K-12 Virtual Title IX Investigator Training







About Us



OUR MISSION

To provide the best Care and Support for our clients, Community Partners, employees, contractors, collaborators, vendors, and all others who encounter our company.



GOAL

To assist schools and districts in providing a safe and healthy learning and working environment for students, faculty and staff.











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BEFORE WE GET STARTED ...

- ✓ Not legal advice
- Materials
- Questions
- Repetition

- Breaks
- Posting link
- ✓ No recording



Training Agenda

- 1 The What, Who, Where, & When of Title IX
 - 02 Investigation Preparation
 - 03 Investigation Practices
 - 04 Report Writing
 - 105 Decision Making
 - 06 Appeals
 - 07 Questions



TRAINING OBJECTIVES

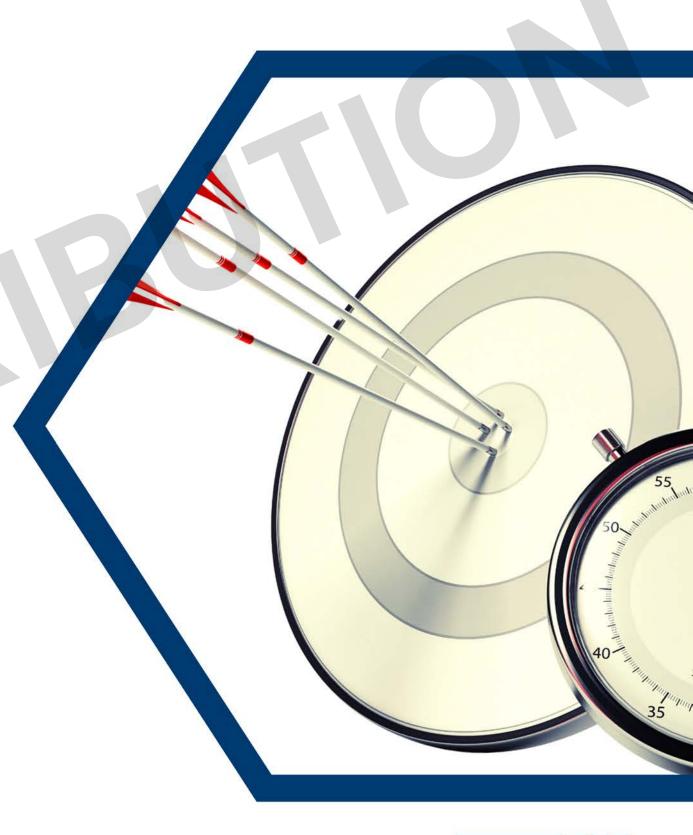
Understand the Title IX grievance process

Understand the role and scope of the Title IX Investigator

Learn best investigative techniques for your role

Learn best practices for Report Writing

Learn how to incorporate trauma-informed practices into your work









What is Title IX?



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















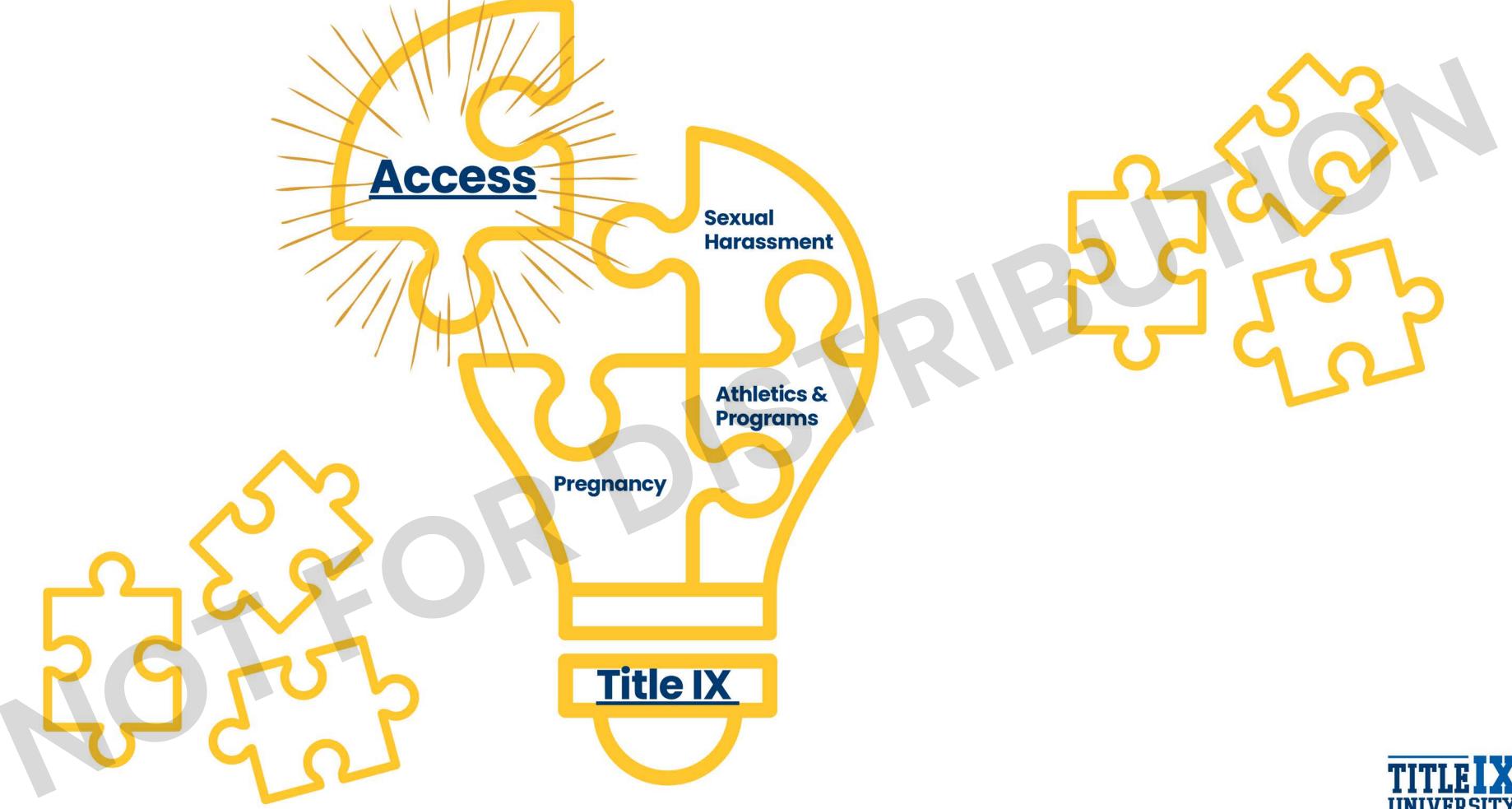












Today's Focus

- Sexual Harassment due process
- Formal procedures & prescriptive process
 - Including formality in the "informal"
- Narrow definitions
- The importance of location





2020 Sexual Harassment



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Quid Pro Quo

- 1. An employee of the school
- 2. Conditioning the provision of an aid, benefit, or service of the recipient
- 3. On an individual's participation in unwelcome sexual conduct



Bucket 1 Example:

Amber has coached basketball at the middle school for years. She has applied for the job at the high school. Following her interview, the high school athletic director invites her to his office. He hugs her, grabs her butt, and tells her that she is sure to get the job and his door is always open...



Harassment

Unwelcome conduct determined by a reasonable person to be so severe, pervasive AND objectively offensive that it effectively denies a person equal access to the recipient's education program or activity

- 1. **Severe** can be non verbal through sexual assault (touching/fondling)
- 2. **Pervasive** how often and how widespread
- 3. **Objectively Offensive** behavior that would be offensive to a reasonable person under the circumstances



Bucket 2 Example:

Lucy makes comments every day for two weeks about Jenny's body - some in writing and some verbally - examples:

- "look at your boobs"
- "those jeans look great on your butt"
- "I wish I could hit that"
- makes sexual noises when she passes in the hallway Jenny is uncomfortable and has started skipping school to avoid Lucy.





