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Annual Title IX and Preventing Sexual Violence in Higher Education Act Training

Illinois Institute of Technology

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Disclaimer

- The contents of this presentation do not constitute legal or regulatory advice. No one should act, or refrain from acting, upon the information in this presentation without consulting with a qualified and individualized legal counsel.
- Nothing in this presentation should be interpreted as creating an attorney-client relationship.

Why Are We Here?

- Training Goals:

- Satisfy applicable training requirements under Title IX and the Preventing Sexual Violence in Higher Education Act (PSVHEA)
- Promote impartial, reliable, and equitable investigations and resolutions of sex-based misconduct reports and complaints.

- Who Must Be Trained:

- Title IX Coordinators
- Investigators
- Decision-Makers and Appellate Decision-Makers
- Informal Resolution Facilitators
- Other individuals responsible for implementing Illinois Tech's Comprehensive Policy and Procedures for Sex-Based Discrimination and Sexual Misconduct

Training Agenda

DAY 1

1. The Legal Lens
2. Illinois Tech Policy and Procedures
3. Scope of Prohibited Conduct
4. Roles and Responsibilities
5. Institutional Response Requirements
6. Investigations

DAY 2

1. Evidence Review and Investigation Report
2. Hearings and Written Determinations
3. Appeals
4. Informal Resolution
5. Recordkeeping and Training Materials
6. Avoiding Bias, Ensuring Fairness, and Using Trauma-Informed Practices



The Legal Lens



What Is Title IX?

- Federal statute that prohibits sex discrimination in education programs and activities that receive federal financial assistance.

“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.” 20 U.S.C. § 1681(a).



Title IX Regulatory Framework

- The U.S. Department of Education issued new Title IX regulations in 2020.
- The Department subsequently issued revised Title IX regulations in 2024.
- A federal court vacated the 2024 regulations nationwide in January 2025.
- The Department is currently enforcing the 2020 Title IX regulations.
- This training addresses the 2020 Title IX regulatory framework, the Illinois PSVHEA, and Illinois Tech's Title IX Comprehensive Policy and Procedures for Sex-Based Discrimination and Sexual Misconduct.

2020 Title IX Regs: Key Concepts

- Sexual harassment is a form of sex discrimination prohibited by Title IX.
- The regulations establish specific definitions and jurisdictional requirements for Title IX sexual harassment.
- Institutions must provide supportive measures in response to reports.
- A formal complaint initiates the prescribed grievance process for Title IX sexual harassment.
- The grievance process requires equitable treatment, impartiality, role separation, and an objective evaluation of relevant evidence.
- Institutions may address conduct outside the scope of Title IX under other applicable policies and procedures.

2020 Title IX Regs: Institutional Requirements

1. Title IX Coordinator
2. Notice of Nondiscrimination
3. Grievance Procedures
 - General procedures for sex discrimination complaints
 - Specific grievance process for formal complaints of Title IX sexual harassment
4. Prohibition Against Retaliation
5. Recordkeeping and Publication of Training Materials

Title IX Coordinator

- Each institution must designate and authorize at least one employee to coordinate its efforts to comply with Title IX.
- The Coordinator's contact information must be publicly available and included in the institution's notice of nondiscrimination.
- Any person may contact the Coordinator to report sex discrimination, including sexual harassment.
- The Coordinator must be positioned to coordinate the institution's response and compliance efforts.
- The Coordinator may not serve as the Decision-Maker in the same grievance process.
- Illinois Tech Title IX Coordinator: Virginia Foster
 - foster@illinoistech.edu
 - (312) 567-5725

Notice of Nondiscrimination: Content

- Notice must state that:
 - The institution does not discriminate on the basis of sex in the education program or activity that it operates
 - The institution is required by the Title IX statute and regulations not to discriminate on the basis of sex
 - The nondiscrimination requirement extends to admission and employment
 - Inquiries about Title IX may be referred internally to the Title IX Coordinator, externally to the U.S. Department of Education's Office for Civil Rights (OCR), or to both

Notice of Nondiscrimination: Distribution

- Notice must:
 - Include the Title IX Coordinator's contact information
 - Be prominently displayed on the website and in each handbook or catalog
 - Be provided to applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the institution

Title IX Grievance Procedures

- Institutions must adopt and publish grievance procedures for the prompt and equitable resolution of complaints alleging sex discrimination.
- The procedures must explain how to report or file a complaint and how the institution will respond.
- Formal complaints of Title IX sexual harassment are subject to the specific grievance process requirements in the 2020 regulations.

Title IX Sexual Harassment Grievance Process

- Treat complainants and respondents equitably.
- Require an objective evaluation of all relevant evidence.
- Require personnel to serve without conflicts of interest or bias.
- Presume that the respondent is not responsible unless and until responsibility is determined.
- Include reasonably prompt timeframes, with limited extensions for good cause.

Title IX Sexual Harassment Grievance Process

- Place the burden of proof and evidence gathering on the institution.
- Provide equal opportunities to present witnesses and evidence.
- Permit advisors and provide required access to directly related evidence.
- Require an investigative report that fairly summarizes relevant evidence.
- Provide a live hearing at the postsecondary level.
- Provide a written determination and equal appeal rights.

Title IX: Prohibition Against Retaliation

- No institution or person may intimidate, threaten, coerce, or discriminate against an individual:
 - To interfere with a right or privilege secured by Title IX; or
 - Because the individual reported or complained of sex discrimination, testified, assisted, participated, or refused to participate in a Title IX matter.
- Retaliation may constitute a separate Title IX violation.

Retaliation: Related Requirements

- Certain code of conduct charges arising from the same facts may constitute retaliation.
- A finding that a party was not credible or that an allegation was not substantiated does not, by itself, establish a materially false statement made in bad faith.
- Exercising rights protected by the First Amendment does not constitute retaliation.
- Institutions must protect participant identities except as permitted by FERPA, required by law, or necessary to carry out the Title IX process.

Title IX: Recordkeeping Requirements

- Institutions must maintain records concerning:
 - Sexual harassment investigations and determinations
 - Disciplinary sanctions and remedies
 - Appeals and their outcomes
 - Informal resolutions and their outcomes
 - Supportive measures and institutional responses to reports
 - Training provided to Title IX personnel
 - Materials used to train Title IX personnel
- Required retention period = at least 7 years
- Training materials must be made publicly available on the institution's website.



Beyond the 2020 Sexual Harassment Framework: Pregnancy and Parental Status

- Title IX also prohibits discrimination based on:
 - Pregnancy
 - Childbirth
 - False pregnancy
 - Termination of pregnancy
 - Recovery from pregnancy or related conditions
 - Parental, family, or marital status when individuals are treated differently based on sex
- Protections for students may include:
 - Continued participation in classes, programs, and activities
 - Excused absences when medically necessary because of pregnancy or childbirth
 - Return to the same academic and extracurricular status
 - A reasonable opportunity to make up missed work
 - Treatment comparable to that provided for other temporary medical conditions
- **Takeaway: Title IX's protections extend beyond sexual harassment.**



The Illinois Framework

- Preventing Sexual Violence in Higher Education Act (PSVHEA)



PSVHEA: Legislative Background

- Enacted in 2015 through Public Act 99-426.
- Applies to public universities, public community colleges, and independent nonprofit and for-profit higher education institutions located in Illinois.
- Establishes statewide requirements addressing student reports of:
 - Sexual violence
 - Domestic violence
 - Dating violence
 - Stalking
- Supplements federal Title IX and Clery Act requirements.
- Creates Illinois-specific policy, reporting, support, training, and complaint resolution obligations.

PSVHEA: Institutional Requirements

1. Comprehensive policy
2. Reporting options and response procedures
3. Written notice of rights and options
4. Complaint resolution procedure
5. Access to confidential advisors and survivor resources
6. Prevention, awareness, and training programs
7. Institutional coordination, data collection, and reporting

PSVHEA: Comprehensive Policy

- Scope and Access
 - Definition of consent
 - Reporting options and procedures
 - Institutional response procedures
 - Survivor's bill of rights
 - Medical, counseling, advocacy, and crisis resources
 - Interim protective measures and accommodations
- Resolution and Protections
 - Complaint resolution procedure
 - Available sanctions
 - Amnesty for good-faith reports
 - Retaliation protections
 - Appeal rights
 - Confidential advisor information

PSVHEA: Reporting and Response

- Institutions must provide options for:
 - Electronic reporting
 - Confidential reporting
 - Anonymous reporting
 - Bystander or third-party reporting
- Institutions must also:
 - Respond to an electronic report within 12 hours.
 - Provide information about reporting options and available resources.
 - Offer appropriate interim protective measures and accommodations.
 - Permit reports regardless of where the alleged conduct occurred.

PSVHEA: Public Notice

- Information continuously available to campus community (via website):
 - Comprehensive policy
 - Options and resources for survivors
 - Title IX Coordinator's name and contact info
 - Explanation of role, reporting obligations, and level of confidentiality for:
 - Title IX Coordinator
 - Responsible employees
 - Campus security authorities (Clery)
 - Mandated reporters (State law)
 - Contact info for confidential advisors, counseling services, and confidential resources
 - Contact information for community-based, State, and national hotlines

PSVHEA: Notice of Rights and Options

- Information provided in response to a report

Required components

- 1) Right to report/not report incident to institution, law enforcement, or both, including information about which reporting methods are confidential
- 2) Contact info for Title IX Coordinator, confidential advisors, community-based sexual assault crisis center, and law enforcement (campus and local)
- 3) Right to request and receive assistance from campus authorities in notifying law enforcement
- 4) Ability to request interim protective measures and accommodations
- 5) Institution's ability to provide assistance, upon request, in navigating health and mental health services, counseling, and advocacy services
- 6) Summary of institution's complaint resolution procedure

PSVHEA: Complaint Resolution Procedure

Each campus must maintain one procedure for resolving complaints of alleged student violations of the comprehensive policy. The procedure must:

- Begin promptly and proceed in a timely manner when requested by the complainant.
- Identify the individuals responsible for resolving complaints.
- Use the preponderance of the evidence standard.
- Provide for interim protective measures and accommodations while the complaint is pending.
- Protect the privacy of parties and witnesses during proceedings, meetings, and hearings.
- Provide trained substitutes when a conflict of interest or recusal arises.
- Assign appeals to trained individuals with no prior involvement in the initial determination.

PSVHEA: Party Rights in the Complaint Process

- Notice of the individuals authorized to make findings or impose sanctions, before those individuals contact either party.
- Opportunity to request substitution based on a conflict of interest.
- Opportunity to provide or present evidence and witnesses.
- An advisor of their choice at any related meeting or proceeding, subject to applicable procedural rules.
- Protection against direct cross-examination by the other party.
- A means to hear the other party's testimony without being compelled to testify in that party's presence.
- Simultaneous written notice of the result and appeal rights.
- Opportunity to timely appeal on the grounds required by the PSVHEA.

PSVHEA: Confidential Advisors

- Institutions must provide students access to confidential advisors for emergency and ongoing support.
- A confidential advisor may not be designated as a responsible employee when acting in that role.
- Institutions may contract with a community-based sexual assault crisis center.
- Communications are protected as provided by Illinois law.
- Confidential advisors are subject to initial and ongoing training requirements.
- Illinois Tech contracts with Resilience for confidential advisor services.

PSVHEA: Prevention and Training

Institutions must provide or maintain:

- Primary prevention and awareness programming
- Bystander-intervention education
- Training for students and employees
- Training for individuals involved in receiving reports, providing support, investigating complaints, conducting hearings, or deciding appeals
- Required training for confidential advisors
- Coordination of campus prevention and response efforts

PSVHEA: Institutional Reporting and Records

Institutions must maintain information necessary to:

- Document reports and institutional responses
- Track protective measures, accommodations, and complaint outcomes
- Support required institutional and governmental reporting
- Assess prevention and response efforts
- Demonstrate compliance with the comprehensive policy and complaint resolution procedure
- Administer the required sexual misconduct campus climate survey
- Use survey and report data to assess campus prevention and response efforts

PSVHEA: Proposed Amendments

- Proposed legislation would amend the PSVHEA in several significant respects, including:
 - Expanding and revising statutory definitions
 - Requiring comprehensive policies to address sexual harassment
 - Distinguishing Confidential Advisors from Complaint Advisors
 - Revising complaint resolution procedures
 - Creating potential civil enforcement mechanisms for material institutional noncompliance
 - Authorizing enforcement relating to incomplete annual reporting.
- **Note: The proposed legislation remains pending. Continue to follow current law and Illinois Tech's existing policy unless and until amendments become effective.**

Illinois Tech Policy and Procedures

ILLINOIS TECH

Illinois Tech Policy and Procedures

- Illinois Tech Comprehensive Policy and Procedures for Sex-Based Discrimination and Sexual Misconduct
 - Addresses sex-based discrimination under Title IX.
 - Implements requirements arising under the Violence Against Women Reauthorization Act and the Illinois PSVHEA.
 - Establishes Illinois Tech's Title IX grievance process.
 - Also recognizes a broader State-Based Sexual Misconduct standard for conduct outside the federal Title IX scope.
 - Addresses reporting, Supportive Measures, investigation, live hearings, appeals, Informal Resolution, and recordkeeping.

Title IX and State-Based Sexual Misconduct

- State-Based Sexual Misconduct (Broadest Category)
 - Under Illinois law, Sexual Misconduct is an umbrella term that includes Title IX Sex-Based Discrimination, but also extends to any unwelcome sexual, sex or gender-based conduct.
- Federal Title IX Sexual Harassment
 - The federal Title IX grievance process applies only when conduct (a) falls within the applicable Title IX definition; and (b) satisfies the Title IX jurisdictional requirements.
- If Title IX does not apply, conduct may still:
 - Constitute Sexual Misconduct under Illinois law;
 - Result in Supportive Measures; and
 - Be addressed through Illinois Tech's other procedures.

Key Illinois Tech Policy Terms

- Sex-Based Discrimination
- State-Based Sexual Misconduct
- Report
- Formal Complaint
- Formal Title IX Complaint
- Responsible Employee
- Official with Authority
- Supportive Measures
- Confidential Advisor
- Preliminary Report
- Summary Report
- Title IX Investigator
- Title IX Decision-Maker
- Title IX Appellate Decision-Maker
- Title IX Informal Resolution Facilitator

Illinois Tech Reporting Structure

- Title IX Coordinator: Virginia Foster
- Responsible Employees
- Officials with Authority
- Confidential Advisors (Resilience)
- Student Health and Wellness confidential resources

Scope of Prohibited Conduct



Illinois Tech: Title IX Sex-Based Discrimination

- Illinois Tech's policy organizes Title IX sex-based discrimination into the following categories:
 - Quid Pro Quo Harassment
 - Hostile Environment Harassment
 - Sexual Assault
 - Dating Violence
 - Domestic Violence
 - Stalking
 - Other forms of sex discrimination

Quid Pro Quo Harassment

- An Illinois Tech employee conditions the provision of an aid, benefit, or service under Illinois Tech's education program or activity on a person's participation in unwelcome sexual behavior.



Hostile Environment Harassment

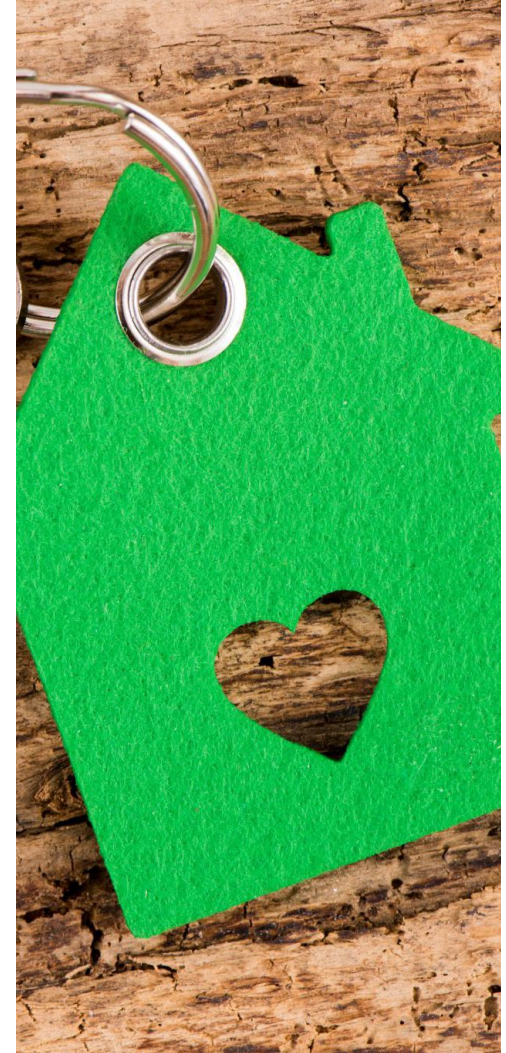
- Unwelcome conduct on the basis of sex that a reasonable person would determine to be so severe, pervasive, and objectively offensive that it effectively denies equal access to the institution's education program or activity.
- Illinois Tech factors may include:
 - Type
 - Frequency
 - Duration
 - Ages of the parties
 - Effect on educational access

Sexual Assault

- Any sexual act directed against another person, without consent, including when that person is incapable of giving consent.
- Includes
 - Rape
 - Criminal sexual contact
 - Incest
 - Statutory rape

Dating Violence

- Violence committed by an individual:
 - Who is or has been in a social relationship of a romantic or intimate nature with the complainant; and
 - Where the existence of such 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.



Domestic Violence

- Felony or misdemeanor crimes of violence committed by:
 - A current or former spouse or intimate partner;
 - A person who shares a child in common with the complainant;
 - A person who is cohabitating, or has cohabitated, as a spouse or intimate partner;
 - A person similarly situated to a spouse under applicable domestic- or family-violence law; or
 - Another person whose conduct is prohibited under applicable domestic- or family-violence laws.

