

Virtual
Training

TITLE **IX** SOLUTIONS

HIGHER GROUND ACADEMY

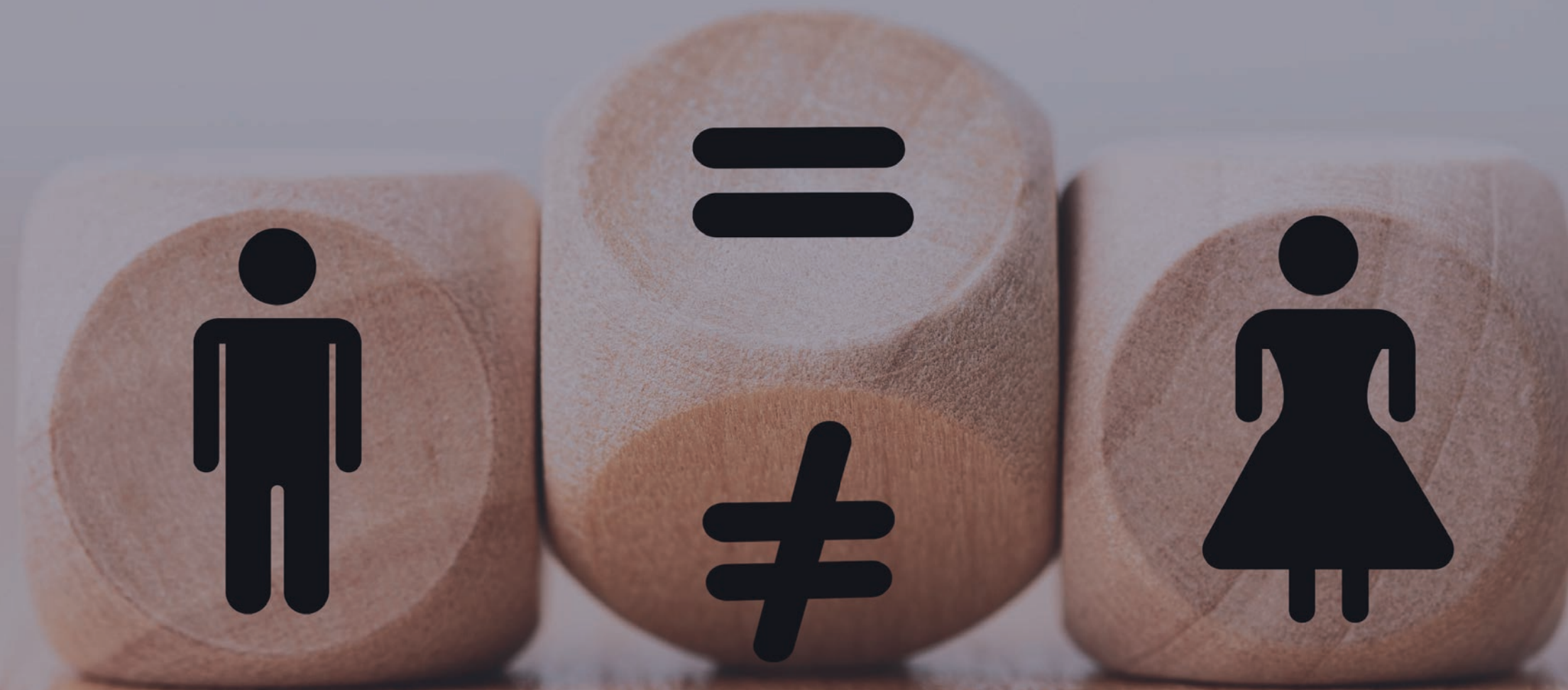
TITLE IX SEXUAL HARASSMENT

Employee Training



TITLE **IX** SOLUTIONS, LLC

WHAT IS TITLE IX?



TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

“

“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[.]”

”

20 U.S.C. §1681(a)

BRIEF HISTORY OF TITLE IX



JUNE 23, 1972

Title IX becomes law and addresses sex-based discrimination



APRIL 4, 2011

Guidance expands Title IX to include sexual harassment, dating and domestic violence, sexual assault, and stalking



AUGUST 14, 2020

New regulations go into effect, requiring all educational institutions to follow specific procedures in response to sexual harassment



AUGUST 1, 2024

2024 Title IX amendments go into effect, amending the scope, application, and grievance procedures for both sex discrimination and sex-based harassment



**IN JANUARY OF 2025, THE DEPARTMENT OF
EDUCATION ANNOUNCED THAT THE FINAL
RULE AND THE 2024 REGULATIONS ARE NO
LONGER EFFECTIVE IN ANY JURISDICTION.**

All states and schools are required to follow the 2020 Title IX Regulations

TITLE IX PROHIBITS



SEX DISCRIMINATION

Equal opportunities in:

- Recruitment
- Admissions
- Education
- Scholarships
- Pay
- Athletics
- Extracurriculars



RETALIATION

To interfere with Title IX rights or because someone reports, testifies, participates, or refuses to participate in a Title IX proceeding. Includes:

- Intimidation
- Threats
- Coercion
- Discrimination



SEXUAL HARASSMENT

Conduct including:

- Quid Pro Quo Harassment
- Hostile Environment
- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

SCHOOL'S REQUIRED RESPONSE

**PROMPT AND
EQUITABLE
GRIEVANCE
PROCEDURES**



Sex Discrimination

(General Grievance Procedures)



Sexual Harassment

(Specific Grievance Procedures - §106.45)

ALWAYS REFER TO YOUR SCHOOL'S TITLE IX POLICY!

