

HIGHER ED WEBINAR: UNLOCKING THE 2024 TITLE IX REGULATIONS

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Let the Journey Begin



ICS TEAM



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ABOUT US

OUR MISSION

To provide the best Care and Support for our clients, Community Partners, employees, contractors, collaborators, vendors, and all others who encounter our company.

GOAL

To assist schools and districts in providing a safe and healthy learning and working environment for students, faculty and staff.

BEFORE WE GET STARTED...

Not legal advice
Materials
Chat Bar and Questions
Recording
Overview



AGENDA



01 How We Got Here

02 Breaking Down the New Regs - Themes

03 Conclusion

Reminders



- Deep Breath
- No one has all the answers
- Take the vacation
- We have lived the 2020 regs for 4 years!

How We Got HERE



REMINDER:

- Athletics NPRM has been tabled
- 2020 Regulations on Sexual Harassment have been amended and are the focus for today



WHAT PROCEDURES/ PROCESS FOR PRE- AUGUST 1, 2024 CONDUCT?!

- Implementation date of August 1 for 2024 regs
- 2020 regulations apply for reports that come in before August 1, 2024
- “The department will not enforce these final regulations retroactively” p.1354

WHAT NEEDS TO HAPPEN BY THE IMPLEMENTATION DEADLINE?



01 Updated policies and procedures

02 Disseminated policies, procedures, notice to your community

03 Title IX team reevaluated/identified

04 Title IX team trained BEFORE they do the work;
employee training plan

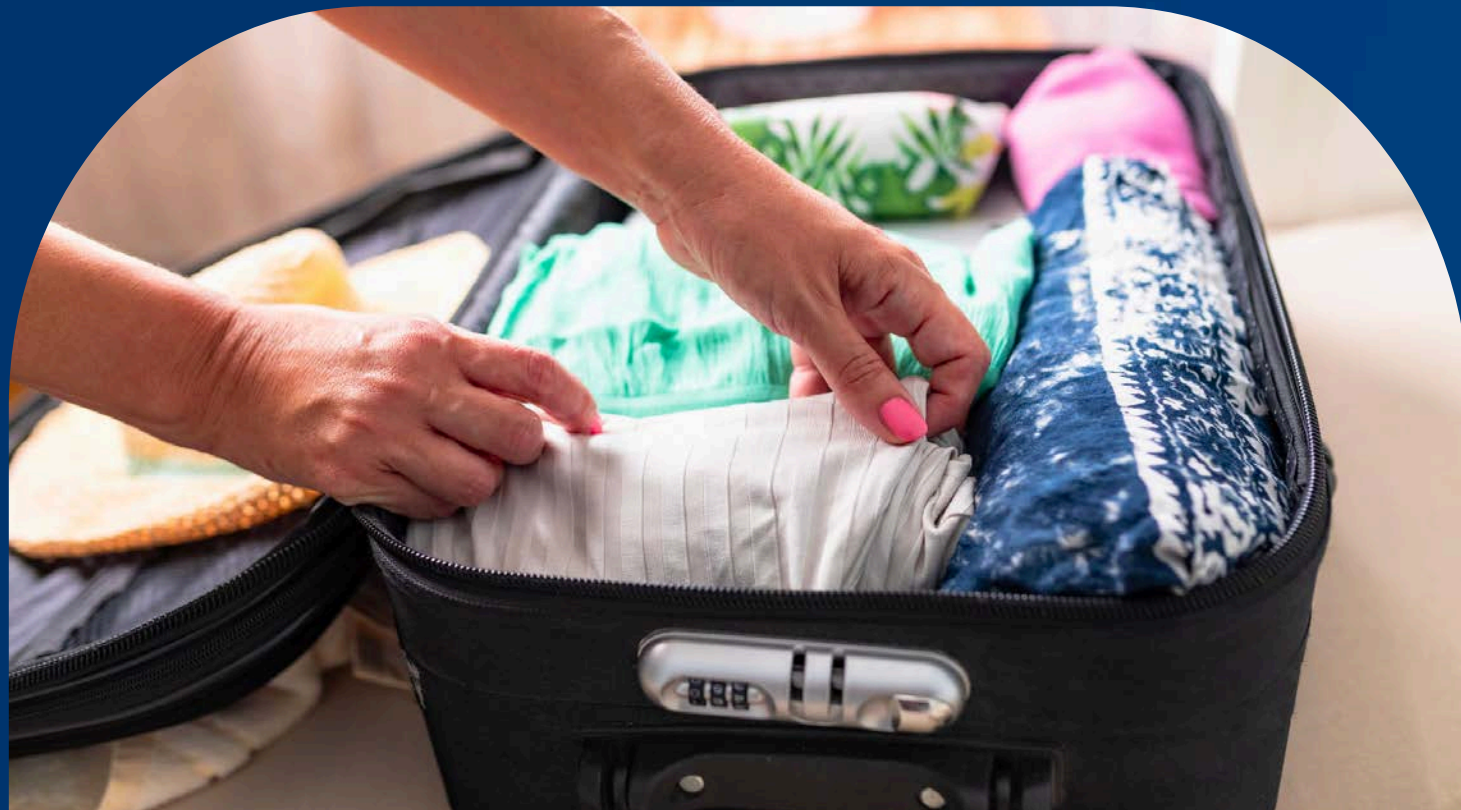
05 Communication with your school community

