

“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

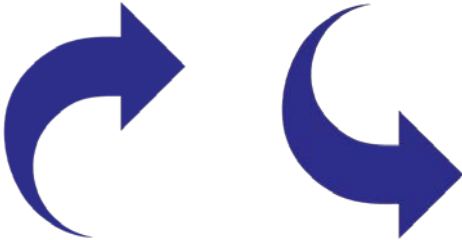
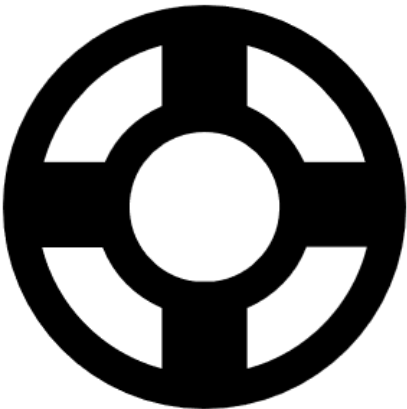
Honors student
raped in
residence hall by
roommate's friend

Male on Female
Sexual Assault

Biology major
slapped and
threatened by
date

Female on Female
Dating Violence

Title IX Office



Supportive Measures

Grievance Process

Supportive Measures

Protect Safety
Preserve Access
Deter Harassment

Free & Confidential

Complaint/No Complaint

For both parties

Counseling

Extensions

Course Adjustment

Class Schedule

Work Schedule

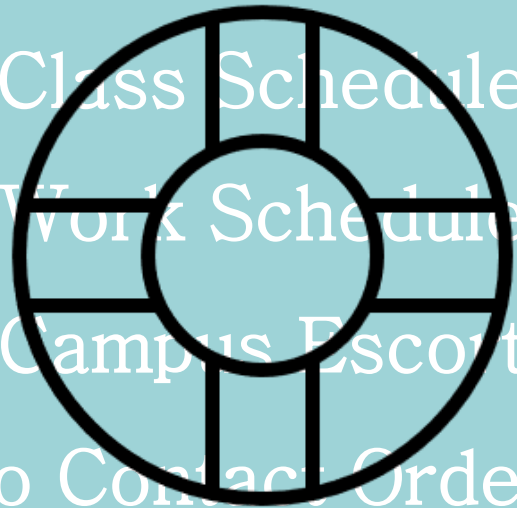
Campus Escort

No Contact Orders

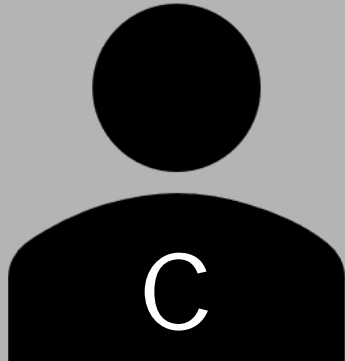
Leaves of Absence

Security

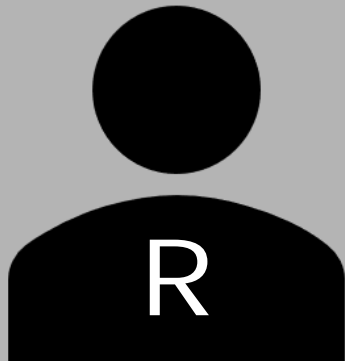
Monitoring



The Parties



