

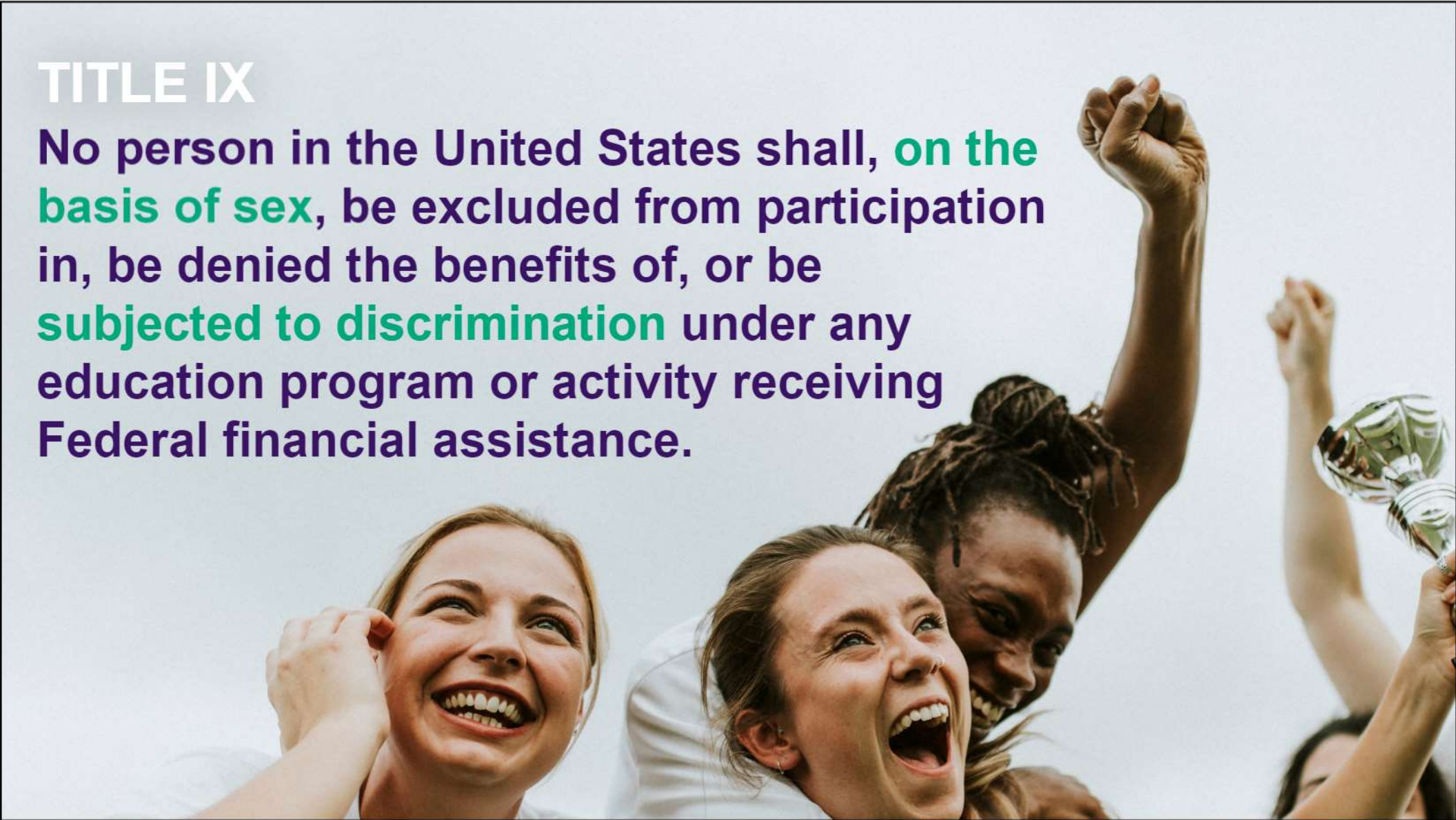
**JacksonLewis**

# **“Who Am I and Why Am I Here?”**

**An Orientation to your Role as an Advisor in the Title IX  
Sexual Harassment Grievance Process**

## 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**

**Prohibitions or Limitations on Participation Based on Sex**

**Inequitable Support for Men's and Women's Athletics**

**Pregnancy