Stalking



- Engaging in a course of conduct (two or more acts) directed at a specific person that would cause a reasonable person to:
 - Fear for their safety or the safety of others; or
 - Suffer substantial emotional distress.

PSVHEA: Sexual Violence



- Physical sexual acts attempted or perpetrated:
 - Against a person's will; or
 - When a person is incapable of giving consent.
- Includes rape, sexual assault, sexual battery, sexual abuse, sexual coercion, and other forcible or nonforcible sex offenses.

Consent

- The existence of clearly understandable words or actions that demonstrate a willing, ongoing, clear, and knowing agreement to engage in specific sexual behavior or intimate conduct by a person who is not incapacitated.

WILLING

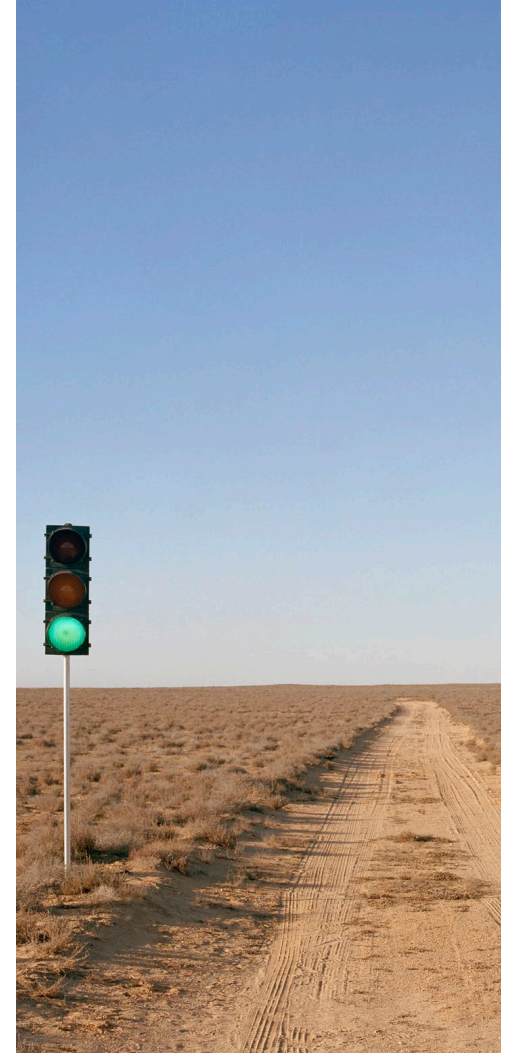
ONGOING

CLEAR

KNOWING

Consent

- Consent cannot be inferred solely from:
 - Silence, passivity, submission, or lack of resistance
 - Manner of dress
 - Giving or accepting gifts
 - Accepting an invitation to a private room or location
 - Going on a date
 - Prior sexual or intimate activity
 - Consent to another type of activity



Threat or Coercion

- Threat or coercion includes:
 - Direct or implied threats of force, violence, danger, hardship, or retribution.
 - Pressure sufficient to persuade a reasonable person that they must submit.
 - Conduct that wrongfully impairs another person's freedom to choose whether to engage in sexual activity.
- Continued pressure may be threatening or coercive when a person has made clear that:
 - The person does not want to engage in sexual activity;
 - The person wants the activity to stop; or
 - The person does not want to proceed beyond a particular point.

Incapacitation

- The inability to understand the nature of the activity or to give knowing consent.
- A person may be incapacitated due to:
 - Alcohol or drug use
 - Unconsciousness
 - Sleep
 - Intellectual disability
 - Other conditions affecting awareness or understanding

Incapacitation

- Important Principles

- A person may appear to consent but still lack capacity.
 - Apparent consent is ineffective when capacity is absent.
 - If capacity is in doubt, one should assume capacity is lacking.
 - Being intoxicated does not excuse the obligation to obtain consent.
- Illinois Tech evaluates whether a reasonable person in the same circumstances should have known that the other person lacked the capacity to consent.

Application Exercise

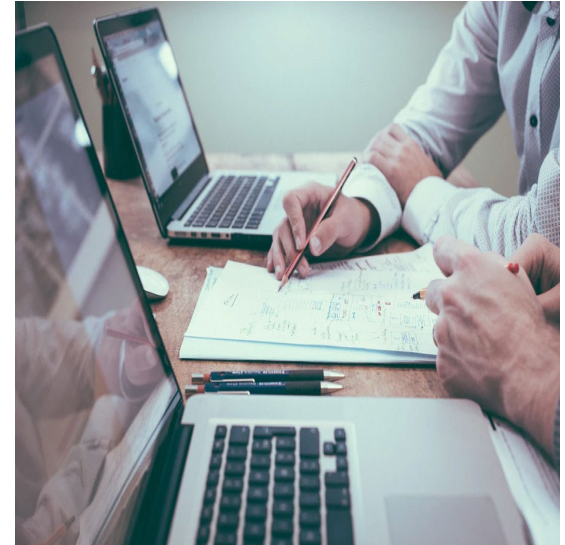
- Which Illinois Tech Policy Category May Apply?
 1. A department chair tells a graduate assistant that renewing the assistantship will be “much easier” if the student “goes out” with the department chair.
 2. A student reports that another student engaged in sexual conduct after the reporting student said “stop.” Both students had consumed alcohol.
 3. Over the semester, a lab partner sends repeated degrading, sex-based comments about a student’s appearance in team chats; the student starts skipping lab to avoid them.
 4. A student’s former lab partner repeatedly appears outside the student’s classrooms, tracks the student’s locations on social media, and sends messages suggesting that the student is being watched.

Roles and Responsibilities in Illinois Tech's Title IX Process



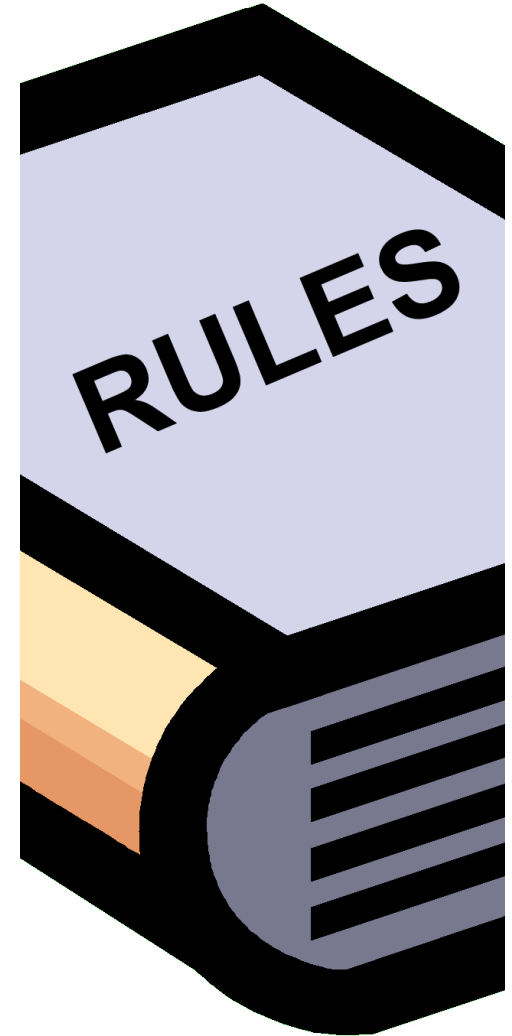
Participants in the Title IX Process

- Title IX Coordinator or designee
- Complainant and Respondent
- Responsible Employees
- Officials with Authority
- Title IX Investigator
- Witnesses
- Advisors
- Confidential Advisor
- Title IX Informal Resolution Facilitator
- Title IX Decision-Maker
- Title IX Appellate Decision-Maker
- Illinois Tech personnel assisting with Supportive Measures or process administration



Core Requirements for Title IX Personnel

- The Title IX Coordinator or designee, Title IX Investigator, Title IX Decision-Maker, Title IX Appellate Decision-Maker, and Title IX Informal Resolution Facilitator must:
 - Receive training required for their respective roles.
 - Serve without bias or conflicts of interest.
 - Avoid prejudgment of the facts at issue.
 - Apply Illinois Tech's policy and grievance process impartially.
 - Objectively evaluate applicable evidence.
 - Protect private information consistent with law and Illinois Tech policy.
 - Remain within the responsibilities and authority assigned to their role.



Role Separation in the Illinois Tech Process

- **Title IX Coordinator** ≠ Decision-Maker, Appellate Decision-Maker, Informal Resolution Facilitator
- **Investigator** ≠ Decision-Maker, Appellate Decision-Maker, Informal Resolution Facilitator
- **Decision-Maker** ≠ Title IX Coordinator, Investigator, Appellate Decision-Maker, Informal Resolution Facilitator
- **Appellate Decision-Maker** ≠ Title IX Coordinator, Investigator, Decision-Maker, Informal Resolution Facilitator
- **Informal Resolution Facilitator** ≠ Title IX Coordinator, Investigator, Decision-Maker, Appellate Decision-Maker
- **No individual may serve in multiple prohibited roles in the same matter.**

Title IX Coordinator

- Coordinates Illinois Tech's Title IX compliance and grievance process.
- Receives reports and Formal Title IX Complaints.
- Promptly contacts complainants concerning Supportive Measures and the Formal Title IX Complaint process.
- Coordinates the offering and implementation of Supportive Measures.
- Coordinates threshold and dismissal determinations.
- Provides or coordinates required notices.
- Identifies and documents the Title IX Investigator.
- Identifies the Title IX Decision-Maker.
- Coordinates remedies and institutional recordkeeping.
- Monitors applicable procedural timeframes.
- May delegate tasks as permitted by Illinois Tech's policy.
- Does not serve as the Title IX Decision-Maker or Title IX Appellate Decision-Maker in the same matter.

The Parties

Complainant

- An individual alleged to be the victim of conduct that could constitute sex-based discrimination.
- May receive information and Supportive Measures without filing a Formal Title IX Complaint.
- Must be participating in or attempting to participate in Illinois Tech's education program or activity when filing a qualifying Formal Title IX Complaint.
- Receives the procedural rights provided by Illinois Tech's policy and applicable law.

Respondent

- An individual named in a complaint who is alleged to have violated Illinois Tech's policy.
- Is presumed not responsible unless and until responsibility is determined through Illinois Tech's grievance process.
- Receives the procedural rights provided by Illinois Tech's policy and applicable law.

Responsible Employees

- Responsible Employees must promptly notify the Title IX Coordinator of possible sex-based discrimination.
- Responsible employees should not promise confidentiality.
- While only Responsible Employees are required to report all incidents to the Title IX Coordinator, all members of the Illinois Tech community are strongly encouraged to notify the Title IX Coordinator of possible sex-based discrimination.

Responsible Employees

- Illinois Tech designates the following as Responsible Employees:
 - Office of the Vice Provost for Student Affairs
 - Title IX Coordinator
 - President and Provost
 - Vice Presidents and Vice Provosts, including associate and assistant roles
 - Academic deans, directors, and department chairs, including associate roles
 - Student-affairs directors
 - Residential-life personnel, including resident advisors
 - Greek-life coordinators
 - Athletics administrators, directors, assistant directors, coaches, assistant coaches, and trainers
 - Student-activities coordinators
 - Faculty and staff advisors to recognized student organizations
 - Academic advisors
 - Department of Public Safety staff

Officials with Authority

- Officials with Authority are Illinois Tech employees authorized to institute corrective measures on behalf of Illinois Tech when notified of a potential Title IX violation.
- Notice to an Official with Authority constitutes Actual Knowledge and triggers Illinois Tech's obligation to respond.

Officials with Authority

- Illinois Tech identifies the following as Officials with Authority:
 - Title IX Coordinator
 - Title IX Office staff
 - President
 - Vice Presidents
 - Provost
 - Vice Provost
 - Academic Deans and Associates
 - Dean of Students and Student Affairs area leaders
 - Campus Security
 - Athletic Directors

Title IX Investigator

- Is designated by the Title IX Coordinator.
- Investigates the allegations in a Formal Title IX Complaint.
- Reviews the applicable Illinois Tech policy definitions and noticed allegations.
- Develops and adjusts the investigative plan.
- Interviews the parties and relevant witnesses.
- Collects and reviews relevant available evidence.
- Gives both parties the required opportunities to identify and review evidence.
- Follows up on material inconsistencies, questions, and evidentiary gaps.
- Prepares the Preliminary Report and Summary Investigative Report required by Illinois Tech's policy.
- Does not determine responsibility.
- Must be trained, impartial, and free from conflicts of interest or bias.

Witnesses

- Provide information relevant to the allegations or Illinois Tech's response.
- Must receive written notice of an interview or meeting when their participation is invited or expected.
- Should be asked to identify relevant evidence and other people with potentially relevant information.
- Need not be interviewed if the information sought is irrelevant, entirely duplicative, unavailable despite reasonable efforts, or otherwise unnecessary to develop a sufficient record.



Advisors During the Investigation

- Each party may have an advisor of choice.
- The advisor may, but is not required to, be an attorney.
- During the investigation, an advisor may:
 - Support the party;
 - Assist the party in preparing for interviews and meetings;
 - Help identify evidence and witnesses;
 - Assist with evidence review; and
 - Assist with review of the investigation reports.
- During an investigative meeting, the advisor may not speak on behalf of the party.
- The advisor must comply with Illinois Tech's applicable process rules.
- An individual may not serve simultaneously as an advisor and a witness in the same matter.

Advisors at the Hearing

- Cross-examination must be conducted by the party's advisor, not by the party personally.
- The advisor may provide other forms of support but may not otherwise represent or speak for the party during the live hearing.
- If a party does not have an advisor at the hearing, Illinois Tech provides an advisor without charge to conduct cross-examination.
- The institution-provided advisor is not required to be an attorney.
- The advisor must comply with the Decision-Maker's hearing and decorum rules.
- The Title IX Decision-Maker rules on relevance before a question is answered.

Confidential Resources

Confidential Advisor:

- May provide emergency and ongoing support, information about reporting options and resources, and assistance accessing services or requesting protective measures and accommodations.
- Resilience Contact Information:
 - 444 N. Michigan Ave., Suite 970
 - 24-Hour Hotline: (773) 275-8340

Student Health and Wellness Center

- Licensed health professionals acting within their professional counseling role generally maintain confidentiality as provided by law and do not have the same reporting obligations as Responsible Employees when acting in that confidential role.
- Student Health and Wellness Center Contact Information:
 - 10 W. 35th St.
 - (312) 567-7550

Confidential Advisor Role Boundaries

- The Confidential Advisor provides support to a survivor and does not investigate or determine whether a policy violation occurred.
- The Confidential Advisor should explain:
 - The confidential nature of the role;
 - Applicable limits on confidentiality;
 - Available institutional and community resources; and
 - The difference between confidential support and making a report to Illinois Tech.
- Confidential Advisor communications are protected as provided by Illinois law.
- Confidential Advisors must complete the training required by the PSVHEA.

Title IX Informal Resolution Facilitator



- Is designated by the Title IX Coordinator after the parties provide voluntary written consent.
- Meets separately with the parties before determining process structure.
- Explains the process, role, and ground rules.
- Helps identify concerns, interests, possible terms, and opportunities to address harm.
- Serves impartially and without conflicts of interest or bias.
- Does not determine responsibility.
- Does not impose a resolution.
- Assists the parties in documenting any agreed resolution.
- May not testify at a later live hearing concerning the informal resolution process.

Title IX Decision-Maker

- Is designated by the Title IX Coordinator or designee.
- Presides over the live hearing.
- Establishes hearing rules consistent with Illinois Tech's policy.
- Explains the applicable ground rules.
- Permits relevant cross-examination by the parties' advisors.
- Rules on relevance before questions are answered.
- Explains decisions to exclude questions.
- Objectively evaluates relevant inculpatory and exculpatory evidence.
- Applies the preponderance-of-the-evidence standard.
- Determines responsibility for each allegation.
- Issues the written determination.
- Determines and imposes sanctions authorized by Illinois Tech's policy.
- Must be trained, impartial, and free from conflicts of interest or bias.



Title IX Appellate Decision-Maker

- Has not participated in the investigation, informal resolution, hearing, initial determination, or dismissal.
- Is trained on Illinois Tech's appeal procedures.
- Serves impartially and without conflicts of interest or bias.
- Gives both parties a reasonable and equal opportunity to submit written statements.
- Reviews the appeal under the grounds stated in Illinois Tech's policy.
- Issues a written decision describing the result and rationale.
- Provides the appeal decision simultaneously to both parties.
- Acts within the authority granted by Illinois Tech's policy.

