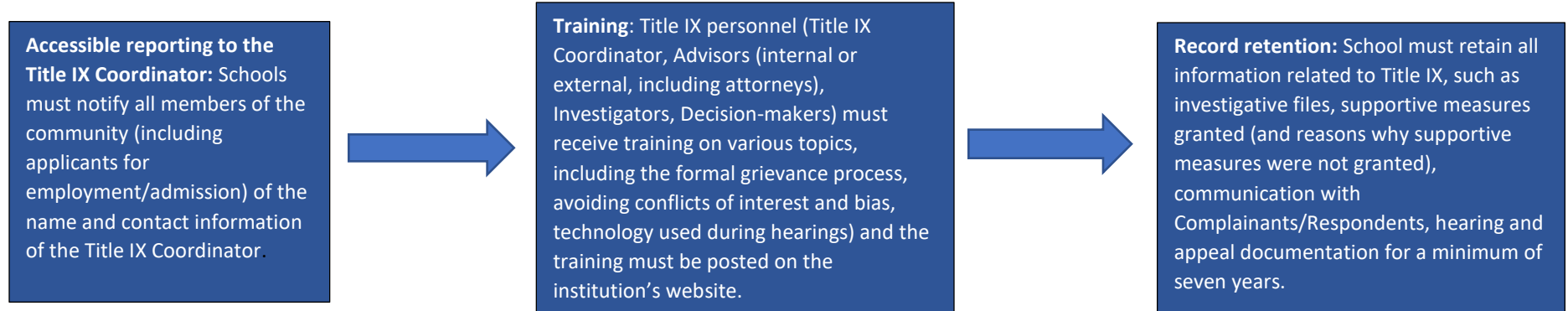
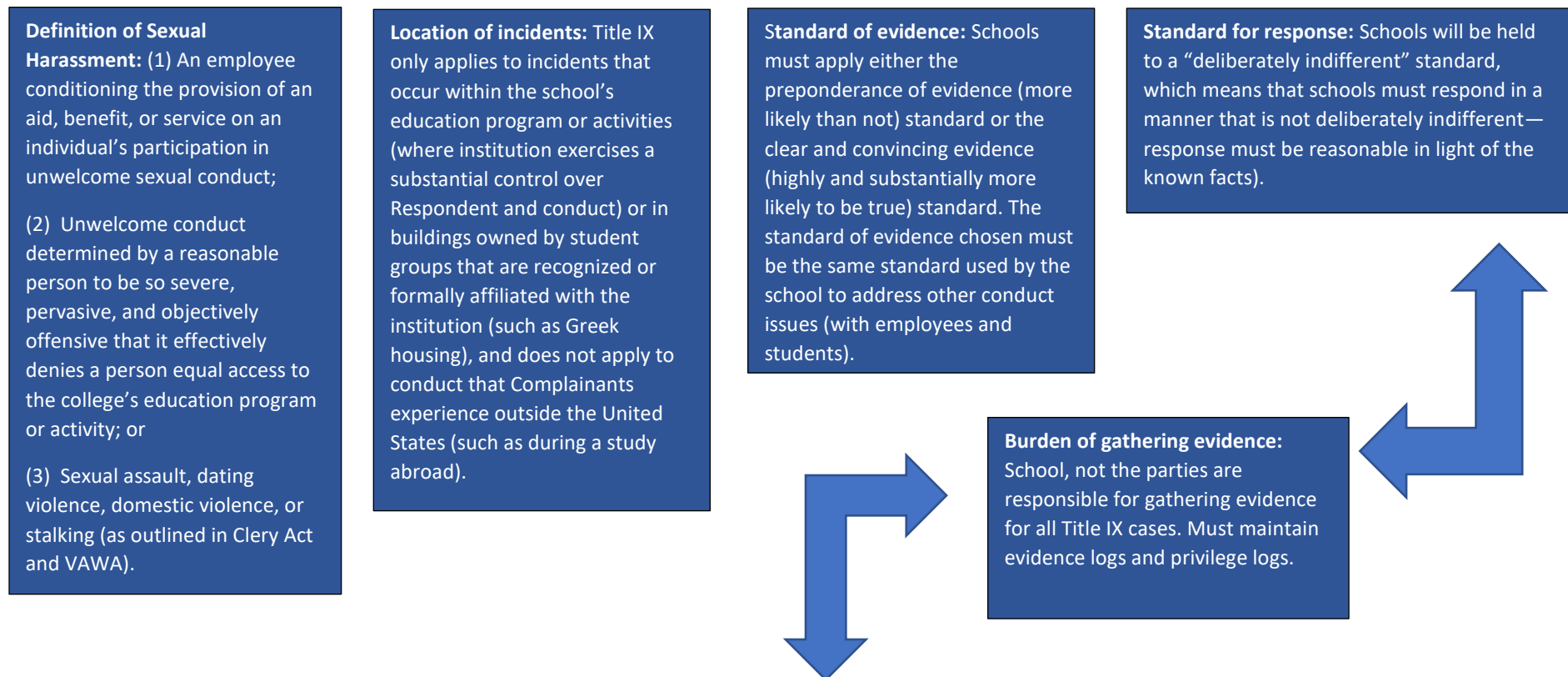


2020 Title IX Regulations: At a Glance

An institution's response to sexual harassment/allegations of sexual harassment is separate from the investigation/hearing process. The institutional response now includes the following:



The 2020 Title IX regulations also include a change to the definition of sexual harassment and regulatory jurisdiction. They also provide institutions the choice between two standards of evidence. Moreover, the regulations set the standard for the institution's response.



