

#### "Who Am I and Why Am I Here?"

# Your Role as an Advisor in the Title IX Disciplinary Process

Fall 2020

### Disclaimer

Portions of this presentation may qualify as "attorney advertising" in some jurisdictions. Parker Poe, however, intends for it to be used only for educational and information purposes.

The law is changing rapidly in this area. This presentation is our best attempt to summarize the current state of the law and is subject to change.

For Title IX assistance, contact Josh Whitlock at joshwhitlock@parkerpoe.com or 704.335.6622.

### 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.



## Title IX's Purpose

Prohibitions or Limitations on Participation Based on Sex



Unequal Funding of Men's and Women's Athletics

**Pregnancy Discrimination** 

Sexual Harassment

- Sexual Assault
  - Stalking
- Domestic/Dating Violence
  - Verbal/expressive



First-year athlete abused in locker room by older teammates

> Male on Male Sexual Assault

Work study student hounded by hundreds texts and phone calls

Female on Male Sexual Harassment

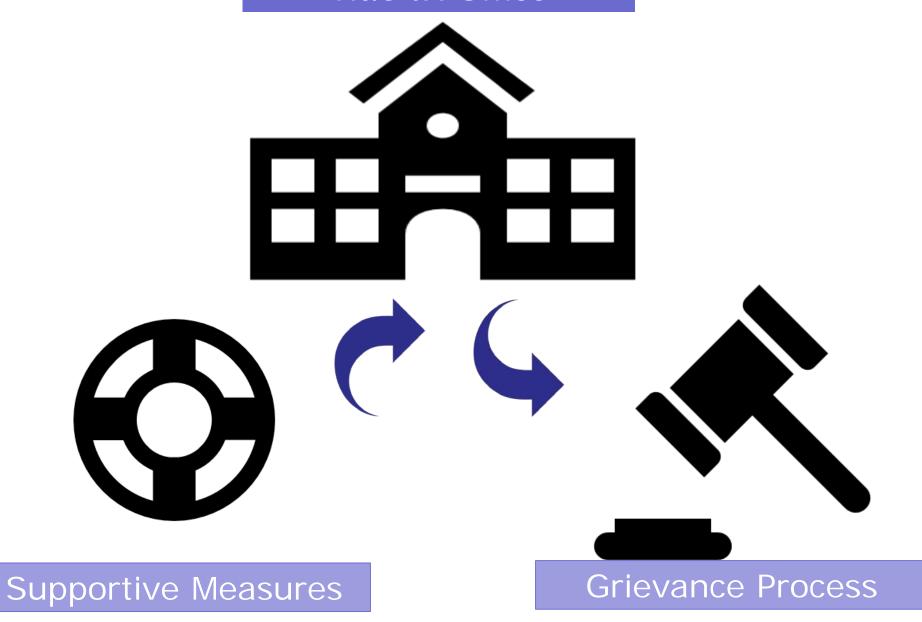
Title IX
Prohibits
Sexual Harassment
Regardless

Honors student raped in residence hall by roommate's friend

Male on Female Sexual Assault Biology major slapped and threatened by date

Female on Female Dating Violence

#### Title IX Office



# Counseling Extensions Course Adjustment Leaves of Absence Security Monitoring

#### Supportive Measures

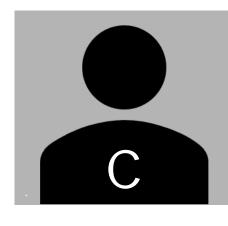
Protect Safety
Preserve Access
Deter Harassment

Free & Confidential

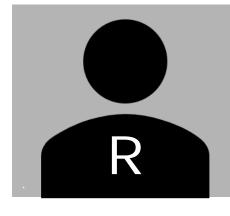
Complaint/No Complaint

For both parties

#### The Parties



The <u>Complainant</u> is the alleged victim of sexual harassment



The <u>Respondent</u> is the alleged perpetrator of sexual harassment

#### Anyone can be an advisor.

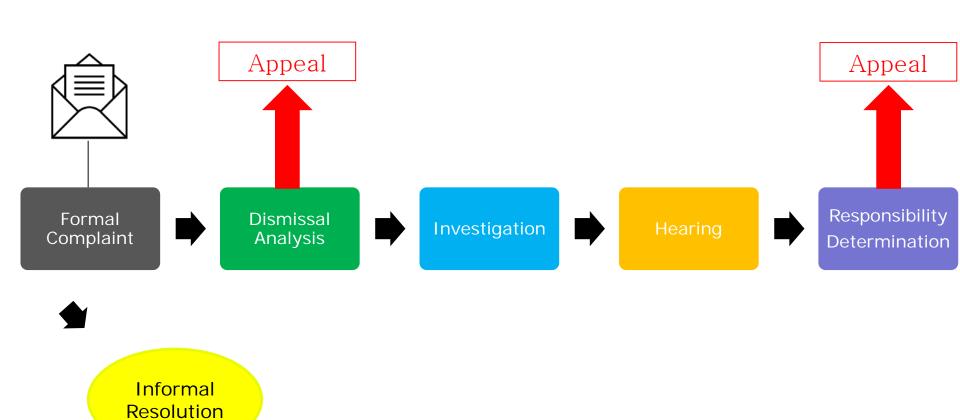


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#### Advisors help in different ways.



#### The Title IX Grievance Process



#### Advisors play a background role.

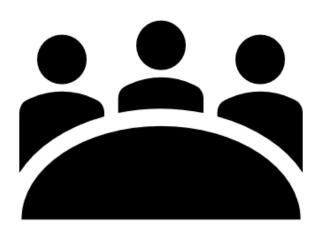


• You won't be interviewed.

- You won't testify at the hearing.
- Your speaking role is limited.

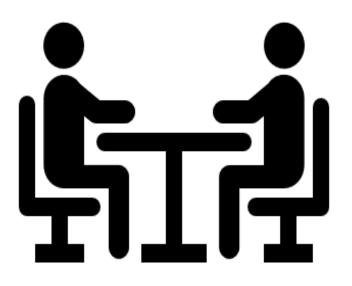
 You don't have to share your personal views.





- Both parties must agree to participate.
- Either party may exit the process prior to agreeing to a resolution.
- Any resolution is by mutual agreement.

#### Investigation



Unbiased and fair

Interview scheduled in advance

 Advisor may not disrupt or answer in place of the party

#### Investigation



• The investigator collects evidence.

• Each party may present evidence to the investigator.

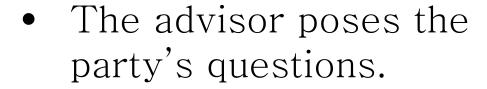
 Each party will have opportunities to review and comment on all directly-related evidence.

## The Hearing



- May be virtual or on campus.
- If on campus, parties may request to be in different rooms with AV equipment.
- You may not record the hearing, but you may review the school's recording.

# The Hearing





- Questions may be barred if they are irrelevant, duplicative, or reference privileged information.
- Everyone is expected to behave in a professional manner.

## Responsibility Determination

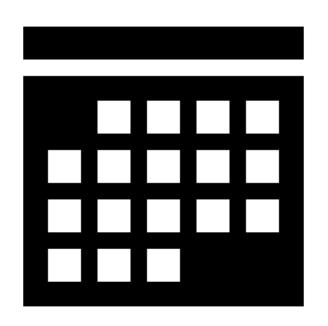


- Determination include:
  - alleged policy violations
  - rulings on responsibility
  - any sanctions imposed
  - appeal instructions
- Determination is provided to the parties simultaneously.

Be flexible.

Be timely.





Raise scheduling conflicts as soon as you become aware of them.