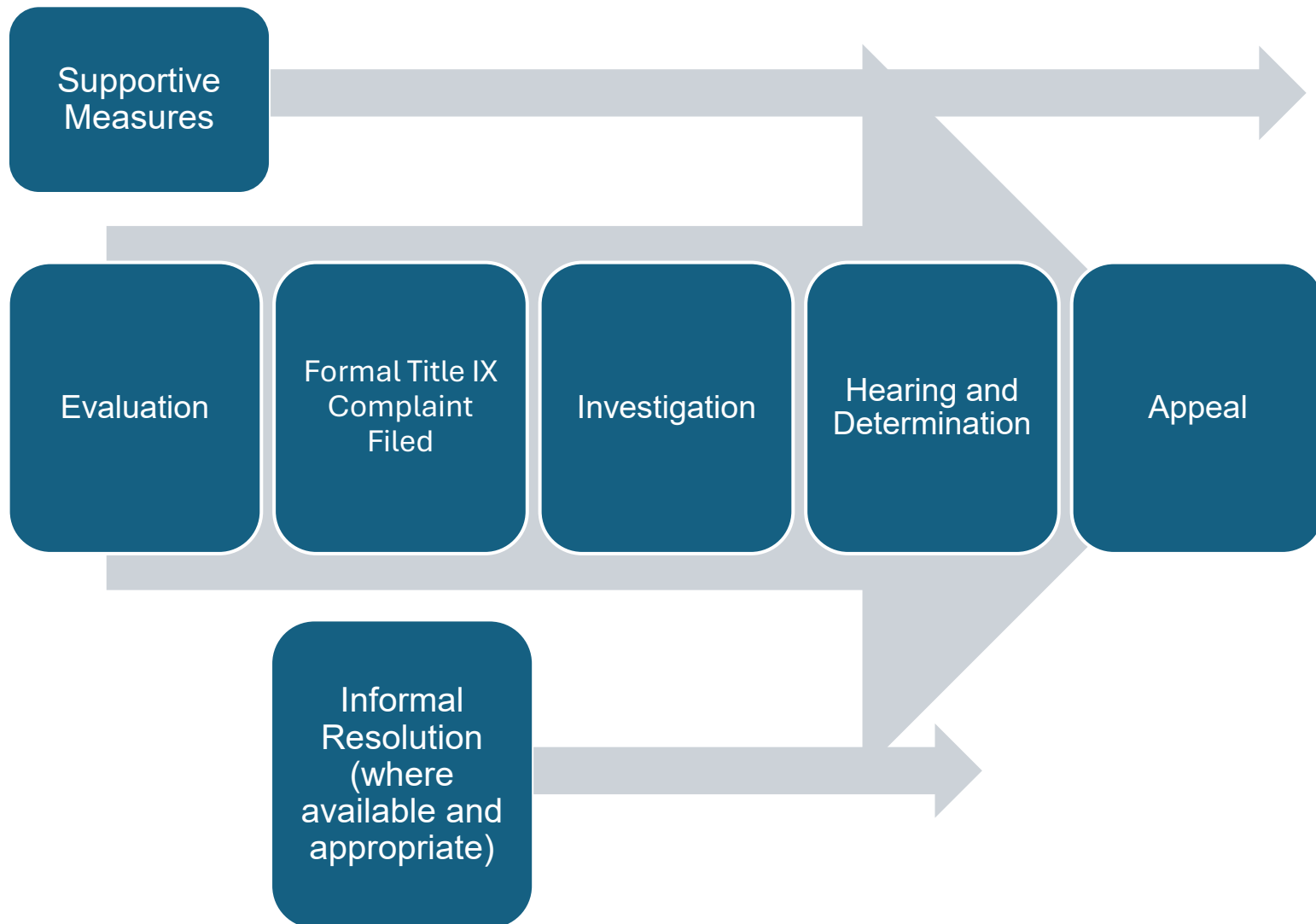
Know Your Role and Stay Within It

- Responsible Employees report.
- Officials With Authority trigger institutional response obligations.
- Confidential Advisors provide confidential support.
- The Investigator gathers facts.
- The Decision-Maker determines responsibility.
- The Appellate Decision-Maker reviews authorized appeal grounds.
- The Coordinator oversees the process.
- **Clear role boundaries support fairness, consistency, and compliance.**

Institutional Response Requirements



The Title IX Process



Report vs. Formal Title IX Complaint

Report

- Notification to the Title IX Coordinator or an Official With Authority of information alleging sex-based discrimination.
- May be made by any person.
- Triggers Illinois Tech's response obligations.
- Does not, by itself, initiate the grievance process.

Formal Title IX Complaint

- Filed by a complainant or signed by the Title IX Coordinator.
- Alleges conduct that could constitute Title IX sexual harassment.
- Requests that Illinois Tech investigate.
- At the time of filing, the complainant must be participating in or attempting to participate in Illinois Tech's education program or activity.
- Initiates the formal grievance process.

Reporting to Illinois Tech

A report may be made:

- To the Title IX Coordinator
- To an Official With Authority
- Through a Responsible Employee
- In person
- By telephone
- By mail
- By email

Formal Title IX Complaint

- Filed by the complainant or signed by the Title IX Coordinator.
- Alleges conduct that could constitute Title IX sexual harassment.
- Requests that Illinois Tech investigate.
- Must be signed.
- At the time of filing, the complainant must be participating in or attempting to participate in Illinois Tech's educational program or activity.
- Initiates the Title IX grievance process.

When Do the Specific Title IX Obligations Apply?

- Under the 2020 regulatory framework, an institution with:
 - **Actual knowledge**
 - Of conduct that could constitute **Title IX sexual harassment**
 - In the institution's **education program or activity**
 - Against a person in the **United States**
- Must respond promptly in a manner that is not:
 - **Deliberately indifferent**

Actual Knowledge

Actual Knowledge exists when notice of possible sex-based discrimination is received by:

- The Title IX Coordinator or designee; or
- An Official With Authority.

Actual Knowledge:

- Triggers Illinois Tech's obligation to respond.
- Is not established when the only person with knowledge is the respondent.

Education Program or Activity

- Locations, events, or circumstances over which the institution exercised substantial control over both:
 - The respondent; and
 - The context in which the alleged sexual harassment occurred.
- Also includes:
 - Any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.

Against a Person in the United States

- Title IX's specific sexual harassment grievance process applies to conduct against a person in the United States.
- Conduct occurring outside the United States, including conduct in study abroad programs, does not fall within that specific Title IX framework.
- The institution may nevertheless address the conduct under:
 - The PSVHEA, if applicable
 - Another institutional policy or procedure
 - Other applicable law

Application Exercise

- For each scenario on the next slide, determine:
 1. Whether the alleged conduct occurred within an education program or activity;
 2. Whether it occurred against a person in the United States; and
 3. What, if any, additional information is needed.

Application Exercise

1. During a weekend event at a house leased year-round by a Greek organization, a graduate student reports misconduct by another student.
2. During a study-abroad program in Spain, a student reports misconduct by a peer in the program's residence hall.
3. A student in a required clinical placement at a local hospital reports misconduct by an on-site supervisor who is not an institutional employee. The placement was arranged by the institution under an agreement.
4. After a lab section, a student receives repeated unwanted messages through the institution's learning-management-system platform from a teaching assistant.

Response to a Report

Upon receiving a report, Illinois Tech must:

- Provide the reporting party with a written explanation of rights and options.
- Explain institutional and law-enforcement reporting options.
- Provide information about available resources and Confidential Advisor services.
- Promptly contact the complainant.
- Inquire about and consider the complainant's wishes concerning Supportive Measures.
- Explain that Supportive Measures are available with or without a Formal Title IX Complaint.
- Explain the process for filing a Formal Title IX Complaint.
- Coordinate appropriate Supportive Measures.
- Document the outreach and institutional response.

Initial Evaluation

- After completing the required outreach, determine:
 - What conduct is alleged?
 - Who is the complainant?
 - Who is the respondent?
 - Where and in what context did the alleged conduct occur?
 - Could the allegations constitute Title IX sexual harassment?
 - Did the conduct occur in Illinois Tech's education program or activity?
 - Did the conduct occur against a person in the United States?
 - Has a qualifying Formal Title IX Complaint been filed or signed?
 - Are additional Supportive Measures or immediate safety steps needed?
 - Could the allegations constitute State-Based Sexual Misconduct even if the Title IX grievance process does not apply?
 - Could another Illinois Tech policy or procedure apply?

Requests for Confidentiality or No Further Action

- When a complainant requests that identifying information not be disclosed or that the institution take no further action, consider:
 - The complainant's wishes, safety, and access to the education program or activity
 - The seriousness and nature of the alleged conduct
 - Whether the allegations suggest an ongoing or broader risk
 - Whether similar allegations have been made against the same respondent
 - The ages and roles of the individuals involved
 - Illinois Tech's ability to respond without disclosing the complainant's identity
 - The respondent's right to receive sufficient information if a formal process is initiated
 - Other obligations imposed by law or policy

Coordinator-Initiated Formal Complaint

- When the Title IX Coordinator Signs a Formal Title IX Complaint
 - The Coordinator does not become a party.
 - The process proceeds under the Title IX grievance process.
 - Illinois Tech must continue to treat both parties equitably.
 - The complainant's wishes should continue to be considered, including in relation to supportive measures and participation.

Response to a Formal Title IX Complaint

- When a Formal Title IX Complaint is filed or signed, the Title IX Coordinator or designee must:
 - Conduct the mandatory-dismissal review.
 - Issue the written Notice of Allegations to the known parties.
 - Identify and document one or more qualified Title IX Investigators.
 - Offer or continue appropriate Supportive Measures.
 - Determine whether Informal Resolution is available under Illinois Tech's policy.
 - Proceed under Illinois Tech's Title IX grievance process.
 - Calendar and monitor the applicable procedural deadlines.

Mandatory Dismissal for Title IX Purposes

- Illinois Tech must dismiss allegations from the Title IX grievance process if the alleged conduct, even if proved:
 - Would not constitute Title IX sexual harassment;
 - Did not occur in the institution's education program or activity; or
 - Did not occur against a person in the United States.
- Initial dismissal review will occur within 10 calendar days of Title IX Coordinator or designee's receipt of the Formal Title IX Complaint.
- **Mandatory dismissal is a jurisdictional or definitional determination, not a finding that the alleged conduct did not occur.**



Permissive Dismissal

- Under the 2020 regulatory framework, Illinois Tech may dismiss a formal complaint or particular allegations if:
 - The complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw the formal complaint or specified allegations;
 - The respondent is no longer enrolled at or employed by the institution; or
 - Specific circumstances prevent the institution from gathering evidence sufficient to reach a determination.
- **Permissive dismissal requires an individualized, documented determination.**

Dismissal Notice and Appeal

- When a formal complaint or allegation is dismissed:
 - Provide written notice of the dismissal.
 - Identify the allegation or allegations being dismissed.
 - Explain the reason for the dismissal.
 - Provide the notice to the parties as required.
 - Explain applicable appeal rights and procedures.
 - Other Illinois Tech processes may still apply.

Conduct Outside the Scope of Title IX

- Title IX dismissal does not necessarily end Illinois Tech's response.
- Possible alternative processes:
 - Student Conduct process
 - Human Resources grievance process
 - Other Illinois Tech policies and procedures

Supportive Measures



- Non-disciplinary
- Non-punitive
- Individualized
- Offered as appropriate and reasonably available
- Available without fee or charge
- Available before or after a Formal Title IX Complaint is filed, or when no Formal Title IX Complaint is filed

Supportive Measures

- Supportive measures are designed to:
 - Restore or preserve equal access to the education program or activity;
 - Protect the safety of the parties or the educational environment; or
 - Deter Title IX sex-based discrimination.

Coordinating Supportive Measures

- The Title IX Coordinator should:
 - Promptly discuss available supportive measures with the complainant.
 - Consider the complainant's wishes.
 - Use an individualized and interactive process.
 - Offer supportive measures to the respondent as appropriate.
 - Coordinate implementation with the appropriate institutional offices.
 - Avoid measures that are disciplinary, punitive, or unreasonably burdensome before a determination.
 - Protect information about supportive measures to the extent possible.
 - Document measures offered, requested, implemented, modified, or declined.

Examples of Supportive Measures

- Counseling and support services
- Extensions of deadlines or other academic adjustments
- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact
- Changes in work or housing locations
- Leaves of absence
- Increased security or monitoring
- Changes to extracurricular, transportation, dining, or campus-access arrangements
- Other individualized measures appropriate to the circumstances

Emergency Removal



- Illinois Tech may remove a respondent from its education program or activity on an emergency basis when:
 - It conducts an individualized safety and risk analysis;
 - It determines that an immediate threat to the physical health or safety of a student or other individual arises from the allegations; and
 - The respondent receives notice and an opportunity to challenge the decision immediately following removal.

Paid Administrative Leave

- A non-student employee respondent may be placed on paid administrative leave during the Title IX grievance process.
- Any administrative leave decision should be consistent with:
 - Applicable employment law
 - Institutional policy
 - Employment agreements
 - Faculty handbooks or tenure protections
 - Collective bargaining obligations
 - Disability and leave laws
 - Other applicable procedural rights

Application Exercise

- For each scenario on the following slide, identify:
 1. Immediate outreach or information required
 2. Appropriate supportive measures
 3. Any need for emergency removal or administrative leave
 4. Additional facts needed, if any

Application Exercise

1. A complainant and respondent share a laboratory and live in the same residence hall. The alleged conduct includes escalating threats through direct messages.
2. A teaching assistant allegedly sent persistent unwanted messages to a student through the institution's learning-management system. Both are scheduled to attend the same discussion sections for the next six weeks.
3. A clinical rotation student reports inappropriate sexual contact by an on-site preceptor at a required third-party placement.

Written Notice of Allegations

- When initiating the Title IX grievance process, provide written notice that includes:
 - Notice of the applicable grievance process, including any informal resolution process
 - Sufficient details concerning the allegations, including:
 - Identities of the parties, if known
 - Conduct allegedly constituting Title IX sexual harassment
 - Date and location of the alleged conduct, if known
 - A statement that the respondent is presumed not responsible
 - A statement that responsibility will be determined at the conclusion of the process
 - Notice of the parties' right to an advisor of choice
 - Notice of the parties' right to inspect and review evidence
 - Any applicable prohibition against knowingly making false statements or submitting false information
- If, at any point, Illinois Tech determines that additional or materially different allegations will be investigated, a supplemental/amended notice must be provided.

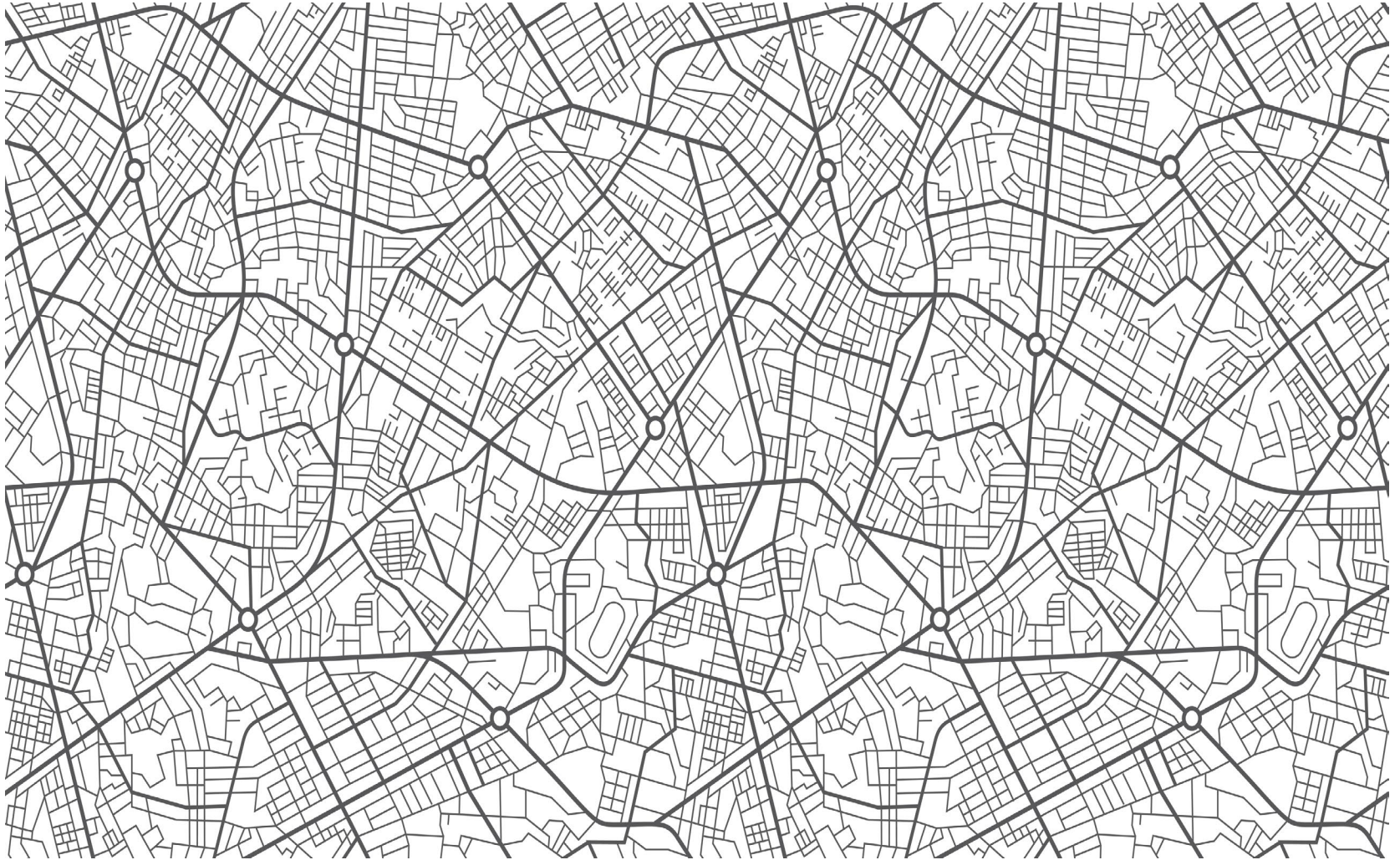
Illinois Notice Requirements

- Do not forget the PSVHEA.
- In addition to applicable Title IX notice requirements, determine whether Illinois Tech must provide:
 - The PSVHEA notice of rights and options
 - Information about reporting to Illinois Tech and law enforcement
 - Contact information for the Title IX Coordinator and confidential resources
 - Information about interim protective measures and accommodations
 - Information about medical, counseling, advocacy, and confidential advisor resources
 - A summary of the applicable complaint resolution procedure
 - Additional notices required by institutional policy

Initial Response Checklist

- ✓ Report received
- ✓ Applicable process identified
- ✓ Rights and options provided
- ✓ Confidential Advisor information provided
- ✓ Supportive Measures discussed
- ✓ Mandatory dismissal review completed
- ✓ Notice of Allegations issued
- ✓ Investigator assigned
- ✓ Deadlines calendared

The Investigation



Role of the Investigator

- Serve as a neutral and impartial fact-gatherer.
- Investigate the allegations identified in the written notice.
- Gather and objectively evaluate relevant evidence.
- Follow Illinois Tech's Comprehensive Policy and Procedures for Sex-Based Discrimination and Sexual Misconduct.
- Provide both parties an equitable opportunity to identify evidence and witnesses.
- Develop a thorough and reliable factual record.
- Do not advocate for either party or determine responsibility.



