

# HIGHER ED WEBINAR: UNLOCKING THE 2024 TITLE IX REGULATIONS

*April 26, 2024*

*Let the Journey Begin*



**ics**

# ICS TEAM



**Betsy Smith**  
Director of Title IX Services



**Courtney Bullard**  
CEO



**Celeste Bradley**  
Director of EEO Services



**Amy Buck**  
Title IX & Equity Specialist/Attorney



**Michaela Bland**  
Title IX & Equity Specialist/Attorney



**Lindsay Hatzis**  
Title IX & Equity Specialist/Attorney



**Erica D'Agostino**  
Title IX & Equity Specialist



**Brittany Gates**  
Title IX & Equity Specialist

# 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.

# BEFORE WE GET STARTED...

Not legal advice

Materials

Chat Bar and Questions

Recording

Overview



# AGENDA



01 How We Got Here

02 Breaking Down the New Regs - Themes

03 Conclusion

# Reminders



- Deep Breath
- No one has all the answers
- Take the vacation
- We have lived the 2020 regs for 4 years!

# How We Got HERE



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# REMINDER:

- Athletics NPRM has been tabled
- 2020 Regulations on Sexual Harassment have been amended and are the focus for today



# WHAT PROCEDURES/ PROCESS FOR PRE- AUGUST 1, 2024 CONDUCT?!

- Implementation date of August 1 for 2024 regs
- 2020 regulations apply for reports that come in before August 1, 2024
- “The department will not enforce these final regulations retroactively” p.1354

# WHAT NEEDS TO HAPPEN BY THE IMPLEMENTATION DEADLINE?



01 Updated policies and procedures

02 Disseminated policies, procedures, notice to your community

03 Title IX team reevaluated/identified

04 Title IX team trained BEFORE they do the work; employee training plan

05 Communication with your school community

# Unpacking 1561 Pages in 8 Themes

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- **The Devil is in the Details**
- **Make Room on Your Plate**
- **The What and Where Expanded**
- **Training, Training and A LOT More Training**
- **Publish it EVERYWHERE**
- **Make New Friends**
- **Grievance Procedures ++**
- **Finish Strong**



# The Devil Is In the Details

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- **Definitions**
- **Placement of Commas and Other Punctuation**
- **Language Changes/Additions**



# Definitions

Pages 1505-1515



**Complainant:** Adds student or employee who WAS participating or attempting to participate in the education program or activity at the time of the alleged sex discrimination.

**Complaint:** Oral or Written!

**Pregnancy or Related Condition:** Extensive.

**Relevant:** When it may aid in showing whether the alleged sex discrimination occurred.

**Student**  
**Student with a Disability**  
**Admission**  
**Applicant**  
**Confidential Employee**  
**Supportive Measures**

**Consent: NO DEFINITION**

# Caution

A yellow paper airplane is shown in flight, pointing towards the right. It is positioned above the main text block. A yellow curved line is also present below the word 'Caution'.

**The placement of commas, colons, semi-colons, and the use of AND/OR is CRITICAL.**

**Pause when reading and attempting to understand. The ENTIRE intent of a section can be changed with the misplacement/misunderstanding of punctuation or grammar. Example: the word and/or after the final semicolon in section.**

**Report**



**Notification**

**Formal Complaint**



**Complaint**

**Formal Grievance  
Process**



**Grievance  
Procedures**

**Pregnancy  
Accommodations**



**Modifications**

# Language Changes



# Make Room on Your Plate



## New/ Increased Responsibilities

- Required trainings
- Publication of information
- More conduct covered under Title IX and grievance procedures
  - pregnancy & definition of “on the basis of sex”
- New team members/changing roles
- Initiating more complaints
- Monitoring barriers
- Increased recordkeeping



# Prioritize

## Team

**Coordinator (1) and Designees**

**Evaluation**  
**Supportive Measures Facilitation**  
**Investigation**  
**Decisionmaking**  
**Appeals**  
**Informal Resolution**  
**Supportive Measures Review Administration**