Unpacking 1561 Pages in 8 Themes

ics



- The Devil is in the Details
- Make Room on Your Plate
- The What and Where Expanded
- Training, Training and A LOT More Training
- Publish it EVERYWHERE
- Make New Friends
- Grievance Procedures ++
- Finish Strong



The Devil Is In the Details



- **Definitions**
- **Placement of Commas and Other Punctuation**
- **Language Changes/Additions**



Definitions

Pages 1505-1515



Complainant: Adds student or employee who WAS participating or attempting to participate in the education program or activity at the time of the alleged sex discrimination.

Complaint: Oral or Written!

Pregnancy or Related Condition: Extensive.

Relevant: When it may aid in showing whether the alleged sex discrimination occurred.

Student

Student with a Disability

Admission

Applicant

Confidential Employee

Supportive Measures

Consent: NO DEFINITION

Caution

A yellow paper airplane is positioned in the center of the slide, pointing towards the right. It is slightly tilted upwards and appears to be flying through the clouds.

The placement of commas, colons, semi-colons, and the use of AND/OR is CRITICAL.

Pause when reading and attempting to understand. The ENTIRE intent of a section can be changed with the misplacement/misunderstanding of punctuation or grammar. Example: the word and/or after the final semicolon in section.

Report



Notification

Formal Complaint



Complaint

**Formal Grievance
Process**



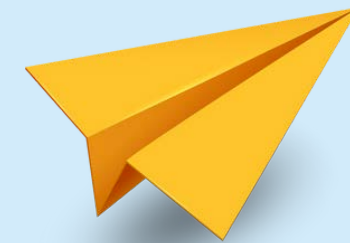
**Grievance
Procedures**

**Pregnancy
Accommodations**



Modifications

Language Changes



Make Room on Your Plate



New/ Increased Responsibilities

- Required trainings
- Publication of information
- More conduct covered under Title IX and grievance procedures
 - pregnancy & definition of “on the basis of sex”
- New team members/changing roles
- Initiating more complaints
- Monitoring barriers
- Increased recordkeeping



Prioritize

Team
Coordinator (1) and Designees
Evaluation Supportive Measures Facilitation Investigation Decisionmaking Appeals Informal Resolution Supportive Measures Review Administration
Pregnancy and related conditions support and modifications facilitation



MAKE DECISIONS!



Grievance
Procedures



Title IX Team
Make-up



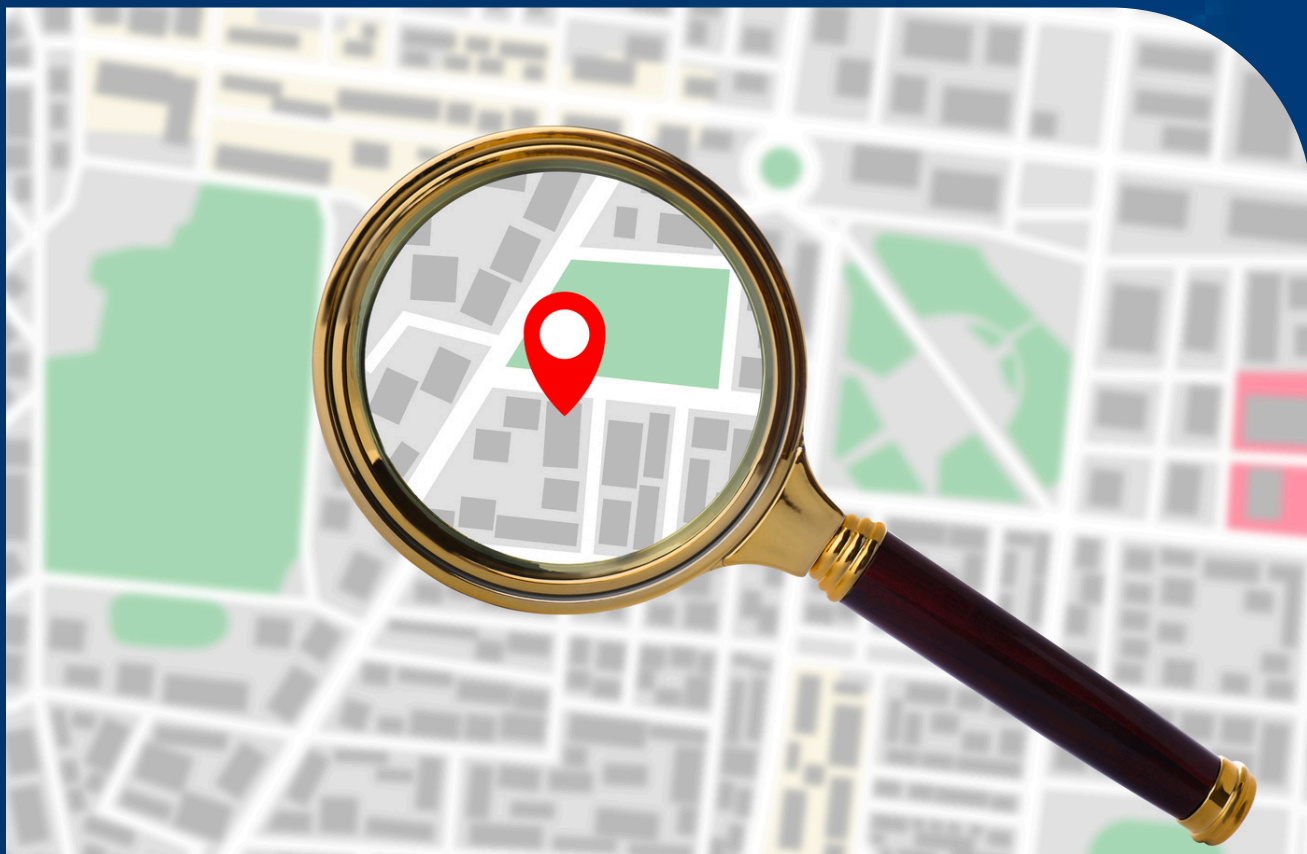
Connecting Title IX
Policy with other
Policies

