Title IX Boot Camp for Higher Education (With Updates)

Session 3: Finalizing the Investigation and Making Decisions on Responsibility Under Title IX

Presented by

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Harassment Scenarios

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Formal Complaints

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Grievance Process

Grievance process components

- Basic requirements
- Notice of allegations
- Dismissal of formal complaint
- Consolidation
- Informal resolution
- Investigation
- Hearing
- Determination regarding responsibility
- Appeals
- Recordkeeping

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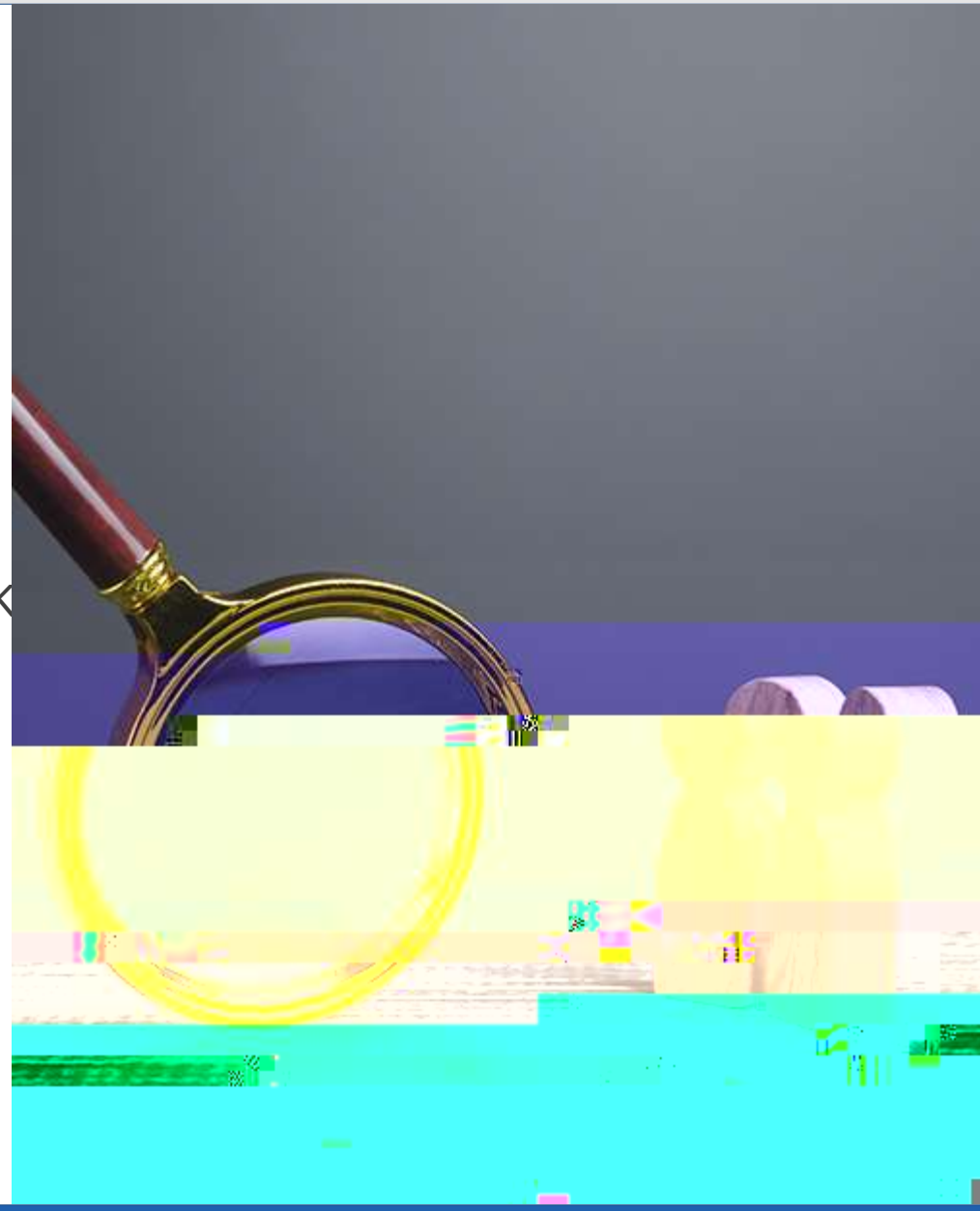
Grievance Process- Investigations

Institution requirements:

- Prior to the completion of the investigative report, the recipient must send to each party DQG WKH SDUW\¶V DGYLVRU WK to review and inspection in an electronic format or a hard copy.

- The parties must have 10 days to submit a written response, which the investigator must consider prior to completing the investigation report.



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Grievance Process- Investigations

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Grievance Process- Investigations

- 6XPPDU\ RI WKH FRPSODLQDQW¶V DOOHJDWLRQV DQG response of the accused
- Summary of the persons interviewed and a statement about their credibility
- Presentation of the findings of fact
- Summary of relevant standards and other statements concerning process
- Careful consideration should be given concerning whether the report should include conclusions about the allegations and recommendation for disciplinary or other corrective action.

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Responsibility Decision- Maker

- Not Title IX Coordinator or investigator
- Must issue written determination regarding responsibility
- Determination must apply evidence standard.

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Grievance Process- Live Hearings

- The decision- P D N H U P X V W S H U P L W H D F K S D U W \ ¶ V D G Y L V R U W R D V N W other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

- Such cross-

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Grievance Process- Live Hearings

Post-secondary institutions must provide a live hearing.

- Live hearings pursuant to this paragraph may be conducted with all parties physically present in the same geographic location, or, D W W K H L Q V W L W X W L R Q ¶ V G L V F U H W L R Q D other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

- At the request of either party, the institution must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker and parties to simultaneously see and hear the party or the witness answer questions.

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Grievance Process- Live Hearings

Post-secondary institutions must provide a live hearing.

- Recipients must create an audio recording, audiovisual recording, or transcript of any live hearing and make it available to the parties for inspection and review.

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- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the institution imposes on the respondent, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided by the institution to the complainant;

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Determination

Written determination

- The institution must provide the written determination to the parties simultaneously.
- The Title IX Coordinator is responsible for effective implementation of any remedies.

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Conclusion

- Need to follow process for finalizing the investigation report
- Need to identify decision-maker and requirements with a hearing
- Need to ensure final written determination includes all necessary contents

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