WHO IS PROTECTED?

All students regardless of:

- Sexual Orientation
- Gender Identity
- Nationality
- Immigration Status
- Race
- Ability

All genders are included

Employees - faculty, staff, administrators

Applies to:

- State and local educational agencies that receive federal funding
 - Vocational, professional, and higher education institutions

GOAL OF TITLE IX

ULTIMATELY, THE GOAL OF TITLE IX IS TO:



Stop the harassment or discrimination



Prevent future recurrence of harassment or discrimination



Remedy the effects of harassment or discrimination

NON-COMPLIANCE RISKS



POTENTIAL
LEGAL ACTION



MEDIA
ATTENTION



LOSS OF
FEDERAL
FUNDING



DISCRIMINATORY &
UNSAFE ENVIRONMENT
FOR YOU

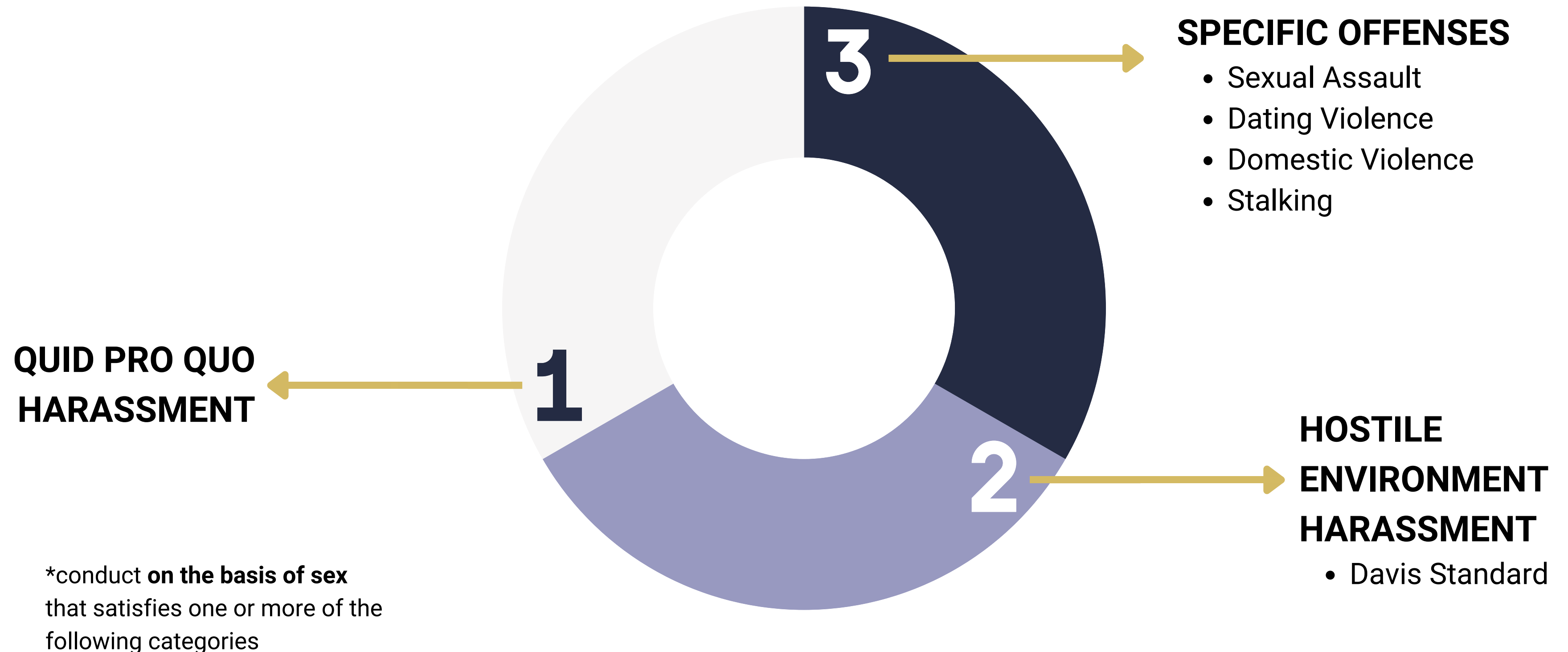
DEFINING SEXUAL HARASSMENT



ACTUAL KNOWLEDGE

- "[N]otice 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"
- Includes reports sent to the Title IX Coordinator in person, by mail, by telephone, by email, or by any other means that results in the Title IX Coordinator receiving a person's written or oral report

SEXUAL HARASSMENT



SEXUAL HARASSMENT

1

QUID PRO QUO

DEFINITION:

An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient of an individual's participation in unwelcome sexual conduct

SCENARIO



Dr. Smith tells Amy, a graduate student, that her research funding and recommendation letter for a prestigious fellowship depends on them going out for drinks and spending time together after hours. Amy feels uncomfortable but fears rejecting the invitation will jeopardize her academic career.

SEXUAL
HARASSMENT

2

HOSTILE
ENVIRONMENT

DEFINITION:

Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity.

- ☒ Severe
- ☒ Pervasive
- ☒ Objectively Offensive

SEXUAL
HARASSMENT

2

HOSTILE
ENVIRONMENT

EXAMPLES MAY INCLUDE:

- Sexual flirtations, advances, or propositions
- Requests for sexual favors
- Jokes or comments of a sexual nature
- Cyber or electronic harassment of a sexual nature
- Verbal commentary about an individual's body
- Disseminating photos or videos without consent
- Visual conduct such as leering or making gestures
- Unwanted kissing

SEXUAL HARASSMENT

2

HOSTILE ENVIRONMENT

DEFINITION:

Unwelcome conduct determined by a reasonable person to be so **severe**, **pervasive** and **objectively offensive** that it effectively denies a person equal access to the recipient's education program or activity.