2020 Title IX Regulations: At a Glance

The College is required to act, when they receive “Actual Knowledge” of sexual harassment or allegations of sexual harassment.

Actual knowledge: A College receives actual knowledge when allegations are brought to the Title IX Coordinator or an Official with Authority. (Mandatory Reporters NOT required under new regulations). Actual knowledge triggers a responsibility to respond to allegations of sexual harassment in a way that is not deliberately indifferent (which means acting reasonably in light of the known circumstances).

Knowledge on the part of a Mandatory Reporter DOES NOT convey Actual Knowledge to an institution.

Actual Knowledge can come in the form of Informal or Formal Complaints.

Informal Complaint: Anyone can file an informal complaint (via email, anonymously, in person, by mail and during non-business hours) to the Title IX Coordinator or to an Official with Authority.



Response to an Informal Complaint: The Title IX Coordinator must reach out to informal reporters to provide supportive measures to the Complainant and/or Respondent, inform both parties of the right to an Advisor, and ask the Complainant if they want to file a formal complaint. All of this must be documented and maintained.

Informal Resolution Process. The informal resolution process may only be offered after a formal complaint is filed. Engagement in Informal Resolution process must be voluntary, Advisors may participate, and either party can withdraw and engage the formal grievance process.

Formal Complaint: Only a Complainant (or the Title IX Coordinator) can file a formal complaint (via email, in person, online or by mail). A formal complaint initiates the formal grievance process.



Complainant decides to file a formal complaint: Complainants CANNOT remain anonymous.

Even if a Complainant does not wish to file a formal complaint, the Title IX Coordinator may sign a formal complaint if they believe there is a threat to campus safety.



Preliminary Inquiry: Once a formal complaint is filed, the college must:

1. Notify Parties of the right to an Advisor.
2. Assign investigators to the matter
3. Review the allegation to determine if the College should proceed with the grievance process or dismiss the formal complaint (or parts thereof).



Mandatory Grounds for Dismissal: 1) conduct alleged does not fall within definition of sexual harassment; 2) conduct alleged did not occur in a college’s education program or activity; 3) alleged conduct did not occur within the United States. **Allegations should be referred to appropriate conduct administrator. **

Discretionary Grounds for Dismissal: 1) Complainant withdraws the formal complaint; 2) Respondent is no longer enrolled in or employed by the college; 3) Specific circumstances prevent the college from gathering evidence sufficient to reach a determination as to the formal complaint



Appeals of Dismissals: Both parties must be allowed to appeal the dismissal.

Grounds for Appeal: 1) procedural irregularities, 2) discovery of new evidence, and 3) any bias or a conflict of interest detected amongst any Title IX personnel



2020 Title IX Regulations: At a Glance

Written Notice: If the case survives the dismissal review, the College must provide written notice of the allegations and policies affected (even those outside of T9), with sufficient detail. Title IX Coordinators must also include procedural safeguards in the Notice letter, such as the presumption of innocence, supportive measures, right to an Advisor, prohibition against retaliation, list of possible sanctions, a fair and thorough investigation, and a process free from conflicts of interest and bias.



Investigation: The single investigator model is no longer allowed. Investigators must be fair and equitable, with no conflicts of interest or bias (any allegations of bias/conflict of interest must be brought to Title IX Coordinator); and the investigation must be conducted in a reasonably prompt timeframe.

Burden of gathering evidence: School, not the parties are responsible for gathering evidence for all Title IX cases. Must maintain evidence logs and privilege logs.



First Inspection of Evidence: After the investigation is complete, but before the investigator drafts the final investigative report. The Parties/Advisors must be given 10 days to review all evidence collected in the investigation (relevant/irrelevant and inculpatory/exculpatory). Both Parties can provide a written response to the investigative information. Response may be incorporated into the report by investigators.

Second Inspection—Inspection of Draft Final Report. After the investigative report is drafted, but it is finalized, the Parties/Advisors must be given 10 days to review the draft final investigative report (relevant evidence and inculpatory/exculpatory evidence). Both Parties can provide a written response to the investigative information. The investigators may incorporate the response in the Final Investigative Report.

(OPTIONAL)



Emergency Removal: The Title IX Coordinator may initiate an emergency removal if the safety or well-being of anyone at the college may be jeopardized. A formal Risk Assessment must be completed by the BIT. 5 step-process outlined in regulations must be followed. Must be the least restrictive removal and cannot be punitive.



Right to an Appeal: Each party must have an equal opportunity to appeal a determination of responsibility and a dismissal of a formal complaint. Grounds for Appeal: 1) procedural irregularities, 2) discovery of new evidence, and 3) any bias or a conflict of interest detected amongst any Title IX personnel. The Title IX Coordinator sends the appeal request to the Appeal Officer (Provost).



HEARING REFERRAL

Hearing: Grievance procedures must provide for a live hearing, with cross examination performed by the parties' Advisors. Grievance led by a Decision-maker who will determine responsibility and sanctions in T9 cases and for other policy violations growing out of the same allegations. All hearings are conducted virtually with technology enabling each party to see and hear each other. Failure to subject to cross-examination = cannot consider any statement made during investigation.



Show Cause Meeting: Respondent can request a Show Cause meeting with Title IX Coordinator to seek information as to why the Emergency Removal is appropriate. Complainant is able to attend the Show Cause meeting. After the show cause meeting, the Title IX Coordinator decides on modifying, staying, or enforcing the removal.



Accepted/Rejected Appeal: Appeal Officer decides to accept or reject the appeal.



Decision: Appeal Officer collects needed information and makes the decision. Decision sent simultaneously to both Parties.