Investigator Responsibilities

- Identify the allegations accepted for investigation.
- Review the applicable policy, procedure, and definitions.
- Develop and maintain an investigative plan.
- Interview the parties and relevant witnesses.
- Gather relevant documentary, electronic, physical, and other evidence.
- Provide the parties required opportunities to identify and review evidence.
- Follow up on material inconsistencies, questions, and evidentiary gaps.
- Maintain organized records of investigative steps and decisions.
- Prepare the Preliminary Report and Summary Investigative Report required by Illinois Tech's policy, fairly summarizing the relevant evidence.



Requirements for Title IX Investigations

- Illinois Tech must:
 - Place the burden of proof and the burden of gathering sufficient evidence on the institution, not the parties.
 - Provide both parties an equal opportunity to present witnesses and evidence.
 - Objectively evaluate relevant inculpatory and exculpatory evidence.
 - Avoid credibility determinations based on a person's status as a complainant, respondent, or witness.
 - Permit each party to have an advisor of choice.
 - Provide written notice of investigative interviews and other meetings requiring the party's participation.
 - Avoid restricting either party's ability to discuss the allegations or gather and present relevant evidence.
- Illinois Tech may not access, consider, disclose, or use treatment records without the party's voluntary written consent.
- Illinois Tech lacks subpoena power and conducts its investigation within the policy's procedural and practical constraints.

Privacy and Participation

- During the investigation:
 - Parties may discuss the allegations and gather or present relevant evidence.
 - The institution may establish reasonable expectations concerning the privacy and use of information obtained through the grievance process.
 - Parties may be accompanied by an advisor of choice as provided by Illinois Tech's policy.
 - Participation in the process should not be compelled through threats, intimidation, coercion, or retaliation.
 - Information should be shared only as permitted by applicable law and as necessary to conduct a fair process.
 - Promises of absolute confidentiality should not be made.

Adequate, Reliable, and Thorough Investigation

- A well-conducted investigation should:
 - Address each allegation accepted for investigation.
 - Be guided by the elements of the applicable policy definitions.
 - Seek relevant inculpatory and exculpatory evidence.
 - Provide equitable opportunities for the parties to identify evidence and witnesses.
 - Pursue reasonable follow-up questions and evidentiary leads.
 - Evaluate whether identified witnesses have relevant, nonduplicative information.
 - Document material investigative decisions.
 - Produce a factual record sufficient for the Decision-Maker to evaluate each allegation.

Planning the Investigation

- At the start of the investigation:
 - Review the written notice of allegations.
 - Identify the applicable policy definitions and elements.
 - Develop an initial timeline of the alleged events.
 - Identify the information needed to evaluate each element.
 - Identify initial parties, witnesses, records, and other evidence.
 - Determine the anticipated order of interviews.
 - Establish target dates for the principal investigative steps.
 - Identify potential preservation or access issues.
 - Develop a questioning plan linked to the policy elements.

Planning the Investigation

- Throughout the investigation:
 - Update the plan as new information emerges.
 - Document material changes in scope or strategy.
 - Coordinate supplemental notice if additional allegations will be investigated.
- Use the investigative plan as the **roadmap** for the investigation and the eventual report.



Planning the Investigation

- Illinois Tech Timelines to Calendar
 - 48-hour notice requirement for interviews and meetings
 - 10-calendar-day evidence review period
 - 10-calendar-day report review period
 - 90 business days from receipt of the Formal Title IX Complaint:
Summary Investigative Report

Build the Investigation Around the Policy

- Use a policy grid or similar tool to organize evidence and interview questions by policy element.
- For each allegation:
 1. Identify the exact policy provision alleged to have been violated.
 2. Break the definition into its component elements.
 3. Identify the facts needed to evaluate each element.
 4. Determine what evidence could support or challenge those facts.
 5. Develop interview questions and evidence requests accordingly.
 6. Revisit the elements as the evidence develops.

Identifying the Elements of a Policy Violation

Stalking

Illinois Tech Policy Definition

Engaging in a course of conduct (two or more acts) directed at a specific person that would cause a reasonable person to: (a) fear for their own safety or the safety of others; or (b) suffer substantial emotional distress.

Policy Elements

1. Course of conduct (two or more acts)
2. Directed at a specific person
3. That would cause a reasonable person to:
 - a) Fear for their safety or the safety of others; or
 - b) Suffer substantial emotional distress

Identifying the Elements of a Policy Violation

Hostile Environment Sexual Harassment

Illinois Tech Policy Definition

Unwelcome conduct on the basis of sex that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the institution's education program or activity.

Policy Elements

1. Unwelcome conduct
2. On the basis of sex
3. Severe and pervasive and objectively offensive
4. Effective denial of equal educational access

Gathering Evidence

- Potential sources of evidence include:
 - Party interviews
 - Witness interviews
 - Emails, texts, and messaging applications
 - Social media posts and direct messages
 - Photographs, video, and audio recordings
 - Security-camera footage
 - Access, swipe-card, or location records
 - Learning management system records
 - Police, security, or incident reports
 - Medical or counseling records, when lawfully obtained and authorized
 - Academic, employment, housing, or attendance records
 - Other physical or electronic evidence



Illinois Tech's Evidence-Gathering Responsibility

- Conduct a reasonable search for evidence related to the allegations.
- Gather both inculpatory and exculpatory evidence
- Give both parties an equal opportunity to identify witnesses and provide evidence.
- Seek evidence that may support or challenge the allegations.
- Follow reasonable evidentiary leads.
- Consider evidence from parties, witnesses, institutional sources, and available third parties.
- Preserve relevant evidence when loss or deletion is reasonably foreseeable.
- Document material evidence that was requested but unavailable.
- Do not treat a party's inability to produce corroborating evidence as automatically determinative.

Identifying Witnesses

- Which witnesses should be interviewed?
- Consider whether the witness may have relevant information concerning:
 - The alleged conduct
 - Events immediately before or after the alleged conduct
 - Communications involving a party
 - The parties' locations or interactions
 - Potential corroborating or contradicting evidence
 - The effect of the alleged conduct when relevant to a policy element or remedy
 - A material inconsistency or credibility issue
 - The institution's response
- A witness need not be interviewed when the anticipated information is:
 - Irrelevant
 - Entirely duplicative
 - Unavailable despite reasonable efforts
 - Otherwise unnecessary to develop a sufficient record

Evaluating Evidence as It Is Gathered

- As evidence is gathered, ask:
 - Does this information relate to an allegation or policy element?
 - Does it identify another potentially relevant source?
 - Does it corroborate or contradict other information?
 - Does it create a material inconsistency requiring clarification?
 - Is additional context needed to understand it fairly?
 - Is the source authentic and complete?
 - Are there legal, privilege, privacy, or access restrictions?
 - Does the investigative plan need to be revised?

Conducting Interviews

- Before the Interview
 - Provide required written notice at least 48 hours in advance.
 - Review the allegations, applicable policy provisions, and relevant evidence.
 - Identify the topics and policy elements to be addressed.
 - Prepare an outline, not a rigid script.
 - Determine which exhibits or communications should be discussed.
 - Identify areas requiring clarification or follow-up.
 - Confirm the interview format, participants, advisor role, and accommodations.
 - Plan how the interview will be documented.

Exercise – Taylor and Dr. Morgan

- A student, Taylor, files a Formal Title IX Complaint alleging that her professor, Dr. Morgan, has been making her uncomfortable during office hours and after class. The complaint alleges that Dr. Morgan invited Taylor to hang out off campus, complimented Taylor's appearance, and made "weird jokes that felt inappropriate." According to the complaint, Dr. Morgan's comments have been escalating over several weeks, to the point where Taylor has started leaving class early to avoid running into Dr. Morgan after class.
- Discuss the following:
 - What questions should you ask Taylor during her investigative interview?
 - What questions should you ask Dr. Morgan during his investigative interview?
 - What documents, communications, or witnesses should you seek?

Conducting Interviews

- Beginning the Interview
 - Introduce the investigator and explain the investigator's role.
 - Explain the purpose and anticipated scope of the interview.
 - Review applicable participation, advisor, privacy, and retaliation information.
 - Explain how the interview will be documented and how the information may be used.
 - Address questions about the process.
 - Invite the interviewee to provide a complete account in their own words.
 - Establish a professional and respectful tone.

Conducting Interviews

■ Interview Questioning Techniques

- Begin with broad, open-ended questions.
- Move from general topics to specific details.
- Ask one question at a time.
- Use neutral, nonjudgmental language.
- Ask for concrete words, actions, dates, locations, and context.
- Clarify vague, ambiguous, or conclusory statements.
- Test alternative explanations without becoming argumentative.
- Ask follow-up questions based on the response.
- Allow sufficient time for the interviewee to answer.
- Avoid communicating that a particular answer is expected.

Conducting Interviews

■ Interview Questioning Techniques

Examples

- “Please tell me what happened, beginning where you think it makes sense.”
- “What do you remember being said?”
- “What happened next?”
- “What did you mean when you used the word ‘pressure’?”
- “What information supports that understanding?”
- “Is there another possible explanation for that message?”

Conducting Interviews

- Clarifying the Account → explore, as applicable:
 - Who was present or involved?
 - What specifically occurred?
 - What words were used?
 - When and where did each event occur?
 - What occurred immediately before and after?
 - What did the interviewee personally observe?
 - What information came from another person?
 - What documents or communications relate to the account?
 - Who else may have relevant information?
 - Has the interviewee discussed the matter with others?
 - Is any part of the account based on an assumption or inference?
 - What additional information does the interviewee want the investigator to consider?

Conducting Interviews

- Before Concluding the Interview → ask the interviewee:
 - Are there individuals who may have relevant information?
 - What does each identified person potentially know?
 - Are there messages, emails, photographs, recordings, or other records?
 - Who possesses those materials?
 - Is any evidence at risk of deletion or loss?
 - Are there corrections or clarifications to the information provided?
 - Is there any relevant information that has not yet been discussed?
 - How and when will additional materials be provided?

Exercise – Taylor and Dr. Morgan (Part 2)

- During Taylor’s investigative interview, you ask her whether any other individuals witnessed Dr. Morgan’s comments referenced in the complaint. Taylor responds that another student, Jamie, “probably noticed something” and “might have had a similar experience.”
- Discussion Questions:
 - What follow-up questions should the investigator ask Taylor?
 - Is Jamie potentially a fact witness concerning Taylor’s allegations?
 - Could Jamie possess other information relevant to the investigation?
 - What should the investigator explain before asking Jamie about personal experiences?
 - What should happen if Jamie describes separate potential misconduct?

Common Interview Challenges

- Interviews may become unfocused when the investigator:
 - Begins without a clear topic guide.
 - Asks vague, compound, or overly broad questions.
 - Fails to clarify long or ambiguous responses.
 - Allows unrelated background to dominate the interview.
 - Does not distinguish personal knowledge from assumptions or hearsay.
 - Avoids difficult follow-up questions.
 - Fails to identify documents, witnesses, or next steps.
 - Does not establish the purpose and structure of the interview.

Keeping Interviews on Track

- Begin with a scope statement: “Today we are focusing on the interactions identified in the written notice.”
- Politely redirect unrelated discussion: “Thank you for that context. I would like to return to what occurred after the meeting.”
- Use funnel questions, beginning broadly and then narrowing.
- Ask one question at a time.
- Summarize lengthy responses and confirm accuracy.
- Identify topics to revisit later.
- Explain when a topic appears outside the current scope.
- Take breaks when appropriate without losing the interview’s structure.

Two-Person Interview Teams

- Potential Advantages of a Two-Person Interview Team
 - One investigator can lead the questioning while the other takes notes.
 - The lead interviewer can focus on listening and follow-up.
 - The second team member can identify issues requiring clarification.
 - The team can divide responsibilities for exhibits, technology, and documentation.
 - A two-person approach may improve pacing and continuity.
- Considerations
 - Clarify each team member's role.
 - Avoid making the interview feel unnecessarily adversarial.
 - Use a consistent and sustainable approach.
 - Ensure both team members satisfy applicable training, impartiality, and confidentiality requirements.

Exercise – The Rambling Witness

- In this role-play scenario, an Investigator is interviewing a student (Len) who was present at a residence hall social event where an incident allegedly occurred. The Interviewer is trying to determine whether Len observed any inappropriate or unwanted physical contact between two other students during the event.

Exercise – The Rambling Witness

- One person will be the witness (Len) and the other will be the Investigator.
- Use the script on your handout. The Investigator's job is to politely but firmly redirect Len back to the focus of the interview.
- After 2-3 minutes, switch roles. Each person should try redirecting at least once.

Exercise – The Rambling Witness

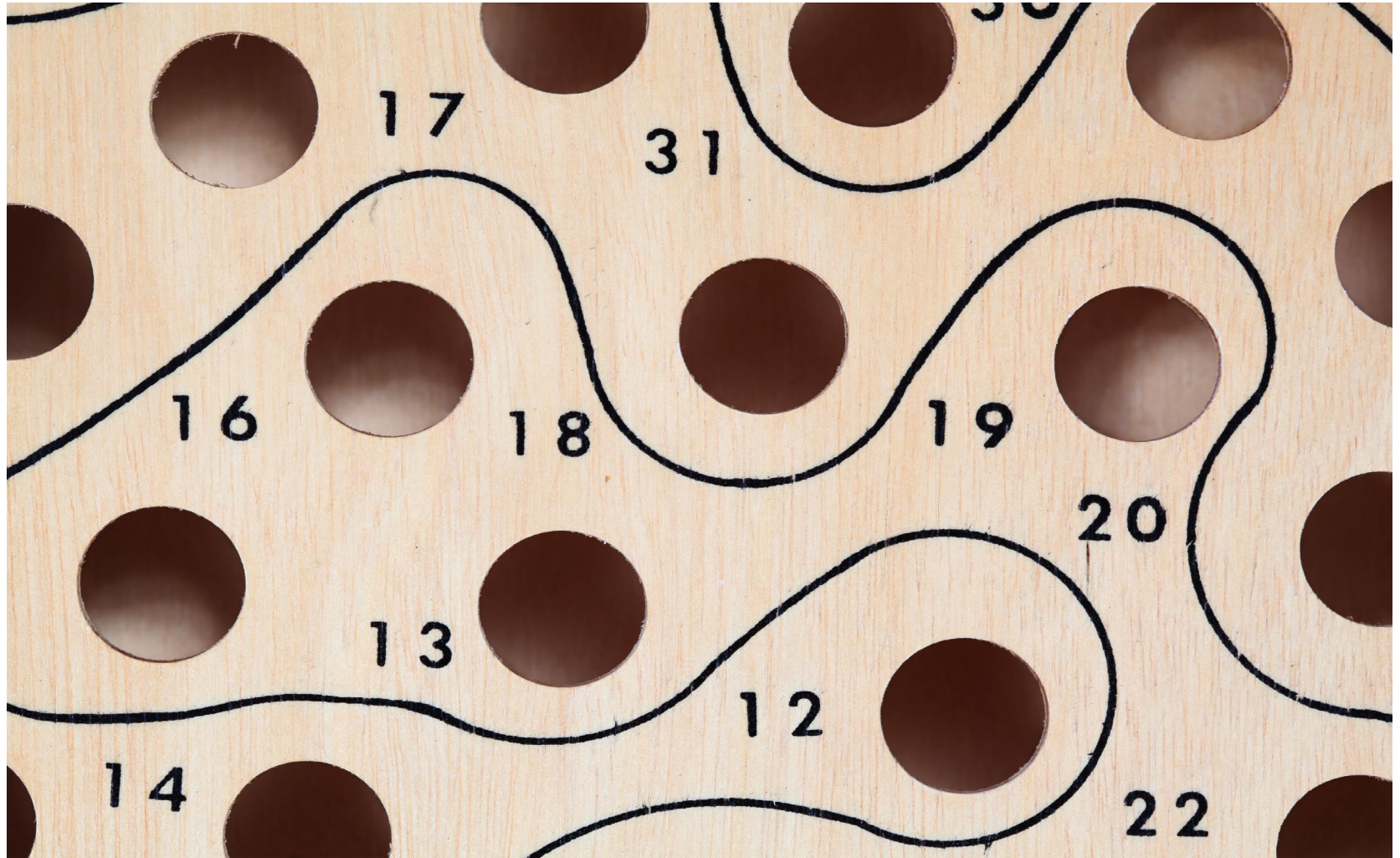
- Debrief Questions

- What redirect phrasing worked well?
- Was it difficult to interrupt?
- How did you keep control without shutting the witness down?
- How might a note-taker help manage an interview like this?