SCENARIO



Alex (they/them) regularly faces sexual jokes and unwanted comments about their appearance from peers in the locker room. When asked to stop, Alex's peers continue to harass them, making Alex feel unsafe and uncomfortable.

SEXUAL
HARASSMENT

3

**SPECIFIC
OFFENSES**

- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

*As defined by the Clery Act

SEXUAL
HARASSMENT

3

SEXUAL
ASSAULT

DEFINITION:

An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

TYPES OF SEXUAL ASSAULT:

- Rape
- Fondling
- Incest
- Statutory Rape (sex with a minor)

*as defined in Code of Federal Regulations (Title 34, Part 668, Subpart D, Appendix A)

SEXUAL
HARASSMENT

3

DATING
VIOLENCE

DEFINITION:

Violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim
- Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship

SEXUAL
HARASSMENT

3

DOMESTIC
VIOLENCE

DEFINITION:

Felony or misdemeanor crimes committed by a person who:

- Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim
- Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner
- Shares a child in common with the victim
- Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction

SEXUAL
HARASSMENT

3

STALKING

DEFINITION:

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress.

EXAMPLES:

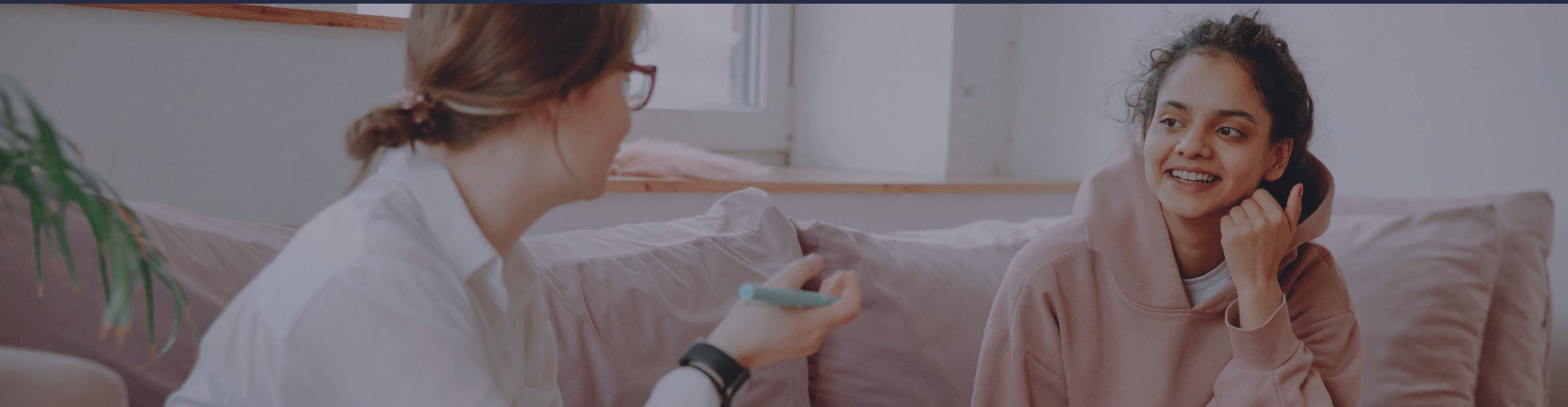
- Repeated, unwanted communication by phone, email, mail, texting, social media, etc.
- Repeatedly leaving or sending the victim unwanted items or presents
- Making direct or indirect threats to harm
- Damaging or threatening to damage personal property
- Repeatedly posting information or spreading rumors about the victim