The What & The Where Expanded



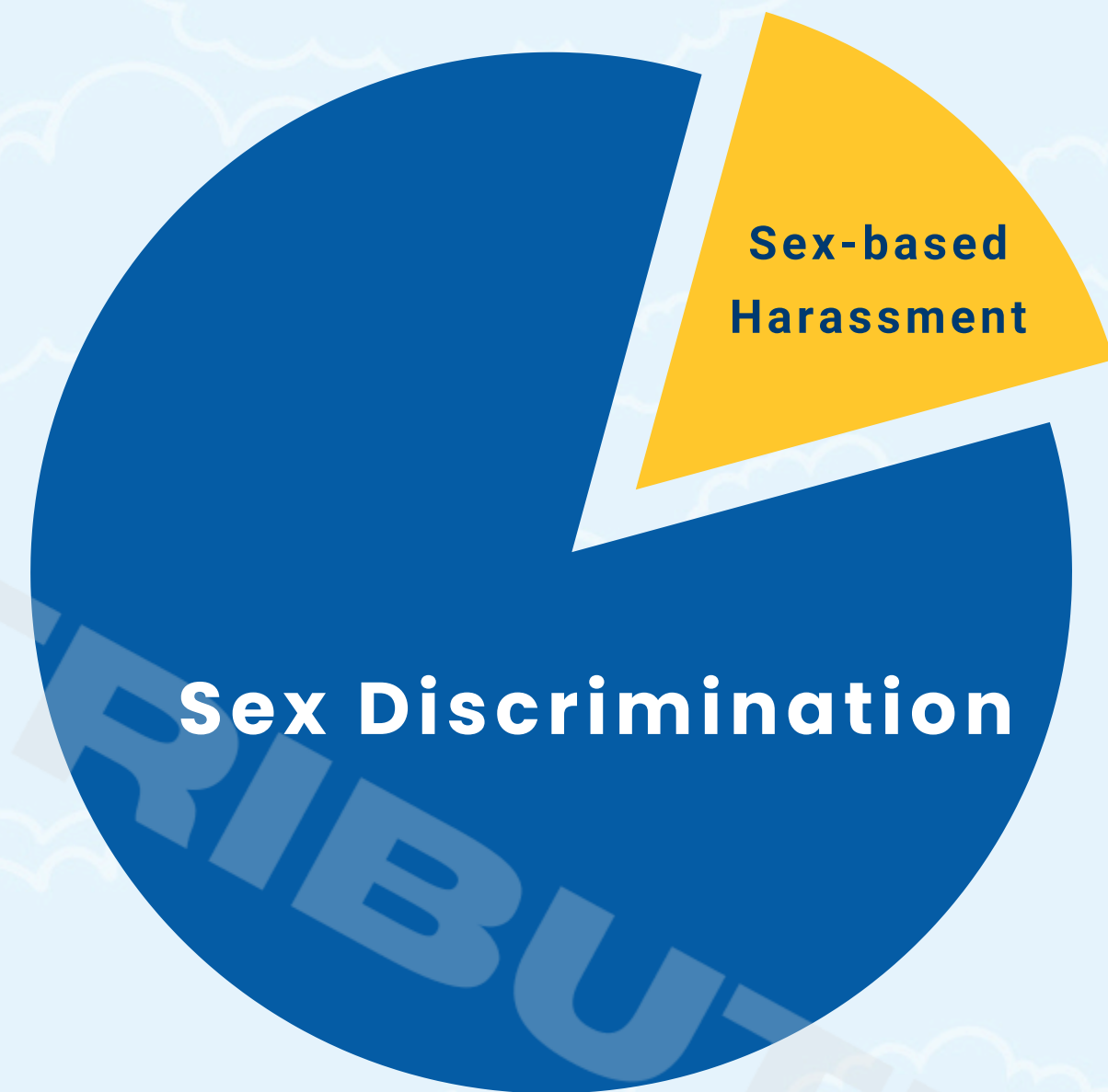
Scope & Application

- Sex Discrimination
- Sex-Based Harassment
Hostile Environment
(Bucket 2)
- On the Basis of Sex
- Education Program or
Activity