Specific Offenses

Specific Offenses

- 1. Sexual Assault
 - a. Rape
 - b. Fondling/Criminal SexualContact
 - c.Incest
 - d. Statutory Rape
- 2. Dating Violence
- 3. Domestic Violence
- 4. Stalking



Sexual Assault Definitions

Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.







Fondling:

The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.



- Effective June 23, 2025, the FBI revised the NIBRS (National Incident Based Reporting System) offense classifications including what was previously known as fondling.
- 2020 regulations reference Clery Act
- Clery Act definitions are taken from NIBRS

Criminal Sexual Contact:

- The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
- The forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
- This offense includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

Bucket 3 Sexual Assault Examples:

Rape: Thomas pulls down James pants in the locker room and puts a pen in James' rectum.

Fondling: Laura grabs Phil's genitals over his shorts and squeezes while making a sexual comment.

Incest: Ms. Jones has been sleeping with her nephew, a 17 year old student. Some of the behaviors occurred in her classroom.

Statutory Rape: Adam, an 18 year old senior, is caught in a sexual act with Dina, a 7th grade student.



Dating Violence:

Violence committed by a person:



Who is or has been in a social relationship of a romantic or intimate nature with the victim; **and**



Where the existence of such a relationship shall be determined based on a consideration of the following factors:

- 1. Length of relationship
- 2. Type of relationship
- 3. Frequency of interaction between the persons involved in the relationship



Bucket 3 Dating Violence Example:

Aria and Blake were in a dating relationship for about 6 months. After they broke up, Aria slammed Blake against a locker.



DOMESTIC VIOLENCE

A FELONY OR MISDEMEANOR <u>CRIME OF VIOLENCE</u> COMMITTED BY A:

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





Bucket 3 Domestic Violence Example:



Mr. Smith and Mr. Adams live together and are in a romantic relationship. One day after school, Mr. Adams sees Mr. Smith flirting with another teacher in the hallway. After school, Mr. Adams goes to Mr. Smith's room yelling excessively. Mr. Adams flips Mr. Smith's desk and kicks him. Then leaves the school leaving Mr. Smith without a ride home.

Stalking:

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





Fear for the person's safety or the safety of others OR



Suffer substantial emotional distress



Bucket 3 Stalking Example:

Landry leaves notes in Lindsay's locker (after breaking into it) professing his love for her. He sits one table over from her at lunch every day. Landry calls her phone at all hours (during and after school) from multiple numbers. Landry doesn't have a car but he stands in the parking spot assigned to Lindsay every morning. She ignores him, but feels anxious.







STUDENT ON STUDENT



STUDENT ON EMPLOYEE



EMPLOYEE ON STUDENT



EMPLOYEE ON EMPLOYEE

CONDUCT THAT INVOLVES





"Parties" in Title IX Matter 2020

COMPLAINANT

an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

RESPONDENT

an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.





THERE IS NO STATUTE OF LIMITATIONS...



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Jurisdiction 2020 Education Program or Activity



Locations, events, or circumstances (operations) over which the school or district exercised substantial control over both the respondent AND the context in which the sexual harassment occurs.



Includes online sexual harassment but it must be analyzed to determine if it occurs in education program or activity.



Does not create or apply a geographic test, does not draw a line between "off campus/property" and "on campus/property," & does not create a distinction between sexual harassment occurring in person vs online.



The Big Question Is

Does the District have control?

 Control over the location/event
 Control over the Respondent (employee or student)



3 BUCKETS



CONTROL OVER RESPONDENT



CONTROL OVER LOCATION / EVENT







Report / Notice Received



Meet with Complainant & Guardian

- Support
- Discuss Process
- Explain Options

No Formal Complaint

Supportive

Measures Only

Formal

Complaint

- Signed by

Complainant / Guardian

or Cu

Unclear

Meet with Complainant / Guardian to gather more information











Report / Notice Received



Meet with Complainant & Guardian

- Support
- Discuss Process
- Explain Options

No Formal Complaint

Supportive

Measures Only

Formal Complaint

- Signed by

Complainant / Guardian

or Coordinator



Meet with Complainant / Guardian to gather more information



When: After FORMAL COMPLAINT & with sufficient time to prepare for any interview

What is Included:

- Notice of the school's grievance process
- Notice of the allegations of sexual harassment
- Sufficient details
 - Identities of the parties
 - Conduct that occurred
 - Date
 - Location
- Respondent is presumed not responsible
- Determination is made at the end of the grievance process
- Opportunity to have an advisor of choice (may be an attorney)
- Parties will have opportunity to inspect and review evidence
- Code of Conduct provisions related to false statements or false information

ANYONE

- ATTORNEY
- PARENT
- WITNESS--- MOST CHALLENGING---NOT PROHIBITED. NOT RECOMMENDED.

What is their purpose?

- Support
- Understanding
- Extra ears
- Should be copied on written correspondence and permitted to attend all meetings
- Potted plant





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What if there is something you don't know related to the allegations that is required?

What if you learn something was wrong in the Notice?

What if you learn about additional allegations?

- Provide as much as possible
- Update and send to both parties if/when you know
- example: dates or specific locations

Fix it and re-send to both parties

Add them and resend to both parties

*Big Take-Away--- Don't forget to update the notice!





Report / Notice Received Title IX **Not Title IX** Unclear High kick to appropriate process Meet with Complainant / Guardian to gather more information Meet with Complainant & Guardian Support - Discuss Process - Explain Options No Formal Formal Complaint Complaint - Signed by - Supportive Measures Only Complainant / Guardian or Coordinator **Notice of Allegations** Investigation Informal Resolution - Interview Parties / Witnesses - Gather Evidence ©Institutional Compliance Solutions 2025 All Rights Reserved

Important Notes for Investigations:

- Burdens

 - Burden of gathering evidence on School <u>NOT the parties</u>
 Burden/Standard of Proof Preponderance of the Evidence (more likely than not) or Clear and Convincing Evidence
 - May NOT access, consider, disclose or use party's treatment records unless School obtains voluntary WRITTEN consent
 - MUST provide equal opportunity for parties to:
 - Present witnesses (fact or expert--does not say character)
 - Gather and present relevant evidence
 - May NOT restrict the ability of the parties to discuss the allegations or gather and present relevant evidence (no gag orders)

NOTICE OF METINGS

MUST provide WRITTEN notice of the

- date
- time
- location
- participants
- purpose
- of all hearings, investigative interviews, or other meetings, with SUFFICIENT TIME for the party to prepare





Are you investigating MORE than just Title IX?