The Complainant is the alleged victim of sexual harassment

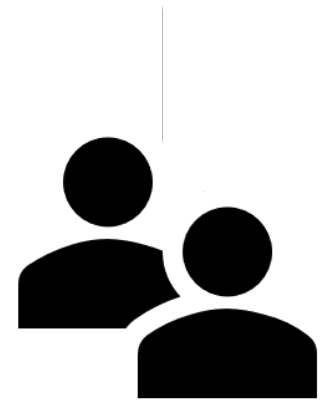


The Respondent is the alleged perpetrator of sexual harassment

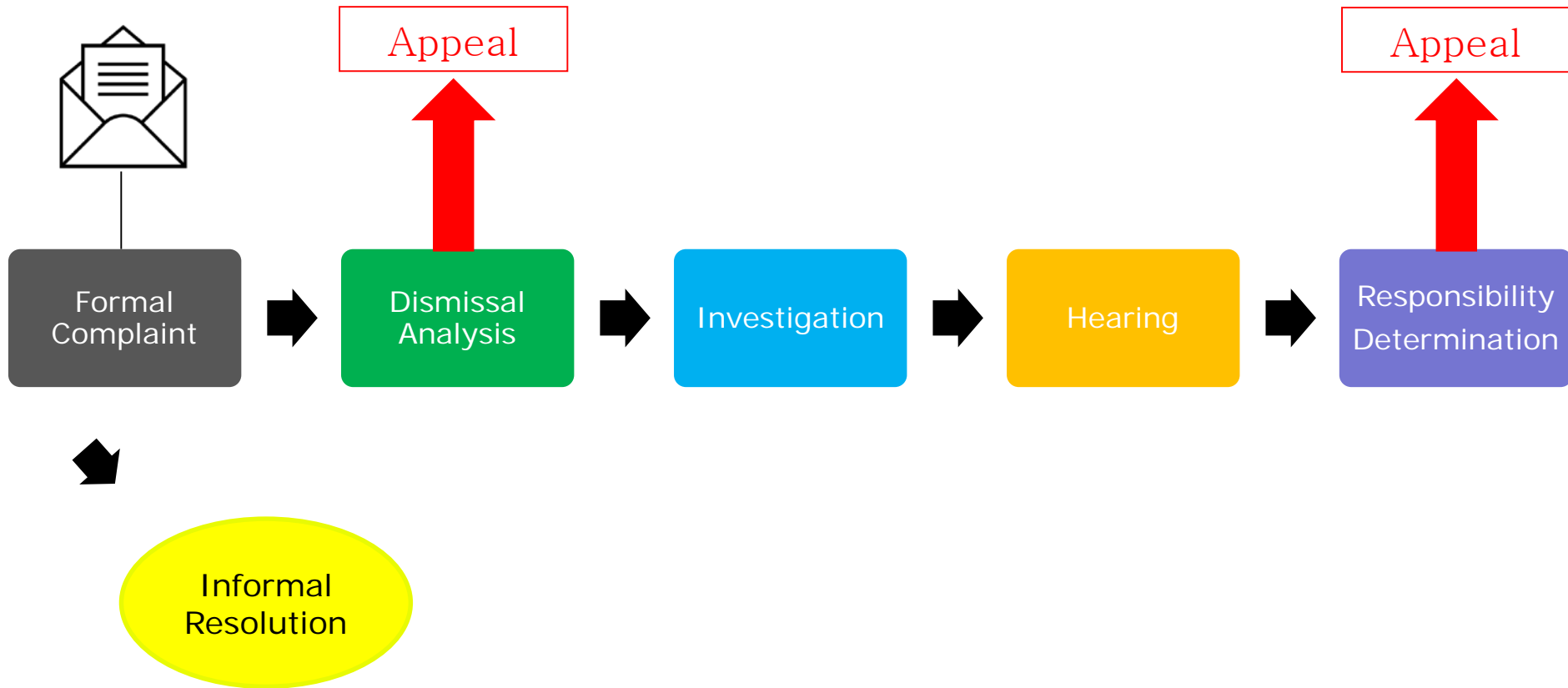
Anyone can be an advisor.



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.

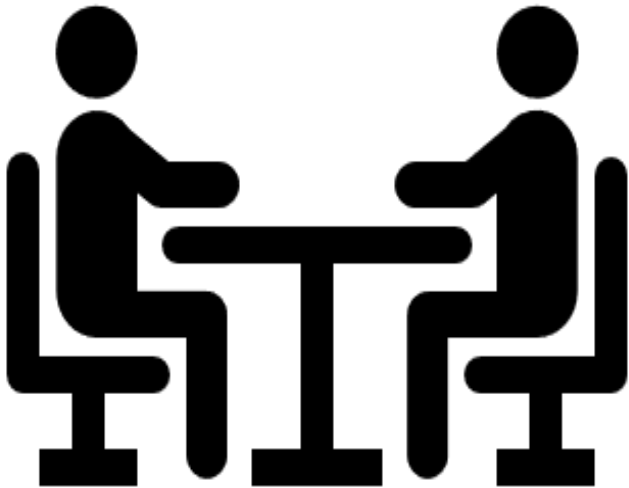
Informal Resolution



- 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.

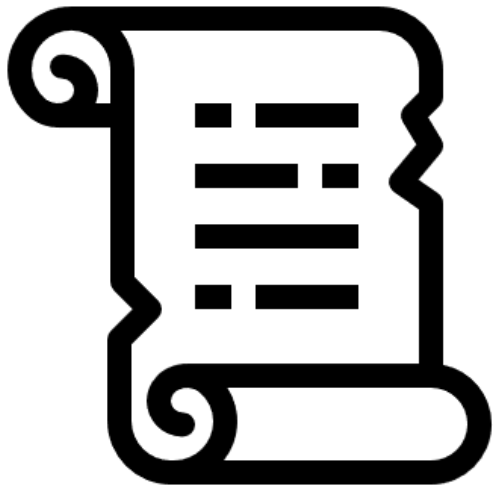


The Hearing



- The advisor poses the party's questions.
- Questions may be barred if they are irrelevant, duplicative, or reference privileged information.
- Everyone is expected to behave in a professional manner.

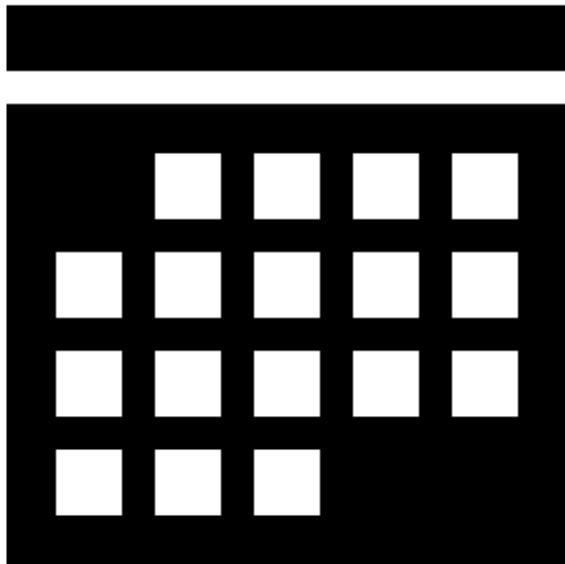
Responsibility Determination



- 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.