Sex Discrimination

- Now, we have required **grievance procedures** for ALL sex discrimination, more than sex-based harassment (formerly sexual harassment). 106.45
- Includes, pregnancy and related conditions, athletics, SOGI, etc.
- Mandatory reporting requirements apply to ALL sex discrimination.



Sex-Based Harassment



Hostile Environment Harassment



Hostile Environment Harassment

1. Unwelcome
2. Sex-based Conduct
3. Subjectively AND Objectively Offensive
4. Severe OR Pervasive
5. Limits or Denies Ability to Participate (Access)

Fact Specific Inquiry

1. Degree to which conduct affected access
2. Type, frequency, and duration of conduct
3. Ages, roles, previous interactions, other factors about each party
4. Location of the conduct and context in which it occurred
5. Other sex-based harassment



On the Basis of Sex



Scope: (p. 1522)

Discrimination on the basis of sex includes discrimination on the basis of:

1. Sex Stereotypes
2. Sex Characteristics
3. Pregnancy or Related Conditions
4. Sexual Orientation
5. Gender Identity



Note:



Adopting a policy or engaging in a practice that prevents a person from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis harm on the basis of sex. p.1524

- Locker rooms
- Bathrooms

Education Program or Activity



Application: (p.1522)

Title IX applies to all sex discrimination

1. Occurring within education program or activity in the U.S.
 - a. Includes property owned or controlled by student organization (Higher Ed)
 - b. Conduct that is subject to school's **disciplinary authority**
 - c. Obligation to address a sex based hostile environment under its education program or activity **EVEN WHEN** some conduct alleged to be contributing to the the hostile environment occurred **OUTSIDE** the education program or activity **OR** outside the U.S.

Consider: Does the behavior **OUTSIDE** of education program or activity **CONTRIBUTE** to a sex-based hostile environment **INSIDE** the education program or activity?