Discrimination**

**Sexual Harassment**

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



First-year athlete abused  
in locker room by older  
teammates

**Male on Male  
Sexual Assault**

Honors student raped  
in residence hall  
by roommate's friend

**Male on Female  
Sexual Assault**



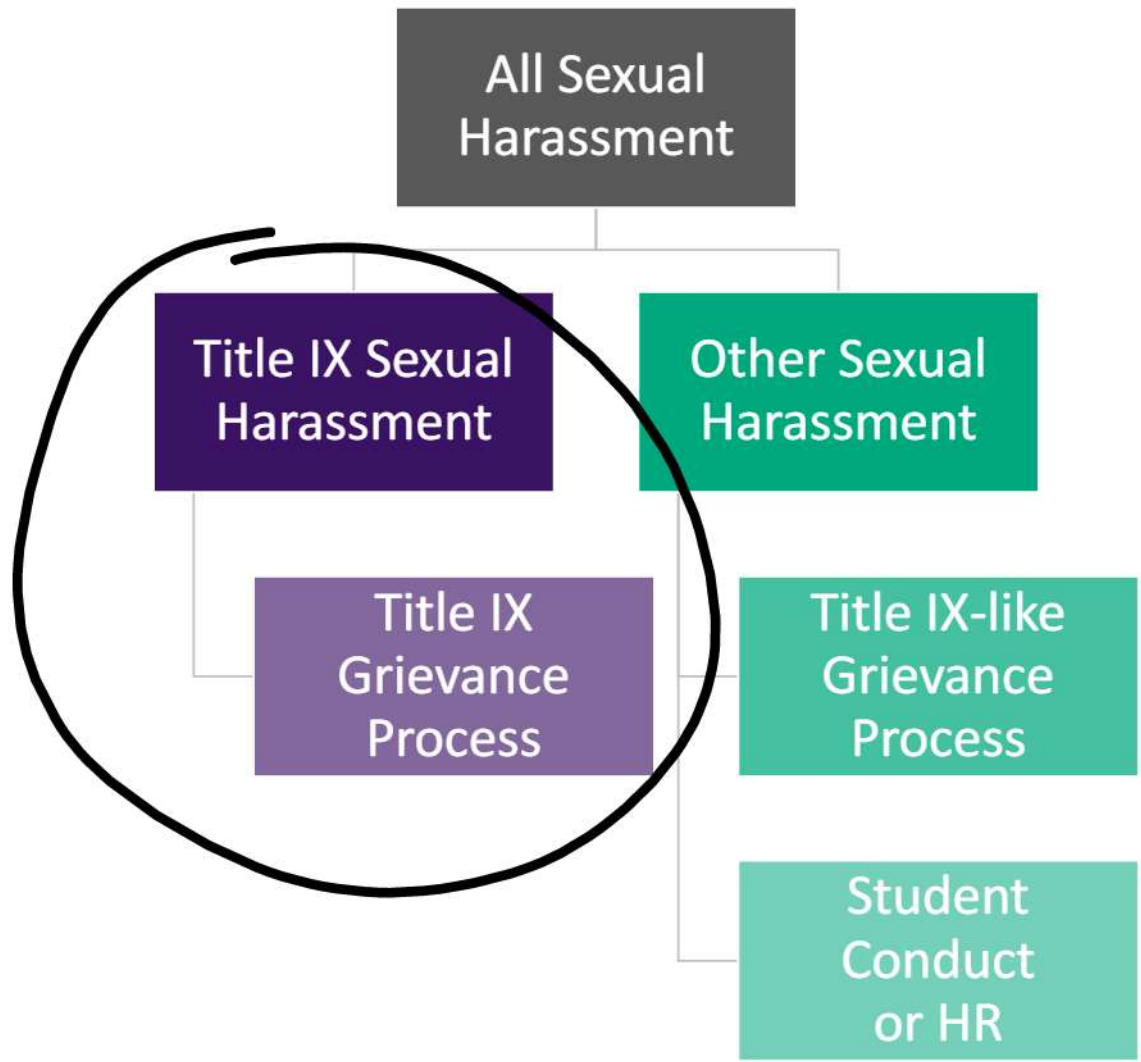
**Title IX  
Prohibits  
Sexual  
Harassment  
Regardless**