Conducting Interviews

- After the Interview
 - Review and organize notes promptly.
 - Identify unanswered questions and follow-up needs.
 - Obtain or request documents referenced during the interview.
 - Cross-reference the account with other evidence.
 - Distinguish personal observations from secondhand information or assumptions.
 - Identify material inconsistencies requiring clarification.
 - Document corrections or additional information submitted later.
 - Identify information requiring inclusion in the Preliminary Report.
 - Update the investigative plan and timeline.
 - Confirm the next investigative steps.

Relevance and Evidence Assessment



What Is Relevant?

- Evidence is relevant when it has a tendency to make a fact of consequence to an allegation more or less probable.
- Ask:
 - Does the information relate to an element of the alleged policy violation?
 - Does it relate to a material fact in dispute?
 - Does it corroborate or contradict other relevant information?
 - Does it bear on a material credibility issue?
 - Does it explain the source, context, authenticity, or reliability of other evidence?
 - Does it relate to a material procedural issue?

Relevance and Evidentiary Weight

- Relevance
 - Does the information relate to a material issue?
- Reliability
 - Is the information sufficiently dependable to consider?
- Credibility
 - What weight should be assigned to a person's account?
- Weight
 - How persuasive is the evidence when considered with the entire record?

Relevance – Rape Shield Protections

- The 2020 Title IX Regulations prohibit questions and evidence about a complainant's prior sexual behavior or sexual predisposition, unless:
 - The evidence is offered to prove someone other than the respondent committed the alleged conduct; or
 - The evidence concerns specific incidents of the complainant's prior sexual behavior with the respondent and is offered to prove consent.

Investigating Consent and Incapacitation

- When investigating consent, gather information concerning:
 - The specific sexual activity at issue
 - Words or actions communicated by each party
 - The sequence and timing of the interactions
 - Whether and how consent was expressed
 - Whether any limit or withdrawal was communicated
 - Any alleged force, threat, coercion, or pressure
 - Relevant communications before or after the event
 - Witness observations
 - The parties' prior interactions only when relevant under the applicable policy and rape shield restrictions

Investigating Consent and Incapacitation

- When investigating incapacitation, gather information concerning:
 - Alcohol, medication, or other substances consumed
 - Timing, quantity, and observed effects
 - Speech, balance, coordination, awareness, and communication
 - Memory gaps, sleep, unconsciousness, illness, or vomiting
 - The ability to understand the nature of the activity
 - What the respondent observed, knew, or reasonably should have known
 - Witness observations, communications, recordings, receipts, medical information, or other relevant evidence

Exercise – Jordan and Will

- A student, Jordan, files a formal complaint alleging that a fellow student, Will, groped her at an off-campus party while both were drinking. Will claims that the touching was consensual and that both students were under the influence but fully aware of what was happening.
- On the next two slides, you will see excerpts from Jordan's and Will's interview transcripts. For each statement, determine:
 - Whether it is relevant, potentially relevant, or not relevant;
 - What allegation, policy element, or material issue it may relate to; and
 - What follow-up information, if any, is needed.

Exercise – Jordan and Will

- Excerpts from Jordan's Interview

1. "I told Will not to touch me, but he grabbed my waist anyway."
2. "I had at least three drinks and was starting to feel dizzy."
3. "I had just broken up with my boyfriend the day before."
4. "Other people were around, but I don't know what they saw."
5. "Will is known for hooking up with a lot of people."
6. "He put his hands under my shirt after I told him to stop."
7. "After that night, I had trouble focusing in class."
8. "I used to think Will was kind of cute before this happened. I even gave him my number during freshman orientation."

Exercise – Jordan and Will

- Excerpts from Will's Interview

1. “We were both flirting earlier in the night, and Jordan didn’t seem uncomfortable.”
2. “I didn’t hear her say no at any point.”
3. “I had about four beers, but I wasn’t drunk—I knew what was happening.”
4. “I saw Jordan arguing with one of her roommates before I came over.”
5. “She was wearing this really tight shirt—I figured she was into me.”
6. “We had danced together earlier and she put her hand on my shoulder.”
7. “I didn’t think anything I did crossed a line.”
8. “She’s always so dramatic about stuff like this.”

Exercise – Jordan and Will

- Debrief Questions

- Which statements required additional context before relevance could be determined?
- Did any statements reflect assumptions about consent?
- How did Illinois Tech's definitions of consent, coercion, and incapacitation affect your relevance analysis?
- Were any statements relevant for one purpose but not another?

Day 1 Takeaways

- Today we learned how to:

- ✓ Apply the Title IX and PSVHEA frameworks to Illinois Tech's policy and procedures.
- ✓ Distinguish Title IX Sexual Harassment from broader State-Based Sexual Misconduct.
- ✓ Identify the prohibited conduct categories addressed by Illinois Tech's policy.
- ✓ Understand the responsibilities and limitations of each Title IX role.
- ✓ Respond appropriately to reports and Formal Title IX Complaints.
- ✓ Build an investigation around policy elements.
- ✓ Gather relevant inculpatory and exculpatory evidence.
- ✓ Conduct fair, neutral, and effective interviews.
- ✓ Distinguish relevant information from irrelevant information.
- ✓ Apply Illinois Tech's consent, coercion, and incapacitation definitions when gathering evidence.

Questions?



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Day 2 Preview

- Evidence Review
- Preliminary and Summary Investigative Reports
- Hearings and Written Determinations
- Appeals
- Informal Resolution
- Recordkeeping and Training Materials
- Trauma-Informed Practices and Avoiding Bias

Evidence Review and Investigation Report

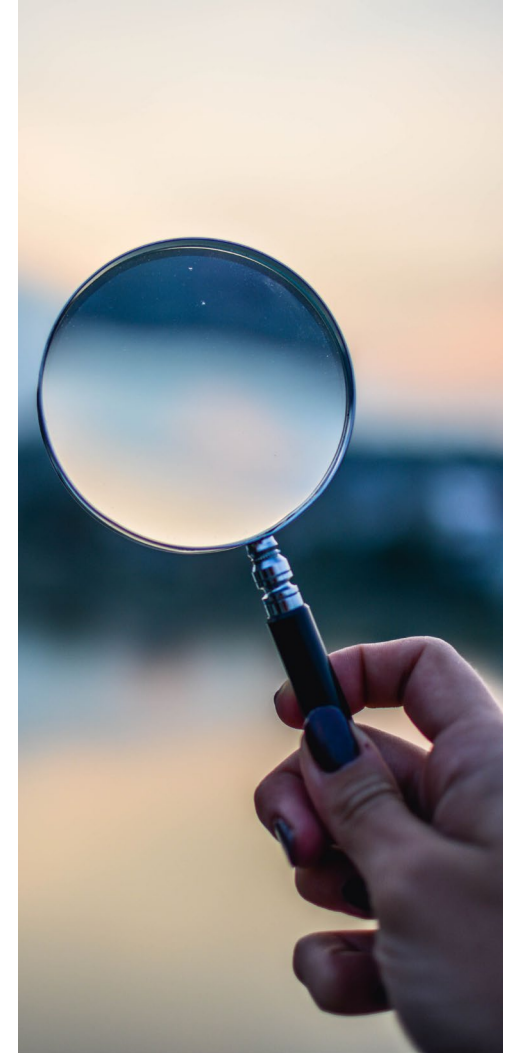


Illinois Tech's Two-Report Process

- Preliminary Report
 - Prepared at the conclusion of the investigation
 - Shared with each party and the party's advisor, if any
 - Includes the evidence subject to inspection and review
 - Parties receive at least 10 calendar days to submit a written response, which Investigator must consider before completing the Summary Investigative Report
- Summary Investigative Report
 - Fairly summarizes the relevant evidence
 - Must be completed within 90 business days after receipt of the Formal Title IX Complaint
 - Sent to each party and advisor at least 10 calendar days before the live hearing
 - Parties may submit a written response

Preliminary Report and Evidence Review

- Before completing the Summary Investigative Report, the Investigator must provide both parties an equal opportunity to inspect and review evidence obtained as part of the investigation that is directly related to the allegations.
- Evidence may be provided in electronic or hard copy format.
- Each party must receive at least 10 calendar days to submit a written response
- Title IX Investigator must consider timely responses before completing the Summary Investigative Report.



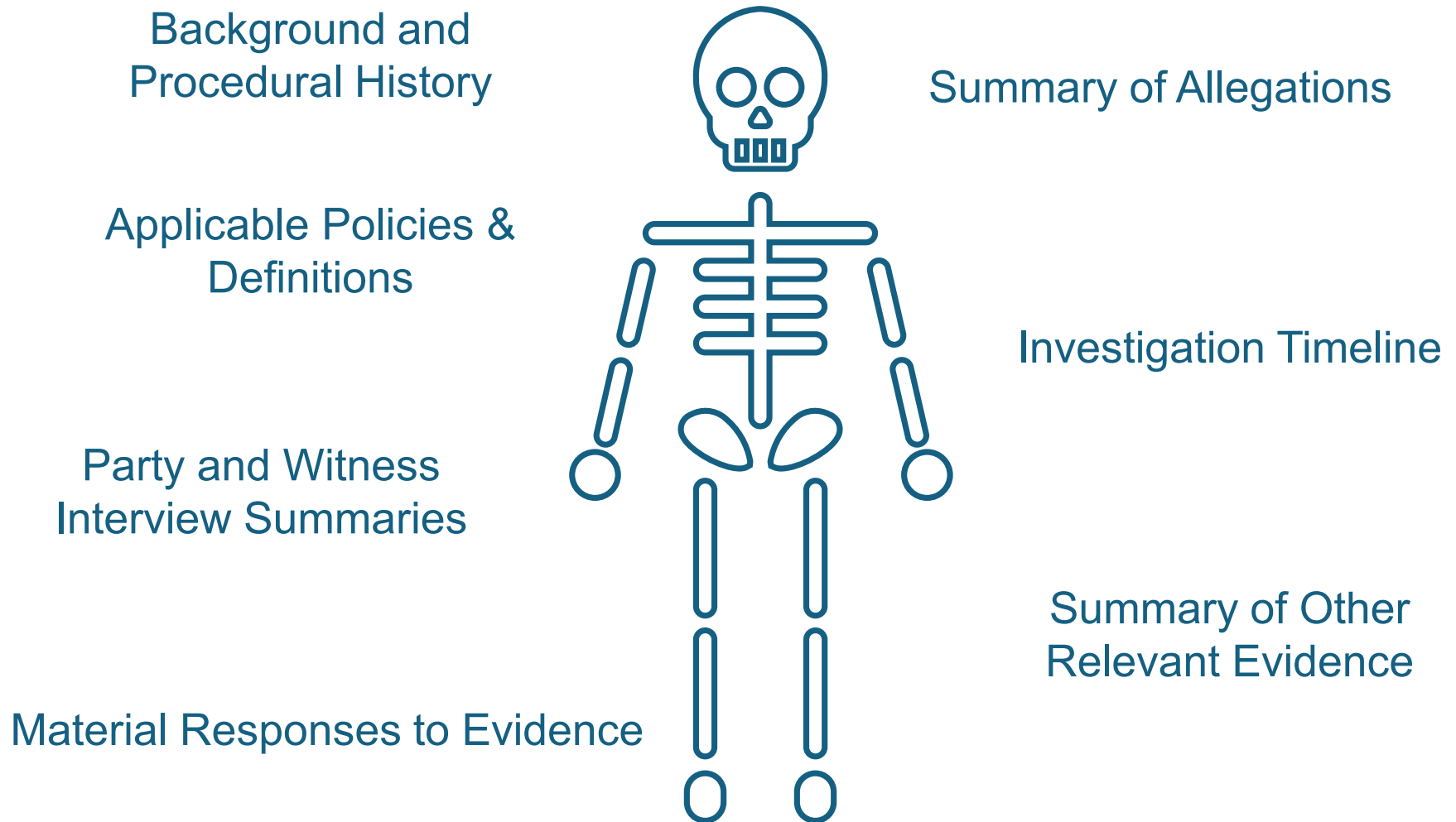
Reviewing Party Responses

- After receiving the parties' responses:
 - Review every timely submission.
 - Identify claimed factual errors, omissions, or missing context.
 - Determine whether additional follow-up is warranted.
 - Obtain and evaluate any newly identified evidence.
 - Correct objective inaccuracies.
 - Preserve disputed accounts rather than resolving them silently.
 - Document material revisions resulting from a response.
 - Address untimely or late-submitted information consistent with Illinois Tech's policy, applicable hearing procedures, and any directions from the Title IX Coordinator.

Summary Investigative Report

- The Summary Investigative Report must:
 - Fairly summarize relevant evidence.
 - Address the allegations identified for investigation.
 - Present inculpatory and exculpatory evidence impartially.
 - Provide sufficient context for meaningful review.
 - Distinguish among party accounts, witness accounts, and other evidence.
 - Avoid unsupported conclusions and advocacy.
 - Avoid making the ultimate determination of responsibility.

Anatomy of an Investigation Report



Anatomy of an Investigation Report

- Background and Procedural History
 - Context for the complaint (institutional setting, relationship of parties)
 - How and when matter was reported
 - When the Formal Title IX Complaint was filed or signed
 - Which policy and procedure govern
 - When the Title IX Investigator was assigned

Anatomy of an Investigation Report

- Background on Complaint

- *On September 10, 2024, Complainant, a second-year student at Illinois Tech, submitted a Formal Title IX Complaint to the Title IX Coordinator alleging that Respondent, a third-year student assigned to the same laboratory group, engaged in repeated unwelcome sex-based conduct during laboratory meetings and through electronic messages over approximately six weeks. An investigation was initiated under Illinois Tech's Comprehensive Policy and Procedures for Sex-Based Discrimination and Sexual Misconduct. The matter was assigned to the Title IX Investigator on September 12, 2024.*

Anatomy of an Investigation Report

- Summary of Allegations
 - Track written Notice of Allegations
 - Organize distinct policy violations as separate allegations and clearly identify the specific incidents underlying each allegation.
 - Describe alleged conduct clearly and neutrally
 - Do not embed evidence or findings in the allegation statement

Anatomy of an Investigation Report

- Summary of Allegations

- *The Formal Title IX Complaint alleges that, between August 26, 2024 and October 4, 2024, Respondent engaged in a course of unwelcome sex-based conduct toward Complainant, including:*
 1. *Repeatedly telling Complainant during laboratory meetings that Complainant looked “really good,” was “distracting,” and should “wear that outfit more often”;*
 2. *Sending Complainant messages stating, “You looked hot in the lab today” and “It’s hard to concentrate when you’re standing next to me”;*
 3. *Continuing to invite Complainant to meet alone after Complainant declined prior invitations and asked Respondent to keep their interactions focused on the laboratory work; and*
 4. *Posting in the laboratory group chat that Complainant was “too hot for anyone to get any work done.”*
- *Complainant alleges that the conduct caused Complainant to leave laboratory meetings early and miss a required laboratory session.*

Anatomy of an Investigation Report

- Applicable Policies and Definitions
 - Identify the governing policy and procedure.
 - Quote the exact definitions applicable to the allegations.
 - Include only provisions needed to understand the issues.
 - Break the definition into elements when useful.
 - Use accurate policy citations.
 - Identify the policy version and effective date when relevant.
 - Do not paraphrase in a way that changes the governing standard.

Anatomy of an Investigation Report

- Applicable Definitions

- *Illinois Tech's Comprehensive Policy prohibits Title IX Sex-Based Discrimination, which includes, in relevant part:*

- *Unwelcome sex-based conduct, determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Illinois Tech's education program or activity.*

Anatomy of an Investigation Report

- Investigation Timeline
 - Chronology of key investigation steps
 - Dates of notice, interviews, report draft and review
 - Should demonstrate compliance with procedural requirements
 - Use simple, structured format (like bullet points or a table)

Anatomy of an Investigation Report

- Investigation Timeline

- *September 12, 2024 – Title IX Investigator assigned*
- *September 17, 2024 – Complainant interview*
- *September 22, 2024 – Respondent interview*
- *September 24–October 10, 2024 – Witness interviews*
- *October 15, 2024 – Preliminary Report and directly related evidence provided to parties and advisors*
- *October 25, 2024 – Parties' written responses to Preliminary Report received*
- *October 30, 2024 – Summary Investigative Report issued to parties and advisors*

Anatomy of an Investigation Report

- Party and Witness Interview Summaries
 - A well-written summary should:
 - Accurately reflect the substance of the interview.
 - Include information relevant to the allegations and material issues.
 - Distinguish personal knowledge from secondhand information.
 - Preserve material qualifications and uncertainty.
 - Identify significant inconsistencies without resolving them.
 - Avoid unnecessary repetition and unrelated background.
 - Cite the interview recording, transcript, or notes using the institution's established method.