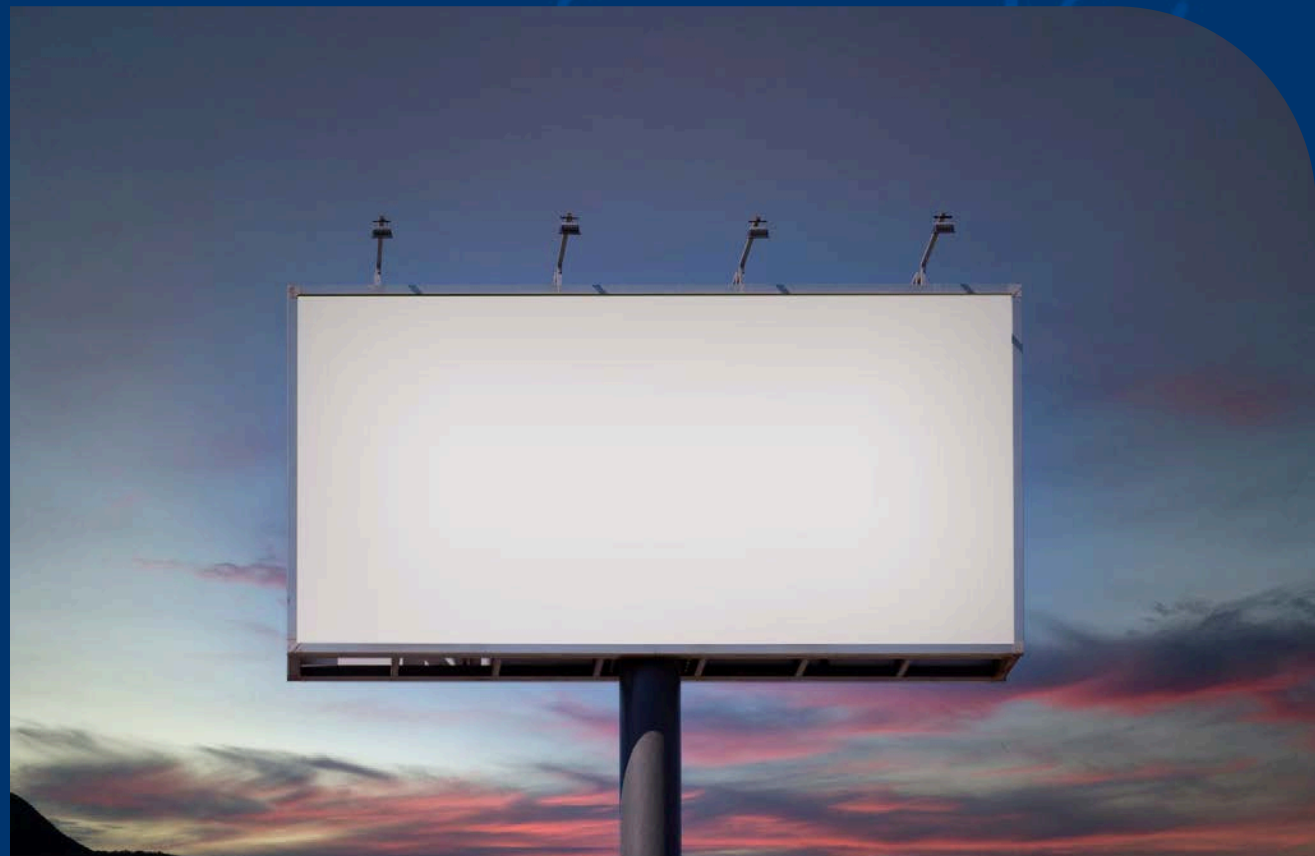


Training, Training, and a LOT More Training



- All Employees
- Title IX Team including designees and New Supportive Measures Administrator
- Upon Hiring
- ANNUAL Requirements

Publish it EVERYWHERE



- Adopt, publish, and implement Nondiscrimination Statement/Policy
- Published:
 - website,
 - handbook,
 - catalog,
 - announcement,
 - bulletin, and
 - application form



Recommend



- Strong Website
 - Contact info
 - Policy
 - Grievance Procedures
 - Reporting/Notifying Options
- QR Code to provide to employees



Make New Friends



- **Title IX Coordinator Partnerships**
 - **Admissions**
 - **Human Resources/Employment**
 - **Communications**
 - **IT Office**
 - **Disability Services Offices**



Disability Services Office Connection

If a complainant or respondent...[has] a disability, the Title IX Coordinator may consult with the individual or office that the school has designated to provide support to students with disabilities.

- Supportive Measures
- Grievance Procedures

p. 1521



Grievance Procedures ++



- **MUST NOT Discipline for Sex Discrimination outside Title IX**
- **Still structured**
- **Notice required**
- **Review Required**

Door # 1 (§106.45)

- All employee on employee sex discrimination.
- Sex discrimination that is NOT sex-based harassment.