**Pregnancy and related conditions support and modifications facilitation**

# MAKE DECISIONS!



Grievance  
Procedures



Title IX Team  
Make-up



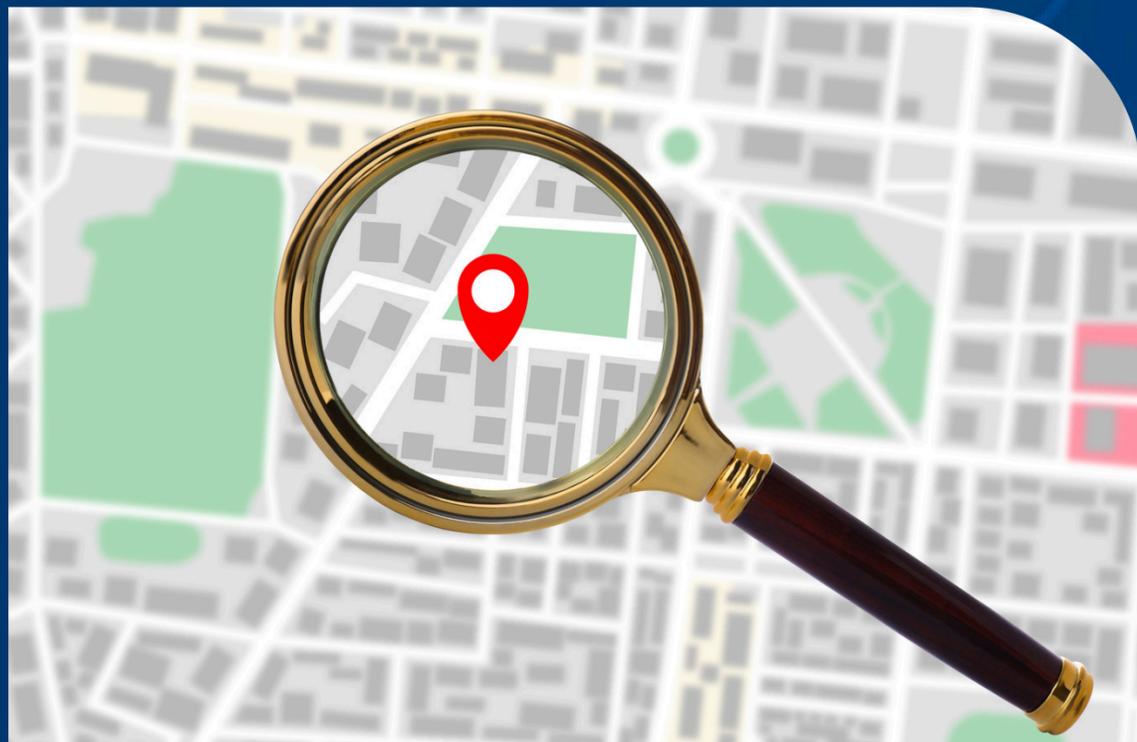
Connecting Title IX  
Policy with other  
Policies