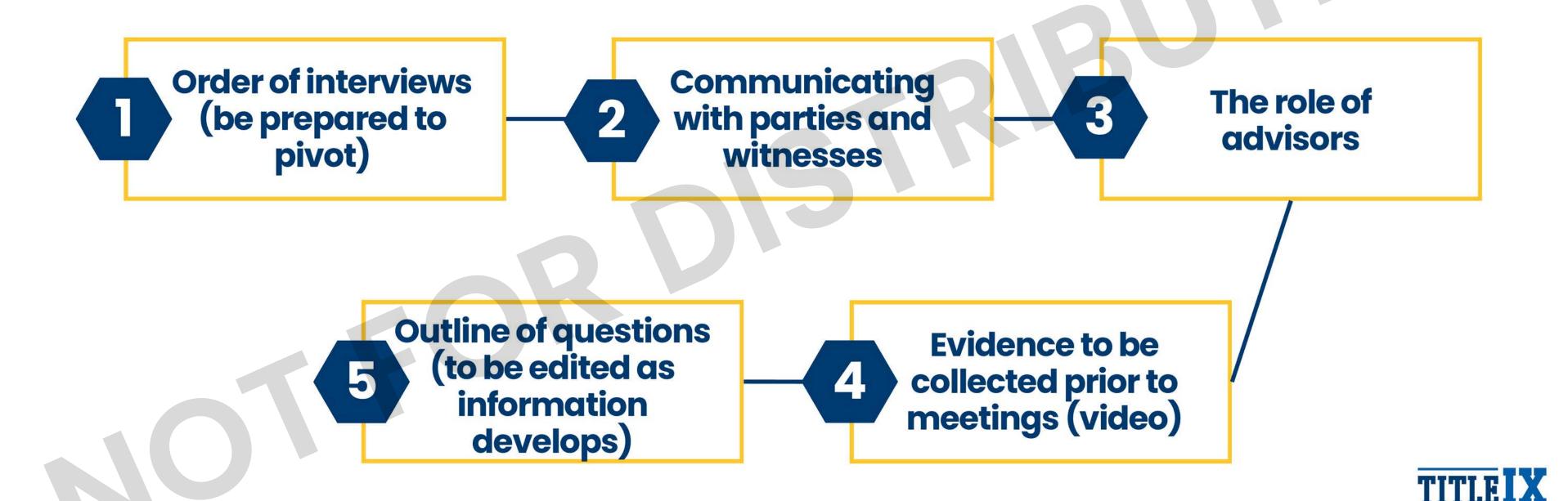




Is there anything you need before you meet with parties and/or witnesses?



Developing a Plan



PROVIDE NOTICE OF THE MEETING TO THE PARTY YOU ARE MEETING WITH

- Who will be in the meeting?
- What is the purpose?
- Where will the meeting occur (in person, virtual, etc.)?
- *Note witnesses are not required to have "notice of meeting" but it is recommended.







You Only Get ONE First Impression

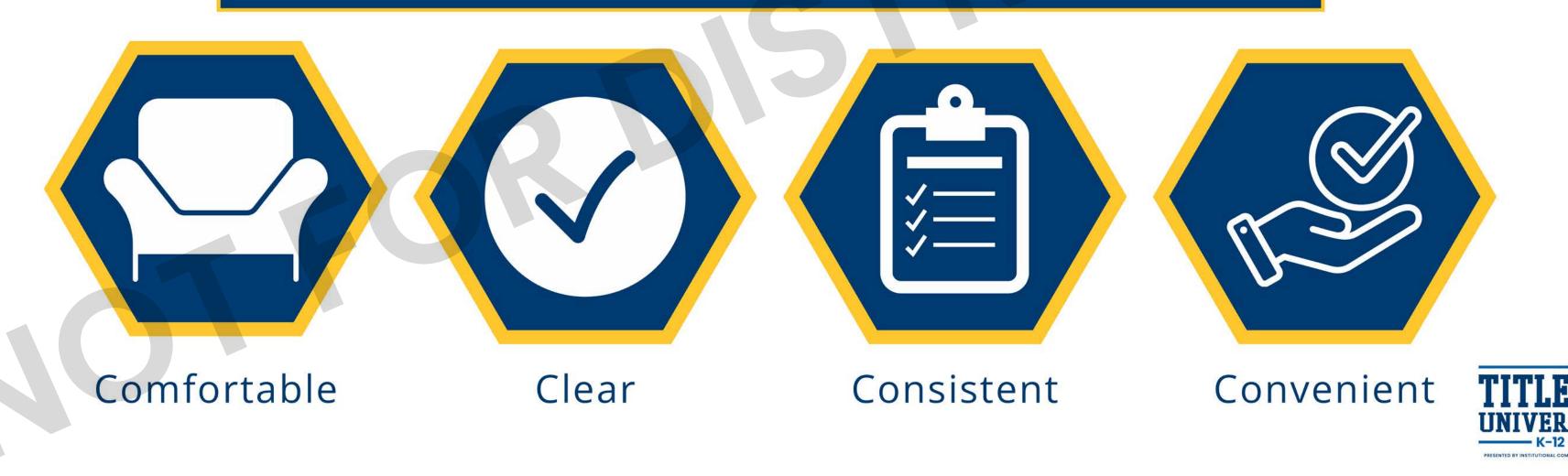
Before they "walk in" either in person or virtually, CHECK YOURSELF

- Let go of whatever is happening outside that meeting
- Refresh your mind with names and dates
- Note your facial expressions
- Prepare the room



Trauma Informed Meeting Necessities

THE 4 - C'S



FIGHT, FLIGHT, FREEZE, OR FAWN OR ALL FOUR...

OR SOMETHING COMPLETELY DIFFERENT...













Check Your Biases



Where are your potential biases in the case?



Can you overcome any biases that exist?



Is your mind in a neutral position?



INTRODUCTION



Who are you?



What is your responsibility?

What policy/policies & procedures are you using?



Something to connect you with the party or witness

Get To Know The Party/Witness



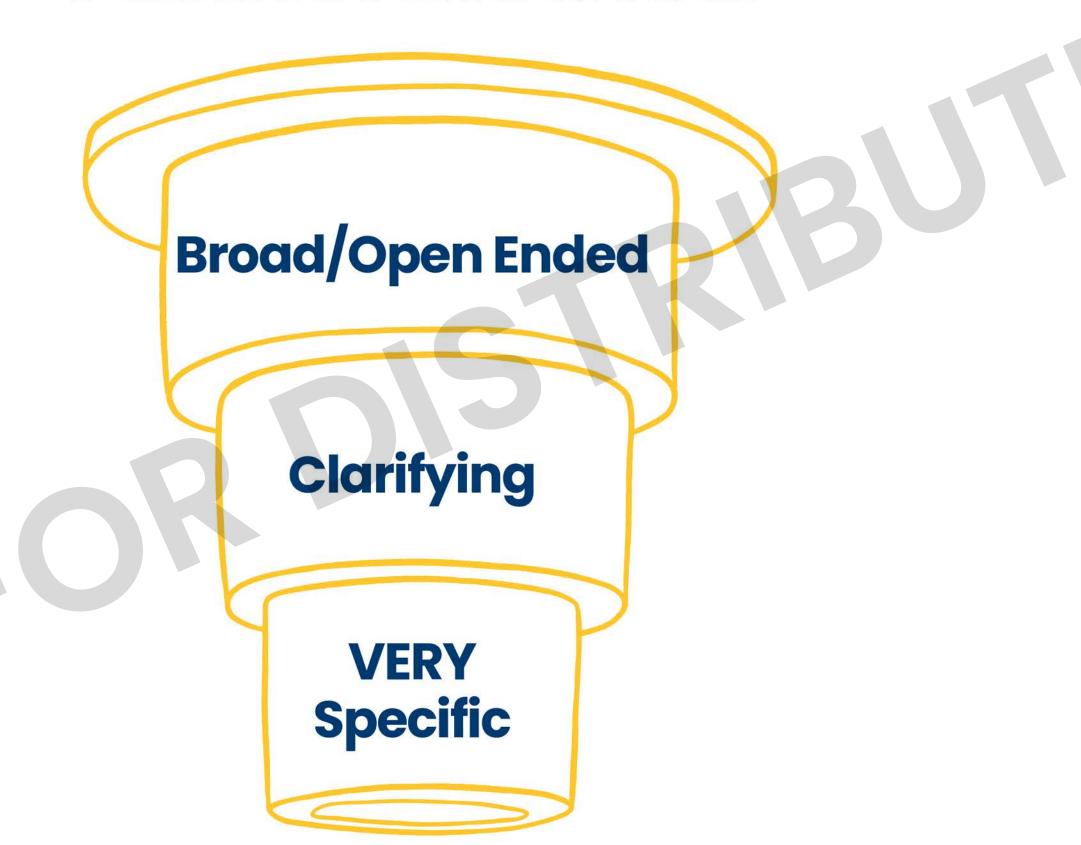








Funnel Method











How did it happen?

Who did it happen to?

How do you know these parties?

Who else was there?

When did it happen?

Where did it happen?