p. 1540

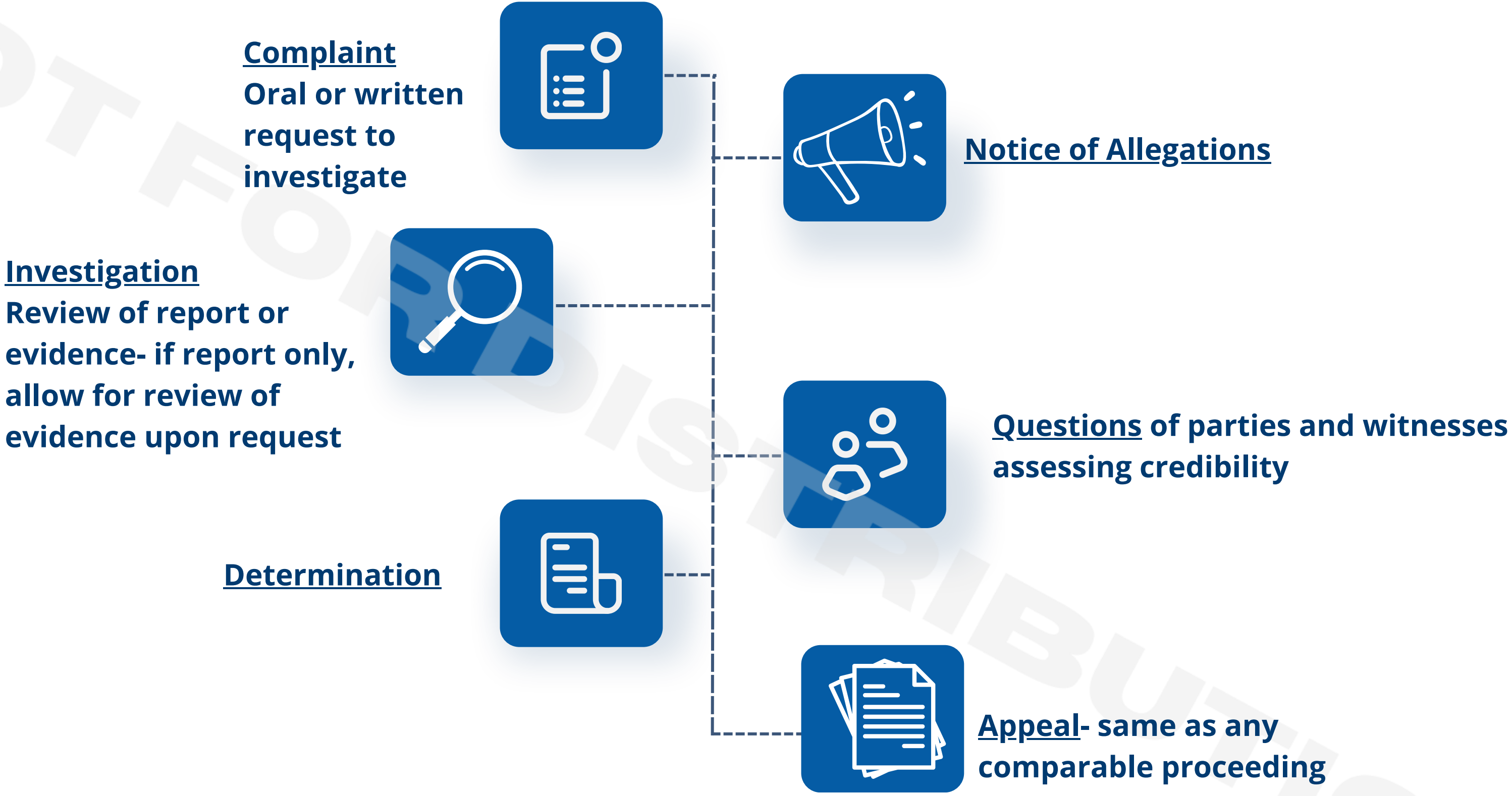
OR

Door # 2 (§106.46)

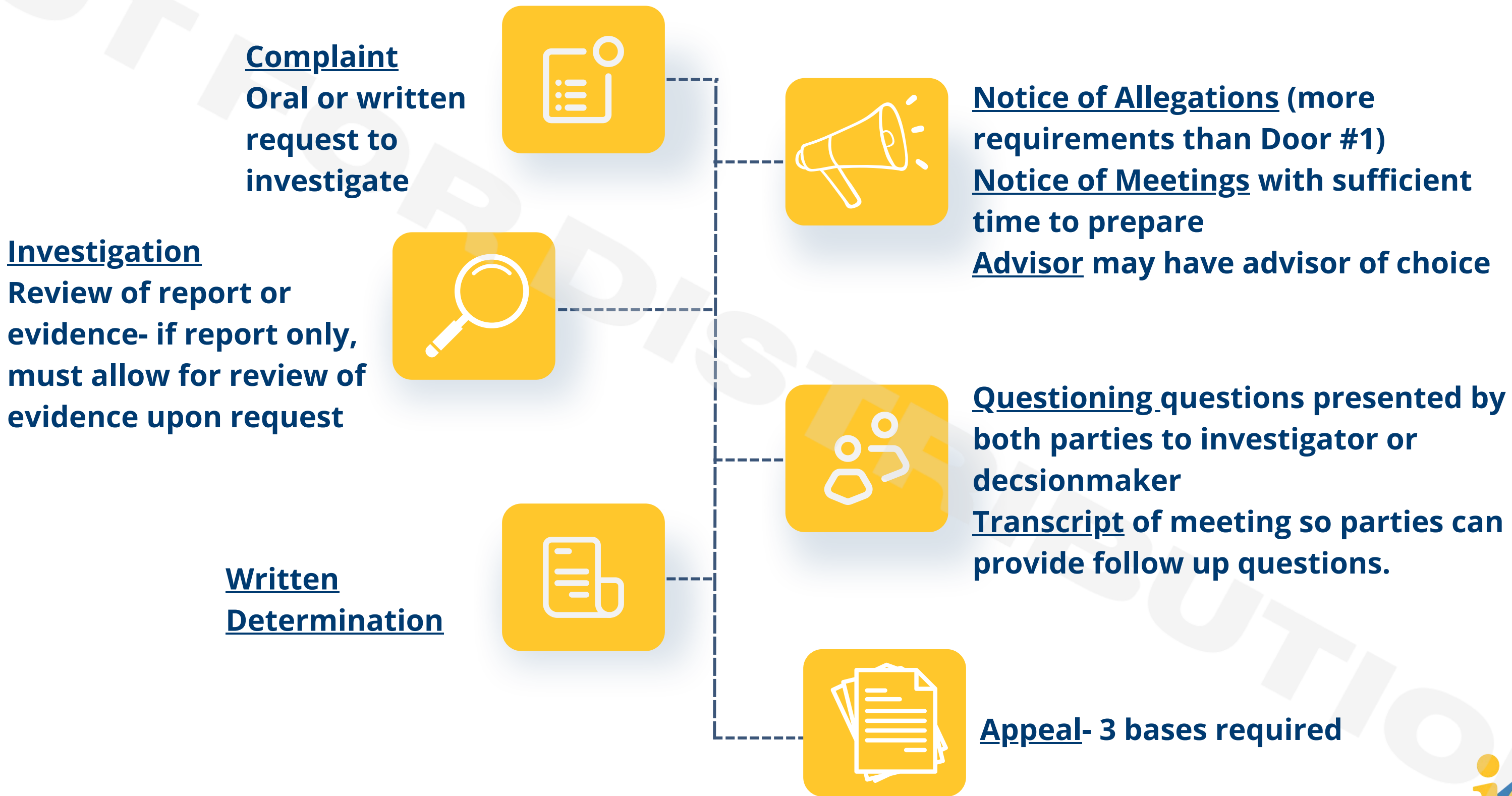
- Sex-based harassment involving a student as a complainant or respondent

p. 1550

Door # 1 (106.45)