# The What & The Where Expanded



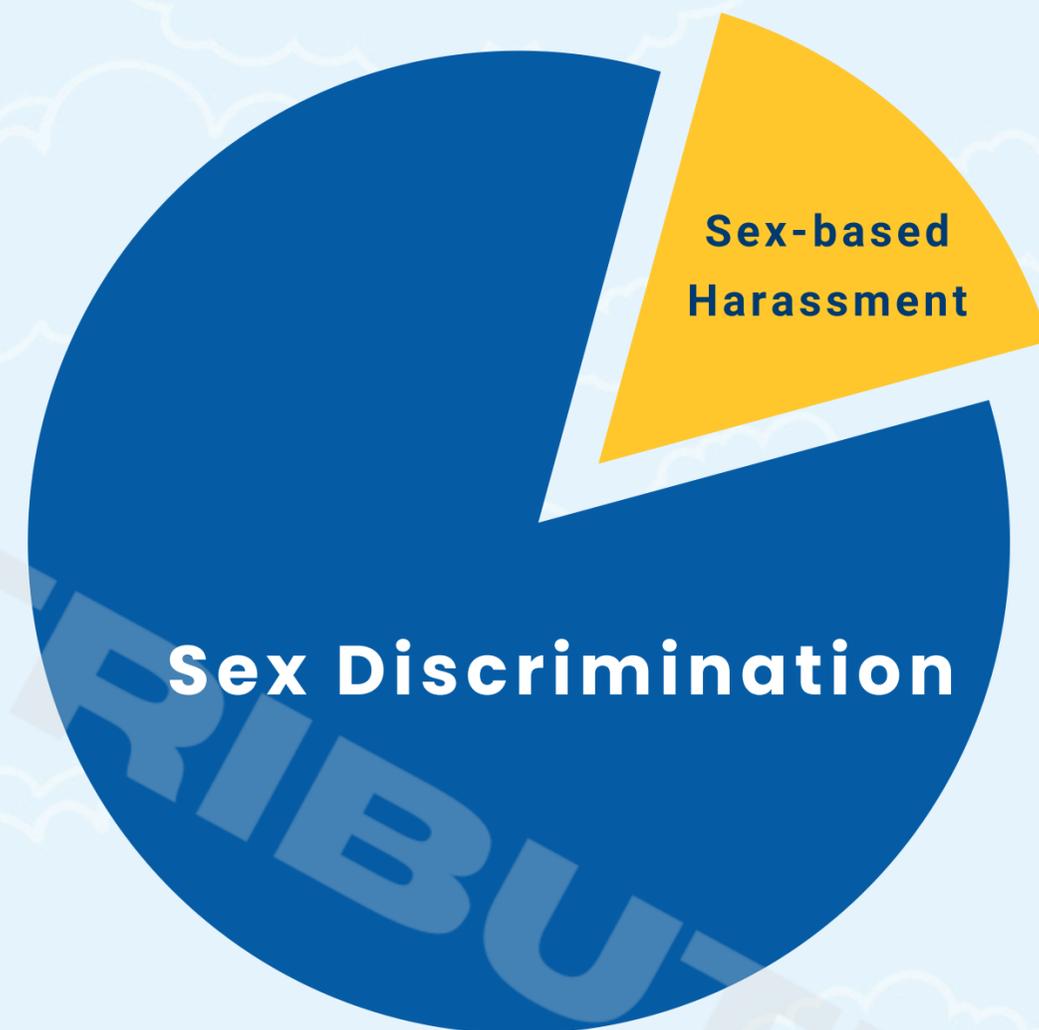
## Scope & Application

- Sex Discrimination
- Sex-Based Harassment  
Hostile Environment  
(Bucket 2)
- On the Basis of Sex
- Education Program or  
Activity



# Sex Discrimination

- Now, we have required **grievance procedures** for ALL sex discrimination, more than sex-based harassment (formerly sexual harassment). 106.45
- Includes, pregnancy and related conditions, athletics, SOGI, etc.
- Mandatory reporting requirements apply to ALL sex discrimination.



# *Sex-Based Harassment*



# Hostile Environment Harassment



## Hostile Environment Harassment

1. Unwelcome
2. Sex-based Conduct
3. Subjectively AND Objectively Offensive
4. Severe OR Pervasive
5. Limits or Denies Ability to Participate (Access)

## Fact Specific Inquiry

1. Degree to which conduct affected access
2. Type, frequency, and duration of conduct
3. Ages, roles, previous interactions, other factors about each party
4. Location of the conduct and context in which it occurred
5. Other sex-based harassment



# On the Basis of Sex



## Scope: (p. 1522)

Discrimination on the basis of sex includes discrimination on the basis of:

1. Sex Stereotypes
2. Sex Characteristics
3. Pregnancy or Related Conditions
4. Sexual Orientation
5. Gender Identity



# Note:



Adopting a policy or engaging in a practice that prevents a person from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis harm on the basis of sex. p.1524

- Locker rooms
- Bathrooms

# Education Program or Activity

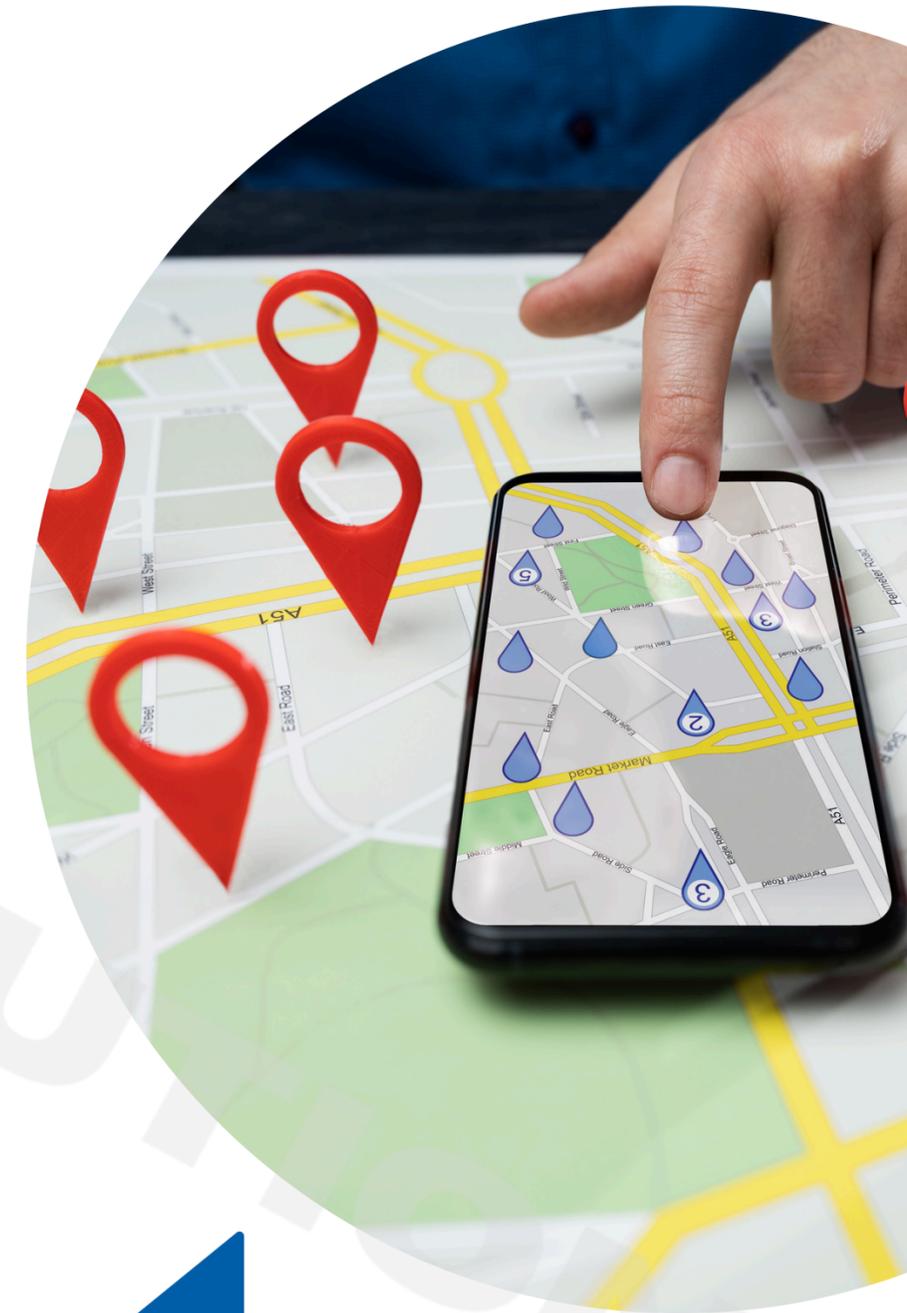


**Application: (p.1522)**

**Title IX applies to all sex discrimination**

1. Occurring within education program or activity in the U.S.
  - a. Includes property owned or controlled by student organization (Higher Ed)
  - b. Conduct that is subject to school's **disciplinary authority**
  - c. Obligation to address a sex based hostile environment under its education program or activity **EVEN WHEN** some conduct alleged to be contributing to the the hostile environment occurred **OUTSIDE** the education program or activity **OR** outside the U.S.

**Consider:** Does the behavior **OUTSIDE** of education program or activity **CONTRIBUTE** to a sex-based hostile environment **INSIDE** the education program or activity?



# Training, Training, and a LOT More Training



- All Employees
- Title IX Team including designees and New Supportive Measures Administrator
- Upon Hiring
- ANNUAL Requirements

# Publish it EVERYWHERE



- Adopt, publish, and implement Nondiscrimination Statement/Policy
- Published:
  - website,
  - handbook,
  - catalog,
  - announcement,
  - bulletin, and
  - application form



# Recommend



- Strong Website
  - Contact info
  - Policy
  - Grievance Procedures
  - Reporting/Notifying Options
- QR Code to provide to employees



# Make New Friends



- **Title IX Coordinator Partnerships**
  - **Admissions**
  - **Human Resources/Employment**
  - **Communications**
  - **IT Office**
  - **Disability Services Offices**



# Disability Services Office Connection

If a complainant or respondent...[has] a disability, the Title IX Coordinator may consult with the individual or office that the school has designated to provide support to students with disabilities.

- Supportive Measures
- Grievance Procedures

p. 1521



# Grievance Procedures ++



- **MUST NOT Discipline for Sex Discrimination outside Title IX**
- **Still structured**
- **Notice required**
- **Review Required**

## Door # 1 (§106.45)

- All employee on employee sex discrimination.
- Sex discrimination that is NOT sex-based harassment.