Anatomy of an Investigation Report

- Party and Witness Interview Summaries

- *Complainant stated that Respondent began commenting on Complainant's appearance during laboratory meetings in late August 2024. According to Complainant, Respondent said that Complainant looked "really good," was "distracting," and should "wear that outfit more often." Complainant reported that Respondent also sent messages stating, "You looked hot in the lab today" and "It's hard to concentrate when you're standing next to me." Complainant stated that Complainant initially attempted to ignore the comments but, on September 12, told Respondent to stop commenting on Complainant's appearance and asked Respondent to keep their communications focused on the laboratory work. Complainant reported that Respondent subsequently continued inviting Complainant to meet alone and later posted in the laboratory group chat that Complainant was "too hot for anyone to get any work done." Complainant stated that the conduct caused Complainant to leave two laboratory meetings early and miss the September 30 required laboratory session. Complainant identified Witness A as having attended several laboratory meetings at which Respondent allegedly commented on Complainant's appearance and Witness B as a member of the laboratory group chat.*

Anatomy of an Investigation Report

- Party and Witness Interview Summaries

- *Witness B stated that Witness B was a member of the laboratory group chat and reviewed the relevant message thread during the interview. Witness B recalled Respondent posting that Complainant was “too hot for anyone to get any work done.” Witness B stated that members of the group had been discussing delays in completing a laboratory assignment immediately before the message. According to Witness B, Respondent sometimes used the phrase “getting hot” to describe someone becoming frustrated or argumentative. Witness B also stated, however, that other members of the group responded to the message with comments about Complainant’s appearance. Witness B did not recall Respondent correcting those interpretations in the group chat. Witness B stated that Complainant did not respond to the message and participated less frequently in the group chat afterward. Witness B did not know whether Complainant’s reduced participation resulted from Respondent’s message or another reason.*

Anatomy of an Investigation Report

- Summary of Other Relevant Evidence
 - Brief, neutral summary of documentary or other physical evidence reviewed
 - Identify the evidence
 - State its source and relevant date
 - Provide necessary context
 - Note any material authenticity or completeness issue
 - Use an evidence number or citation
 - Avoid argument about what the evidence ultimately proves

Anatomy of an Investigation Report

- Summary of Other Relevant Evidence
 - *The Title IX Investigator reviewed messages exchanged between the parties between August 28 and September 27, 2024. In an August 28 message, Respondent wrote, “You looked hot in the lab today. It’s hard to concentrate when you’re standing next to me.” On September 12, Complainant responded, “Please stop commenting on my appearance. I want to keep our conversations about the lab,” and Respondent replied, “I was only joking.” The Investigator also reviewed a September 25 laboratory group-chat message in which Respondent wrote that Complainant was “too hot for anyone to get any work done.” Respondent stated that the messages were intended as jokes or compliments and that the group-chat comment referred to Complainant’s frustration during the laboratory session. Complainant stated that the messages concerned Complainant’s appearance and continued after Complainant asked Respondent to stop.*

Anatomy of an Investigation Report

- Party Responses

- Identify whether each party submitted a response.
- Summarize material corrections, clarifications, or rebuttals.
- Describe material follow-up conducted in response.
- Identify resulting revisions when useful.
- Preserve unresolved disputes.
- Avoid silently changing a party's account or the evidentiary record.

Anatomy of an Investigation Report

- Party Responses

- *Complainant stated in a written response that the summary omitted Respondent's September 18 invitation to meet alone after Complainant had asked to keep their communications focused on the laboratory work. After confirming that the message appeared in the evidentiary record, the Title IX Investigator revised the Summary Investigative Report to include it. Respondent did not submit a written response.*

What the Report Should NOT Do

- Unless the applicable procedure expressly provides otherwise, the report should not:
 - Determine whether the respondent violated policy.
 - Apply the standard of evidence to reach a conclusion.
 - Advocate for either party.
 - Resolve material credibility disputes.
 - Include irrelevant sexual history or character evidence.
 - Treat repetition as corroboration without examining source independence.
 - Omit exculpatory or contradictory evidence.
 - Use loaded, conclusory, or legalistic characterizations.
 - Include unnecessary private information.

Final Reminders

- Begin with the allegations and governing policy.
- Build the investigation around the policy elements.
- Give both parties equitable opportunities to identify evidence and witnesses.
- Ask clear, neutral, and fact-specific questions.
- Follow reasonable evidentiary leads.
- Distinguish relevance from reliability, credibility, and weight.
- Document material investigative decisions.
- Identify and address gaps before completing the report.
- Write a balanced report that fairly summarizes relevant evidence.
- Leave the ultimate responsibility determination to the Title IX Decision-Maker.

Investigation Report Exercise

- Your Assignment: Review the mock investigation report and identify information that should be:
 - Removed because it is irrelevant, duplicative, or unnecessarily prejudicial
 - Revised because it is conclusory, argumentative, or not neutrally written
 - Clarified because the source, meaning, or connection to the allegations is unclear
 - Reorganized to improve the report's focus and usefulness
- Use edits, highlighting, or brief comments to explain your recommended changes.

Investigation Report Exercise

- As you review, ask:
 - Does the information relate to an allegation, policy element, or material issue?
 - Is the information accurately attributed to its source?
 - Does the report distinguish observed facts from opinions, assumptions, and conclusions?
 - Is relevant context included without unnecessary personal detail?
 - Are inculpatory and exculpatory facts presented fairly?
 - Are material inconsistencies or competing accounts clearly identified?
 - Does the language remain neutral?
 - Would the information help the Decision-Maker understand the relevant evidence?

Investigation Report Exercise Debrief

- What information did you remove, and why?
- What information did you retain but revise?
- Which relevance decisions depended on context?
- Did the report present either party more favorably?
- Which statements required clearer attribution?
- What material information, if any, was missing?
- Did any portion of the report move beyond summarizing evidence?
- What revisions would make the report more useful to the Decision-Maker?

Hearings and Written Determinations



Hearing Participants



- Title IX Decision-Maker
- Complainant and Respondent
- Advisors
- Witnesses
- Title IX Coordinator, in an administrative role
- Investigator, if called as a witness or otherwise authorized to participate
- Other institutional personnel needed to support:
 - Technology
 - Accessibility and accommodations
 - Security
 - Recording
 - Hearing administration

Obligation to Serve Impartially

- The Title IX Decision-Maker must:
 - Avoid prejudgment of the facts at issue.
 - Serve without bias or conflicts of interest.
 - Maintain the presumption that the respondent is not responsible unless and until responsibility is determined.
 - Objectively evaluate relevant inculpatory and exculpatory evidence.
 - Avoid credibility determinations based on a person's status as a complainant, respondent, or witness.
 - Apply the governing policy and standard of evidence.
 - Decide each allegation based on the evidentiary record.

Preparing for the Hearing

- Before the hearing, the Title IX Decision-Maker should review:
 - The written Notice of Allegations and any supplemental notice
 - The applicable policy and procedure
 - The Summary Investigative Report
 - The parties' written responses to the Summary Investigative Report
 - The evidence made available under the applicable procedure
 - The anticipated witness list
 - Any preliminary procedural submissions
 - Requests for accommodations or separate rooms
 - Applicable hearing, questioning, relevance, and decorum rules

Preparing for the Hearing

- The Title IX Decision-Maker should also:
 - Identify the elements of each alleged policy violation.
 - Identify material factual disputes.
 - Prepare an outline of potential questions for the parties and witnesses.
 - Confirm the scope of the hearing and the Title IX Decision-Maker's authority.

Hearing Logistics

- Before the hearing, confirm:
 - Date, time, location, and anticipated duration
 - Whether the hearing will be in person, virtual, or hybrid
 - Separate-room requests and technology arrangements
 - Accessibility needs and approved accommodations
 - Participants and contact information
 - Order of presentation
 - Procedures for questioning and relevance rulings
 - Rules of decorum
 - Procedures for presenting and accessing evidence
 - Recording method
 - Breaks and private advisor consultations
 - A plan for addressing technology or participant disruptions

Location and Technology

- A party may request that the hearing be held virtually, with the parties in separate rooms.
- The Title IX Decision-Maker may also elect to conduct the hearing virtually.
- The technology must allow the Title IX Decision-Maker and the parties to see and hear the answering party or witness simultaneously.
- Unless the hearing is virtual, all parties must be physically present in the same geographic location.
- Illinois Tech may document the hearing by audio recording, video recording, or transcript.



Illustrative Hearing Order

1. Title IX Decision-Maker's opening remarks and ground rules
2. Identification of participants and preliminary matters
3. Opening statements
4. Questions for the complainant
5. Questions for the respondent
6. Witness testimony and questioning
7. Additional evidence or procedural matters
8. Closing statements
9. Title IX Decision-Maker's concluding remarks

Opening Remarks

- The Title IX Decision-Maker should explain:
 - The purpose and scope of the hearing
 - The allegations to be decided
 - The presumption of non-responsibility
 - The applicable standard of evidence
 - The order of the hearing
 - Questioning and relevance procedures
 - Rules of decorum
 - Procedures for objections or procedural concerns
 - Availability of breaks and advisor consultations
 - How evidence will be accessed and used
 - That the hearing is being recorded
 - That no decision will be announced until the record has been evaluated

Questioning at the Hearing



- Only relevant questions may be asked.
- The Title IX Decision-Maker must explain a decision to exclude a question as not relevant.
- The questioning process must be applied equitably to both parties.
- The Title IX Decision-Maker may ask questions needed to clarify the record.
- Questions should address the allegations, policy elements, evidentiary disputes, or material credibility issues.
- Repetitive, argumentative, abusive, or irrelevant questioning may be limited consistent with the governing procedure.

Relevance Determinations

- When considering whether to allow a question, ask:
 - Does the question relate to an allegation or policy element?
 - Does it concern a material fact in dispute?
 - Could the answer corroborate or contradict other evidence?
 - Does it bear on a material credibility issue?
 - Is it needed to understand the context, source, authenticity, or reliability of evidence?
 - Is it prohibited by rape shield, privilege, or another applicable rule?
 - Is it duplicative, and if so, would repetition add meaningful information?

Relevance Determinations

- If a question is excluded:
 - State that the question is not relevant.
 - Give a concise explanation.
 - Apply the same relevance standard to both parties.
 - Preserve the ruling in the hearing record.
- Example: “The question is excluded because it concerns conduct unrelated to the allegations and does not bear on a material credibility issue.”

Rape Shield Protections At the Hearing

- Questions and evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant unless:
 - Offered to prove that someone other than the respondent committed the alleged conduct; or
 - Concern specific incidents of the complainant's prior sexual behavior with the respondent and are offered to prove consent.

Advisors at the Hearing

- Cross-examination is conducted by the party's advisor, not by the party personally.
- The advisor may be, but is not required to be, an attorney.
- If a party does not have an advisor at the hearing, Illinois Tech will provide one free of charge for purposes of cross-examination.
- Except when conducting cross-examination, an advisor may support the party but may not represent or speak on behalf of the party during the hearing.
- Advisors must comply with hearing and decorum rules.

Enforcing Decorum

- The Title IX Decision-Maker may:
 - Remind participants of the ground rules.
 - Direct an advisor to rephrase a question.
 - Stop repetitive, argumentative, or abusive questioning.
 - Issue a warning.
 - Pause the hearing.
 - Allow a party to consult privately with an advisor.
 - Address inappropriate interruptions or commentary.
 - Require removal or substitution of a disruptive advisor when authorized.
- Significant procedural incidents and rulings should be documented on the record or in writing.

Access to Evidence



- Ensure that:
 - The parties and Title IX Decision-Maker have access to any evidence that will be discussed at the hearing.
 - Exhibits are organized and consistently labeled.
 - New or disputed evidence is handled under the governing procedure.
 - Any limitations based on privilege, privacy, or legal restrictions are documented.
 - The hearing record identifies exhibits offered, considered, limited, or excluded.

Party or Witness Does Not Participate

- Under Illinois Tech's policy, the Title IX Decision-Maker may consider and rely on a prior statement of a party or witness who does not appear at the hearing or does not submit to cross-examination.
- The Title IX Decision-Maker may not draw an inference regarding responsibility based solely on the person's absence or refusal to answer questions.

Application Exercise

For each scenario on the following slide:

1. Identify the procedural issue.
2. Decide what the hearing Decision-Maker should do.
3. Explain the ruling or instruction that should be made on the record.

Application Exercise

1. A party appears without an advisor.
2. An advisor asks about the complainant's prior sexual history to challenge credibility.
3. A party offers a video during the hearing that was not provided during the investigation.
4. A key witness declines to attend.
5. An advisor repeatedly interrupts and speaks aggressively to a witness.

Post-Hearing Procedures

The Hearing has concluded. What happens next?



Post-Hearing Procedures

- The Title IX Decision-Maker must now:
 - Review the complete evidentiary record
 - Identify the facts that must be resolved
 - Evaluate the reliability, credibility, and weight of the evidence
 - Apply the preponderance of the evidence standard
 - Apply the policy elements to the facts found
 - Reach and explain a separate determination for each allegation

Deliberation Roadmap

- For each allegation:
 1. Identify the governing policy provision and its elements.
 2. Identify the material factual questions.
 3. Organize the evidence supporting and challenging each possible finding.
 4. Evaluate reliability, credibility, and evidentiary weight.
 5. Decide what facts are established by a preponderance of the evidence.
 6. Apply the policy elements to those facts and reach a conclusion.

Applying the Preponderance Standard

- The preponderance standard asks whether the evidence establishes that a fact is **more likely than not to be true**.
- Illinois Tech bears the burden of proof.
- The standard applies to each allegation and each required policy element.
- A slight evidentiary advantage is sufficient.
- If the evidence is evenly balanced, the burden has not been met.
- The seriousness of the allegation does not change the standard.



Evaluating Evidentiary Weight

- No category of evidence is automatically conclusive.
- Consider:
 - The source of the information
 - The witness's opportunity to observe
 - Internal consistency on material points
 - Consistency with reliable documentary or testimonial evidence
 - Proximity in time to the events
 - Authenticity and completeness
 - Corroborating or contradicting evidence
 - Whether accounts are genuinely independent
 - Plausible, evidence-supported explanations for inconsistencies
 - Any demonstrated motive to misstate a material fact

Assessing Credibility

- Consider:

- Is the account internally consistent on material points?
- Is it consistent with reliable evidence?
- Did the person have an adequate opportunity to perceive the event?
- Are inconsistencies material or peripheral?
- Has the account materially changed?
- Was a plausible explanation provided for a change or discrepancy?
- Does corroborating or contradicting evidence exist?
- Is there evidence of a motive to misstate a material fact?

- Avoid

- Credibility decisions based on party status
- Assumptions about how a person “should” behave
- Overreliance on demeanor
- Treating confidence, emotion, or detail as proof of accuracy
- Treating every inconsistency as proof of dishonesty

Organizing the Analysis by Element

Policy Element

- What must be established?

Material Facts

- What factual questions must be resolved?

Evidence Supporting the Element

- What evidence tends to establish those facts?

Evidence Challenging the Element

- What evidence tends to undermine those facts?

Finding of Fact

- What does the greater weight of the evidence establish?

Application

- Do the facts found satisfy the policy element?

Common Analytical Mistakes

- Beginning with a preferred result
- Asking only which party is more believable
- Failing to separate the allegations
- Failing to analyze each required element
- Treating an absence of corroboration as proof that conduct did not occur
- Treating repeated information from a common source as independent corroboration
- Relying on irrelevant character or reputation evidence
- Treating a party's intent as dispositive when the policy applies an objective standard
- Giving unexplained weight to one item while disregarding contrary evidence
- Using “common sense” as a substitute for the policy language and record

Exercise – The Pineapple Problem

- Instructions:

1. Break the policy definition into its elements.
2. Identify facts that support or challenge each element.
3. Determine what additional information would be helpful.
4. Decide whether the policy definition has been met. Be prepared to explain your reasoning.

Exercise – The Pineapple Problem

Questions to Consider:

- What are the required elements of the policy?
- Which facts support each element?
- Which facts challenge each element?
- What facts are undisputed?
- What facts remain disputed?
- What additional evidence would you want?
- Which element is the most difficult to establish?

Exercise – The Pineapple Problem

- Debrief Questions:
 - How did you break the policy into elements?
 - Which element generated the most disagreement?
 - What facts were most important?
 - What additional information would you want before reaching a conclusion?
 - Did anyone change their view after applying the elements one-by-one?

From Analysis to Written Determination



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From Analysis to Written Determination

- The analysis is complete only when the Title IX Decision-Maker can clearly explain:
 - What allegations were decided;
 - What material facts were found;
 - What evidence supports those findings;
 - How material evidentiary conflicts were resolved;
 - Whether the facts satisfy each policy element;
 - Whether Illinois Tech met its burden under the preponderance standard; and
 - The result and rationale for each allegation.
- **The written determination should show the reader how the Decision-Maker moved from the evidentiary record to the outcome.**

Required Components

- Illinois Tech's written determination must include:
 - Identification of the allegations potentially constituting Title IX sexual harassment;
 - A description of the procedural steps taken;
 - Findings of fact supporting the determination;
 - Conclusions regarding application of the policy to the facts;
 - The result and rationale as to each allegation;
 - The determination regarding responsibility;
 - Any disciplinary sanctions imposed;
 - Whether remedies will be provided to the complainant; and
 - Illinois Tech's appeal procedures and permissible grounds.
- **Deadline:** Within 21 calendar days after receipt of the parties' final written responses and evidence.

Determination: Procedural History

The written determination should briefly identify:

- Receipt of the Formal Title IX Complaint
- Issuance of the Notice of Allegations and any supplemental notice
- Assignment of the Title IX Investigator
- Party and witness interviews
- Site visits or other investigative activity, if applicable
- Party review of evidence and written responses
- Distribution of the Summary Investigative Report
- Party responses to the Summary Investigative Report
- Prehearing activity
- Hearing date and participants
- Any material procedural modifications, delays, or extensions

Determination: Findings of Fact

Findings of fact should:

- Resolve material factual disputes.
- Distinguish undisputed facts from disputed facts.
- Identify the evidence supporting each finding.
- Address material contrary evidence.
- Explain significant credibility or weight determinations.
- Avoid presenting an allegation or disputed statement as an established fact.
- Avoid findings on immaterial issues.
- Reflect application of the preponderance standard.

Determination: Policy Analysis

For each allegation:

- State the applicable policy provision and its required elements.
- Connect the findings of fact to each policy element.
- Explain whether the facts found satisfy the policy language.
- Address material supporting and contrary evidence.
- Apply objective components from the perspective required by the policy.
- Avoid importing requirements that do not appear in the policy.
- Apply the preponderance-of-the-evidence standard.
- Reach a separate conclusion regarding responsibility.