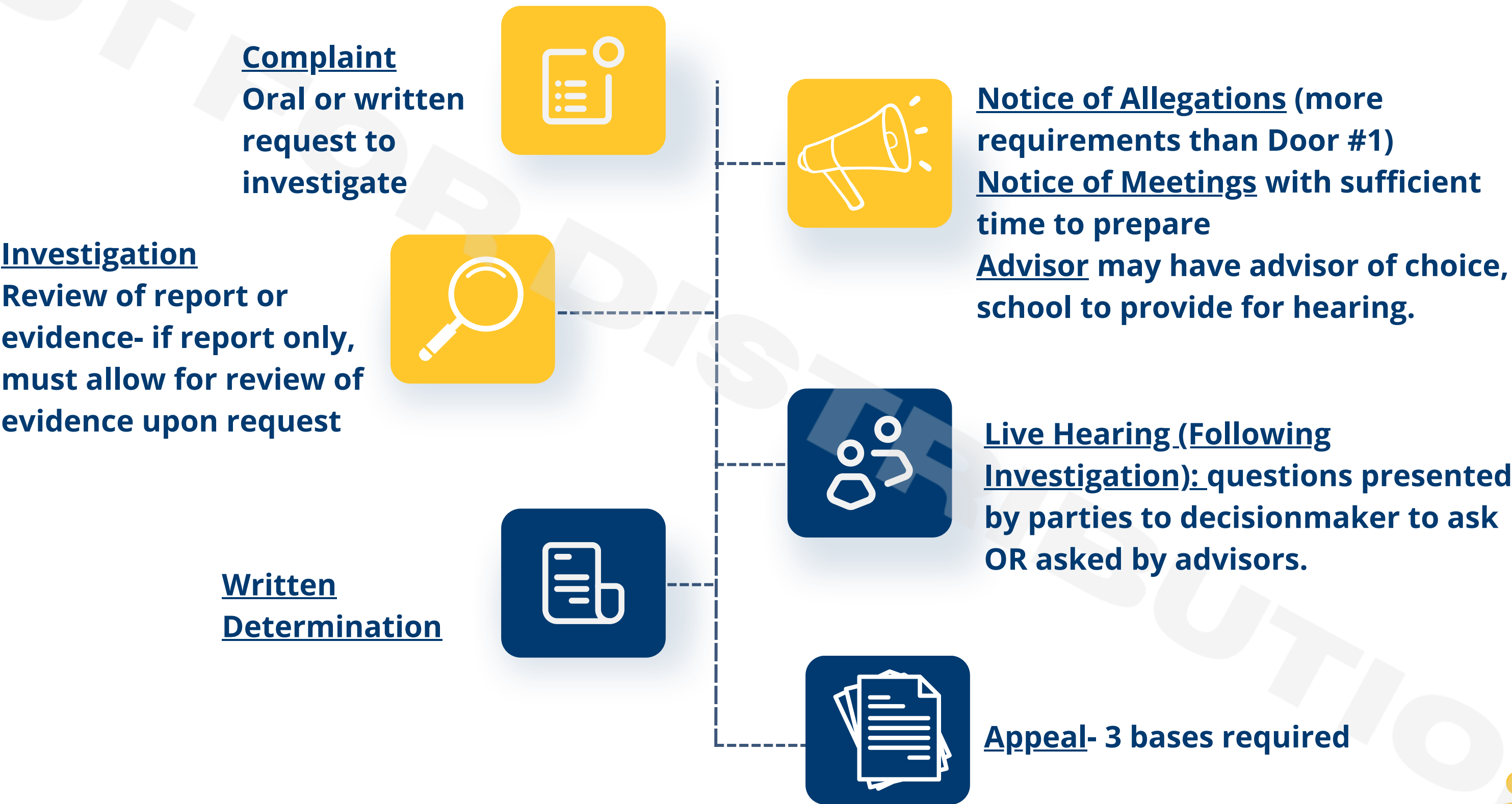
Door # 2 (106.45) – No Live Hearing



p. 1550
§106.45



Door # 2 (106.46) – Live Hearing



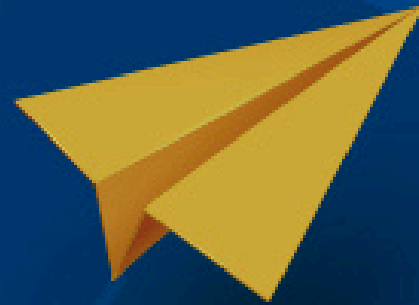
Informal Resolution



- Notice Required
- Coordinator Discretion
- Informal Resolution Facilitator CANNOT be investigator