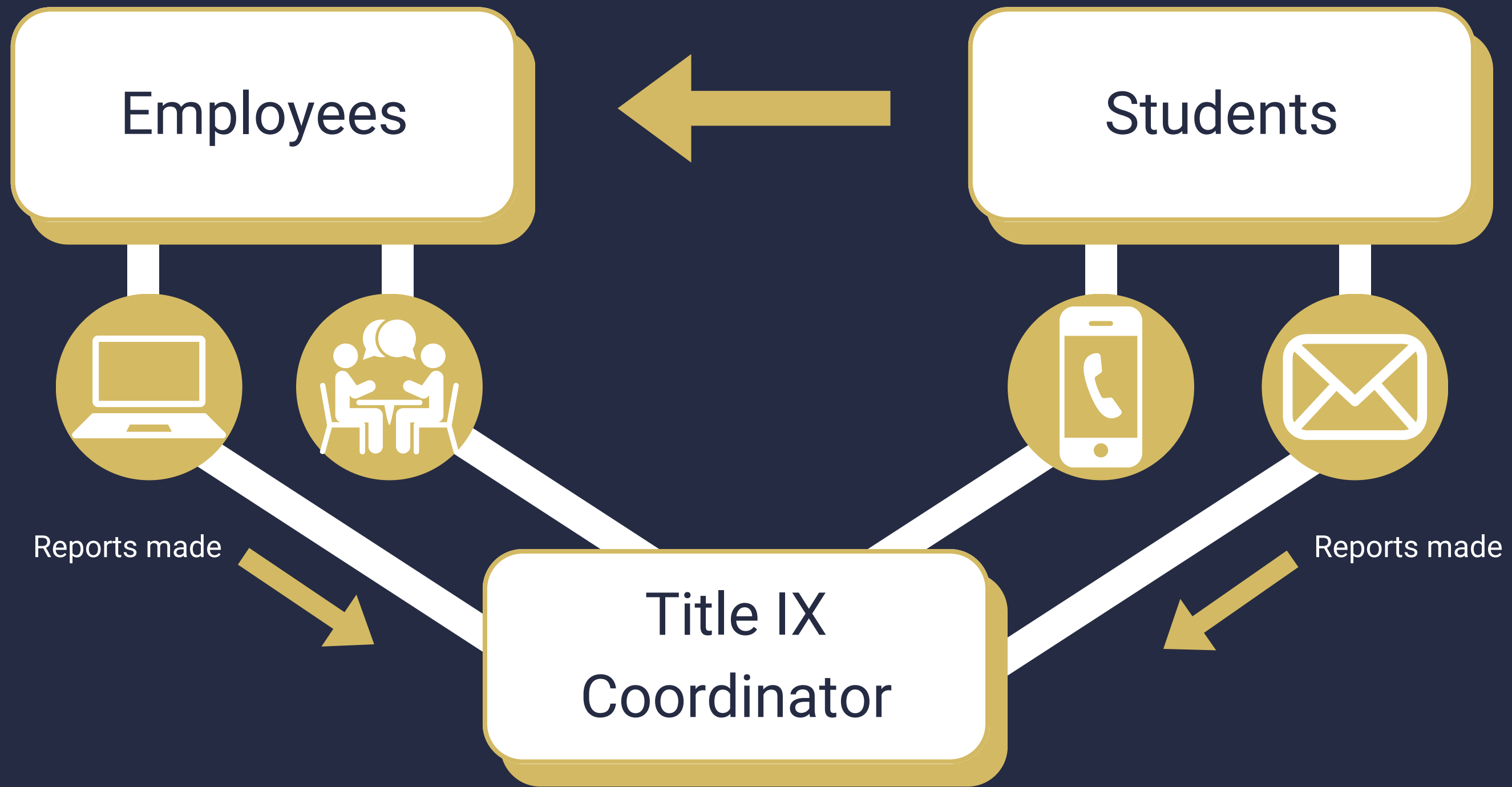
CONSENT

CONSENT IS NOT DEFINED IN THE TITLE IX REGULATIONS BUT IS DEFINED BY YOUR POLICY AS OUTLINED:

- Can be withdrawn at any time once clearly communicated
- Being in a relationship does not mean consent is automatic
- One sexual act does not imply consent for another act
- Can never be given if a person is asleep, incapacitated, or unconscious
- Can never be given by a minor
- Can never be given by someone with a mental disability
- Cannot be inferred from silence or lack of resistance
- Cannot be gained by force, threats, intimidation, or coercion