Why -- without saying WHY

The NEED to know questions



The Formula for Questioning





Challenging Witnesses / Parties

The "Hulk"





The Rabbit Chaser

The "Turtle"





The Big Reveal



The Reluctant Participant





- Detailed, but not so much that it slows down the interview
- Decide what is most important
- Extra person in the room?
 - Give notice and explain their role as note-taker
- Note-taker vs. dual investigator
- Use quotations if possible
- Ask for a pause or clarification if necessary







Noun
a person who
investigates a
crime; a detective

Verb
carry out a succesful investigation into a crime or mystery

"there's nothing you can do but sleuth around until you find the answer"







- Do you have access?
- Who else has access?
- How long is it stored?
- Do you know how to save it?
- Does someone make sure all cameras are working reguarly?





Social Media



Burden

The burden is on you to **ASK** for information. The burden is **NOT** on the party or witness to "offer it."

- Do you have any phone or texts?
- Was anything shared on social?
- Did you email about this?
- Is there any geo-tracking?





Independent Investigative Actions

Think outside the box





Make the phone call

Find the witness







Visit the location

Google the term





Take the photo









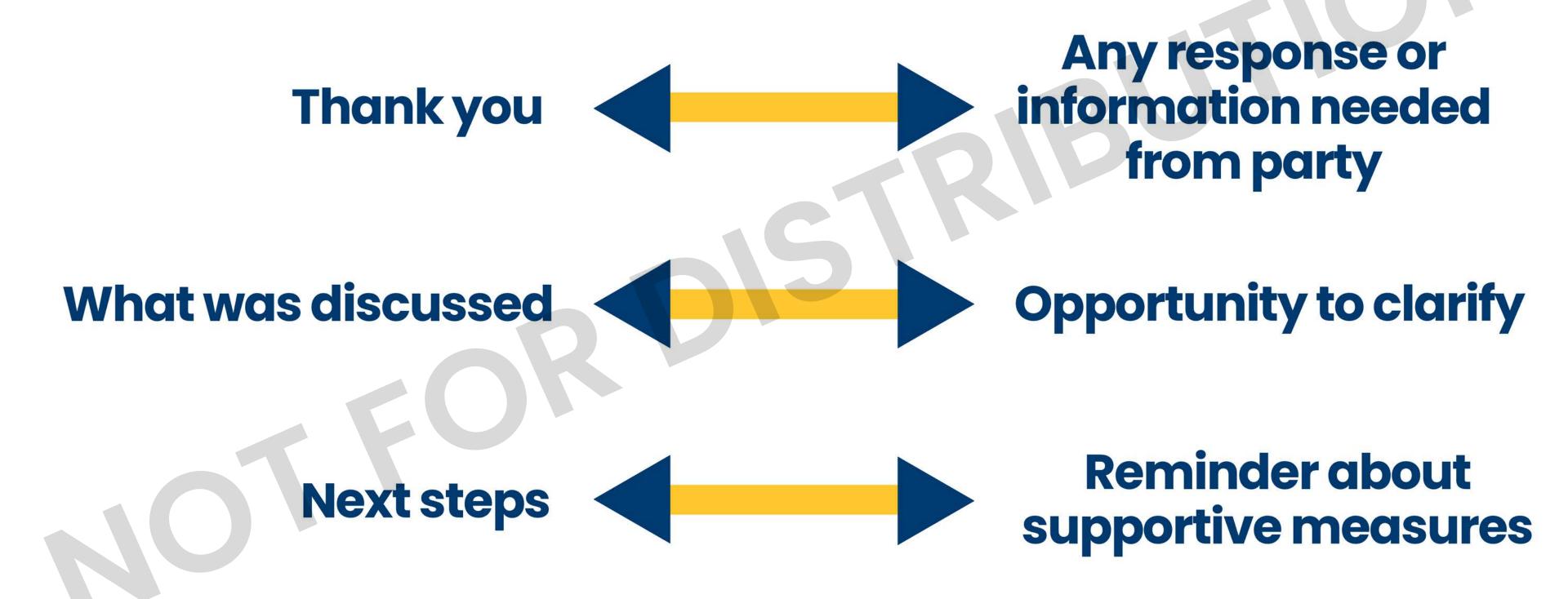
Assess Support Needs

- How was the party?
- Do they need additional support?
- Counseling?
- Academic support?
- No contact directives?
- Concerns about retaliation?









- Clean up notes
- Save notes
- Save evidence collected
- Create to do list
 - Witnesses to connect with
 - Evidence to collect
 - Follow up meetings to schedule







If you were unable to continue with the investigation starting tomorrow, would the person picking up the file know what had been done and what is left to do?



(Reminder) Information for case needs to be saved for 7 years







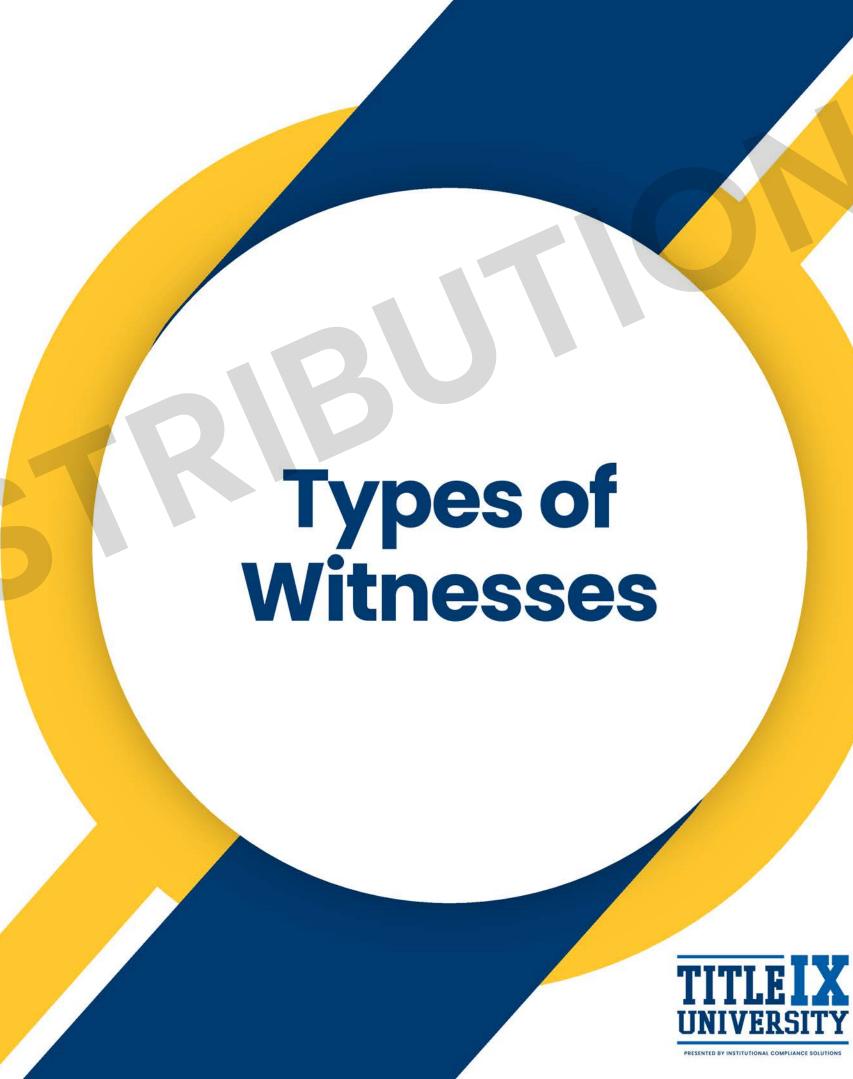




















HOW DO YOU KNOW THE OTHER WITNESSES?