p. 1540

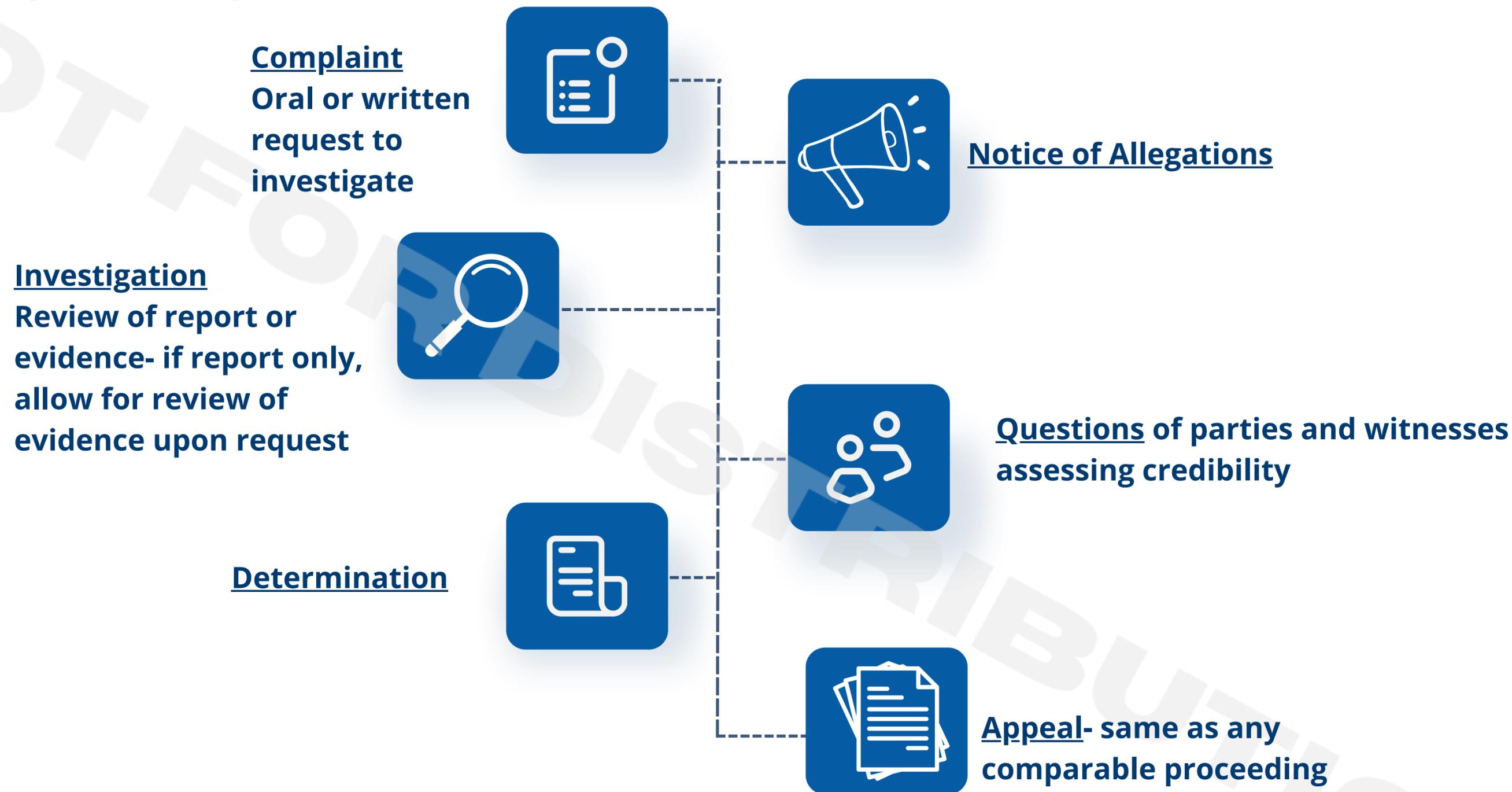
## Door # 2 (§106.46)