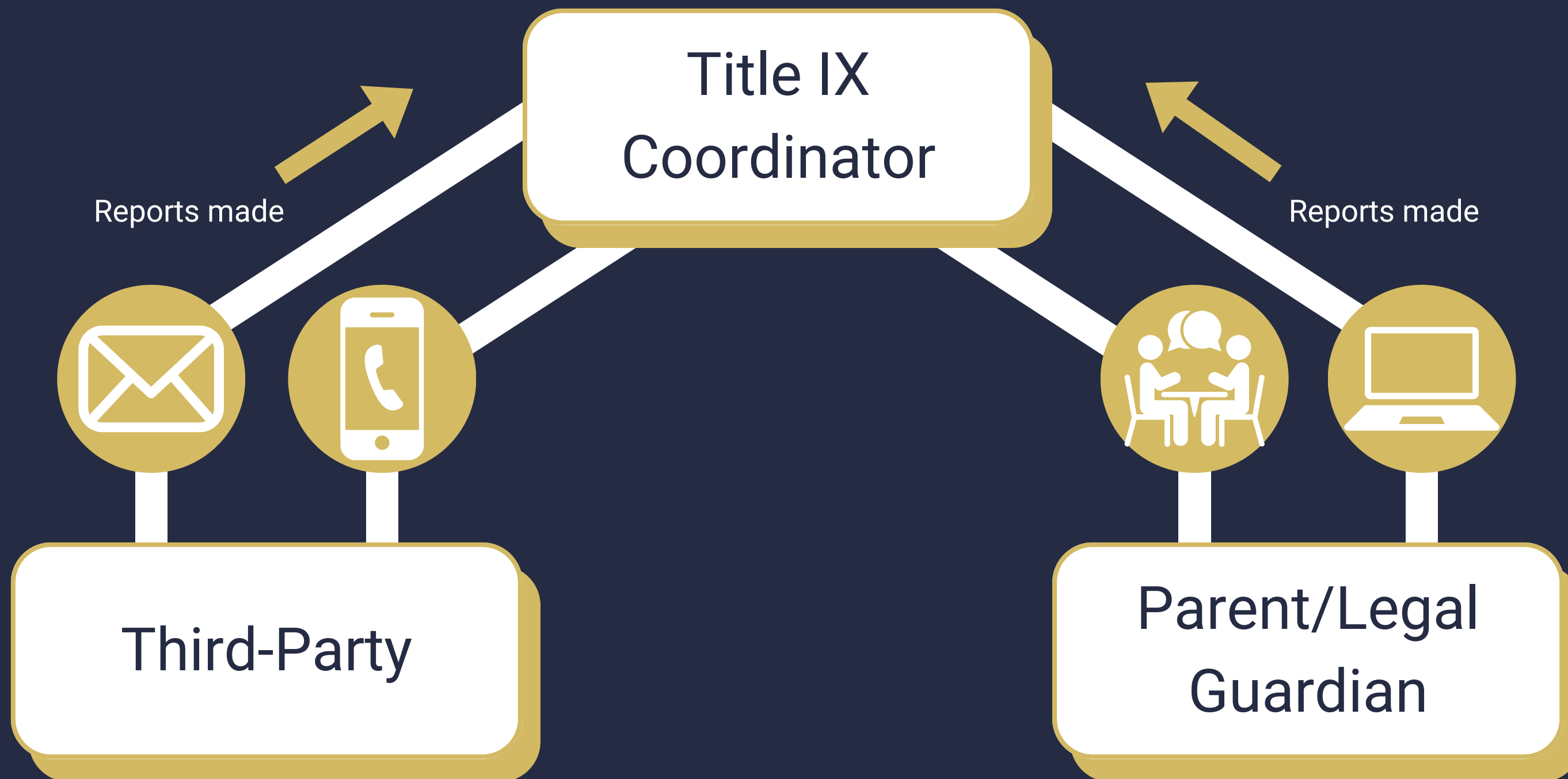
REPORTING INFORMATION





INTERNAL

EXTERNAL



REPORTS CAN BE MADE TO:



TITLE IX COORDINATOR



EMAIL



MAIL



IN PERSON

REPORTS CAN BE MADE TO:



TITLE IX
COORDINATOR



CONFIDENTIAL *
RESOURCES

* Higher Ground does not have on-campus confidential resources, but there are confidential, 24/7 resources off-campus in most states and nationally.

MEET YOUR TITLE IX COORDINATOR

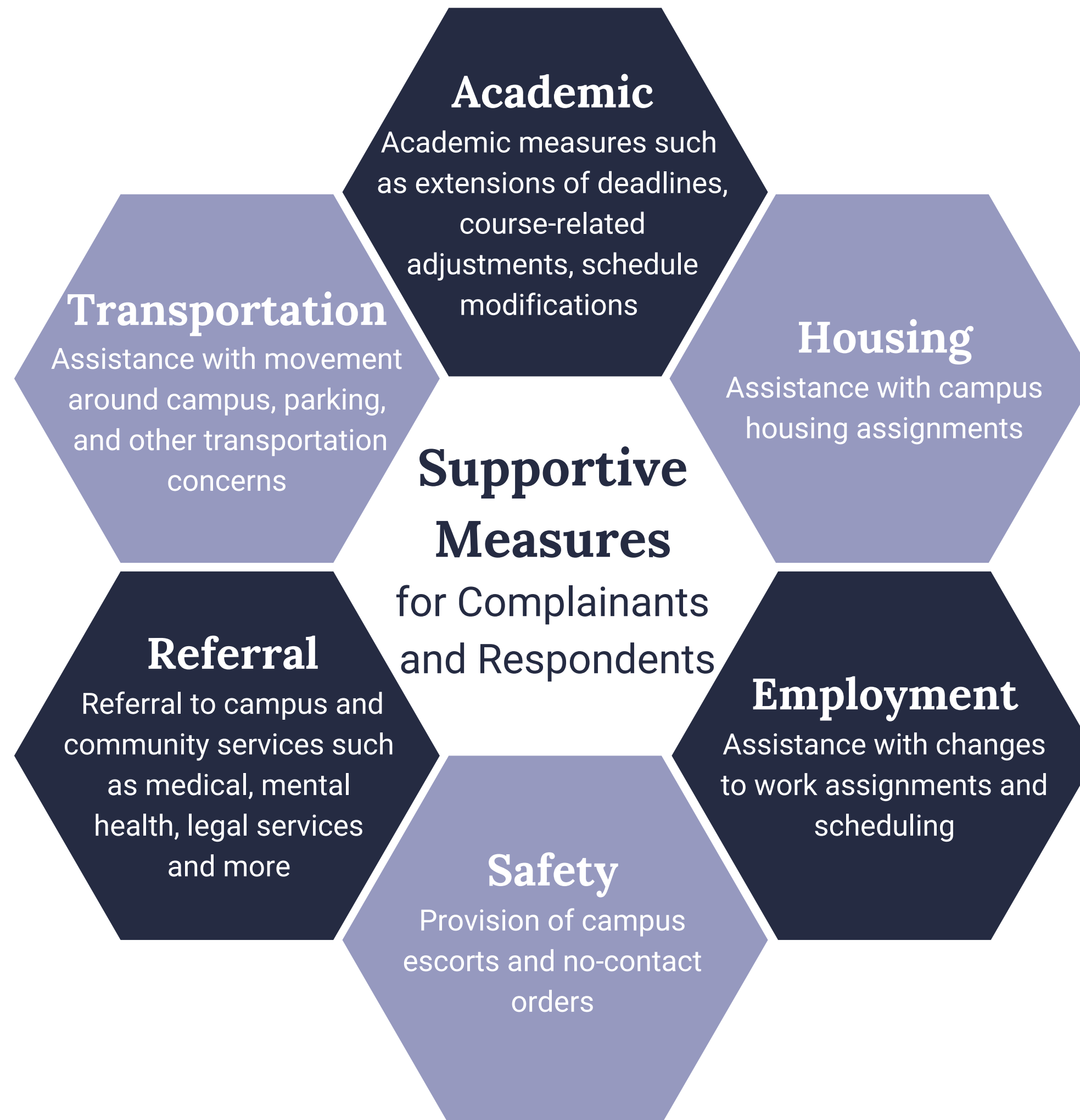
SUMEYA ALI
TITLE IX COORDINATOR

SUMEYA@HGACADEMY.ORG
651-645-1000 EXT. #156
ADMINISTRATION OFFICE

HOW WILL THE COORDINATOR RESPOND?