How long?
In what capacity?
Describe your relationship with them

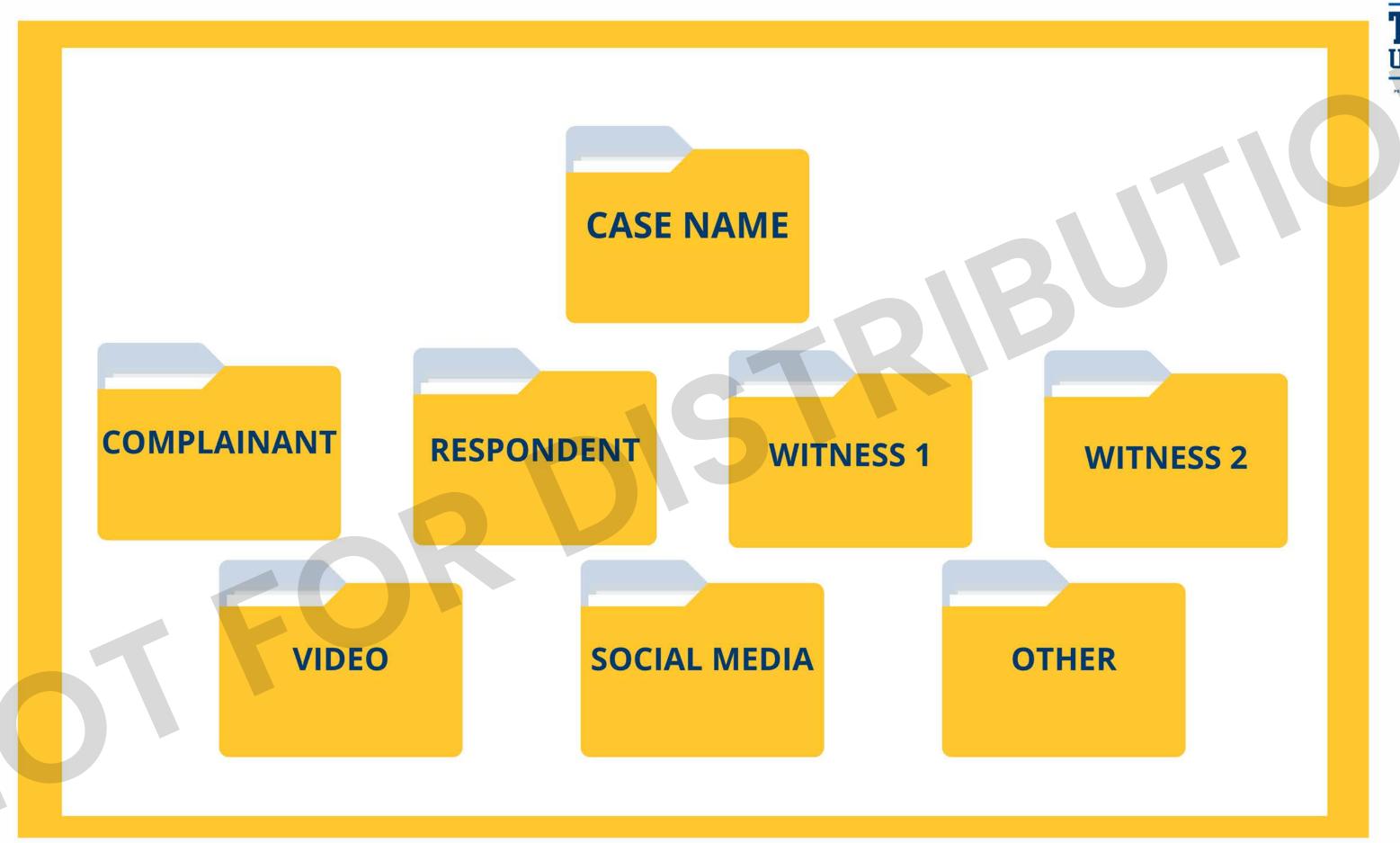


Memory

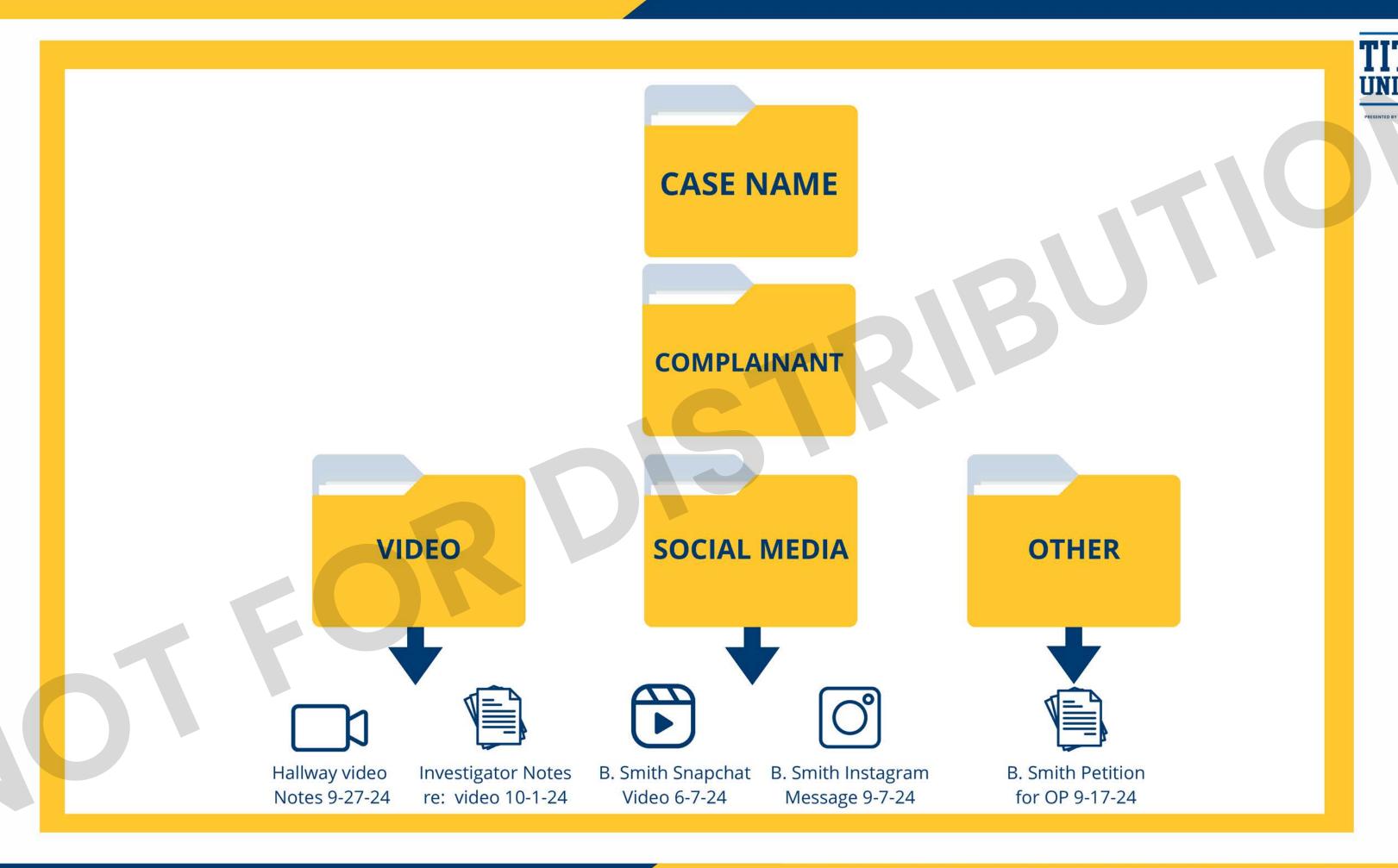
How much do witnesses actually remember?

What impacts memory?