Work study student  
hounded by hundreds of  
texts and phone calls

**Female on Male  
Sexual Harassment**

Biology major slapped  
and threatened by date  
during walk across quad

**Female on Female  
Dating Violence**



## The Parties



The **Complainant** is the alleged victim of Sexual Harassment



The **Respondent** is the alleged perpetrator of Sexual Harassment



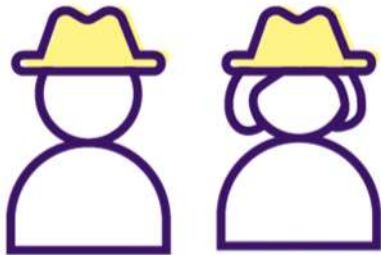
**Complainant's  
Advisor**



**Respondent's  
Advisor**



**Title IX  
Coordinator**



**Investigator(s)**



**Decision Maker(s)**

## Why have advisors?

**Acknowledging that sexual harassment allegations present adversarial circumstances and that parties may benefit from guidance, advice, and assistance in such a setting, the Department [of Education] requires [schools] to allow the parties to select advisors of choice to assist each party throughout the grievance process.**

85 Federal Regulations 30297



# Anyone can be an advisor



## Advisors play a background role

- You won't be interviewed
- You won't testify at the hearing
- Your speaking role is limited
- You don't have to share your personal views





## Advisors must follow the rules

- Schools can restrict advisor participation so long as the restrictions apply equally to both parties
- Conduct yourself professionally
  - Don't disrupt meetings or other proceedings
  - Raise concerns courteously
  - Abide by instructions/decisions made by school officials
- Let your party speak for themselves

# The Role of an Advisor is to Assist and Advise the Party\*



\* If you are an appointed advisor, your role may be more limited



**Title IX Office**



**Supportive Measures**



**Grievance Process**



## Supportive Measures

**Counseling • Extensions • Course Adjustment • Class Schedule • Work Schedule • Campus Escort • No Contact Orders • Leaves of Absence • Security**