THE TITLE IX COORDINATOR WILL:

- Explain the process for filing a formal complaint
 - Discuss their rights and options
 - Reference the school's Title IX policy
- Offer and coordinate supportive measures for the complainant and respondent
 - External & Internal Resources



ADDITIONAL RESOURCES

POLICE DEPARTMENT

St. Paul Police Department

Phone

- 651-291-1111

Address

- 367 Grove St.
St Paul, MN, 55101

LOCAL HOSPITAL

Regions Hospital

Phone

- 651-254-1611

Address

- 640 Jackson St.
St Paul, MN, 55101

HOW WILL THE COORDINATOR RESPOND?

THE TITLE IX COORDINATOR WILL:

- Evaluate the incident to confirm the conduct falls under Title IX
- If the Complainant files a formal complaint:
 - Initiate the Title IX grievance process
 - Initiate the informal resolution process with the parties' voluntary, written consent
- If the Complainant does not file a formal complaint:
 - File a formal complaint (optional)
 - Continue to offer supportive measures
 - Refer the conduct to another school policy, if applicable

TITLE IX NOTIFICATION REQUIREMENTS



TITLE IX OBLIGATIONS

WHAT IF YOU RECEIVE A REPORT ABOUT CONDUCT THAT MAY POTENTIALLY VIOLATE TITLE IX?

CONFIDENTIAL EMPLOYEES

- Communications are protected under State or Federal Law
- School has designated them as confidential

EMPLOYEES WITH AUTHORITY

- Are officials of the school with authority to institute corrective measures on behalf of the school

ALL OTHER EMPLOYEES

- Not designated as confidential
- Aren't considered employees with authority

CONFIDENTIAL EMPLOYEES

- Not required to notify the Title IX Coordinator

BEST PRACTICES

- Remind students or employees of your confidential status and that you won't be notifying the Title IX office of their report
- Share Title IX Coordinator information and how to make a Title IX complaint
- Inform student or employee about resources and supportive measures available

EMPLOYEES WITH AUTHORITY

- Any official of the school who has authority to institute corrective measures on behalf of the school



NOTICE OF SEXUAL HARASSMENT TO EMPLOYEES WITH AUTHORITY CONSTITUTES “ACTUAL KNOWLEDGE” AND REQUIRES AN INSTITUTIONAL RESPONSE.

THEREFORE, EMPLOYEES WITH AUTHORITY SHOULD PROMPTLY NOTIFY THE TITLE IX COORDINATOR OF ANY REPORT OF SEXUAL HARASSMENT.

ALL OTHER EMPLOYEES

NO SPECIFIC TITLE IX REQUIREMENTS



State laws and/or institutional policies may require all employees to notify the Title IX Coordinator when an employee has information about conduct that reasonably may constitute sexual harassment under Title IX

- These employees are also considered “Mandated Reporters” or “Responsible Employees”

OR



You may be required to provide the Title IX Coordinator’s contact information and information about how to report sexual harassment

**REFER TO YOUR SCHOOL’S TITLE IX POLICY FOR SPECIFIC
NOTIFICATION REQUIREMENTS!**

MANDATORY REPORTERS

All employees at your school are required to notify the Title IX Coordinator when they receive information about conduct that reasonably may constitute sex discrimination under Title IX.

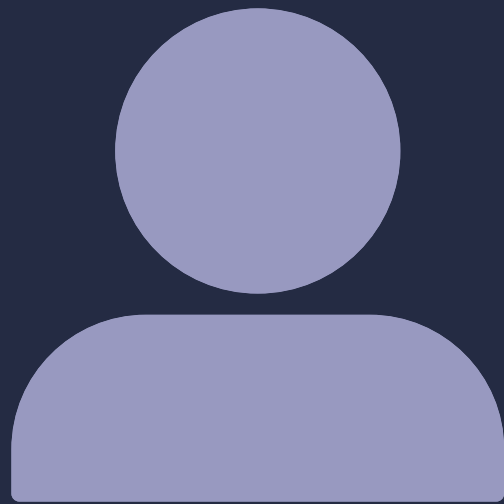
Therefore, all employees at your school are Mandatory Reporters.

OBLIGATION TO REPORT

MANDATORY REPORTER RESPONSIBILITIES:

When notifying the Title IX Coordinator of a report, include the following:

1



Name of
Complainant(s)
*if known

2



Name of
Respondent(s)
*if known

3



Details of
alleged conduct

TIPS FOR MANDATORY REPORTERS



EXPLAIN YOUR REPORTING OBLIGATIONS AND INABILITY TO KEEP REPORTS CONFIDENTIAL.