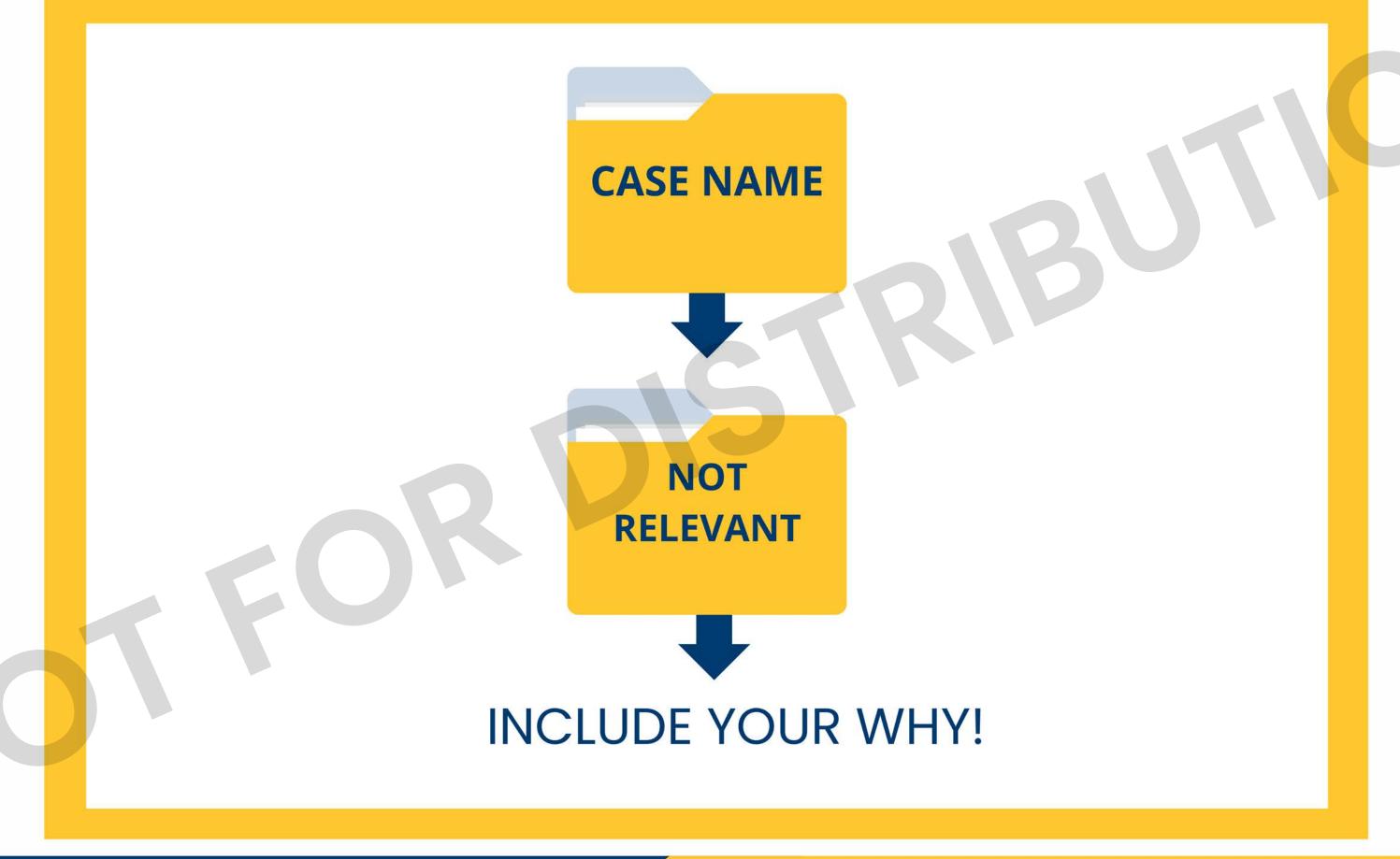
















MUST: Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is DIRECTLY RELATED to the allegations Including:

- The evidence upon which the school does not intend to rely in reaching a determination
- inculpatory or exculpatory evidence

so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.





SENDING SECURELY



THE ANXIETY IT MAY CAUSE

PROVIDE SUPPORT



THE **VOLUME** OF INFORMATION



SOME OF THE INFORMATION MAY NOT BE "RELEVANT"

Challenges with review.





Reminder: How Long? 10 days (business or calendar) Define in policy

- Review it
- Take a deep breath (it may be a critique of your work)
- Evaluate if there is anything that you missed and need to complete
- Document
- Move on



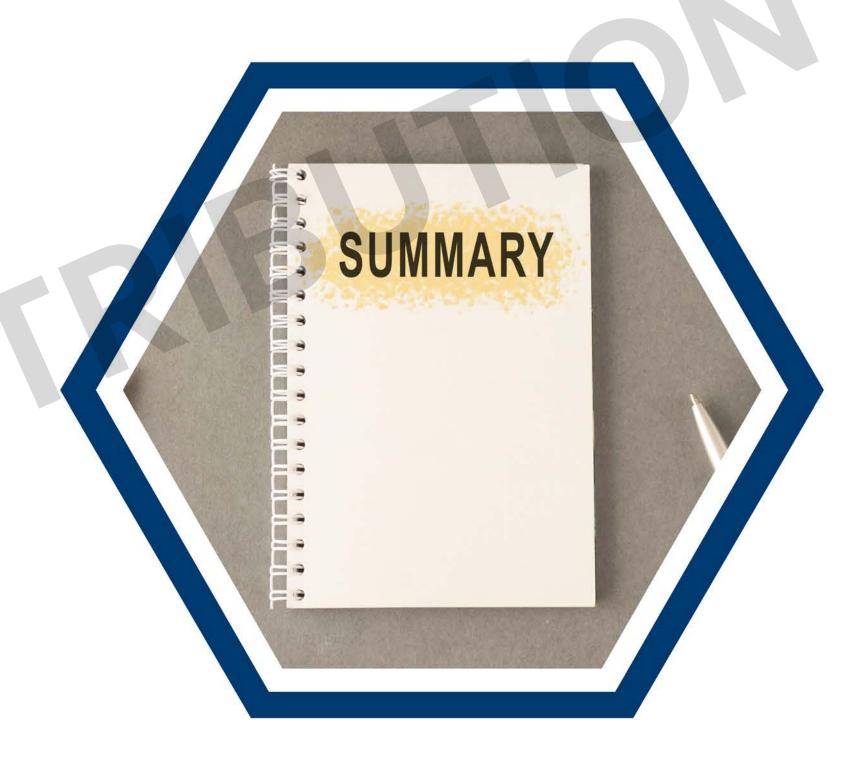






A TITLE IX REPORT IS A SUMMARY OF RELEVANT EVIDENCE

THIS IS NOT A DUMP OR COPY OF YOUR NOTES.





Organization





Easy to Follow, Clear, Concise

Can the reader follow the report and understand who reported/said what?



Roadmap for the Decision-Maker

This report will guide the decision maker, help them ask questions, and provide a roadmap for their process



Includes the Basics

Assume the reader knows NOTHING



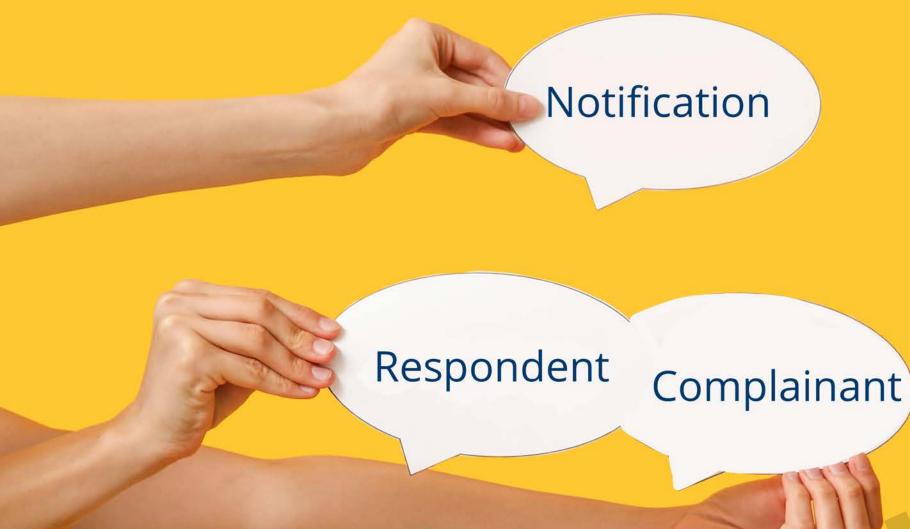
Reviewed by Colleague

Trusted counterpart



Consistent but Not Identical

There is room for a little flexibility



Complaint



Responsible

Decision Maker

Language Matters Constitutional Cons

Preponderance

Determination

Who is your audience?



