

A stack of several books with various colored spines (red, brown, purple, blue) is visible on the right side of the slide. The background is a light blue gradient with a dark blue horizontal bar at the top and a yellow horizontal bar below the title.

# Title IX Coordinator Training

## Part 1 of 3

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# Title IX Coordinator Training

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# Organization & Content

## 01

- History & Context
- Conflicts of Interest, Bias & Impartiality
- Title IX Personnel
- Key Terms
- Recordkeeping

## 02

- Sexual Harassment
- Mandatory Response Obligations
- What to do When You Receive a Report/Complaint

## 03

- Investigation
- Hearing
- Dismissals
- Appeals
- Sanctions & Remedies



# Part 1

History & Evolution of Title IX

Underlying Principles

Supreme Court Framework

Overview of Major Provisions & Procedural Protections

Training Requirements

Bias, Conflict of Interest & Impartiality

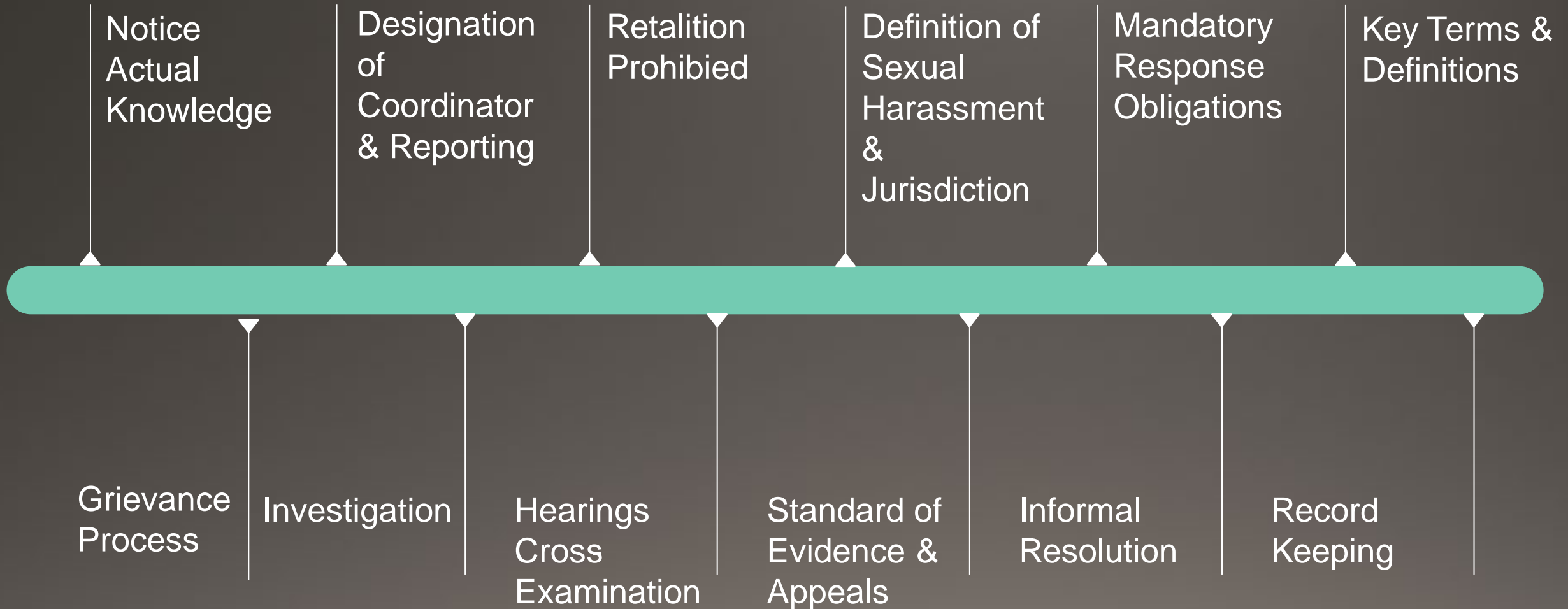
Title IX Personnel

Key Terms & Definitions

Record Keeping



# FINAL TITLE IX RULE MAJOR PROVISIONS











# Supreme Court Framework

- 1. Sexual Harassment**
- 2. Actual Knowledge**
- 3. Deliberate Indifference**

# Three Pronged Definition of Sexual Harassment

1. Unwelcome sexual conduct that is so severe and pervasive and objectively offensive it effectively denies a person equal educational access
2. Quid Pro Quo
3. Clery/VAWA Sex Offenses

\* Quid Pro Quo and Clery prongs do not have to be severe, pervasive and objectively offensive; a single incident falling within the scope of either could constitute prohibited sexual harassment

# Actual Knowledge

- Notice of sexual harassment or allegations of sexual harassment
- Made to the Title IX Coordinator
- Or to any school official who has the authority to institute corrective measures on behalf of the school

# Deliberate Indifference

- Was the school's response clearly unreasonable in light of the known circumstances
- Did the school \_\_\_\_\_



# Procedural Protections 106.45















# Title IX Personnel: Official with Authority(OWA)

- Described in 34 CFR 106.30
- Notice to OWA is Actual Knowledge
- OWA determination is fact specific, depending on circumstances unique to each school
- Training, ability or obligation to report does not equal OWA
- School may designate OWA

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# Title IX Coordinator Role 106.8

- Must be an employee with the specific job title “Title IX Coordinator”
- Must publish and disseminate this employees contact information with your policy
- Must have the requisite authority to fulfill their responsibilities in compliance with the law

# Investigators, Decisionmakers & Facilitators

- Rule prohibits “single investigator model”
- Coordinator may serve as investigator as long as can do so conflict and bias free \* note the Department cautions on this
- Schools may structure T9 team as best suits their needs otherwise, as long as they ensure objectivity and impartiality





# Complainant & Respondent 106.30

- Parties to the complaint: alleged victim and alleged perpetrator of conduct that could constitute sexual harassment.
- Complainant: participating or attempting to participate in program or activity
- Respondent: enrolled or under recipient's control





# Supportive Measures 106.30

- Non-disciplinary, non-punitive
- Individualized services that may be offered to the complainant or respondent free of charge
- That do not unreasonably burden the other party
- May include services to protect the safety of all parties as well as the school educational environment or to deter sexual harassment
- Must be kept confidential to the extent possible
- Schools must document the facts and circumstances that render the



## Actual Knowledge 106.30(a)

- “Notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient”
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# Consent

- Not Defined in Regulations
- Critical Contested Issue in Many Cases
- Affirmative Consent Required in Some States
- California “Yes Means Yes”
- New York “Enough is Enough”





# Consent

- Must clearly define and consistently apply your definition
- The school carries the burden of collecting sufficient evidence to reach a final determination, not the parties
- Especially when using an affirmative consent standard, be mindful that you do not misuse it by requiring the respondent to prove the existence of consent or likewise shift the burden to a complainant to prove the absence of consent





## Record Keeping 106.45(b)(10)(ii)

- Schools need to create a record to demonstrate why and how their response and actions were not deliberately indifferent.
- Documentation of emergency removals and administrative leave for employee respondents must also be maintained.



## Part 2 Preview

- Sexual Harassment Defined
- Mandatory Response Obligations
- What to do When You Receive a Report/Complaint