- Sex-based harassment involving a student as a complainant or respondent

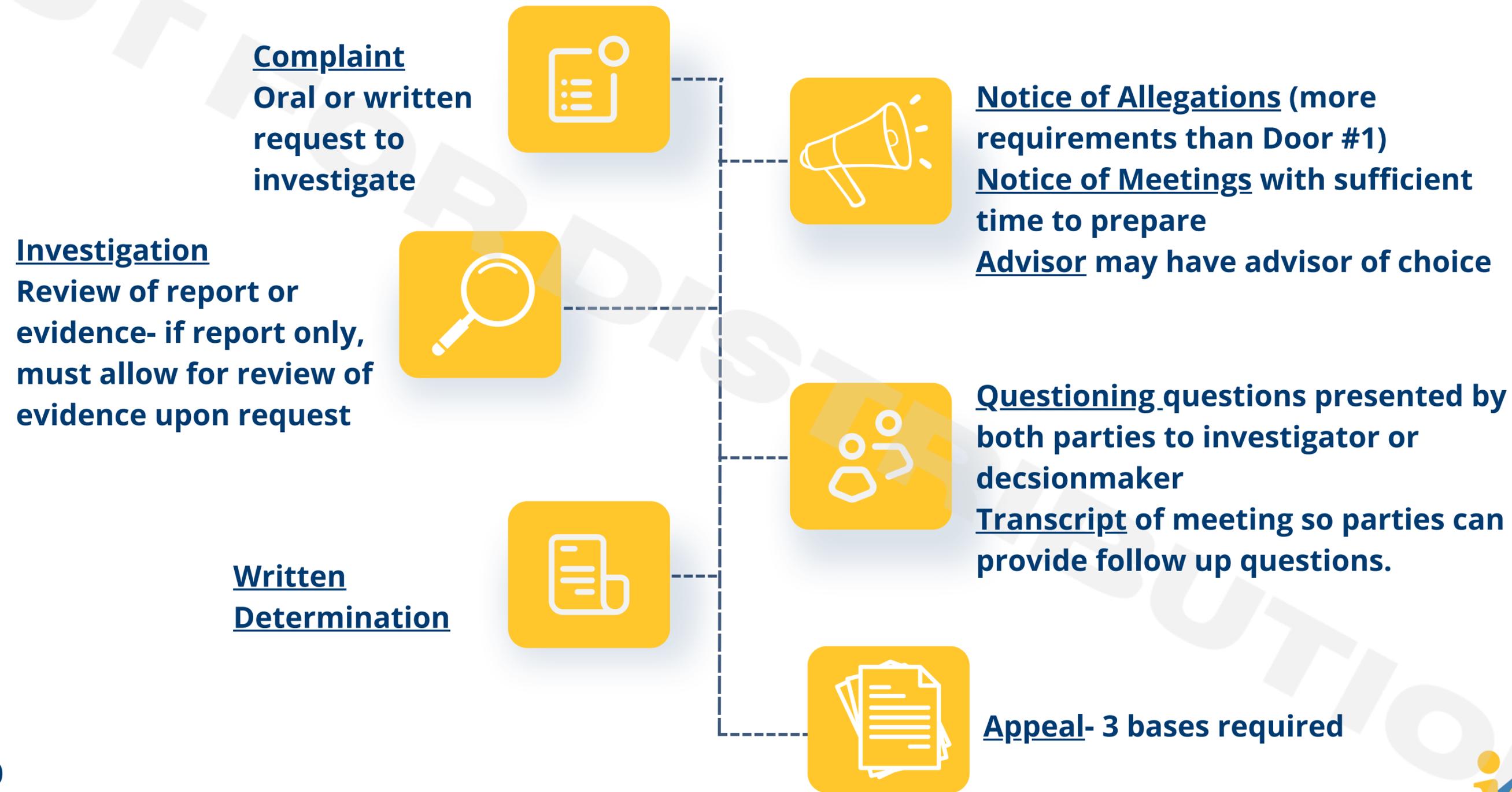
p. 1550

OR

# Door # 1 (106.45)



# Door # 2 (106.45) – No Live Hearing



p. 1550  
§106.45



# Door # 2 (106.46) – Live Hearing



p. 1550  
§106.46

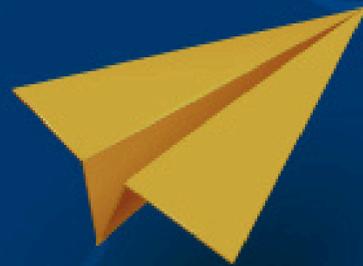


# Informal Resolution

- Notice Required
- Coordinator Discretion
- Informal Resolution Facilitator CANNOT be investigator