Judge



Family





What is important?

What is <u>relevant?</u>

What is outside the scope?

What needs to be quoted?









By party/witness?



By event?





- Page numbers
- Footnotes?
- Timeline(s)
 - Investigation
 - Events
- Appendix/Attachments WITH PAGE NUMBERS
 - Table of Contents for appendix/attachments



THE DELIVERY OF THE REPORT CAN BE TRAUMATIC



Witnesses may say things that are surprising to the parties

Changing the trajectory of individual's lives



INTAKE

WRAP AROUND SUPPORT

2.
INVESTIGATION
&
REPORT

3.
POST
RESOLUTION

4.
FOLLOW UP
&
CHECK IN



CONSIDERATIONS

WHAT IS THE BEST WAY TO DELIVER THE REPORT ARE THERE SUPPORT RESOURCES IMMEDIATELY AVAILABLE DO YOU NEED TO PROVIDE A HEADS UP THAT IT IS COMING **NEXT STEPS APPEAL OPTIONS**



REQUIRED 10 DAY REVIEW AND RESPONSE PERIOD (BEFORE DETERMINATION)

CONSIDER WAITING FOR RESPONSE BEFORE SENDING TO DECISION MAKER







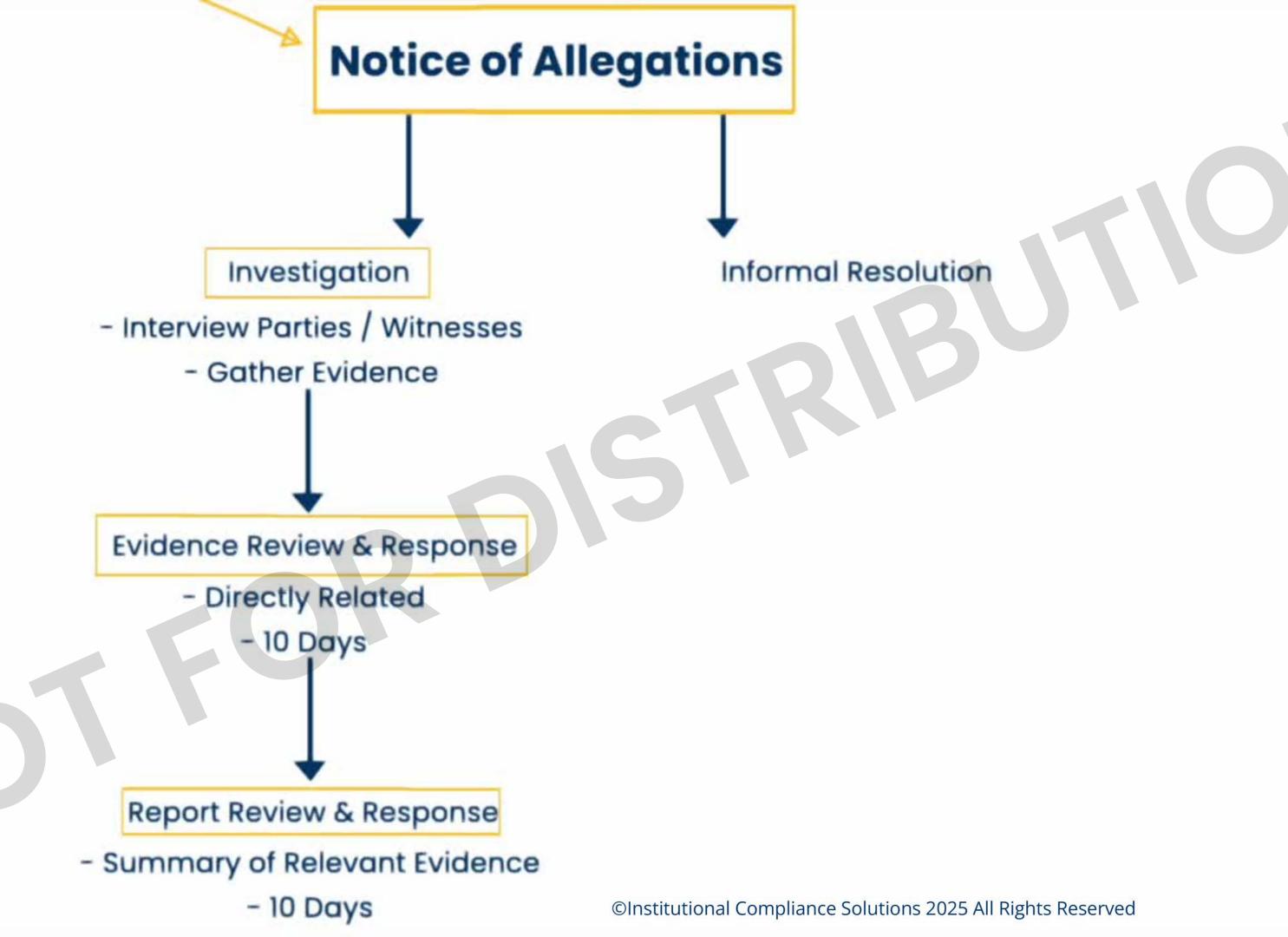
Similar to Evidence Review

- Review it
- Take a deep breath (it may be a critique of your work)
- Evaluate if there is anything that you missed and need to complete
- Note the information in the report, footnotes, or appendix for the Decision Maker
- Move on











Decision Maker (different than the Investigator or Coordinator)



