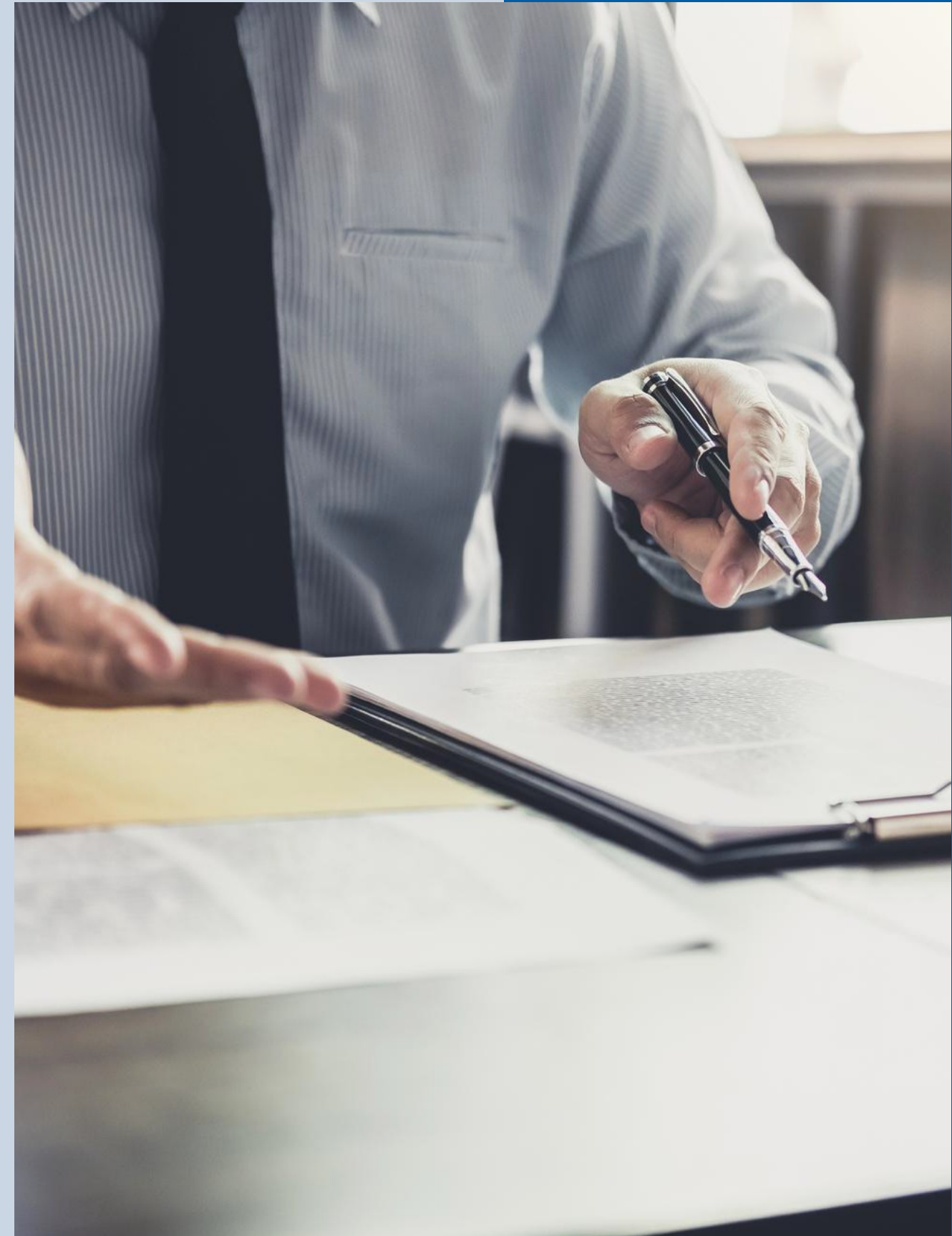
Structured conversation
between the Complainant
and Respondent led by a
facilitator with the
possibility of reaching an
agreeable outcome



Mediation

Procedure in which the parties discuss disputes with the assistance or aid of an Informal Resolution Facilitator who helps them in reaching settlement.

- Parties talk privately about their thoughts, feelings and experiences
- Consider what actions could meaningfully resolve the situation
- Explore mutually agreeable solution
- Negotiate an agreement



Shuttle Negotiation/ Conversation

Conversation that is indirect and facilitated by Informal Resolution Facilitator.





Restorative Justice Practices

- Emphasis on repairing the harm caused by the behavior
- Best accomplished through cooperation
- Can lead to transformation of people, relationships, and communities
- Can be used in any type of resolution





REMINDERS!!



- ✓ Cannot be done in an Employee on Student Case
- ✓ Can only occur after Formal Complaint and before a determination as to responsibility if conduct rises to level of Title IX and occurred within Program/Activity



REMINDERS!!



- ✓ No one way to do IR
- ✓ This is an introductory course – a lot to being a neutral – seek out learning opportunities!
- ✓ Revisit and explain your role often
- ✓ No one has done this before!



INSTITUTIONAL
COMPLIANCE SOLUTIONS

Questions?

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Linkedin:
**Institutional
Compliance Solutions**

- Courtney Bullard
- Betsy Smith
- Celeste Bradley



Twitter:
@ICSLawyer



Instagram:
@TitleIXLawyer



Facebook:
Institutional Compliance Solutions
Groups:
Title IX Coordinators Closed Group
K-12 Title IX Coordinators

CONNECT WITH US!



How Can We Help?



1

COMMUNITY
ACCESS

2

TAILORED
TRAINING

3

ONGOING
SUPPORT