# Finish Strong



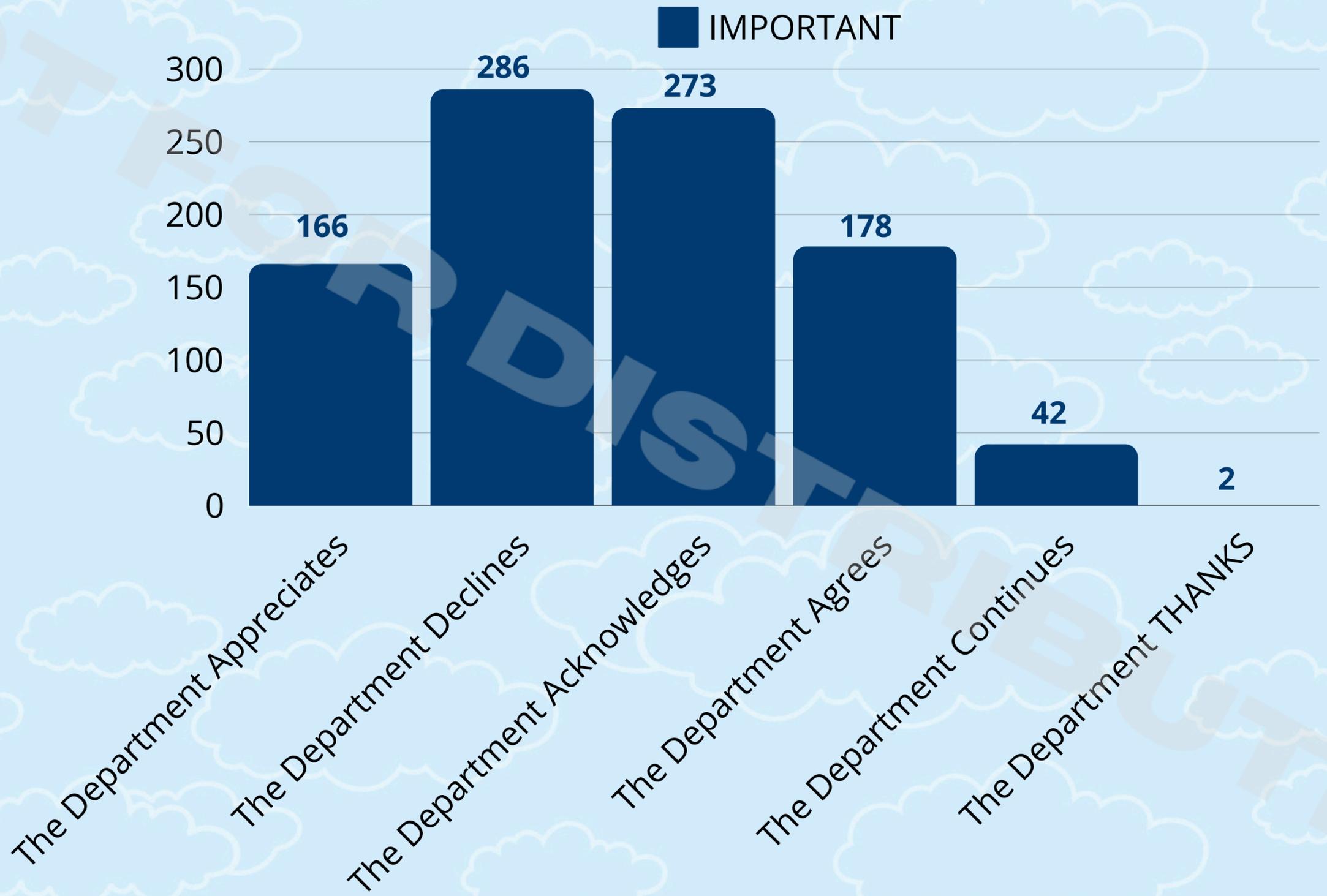
- Finish this academic year strong
- Biggest mistake you can make is focusing too much on the future and losing track of the present.
- Let ICS shoulder the load!



# Litigation Challenges



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# TRAINING

*HIGHER-ED IN-PERSON TITLE IX TRAINING*

Chattanooga, TN

*NEW TITLE IX REGULATIONS BOOTCAMP*

*(IN-PERSON)*

Chattanooga, TN

*NEW TITLE IX REGULATIONS BOOTCAMP*

*(VIRTUAL)*

**TITLE IX**  
**UNIVERSITY**

PRESENTED BY INSTITUTIONAL COMPLIANCE SOLUTIONS



**NOT FOR DIS**



**CONTINUE  
THE JOURNEY  
WITH US!**



*HIGHER ED*



# QUICK GUIDE