Notify Parties WHO is serving as the Decision Maker



Coordinator must check for Conflict/Bias







Decision-Maker

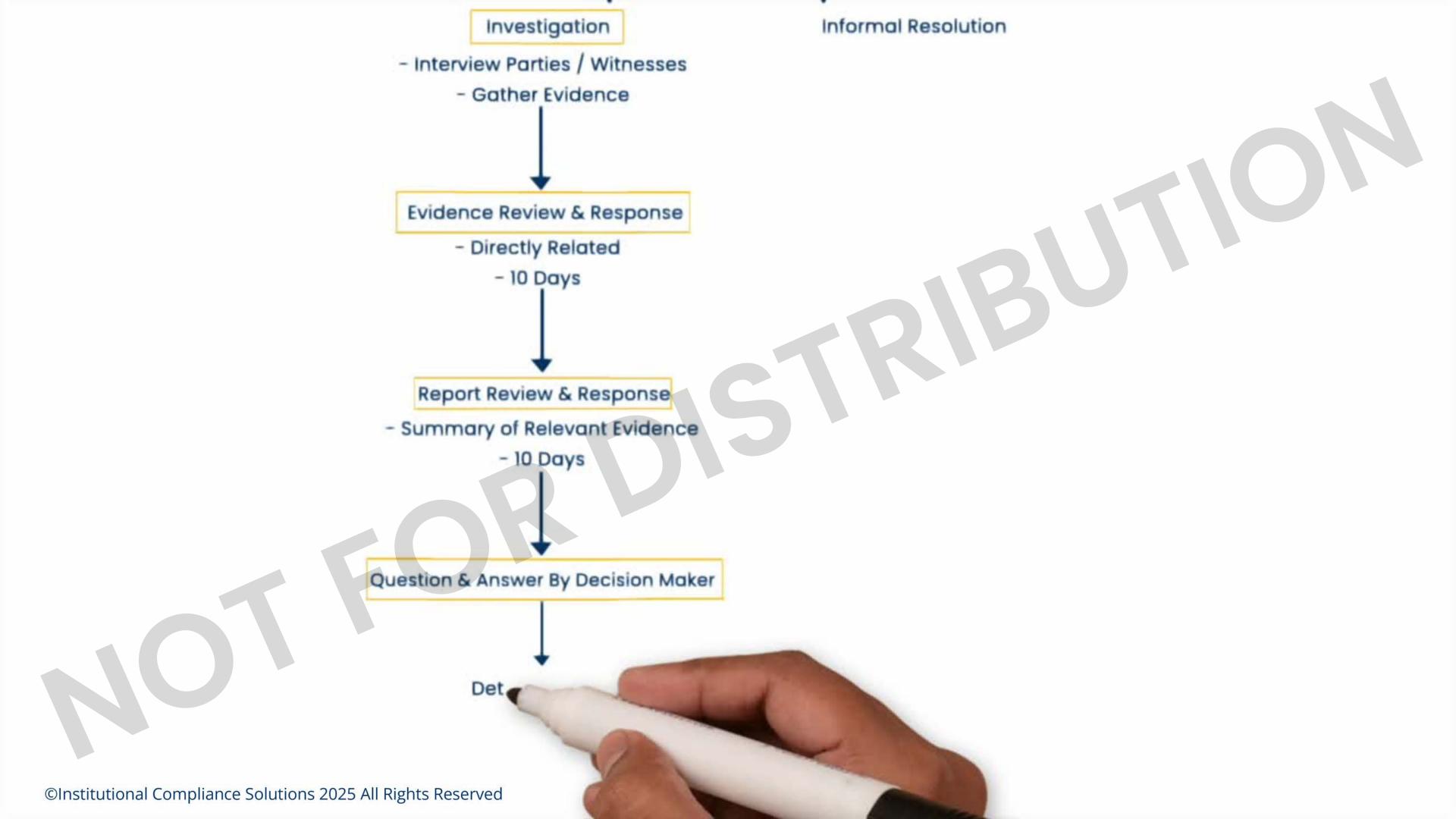
Determination Regarding

Responsibility Checklist:

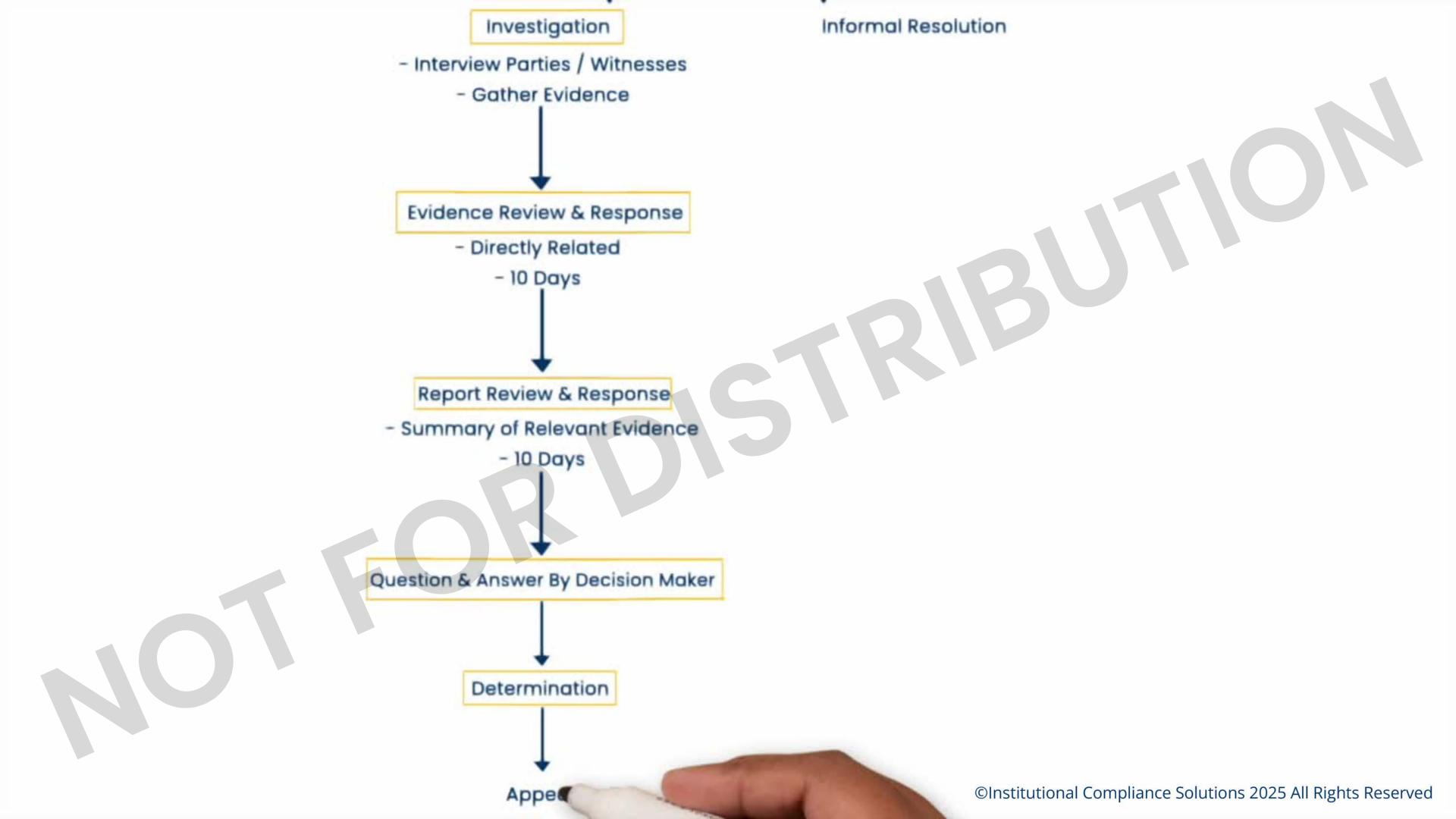


- Notifications to the Parties
- Interviews with Parties and Witnesses
- Site Visits
- Methods Used to Gather Other Evidence
- Hearings Held
- O Findings of Fact Supporting
 Determination
- Conclusions Regarding the Application of the Code of Conduct to the Facts
- Result of Each Allegation Including Rationale
 - Determination Regarding Responsibility
 - Disciplinary Sanctions
 - Whether Remedies Designed to Restore or Preserve Equal Access to Education Program or Activity Provided to the Complainant
- Procedures and Permissible Basis for Appeal









APPEALS

- -Offered to both parties.
- -Can appeal dismissal of Formal Complaint or any allegations therein or determination regarding responsibility.
- -On the Following Basis:
 - Procedural irregularity that affected the outcome of the matter.
 - New Evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter.
 - Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
 - Additional basis if offered equally to both parties.
- -Written decision describing the result and rationale for the result.
- -Notify the other party in writing when an appeal is filed.
- -Provide written decision simultaneously to both parties.
- -Give both parties a reasonable opportunity to submit a written statement in support of or challenging the outcome.





Title IX Team Must Serve Impartially In Their Role and Avoid:

- Prejudgment of the facts at issue
- Conflicts of interest
- Bias







Conflict of interest or bias cannot be for or against complainants or respondents generally or the individual complainant or respondent in a matter.



Family friend is a witness in a matter.



You are a witness in a matter.



Child is a party in a matter.



Close relationship with a party.



Why is this Important?



Erodes trust in grievance procedures/creates barriers.



Decreases ability to ensure a fair and reliable outcome.



INTEREST/BIAS EXISTS AT THE OUTSET OF A MATTER.

CHECK BIASES THROUGHOUT A MATTER.

NOTIFY THE TITLE IX COORDINATOR IF A BIAS/CONFLICT OF INTEREST ARISES.

**WHAT IF YOU ARE THE COORDINATOR?

INEVERY CASE:

















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