Determination: Rationale

- A sufficient rationale should allow the parties and a later reviewer to understand:
 - Which evidence was considered
 - Which material facts were found
 - How significant evidentiary conflicts were resolved
 - Why particular evidence received greater or lesser weight
 - How the policy was applied
 - Why the burden of proof was or was not met
 - How the result was reached for each allegation

Determination: Sanctions and Remedies

Sanctions

- Are imposed on the respondent after a finding of responsibility.
- Are determined by the Title IX Decision-Maker.
- Must be authorized by Illinois Tech policy and any applicable student, employment, faculty, contractual, or collective bargaining requirements.
- May be disciplinary or punitive.
- Should be proportionate to the violation and supported by an appropriate rationale.

Remedies

- Are provided to the complainant after a finding of responsibility.
- Are designed to restore or preserve equal access.
- May include measures similar to Supportive Measures.
- Need not be non-disciplinary or non-punitive.
- Need not avoid burdening the respondent.
- Are effectively implemented through the Title IX Coordinator or designee.

Elements of a High-Quality Determination

Complete

Aligned

Evidence-
Based

Balanced

Clear

Accurate

Neutral

Transparent

Consistent

Reviewable

Report vs. Written Determination

Summary Investigative Report

- Identifies the noticed allegations and applicable policy
- Fairly summarizes relevant evidence
- Attributes disputed information
- Identifies material disputes and limitations
- Preserves competing accounts without resolving them
- Does not determine responsibility

Written Determination

- Makes findings of fact
- Evaluates credibility and evidentiary weight
- Resolves material factual disputes
- Applies the policy to the facts found
- Determines responsibility for each allegation
- Explains the result and rationale
- Addresses sanctions and remedies, as applicable

Final Title IX Decision-Maker Checklist

Before issuing the written determination, confirm:

- ✓ Every noticed allegation is separately addressed.
- ✓ The correct policy version and standard are applied.
- ✓ Every required policy element is analyzed.
- ✓ The findings resolve the material factual disputes.
- ✓ Relevant inculpatory and exculpatory evidence is considered.
- ✓ Material contrary evidence is addressed.
- ✓ Significant credibility and weight determinations are explained.
- ✓ The burden of proof remains with Illinois Tech.
- ✓ The preponderance standard is applied to each allegation.
- ✓ No conclusion is based on party status, stereotypes, or irrelevant information.
- ✓ The result and rationale are clear.
- ✓ Sanctions and remedies are addressed within the Decision-Maker's authority.
- ✓ Appeal procedures and permissible grounds are accurately stated.
- ✓ The written determination will be provided to both parties simultaneously.
- ✓ The determination is issued within Illinois Tech's required timeframe (within 21 calendar days after receipt of parties' final written responses and evidence).

Appeals

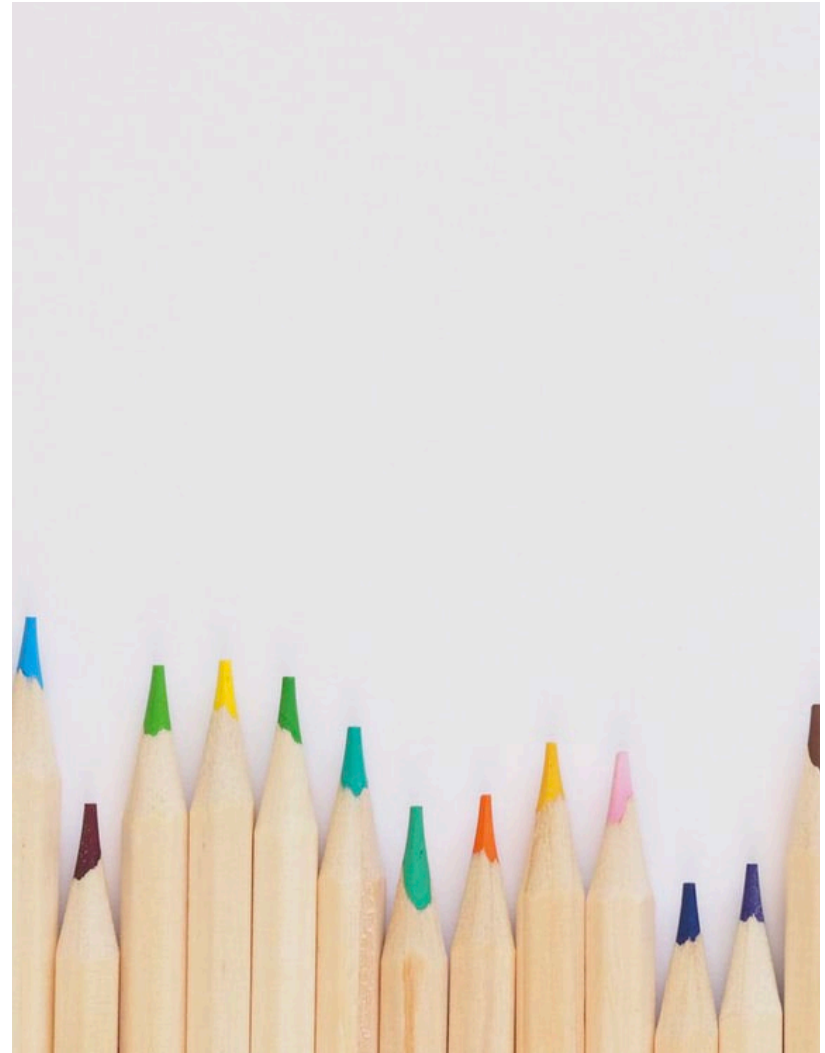


Purpose and Scope of an Appeal

- An appeal provides a limited review of an identified alleged error in:
 - A dismissal of a Formal Title IX Complaint or allegation;
 - A determination regarding responsibility; or
 - A disciplinary sanction imposed following a responsibility determination.
- An appeal is **not**:
 - A new investigation;
 - A second hearing;
 - An opportunity to reargue the case without identifying an appealable error; or
 - A substitute for disagreement with the outcome.

What May Be Appealed?

- Both parties may appeal:
 - A determination regarding responsibility
 - Illinois Tech's dismissal of a Formal Title IX Complaint or any allegation
 - A disciplinary sanction imposed following a responsibility determination



Dismissal Appeals

- The complainant receives notice and an opportunity to appeal a dismissal.
- The respondent receives dismissal notice and appeal rights if the respondent previously received a Notice of Allegations.



Illinois Tech Appeal Timeline

- **Within 5 calendar days after the decision:** A party submits an appeal by email to the Title IX Coordinator.
- **Within 5 calendar days after receipt:** The Title IX Coordinator or designee notifies the other party in writing.
- **Ordinarily within 5 calendar days:** Each party may submit a written statement supporting or challenging the outcome.
- **Within 30 calendar days after receipt of the last party statement:** The Title IX Appellate Decision-Maker issues the written appeal decision.
- The written appeal decision is provided simultaneously to both parties.

Role of the Title IX Appellate Decision-Maker

- The Title IX Appellate Decision-Maker must:
 - Be independent from the investigation, Informal Resolution process, hearing, initial determination, and dismissal;
 - Serve without bias or conflicts of interest;
 - Identify the challenged decision and each asserted appeal ground;
 - Give both parties a reasonable and equal opportunity to submit a written statement;
 - Review the record relevant to the asserted grounds;
 - Apply the governing standard to each ground;
 - Determine whether the asserted error or circumstance affected the outcome;
 - Issue a written decision explaining the result and rationale; and
 - Provide the appeal decision simultaneously to both parties.

Illinois Tech Grounds for Appeal

- A party may appeal based on:
 1. Procedural irregularity or error that affected the outcome;
 2. New evidence or information that was not reasonably available when the determination or dismissal was made that could affect the outcome;
 3. Conflict of interest or bias by the Title IX Coordinator or designee, Title IX Investigator, or Title IX Decision-Maker that affected the outcome; or
 4. A sanction disproportionate to the violation.
- The appeal must identify an authorized ground and explain its effect on the outcome.

Ground + Error + Effect



- A successful appeal generally requires the appealing party to establish:
 1. An authorized appeal **ground**
 2. An **error** or qualifying circumstance
 3. The required **effect** on the outcome

Procedural Irregularity or Error

- Determine:
 - What rule or procedure allegedly was not followed?
 - Did the departure actually occur?
 - Was the requirement imposed by law or Illinois Tech policy?
 - Was the issue raised when it reasonably could have been addressed?
 - Did the deviation affect a party's meaningful opportunity to participate?
 - Did it affect the completeness or fairness of the record?
 - Did it affect the outcome?
 - What corrective step would address the error?

Procedural Irregularity or Error

Possible examples

- Failure to provide required notice
- Unequal opportunities to identify or review evidence
- Failure to investigate a material evidentiary lead
- Application of the wrong policy or standard
- A materially erroneous relevance ruling
- Failure to address an allegation
- Failure to maintain required role separation

New Evidence or Information

- Determine:
 - What is the new evidence or information?
 - Is it relevant to a material issue?
 - Was it reasonably available before the determination or dismissal?
 - If it was available, why was it not presented?
 - Is it cumulative of evidence already in the record?
 - Is it authentic and sufficiently complete to evaluate?
 - Could it affect the outcome?
 - Is additional investigation or party response needed?



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Bias or Conflict of Interest

- Determine:
 - Who allegedly had the conflict or bias?
 - What specific facts support the allegation?
 - Was the issue known before the challenged decision?
 - Does the asserted relationship, statement, or conduct demonstrate relevant bias or conflict?
 - Did it affect the investigation, dismissal, hearing, or determination?
 - Did it affect the outcome?
 - Would substitution or another corrective step address the issue?

Bias or Conflict of Interest

Insufficient by itself

- Disagreement with a procedural or evidentiary ruling
- An unfavorable outcome
- Generalized assumptions based on a person's background
- Prior professional Title IX experience
- Training on sex-based misconduct
- A conclusory allegation without supporting facts

Disproportionate Sanction

- Determine:
 - What sanctions are authorized under Illinois Tech policy?
 - What findings and circumstances supported the sanction?
 - Does the appeal identify a meaningful disparity between the violation and sanction?
 - Are allegedly comparable matters materially comparable?
 - Did the original sanctioning decision rely on an improper or unsupported consideration?
 - Does the sanction fall within the range authorized for the Respondent's status?
 - What corrective action, if any, is permitted under Illinois Tech's process?

Appeal of a Dismissal

- Determine:
 - What complaint or allegation was dismissed?
 - Was the dismissal mandatory or permissive?
 - What definition, jurisdictional requirement, or dismissal provision was applied?
 - Did the dismissal assume the alleged facts were true for the threshold analysis?
 - Did the decision improperly resolve disputed facts?
 - Was the correct policy and regulatory framework applied?
 - Does new evidence alter the threshold analysis?
 - If the Title IX dismissal stands, may another Illinois Tech process apply?

Appeal Outcomes and Remedies

- The Title IX Appellate Decision-Maker may:
 - Deny the appeal and affirm the challenged decision; or
 - Grant the appeal in whole or in part



Appeal Outcomes and Remedies

- If an appeal is successful, the written decision should:
 - Identify the established ground;
 - Explain how the ground affected the outcome;
 - Identify the required corrective action or procedural next step; and
 - Remand the matter through the Title IX Coordinator or designee to the appropriate Title IX team member to remedy the concern.
- **The remedy should be tailored to the error established on appeal.**

Written Appeal Decision

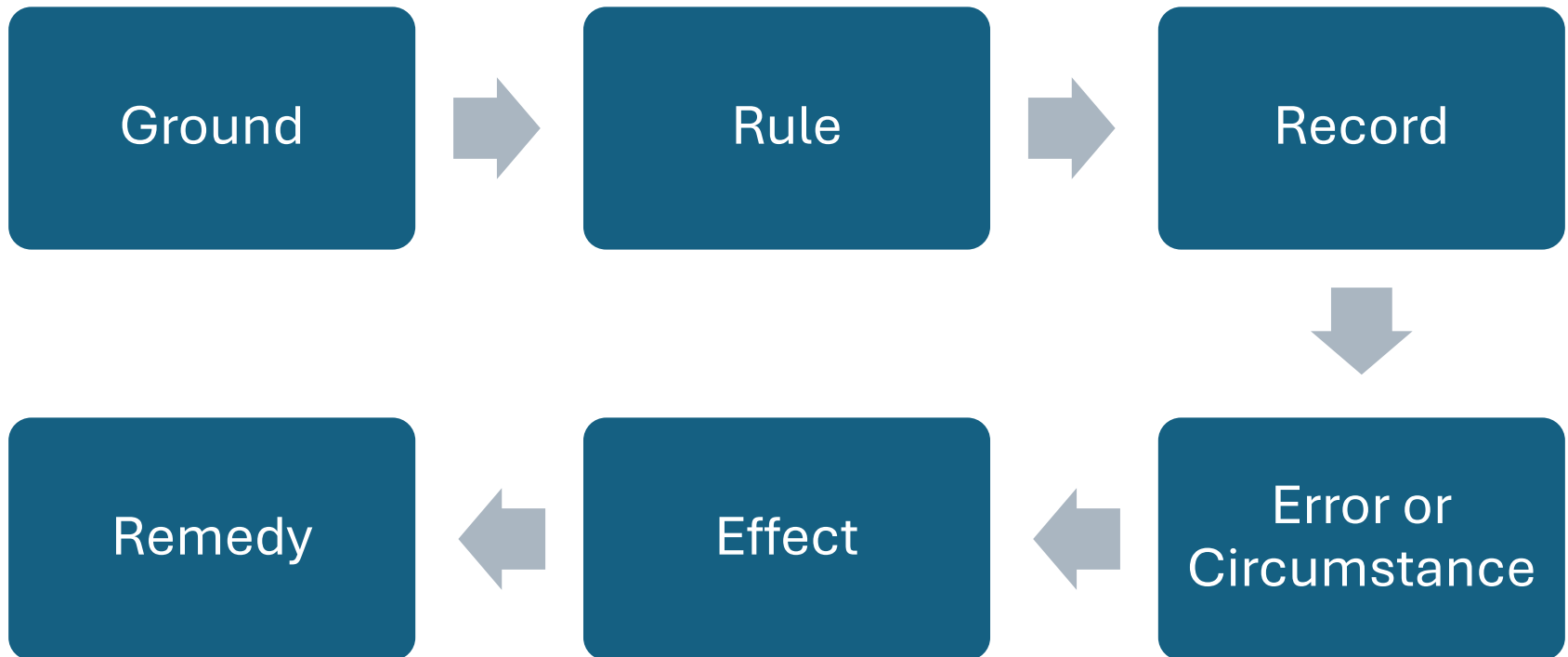
- The appeal decision should:
 - Identify the decision being appealed;
 - Identify the appealing party;
 - State each asserted appeal ground;
 - Summarize the parties' positions;
 - Identify the materials reviewed;
 - State the applicable appeal standard;
 - Analyze each asserted ground separately;
 - Explain whether the required effect on the outcome was established;
 - State the disposition and any required corrective action;
 - Explain the rationale; and
 - Identify any next steps.

Written Appeal Decision

- Additional requirements
 - Issue the decision within Illinois Tech's 30-calendar-day timeframe.
 - Provide the decision simultaneously to both parties.
 - State whether the appeal decision makes the underlying determination final.



A Disciplined Appeal Analysis



Application Exercise

- For each scenario on the following slide, determine:
 - What appeal ground is asserted?
 - Has the ground been established?
 - Has the required effect on the outcome been shown?
 - What additional information is needed?
 - What disposition or remedy is appropriate?

Application Exercise

1. The Title IX Decision-Maker excluded an identified witness as cumulative, but the appeal states that the witness had unique information concerning a disputed material fact.
2. Two days after the written determination, a party obtains third-party camera footage depicting a material location during the relevant timeframe. Neither party possessed the footage during the investigation.
3. After the hearing, a party learns that the Title IX Decision-Maker previously served on a professional committee with the other party's advisor and spoke on a panel concerning Title IX procedures.
4. The respondent received a one-semester suspension and argues that another student received probation in what the respondent describes as "the same type of case."

Common Appellate Errors

- Treating the appeal as a new hearing
- Reweighing the entire record without an authorized basis
- Considering material outside the permitted appellate record
- Failing to analyze the required effect on the outcome
- Treating every procedural deviation as reversible error
- Accepting newly submitted evidence without asking whether it was previously available
- Inferring bias from an unfavorable ruling or generalized professional experience
- Comparing sanctions without assessing whether the cases are materially comparable
- Selecting a remedy broader than necessary
- Failing to explain the rationale
- Exceeding the authority granted by Illinois Tech policy

Final Appellate Decision-Maker Checklist

- Before issuing the appeal decision, confirm:
 - ✓ The challenged decision is appealable.
 - ✓ The appeal was timely submitted.
 - ✓ Both parties received the required notice and opportunity to respond.
 - ✓ The Title IX Appellate Decision-Maker had no prohibited prior involvement.
 - ✓ Each asserted ground was analyzed separately.
 - ✓ The correct standard was applied to each ground.
 - ✓ The authorized record was reviewed.
 - ✓ The asserted error or circumstance was identified precisely.
 - ✓ The required effect on the outcome was addressed.
 - ✓ Any corrective action is authorized and tailored to the established error.
 - ✓ The result and rationale are clearly explained.
 - ✓ Any remand instructions or next steps are defined.
 - ✓ The decision will be issued within 30 calendar days after receipt of the last party statement.
 - ✓ The written decision will be provided to both parties simultaneously.

Informal Resolution



What Is Informal Resolution?