Finish Strong

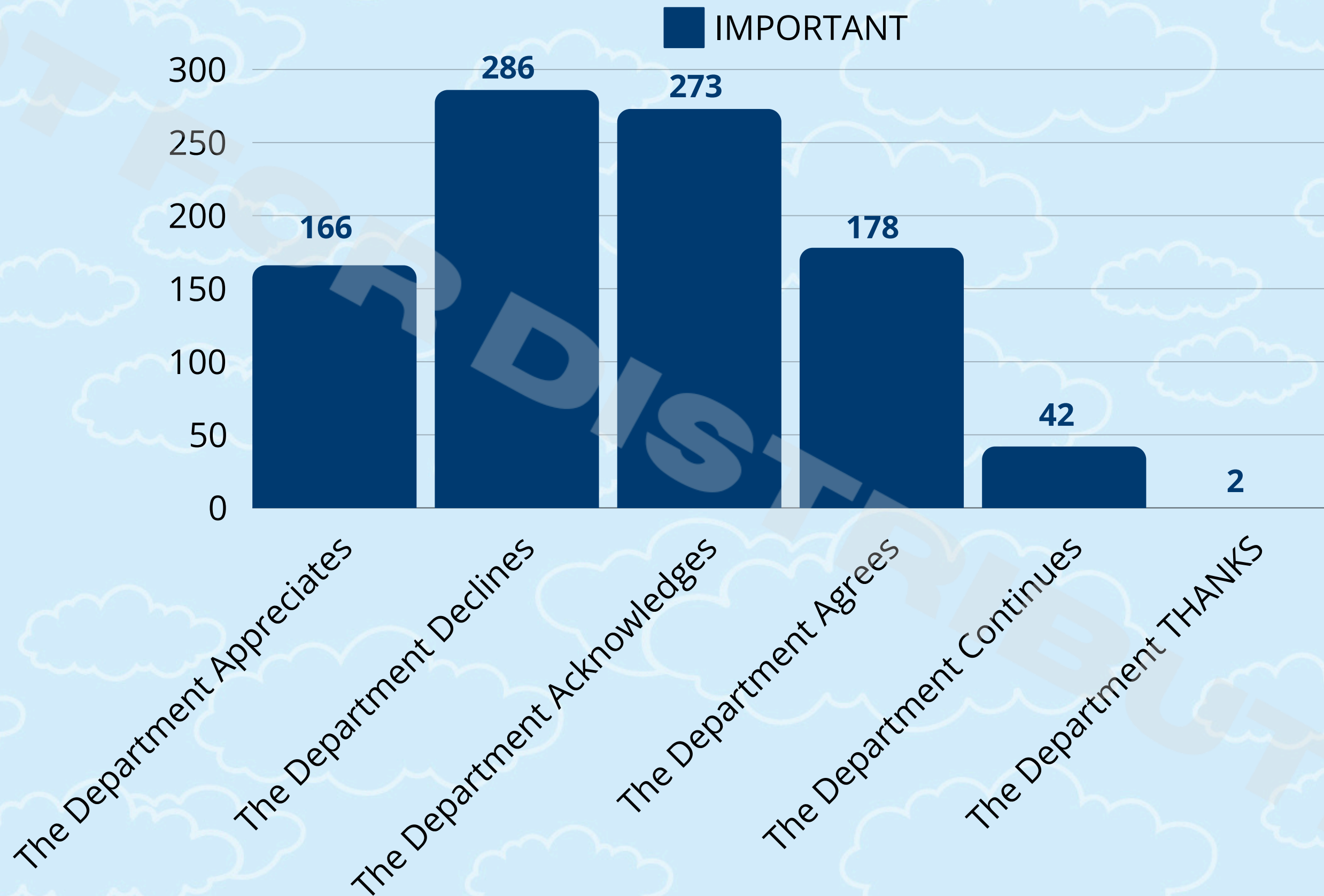


- Finish this academic year strong
- Biggest mistake you can make is focusing too much on the future and losing track of the present.
- Let ICS shoulder the load!



Litigation Challenges







TRAINING

HIGHER-ED IN-PERSON TITLE IX TRAINING

Chattanooga, TN

NEW TITLE IX REGULATIONS BOOTCAMP

(IN-PERSON)

Chattanooga, TN

NEW TITLE IX REGULATIONS BOOTCAMP

(VIRTUAL)

TITLE IX
UNIVERSITY

PRESENTED BY INSTITUTIONAL COMPLIANCE SOLUTIONS



***CONTINUE
THE JOURNEY
WITH US!***



HIGHER ED



QUICK GUIDE