- Inform them of available confidential resources



REPORTING AN INCIDENT TO YOU DOES NOT REQUIRE THE REPORTING PARTY TO INITIATE OR PARTICIPATE IN A TITLE IX INVESTIGATION



TRAUMA-INFORMED LISTENING

- Active Listening
- Empathy
- Validation

FILING A FORMAL COMPLAINT



REPORT VS. FORMAL COMPLAINT

Report

- May allege sexual harassment, sex discrimination, or sexual misconduct
- May be written or oral
- May be submitted by any person, not just the alleged victim
- May be anonymous
- May be made at any time
- May be made in person or by mail, phone, email or any other means

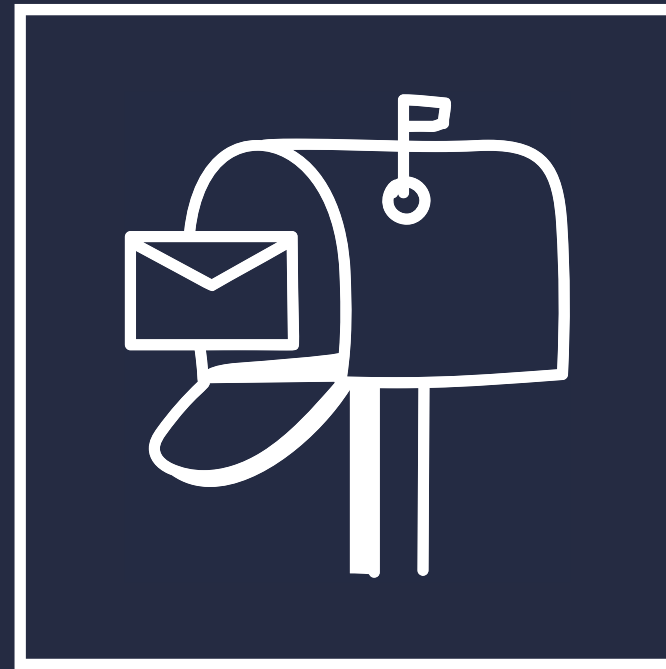
Formal Complaint

- Alleges Title IX sexual harassment
- Requests the school investigate the allegations
- Required for initiation of the Title IX grievance process
Must be filed and signed by the
- Complainant (or Title IX Coordinator in certain instances)
Cannot be filed anonymously or by a third-party

HOW TO FILE A FORMAL COMPLAINT



IN-PERSON



MAIL



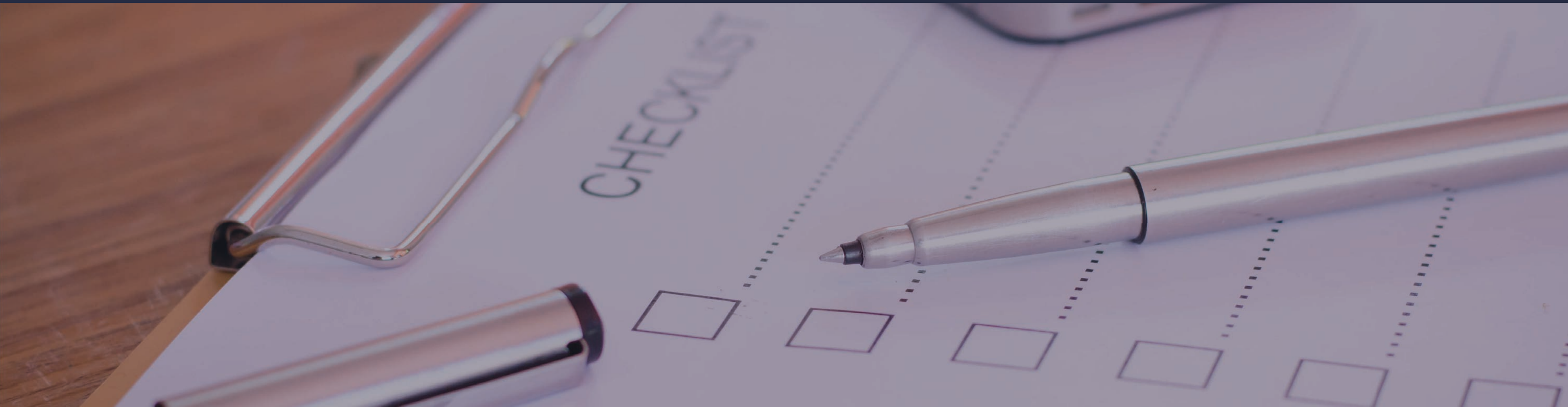
EMAIL



ONLINE

MUST CONTAIN THE COMPLAINANT'S PHYSICAL OR DIGITAL SIGNATURE, OR OTHERWISE INDICATES THAT THE COMPLAINANT IS THE PERSON FILING THE FORMAL COMPLAINT

TAKING AN APPROPRIATE RESPONSE



SCHOOL'S REQUIRED RESPONSE

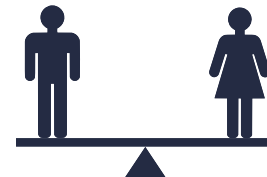
THE TITLE IX GRIEVANCE PROCESS MUST:



Treat Complainants
and Respondents
equitably



Require objective
evaluation of
relevant evidence



Require Title IX
personnel not have
bias and conflict of
interest



Include a presumption
that Respondent is not
responsible until a
determination is made



Include reasonably
prompt time frames



Describe range of
possible disciplinary
sanctions and
remedies



State the standard
of evidence



Include the
permissible bases
for appeal



Describe the range
of supportive
measures available



Not require or rely on
privileged information,
unless waived

STANDARD OF PROOF

Preponderance of the Evidence

Anything that tips the scale to more than 50/50

Clear and Convincing

More likely to be true than untrue, substantial evidence to support

Beyond a Reasonable Doubt

Criminal court standard, overwhelming amount of evidence to support

Not enough evidence to support a finding of responsibility, doesn't necessarily mean the claim is false