- Informal resolution is a voluntary alternative to completing the Formal Title IX grievance process.
- Depending on the circumstances, the process may:
 - Facilitate communication between the parties;
 - Identify concerns, interests, and desired outcomes;
 - Use mediation, restorative practices, or another structured approach;
 - Help the parties identify mutually acceptable terms; and
 - Resolve some or all of the issues without a hearing and determination of responsibility.

When Is Informal Resolution Available?

- Under Illinois Tech's policy, Informal Resolution may occur only when:
 - A Formal Title IX Complaint has been filed;
 - The Complainant requests Informal Resolution;
 - The Complainant, Respondent, and Illinois Tech each freely agree to participate;
 - Both parties provide voluntary, written consent; and
 - A determination regarding responsibility has not yet been rendered.
- Federal Limitation
 - The 2020 Title IX regulations prohibit informal resolution to resolve allegations that an employee sexually harassed a student.

Notice and Election of Informal Resolution

- Within seven (7) calendar days after being assigned to investigate the Formal Title IX Complaint, the Title IX Investigator must provide the parties with written notice of the Informal Resolution option (where available).
- The notice must explain:
 - The allegations;
 - The requirements of the Informal Resolution process;
 - The circumstances under which the process may preclude resuming a Formal Title IX Complaint involving the same allegations;
 - Each party's right to withdraw before agreeing to a resolution;
 - That withdrawal resumes the formal grievance process; and
 - Any consequences of participation, including records that may be maintained or shared.

Voluntary and Informed Participation

- Before the process begins:
 - Both parties must provide voluntary, written consent.
 - Neither party may be pressured to participate.
 - Neither party may be pressured to accept particular terms.
 - The parties must understand the process and its possible consequences.
 - Either party may withdraw before a resolution agreement is reached.
 - If a party withdraws, the Formal Title IX grievance process resumes where it left off.
- Illinois Tech does not require waiver of the formal process as a condition of:
 - Enrollment or continued enrollment;
 - Employment or continued employment; or
 - The enjoyment of any other institutional right.

Timing and Tolling



- Informal Resolution Timing
 - Formal Title IX grievance-process deadlines are tolled while Informal Resolution is pending.
 - The Informal Resolution period begins the day after the Title IX Informal Resolution Facilitator is assigned.
 - If no agreement is reached within 45 calendar days, the formal process resumes unless:
 - The parties agree to extend the Informal Resolution period; or
 - The parties cease participating before the 45-day period expires.
 - When the formal process resumes, its deadlines continue from the point at which they were tolled.

Assessing Appropriateness

- Consider:
 - The parties' objectives and willingness to participate;
 - The nature and seriousness of the allegations;
 - Any safety concern, threat, coercion, or retaliation;
 - Whether either party may feel pressured to participate;
 - Any power imbalance;
 - The parties' ability to understand and participate meaningfully;
 - Whether accommodations or procedural safeguards are needed;
 - The status of the formal process;
 - Whether potential terms could address the identified concerns or harm; and
 - The training, impartiality, and capacity of the Facilitator.

The Facilitator's Role

- The Facilitator:
 - Explains the process, the Facilitator's role, and applicable ground rules;
 - Meets initially with each party separately;
 - Seeks to understand each party's concerns, positions, and desired outcomes;
 - Identifies harm and possible opportunities for resolution;
 - Determines, with the parties' voluntary agreement, whether later meetings will be separate or joint;
 - Helps the parties identify possible mutually acceptable terms;
 - Does not make decisions for either party;
 - Does not determine responsibility or impose an outcome; and
 - Assists in preparing a written resolution agreement.

Potential Resolution Terms



- Depending on the circumstances, agreed terms may include:
 - Participation in educational programming;
 - Changes in academic, work, housing, or activity arrangements;
 - Academic allowances or extensions;
 - Restrictions on contact or communication;
 - Agreements concerning future conduct;
 - An impact statement;
 - A statement acknowledging harm;
 - Restorative or other agreed-upon actions; or
 - Other individualized terms acceptable to the parties and Illinois Tech.

Potential Resolution Terms

- Before finalizing, confirm:
 - The terms are clear and capable of implementation.
 - Illinois Tech has authority and capacity to carry them out.
 - The agreement identifies duration, monitoring, and responsibilities.
 - The parties understand whether the agreement is final and binding.
 - The agreement explains the consequences of noncompliance.

Effect of a Resolution Agreement

- Once the parties execute a resolution agreement:
 - Illinois Tech will not resume or initiate the Title IX grievance process concerning:
 - Allegations resolved by the agreement; or
 - Allegations arising from the same facts or circumstances.
 - The agreement should clearly identify the allegations and terms resolved.
 - Illinois Tech should monitor or implement institutional obligations contained in the agreement.
 - Failure to comply with the agreement may result in a Student Code of Conduct charge for Failure to Comply.

Application Exercise



- A student files a Formal Title IX Complaint alleging repeated unwanted messages and physical contact by another student. Both parties remain enrolled and participate in several of the same campus activities.
- The Complainant does not want a hearing but wants:
 - The communications to stop;
 - Continued participation in the shared activities; and
 - Clear expectations concerning future interactions.
- The Respondent disputes intending harm but is willing to discuss future boundaries.

Informal Resolution Exercise

- Discuss:
 - Is informal resolution legally and institutionally available?
 - Has the Complainant requested informal resolution?
 - What additional information is needed to assess suitability?
 - How would Illinois Tech confirm voluntariness?
 - What potential terms could be explored?
 - What should be explained about withdrawal, records, and finality?

Final Informal Resolution Checklist

- Before beginning, confirm:
 - ✓ A Formal Title IX Complaint has been filed.
 - ✓ The Complainant requested Informal Resolution.
 - ✓ Informal Resolution is not prohibited based on the allegation.
 - ✓ Illinois Tech agrees that the process is appropriate.
 - ✓ Both parties received the required written notice.
 - ✓ Both parties voluntarily consented in writing.
 - ✓ The Facilitator is trained, impartial, and free of conflicts.
 - ✓ The structure and ground rules are clear.
 - ✓ Confidentiality, records, and future use of information have been explained.
 - ✓ Withdrawal rights and the effect of withdrawal have been explained.
 - ✓ The 45-calendar-day period and tolling have been calendared.
 - ✓ Potential terms are within institutional authority.
 - ✓ Any final agreement is clear, voluntary, and capable of implementation.

Recordkeeping and Training Materials



Why Recordkeeping Matters

- Effective recordkeeping:
 - Demonstrates compliance with Title IX, the PSVHEA, and Illinois Tech policy.
 - Preserves the information needed to explain procedural and substantive decisions.
 - Supports consistency and continuity when Title IX personnel change.
 - Protects the integrity of investigations, hearings, appeals, and Informal Resolution.
 - Provides the record needed for agency review, litigation, audits, or other institutional review.
 - Helps Illinois Tech identify recurring compliance, response, or process issues.

Records Required Under Title IX

- Under the 2020 regulatory framework, Illinois Tech must retain records of:
 - Each Title IX sexual-harassment investigation;
 - Any determination regarding responsibility;
 - Any audio or audiovisual recording or transcript of the hearing;
 - Any disciplinary sanctions imposed on the Respondent;
 - Any remedies provided to the Complainant;
 - Any appeal and its result;
 - Any Informal Resolution and its result;
 - Actions taken in response to each report or Formal Title IX Complaint;
 - Supportive Measures offered or provided; and
 - Materials used to train Title IX personnel.
- Retention period = at least 7 years

Documenting Illinois Tech's Response

- Illinois Tech's policy similarly requires at least seven-year retention of complaint, process, outcome, appeal, Informal Resolution, sanction, remedy, response, and access-restoration records.



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Required Response Rationale

- Illinois Tech must document:
 - The basis for concluding that its response was not deliberately indifferent;
 - The measures designed to restore or preserve equal access to Illinois Tech's education program or activity; and
 - The reasons for material decisions concerning Supportive Measures, dismissal, process selection, and other institutional action.
- If Illinois Tech does not provide Supportive Measures to the complainant:
 - Document why the institutional response was not clearly unreasonable in light of the known circumstances.

Illinois Tech Case File and Maxient

The designated case record should include, as applicable:

- Reports and Formal Title IX Complaints;
- Rights-and-options notices and party communications;
- Supportive Measure documentation;
- Notices of Allegations and supplemental notices;
- Investigation plans and timelines;
- Interview notices, summaries, recordings, or transcripts;
- Evidence received or gathered;
- Preliminary Reports and party responses;
- Summary Investigative Reports and party responses;
- Hearing notices, exhibits, and recordings or transcripts;
- Written determinations;
- Appeals and written appeal decisions;
- Informal Resolution notices, consents, and agreements;
- Sanction and remedy implementation records; and
- Documentation of material procedural decisions.

Illinois Tech Case File and Maxient



- Record Management Practices
 - Store the official case record in the designated Illinois Tech system, including Maxient where applicable.
 - Identify the source and date of received materials.
 - Preserve the original record when corrections are made.
 - Use clear and consistent document names.
 - Limit access based on institutional responsibilities and need to know.
 - Follow applicable privacy, privilege, retention, and preservation requirements.

Training Materials

- Materials used to train Title IX personnel must:
 - Be maintained for at least seven (7) years;
 - Be made publicly available on Illinois Tech's Title IX website;
 - Not rely on sex stereotypes; and
 - Promote impartial investigations and adjudications.
- Covered personnel include:
 - Title IX Coordinator and designees
 - Title IX Investigators
 - Title IX Decision-Makers
 - Title IX Appellate Decision-Makers
 - Title IX Informal Resolution Facilitators

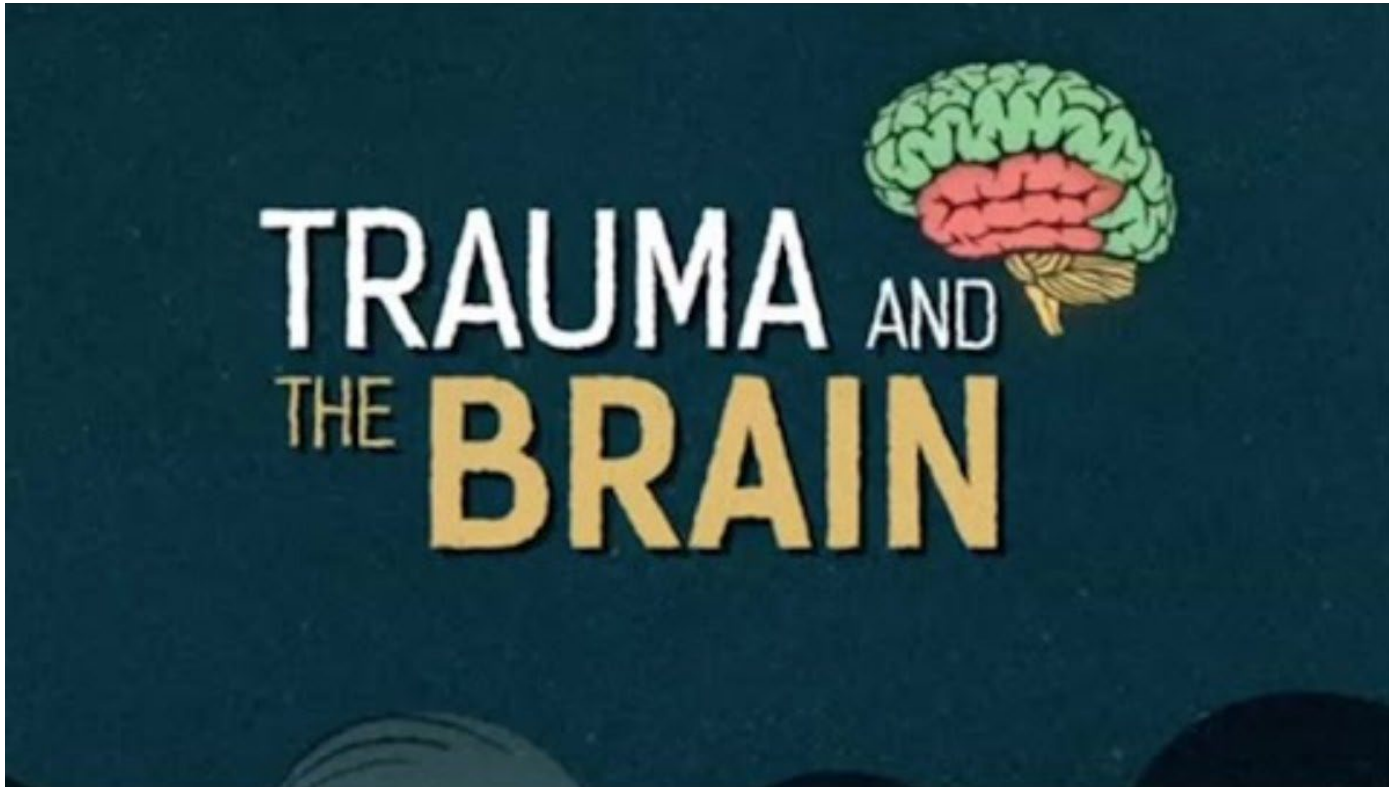
Final Recordkeeping Checklist

- Before closing a matter, confirm:
 - ✓ The case file contains the report or Formal Title IX Complaint, required notices, evidence, party responses, reports, and final decisions.
 - ✓ Supportive Measures, Informal Resolution, sanctions, remedies, and appeals are documented as applicable.
 - ✓ Material institutional decisions and their rationales are documented.
 - ✓ The official record is stored in the designated Illinois Tech system.
 - ✓ Access is appropriately limited.
 - ✓ The correct retention period and any additional preservation requirements have been applied.
 - ✓ Required training materials have been retained and publicly posted.

Avoiding Bias, Ensuring Fairness, and Using Trauma-Informed Practices



Trauma-Informed Practices



NHS Lanarkshire: <https://youtu.be/4-tcKYx24aA>

Trauma may affect individuals differently. This video identifies possible responses and is not a tool for determining whether a particular account is accurate.

Key Takeaways About Trauma

- Trauma may affect memory and memory recall.
- Trauma may affect the order, detail, and consistency of information provided.
- Trauma may affect how and when an individual reports.
- No particular response proves or disproves that misconduct occurred.
- Investigators and Decision-Makers should avoid assumptions about how a person "should" react.



Survivor-Centered and Trauma-Informed Response

- A survivor-centered response:
 - Prioritizes safety, autonomy, and access to information.
 - Provides clear information about reporting options and available resources.
 - Allows individuals to make informed decisions whenever possible.
 - Avoids blame, judgment, or assumptions.
 - Recognizes that different individuals may respond differently to trauma.
- Survivor-centered practice respects autonomy without predetermining the institutional response or outcome.

Survivor-Centered and Trauma-Informed Response

- A trauma-informed response:
 - Recognizes the potential effects of trauma.
 - Reduces unnecessary retraumatization.
 - Uses respectful and transparent communication.
 - Provides information about what to expect during the process.
 - Maintains fairness and impartiality for all participants.
- Trauma-informed practice concerns how the process is conducted, not what result is reached.

Survivor-Centered Communication Practices

- When interacting with a reporting individual:
 - Explain the process clearly and accurately.
 - Avoid minimizing or dismissing concerns.
 - Avoid judgmental language.
 - Avoid making promises you cannot keep.
 - Explain what information can and cannot remain confidential.
 - Provide information about available resources and support services.
 - Allow questions and provide opportunities for clarification.
 - Recognize that individuals may communicate, organize, or recall information differently.

Understanding Bias

Explicit Bias

- Conscious beliefs, attitudes, or stereotypes.

Implicit Bias

- Automatic associations operating outside conscious awareness.

Bias may affect:

- Investigations
- Relevance decisions
- Credibility assessments
- Hearings
- Written determinations
- Appeals

Common Forms of Bias in the Title IX Process

- Examples include:
 - Assuming a complainant is truthful because a complaint was filed.
 - Assuming a respondent is responsible because allegations are serious.
 - Relying on stereotypes about gender, relationships, or consent.
 - Giving undue weight to demeanor.
 - Using irrelevant character or reputation evidence.
 - Assuming a particular behavioral response is expected from someone who experienced trauma.
 - Treating inconsistencies as automatic proof of dishonesty.
 - Treating confidence as proof of accuracy.
- **Focus on the evidence and policy elements, not assumptions about people or expected behavior.**

Strategies to Reduce Bias

- Process Discipline
 - Identify the applicable policy elements.
 - Use consistent procedures.
 - Consider both inculpatory and exculpatory evidence.
 - Test alternative explanations.
 - Document the reasons for material investigative, credibility, and evidentiary weight decisions.
 - Evaluate evidence using the same standards for both parties.
- Access and Self-Awareness
 - Be mindful of whether cultural, linguistic, disability-related, religious, or other background factors may affect communication, resources, or participation in the process.
 - Be aware of whether your own comfort, familiarity, or shared experiences may influence your perceptions.
 - Consult when a conflict of interest or bias concern arises.
- **Process discipline** is one of the strongest safeguards against bias.

Fairness Throughout the Process

- At every stage:
 - Treat complainants and respondents equitably.
 - Maintain the presumption of non-responsibility.
 - Maintain required role separation.
 - Apply the same procedures and standards to both parties.
 - Provide equal opportunities to participate.
 - Evaluate information objectively.
 - Use survivor-centered and trauma-informed practices without predetermining the outcome.
 - Avoid assumptions and stereotypes.
 - Explain material decisions and their rationale.
 - Follow Illinois Tech's policy and procedures.
 - Seek guidance when a conflict-of-interest, bias, or procedural concern arises.
- A fair process is **survivor-centered, trauma-informed, impartial, evidence-based, and equitable to all participants.**

Questions?





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