Protect safety

Preserve access

Deter harassment

Free & confidential

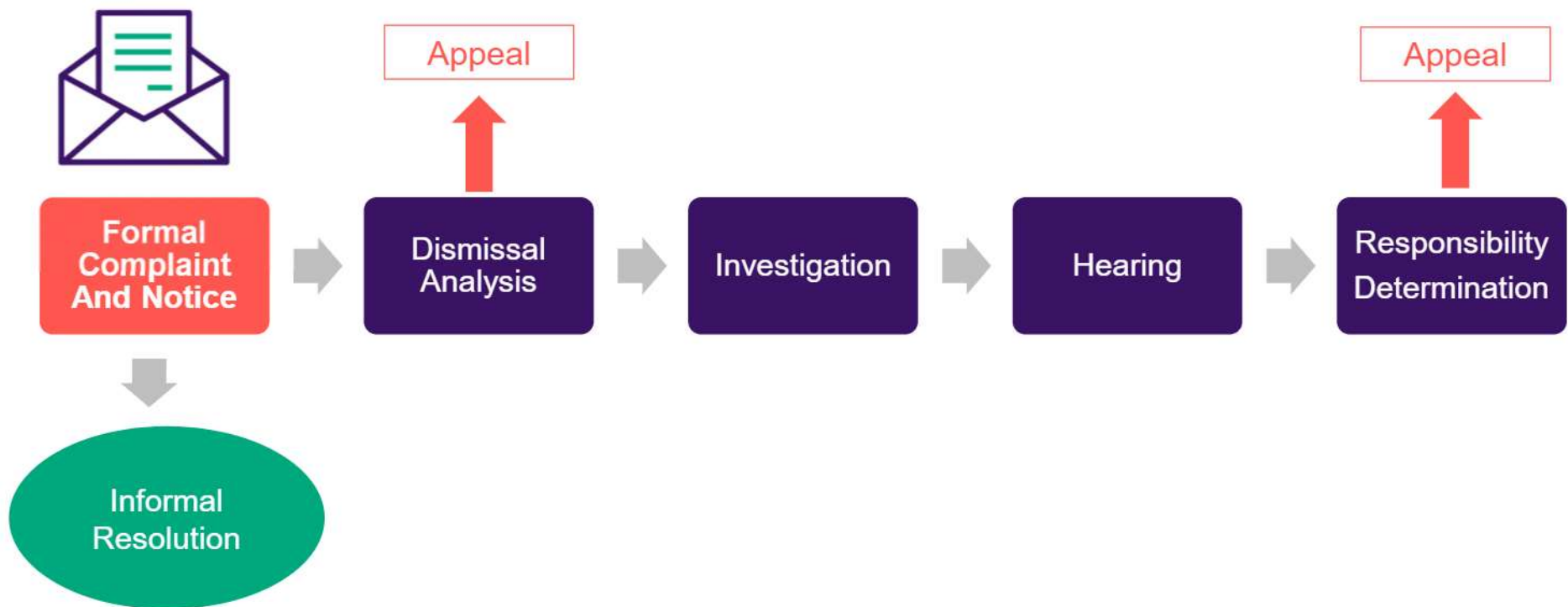
Complaint/no complaint

For both parties

# The Title IX Grievance Process



School-Specific  
Policies & Procedures





## Informal Resolution

- Both parties must agree to participate
- Either party may exit the process prior to agreeing to a resolution
- Any resolution is by mutual agreement





## The Investigation

- The investigator collects evidence
- Each party may present evidence to the investigator
- Each party will have the opportunity to review and comment on all directly-related evidence
- The investigator creates a written report. At least ten days before the hearing, the report is given to each party (and their advisor)



## Rules of Correspondence

### Schools are required...

- To provide advisors with evidence to review
- To provide advisors with the investigative report

### Schools are **NOT** required...

- To copy you on all correspondence they send to your party



## The Investigative Interview

- Each party will have a chance to share their side of the story
- The interview is scheduled in advance
- The interview may address uncomfortable topics
- If you and your party need to confer, ask for a recess

# Confidentiality: When to Keep it and When to Disclose



**School employees:** Maintain confidentiality. Do not disclose information **except** for legitimate educational purposes.

## Special Circumstances



Danger to self or others



“Witness tampering”



Knowingly providing false information



Additional Sexual Harassment



## The Hearing

- May be virtual or on campus
- The parties must be able to see and hear one another. If the hearing is virtual, cameras should be left on
- If the hearing is on campus, parties may request to be in different rooms with AV equipment
- You may not record the hearing, but you may review the school's recording



## Live Questioning at the Hearing

- Each party/witness who speaks at the hearing must be willing to answer questions posed by the other side
- The questions always are posed by the advisors, never by the parties themselves
- Questions may be barred if they are irrelevant, duplicative, or reference privileged information
- Everyone is expected to behave in a professional manner
- No abusive, intimidating, or disrespectful questioning



## Written Responsibility Determination

- Determination include:
  - Alleged policy violations
  - Rulings on responsibility
  - Any sanctions imposed
  - Appeal instructions
- Evidentiary standard is typically “preponderance of the evidence” but could be “clear and convincing evidence”
- Determination is provided to the parties simultaneously

## Practical Tips



Be flexible. Be timely. Raise scheduling conflicts as soon as you become aware of them.



Familiarize yourself with the school's policies and procedures.



Go to the Title IX Coordinator with questions and concerns.



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Thank **you.**

# Your Jackson Lewis Title IX Team



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