RETALIATION

SCHOOLS MUST PROHIBIT RETALIATION

- Title IX retaliation should be reported to the Title IX Coordinator
- When a school has information about conduct that reasonably may constitute retaliation under Title IX, the school is required to respond under Title IX
- Complaints alleging retaliation may be filed according to the school's grievance procedures for sex discrimination



SANCTIONS

- Consequences imposed on a respondent if the respondent has been found to have violated the school's Title IX policy at the conclusion of the Title IX grievance process
- Grievance process must be completed before the imposition of any disciplinary sanctions against a Respondent
- List and/or range of possible disciplinary sanctions is included in your school's policy

REMEDIES

- Measures provided to the complainant where a determination of responsibility for sexual harassment has been made against the respondent at the conclusion of the Title IX grievance process
 - Designed to restore or preserve equal access to the schools's education program or activity
 - Similar to supportive measures but offered at the conclusion of the grievance process and can be punitive, disciplinary, and burden the respondent



TITLE IX GRIEVANCE PROCESSES OVERVIEW



GRIEVANCE PROCESS

1

FORMAL
COMPLAINT

2

NOTICE OF
ALLEGATIONS

3

INVESTIGATION

4

LIVE
HEARING

5

WRITTEN
DETERMINATION

6

APPEAL
PROCESS

INFORMAL RESOLUTION

(OPTIONAL, BUT MAY BE INITIATED IN THIS WINDOW)

GRIEVANCE PROCESS

1

2

3

4

5

6

**FORMAL
COMPLAINT**

NOTICE OF
ALLEGATIONS

INVESTIGATION

LIVE
HEARING

WRITTEN
DETERMINATION

APPEAL
PROCESS



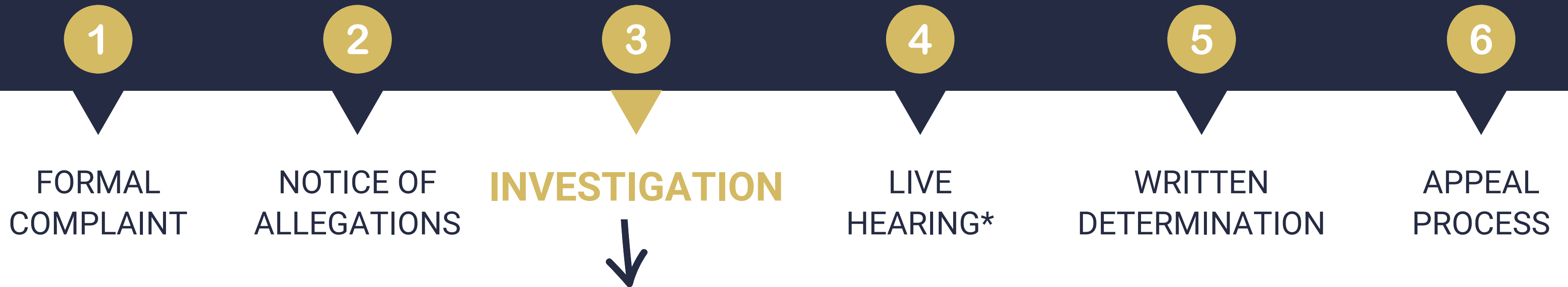
- Initiates the Title IX grievance process
- Must be signed by the Complainant (or Title IX Coordinator)

GRIEVANCE PROCESS



- Provided to both parties outlining the grievance procedures, information about the allegations, prohibition of retaliation, and the parties' rights

GRIEVANCE PROCESS



- Parties have the opportunity present witnesses and evidence
- The burden of proof and gathering sufficient evidence is on the school
- The investigator will create an investigative report containing relevant evidence and an investigation file containing evidence to share with the parties, parties' advisors, and decision-maker
- The parties have the right to access, review and respond to the investigative report and file

GRIEVANCE PROCESS



- Post-secondary institutions are required to have a live hearing facilitated by a decision-maker
- Parties' advisors ask the other party and witnesses relevant questions to challenge credibility
- Live hearings may be conducted virtually

GRIEVANCE PROCESS



- The independent decision-maker(s) will draft and issue a written determination regarding responsibility.
- To reach this determination, they will apply the standard of evidence outlined in the Title IX policy
- The determination contains sanctions and remedies or supportive measures

GRIEVANCE PROCESS



- Parties have the right to appeal the process on the following bases:
 - Procedural irregularity that affected the outcome of the matter;
 - New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
 - The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

INFORMAL RESOLUTION

MAY BE FACILITATED AT ANY TIME PRIOR TO REACHING A DETERMINATION REGARDING RESPONSIBILITY

- Informal resolution is offered if:
 - A formal complaint is filed
 - School obtains the parties' voluntary, written consent to the informal resolution process
 - The allegations are NOT involve a student complainant and employee respondent
- Schools cannot require or pressure the parties to participate in an informal resolution process.

PROTECTING YOURSELF AND OTHERS



BEST PRACTICES



**SPEAK UP WHEN YOU SEE
INAPPROPRIATE BEHAVIOR,
HARASSMENT OR DISCRIMINATION.**



**COMMUNICATE YOUR
BOUNDARIES AND LIMITS CLEARLY
AND EARLY.**



OBTAIN CLEAR CONSENT

1. State “no” confidently and clearly
2. Listen carefully. If you aren’t sure if they are giving you consent, ask directly.



**DON’T BE A PERPETRATOR OF SEXUAL
VIOLENCE, HARASSMENT, OR
DISCRIMINATION**