

Title IX Final Rule & Higher Education

Association for Student Conduct Administration

Requirements of Grievance Procedures

Title IX Grievance Procedures Must...

- Be “prompt” and “equitable,” but also
- Allow delays when there is a cause to do so
- Apply procedures equally to both parties
- Publish grievance procedures
- Have an objective look at inculpatory and exculpatory evidence
- Avoid conflicts of interest or bias among staff in process
- Train coordinators, investigators, and decision-makers
- Not use sex stereotypes in proceedings
- Assume respondent not responsible
- Outline available sanctions and remedies
- State evidentiary standard
- Explain appeals process
- List available supportive measures

Initiating a Response

Actual Knowledge & Formal Complaint

- Considered “actual knowledge” if a college official, who has authority to implement corrective measures, receives notice of an alleged incident (always includes Title IX Coordinator)
- “Formal complaint” is a “document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment”
 - At time of filing, complainant must be either participating or attempting to participate in the education of the institution where the complaint is filed
 - Formal complaint IS REQUIRED for an institution to respond via the Title IX process, though it may respond via other conduct systems

Initiating a Response

- Formal complaint and/or actual knowledge initiates grievance procedures by the institution

Deliberate Indifference

- Just because DOE might've made a different decision does not mean institution was deliberately indifferent
- Thorough documentation and rationales help in this area

Notice

- Upon receipt of formal complaint, parties must be notified in writing of “sufficient details” regarding allegation, which includes the following, if known:
 - Identities of parties involved
 - Date of alleged incident
 - Location of alleged incident
 - Nature of conduct that would constitute sexual harassment
- Notice must also include:
 - Presumption that respondent is not responsible and that no decisions will be made until end of process
 - Right to advisor of their choice

Notice

- Notice must also include procedural information such as:
 - Presumption that respondent is not responsible and that no decisions will be made until end of process
 - Right to advisor of their choice
 - Right to inspect all evidence
 - Code of Conduct info on false statements (if applicable)
- New allegations including same parties require new, additional notices

Investigations

Basics

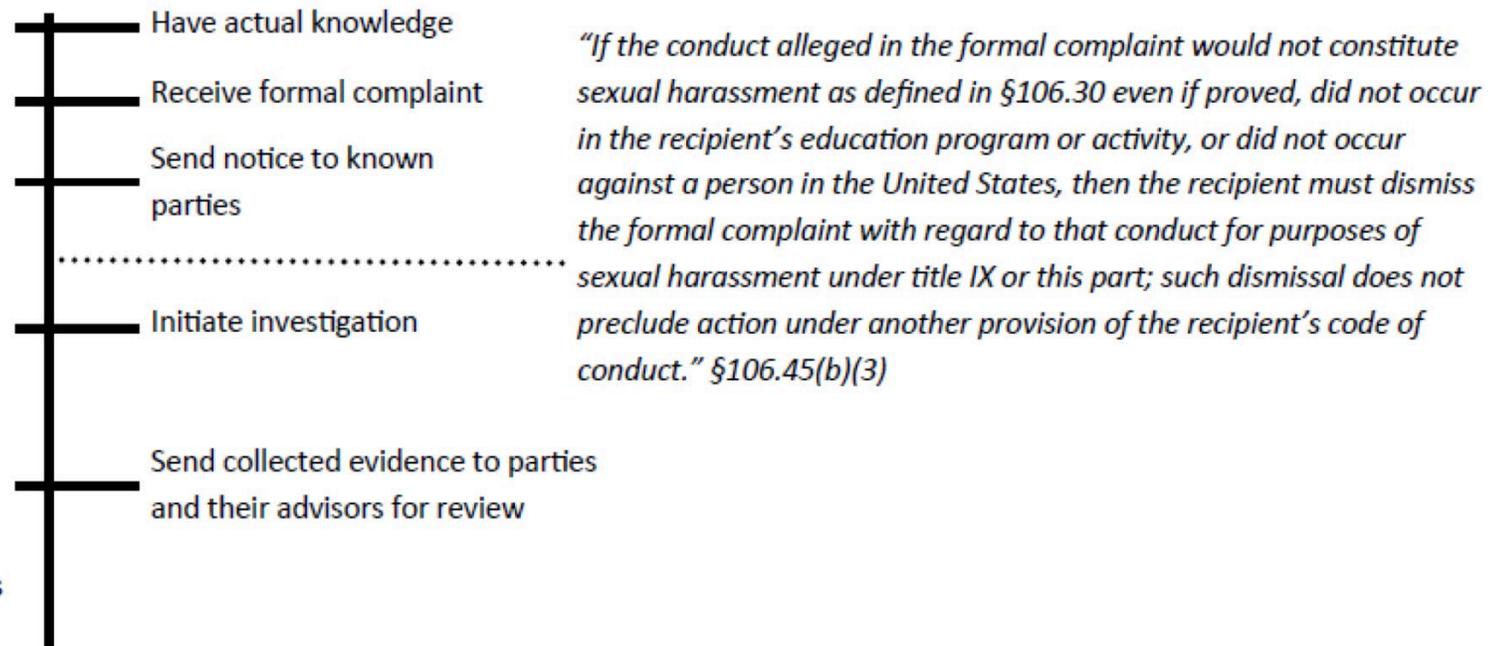
- Institutions carries burden of proof and evidence gathering
- Medical records off limits unless party volunteers written consent
- Opportunities must be equally available to both parties
 - Permitted to discuss allegations/investigation
 - Permitted to gather additional evidence and witnesses
 - Advisor of student's choice (can be parent, attorney, etc)
 - Chance to review evidence

Summarized Process (1/3)

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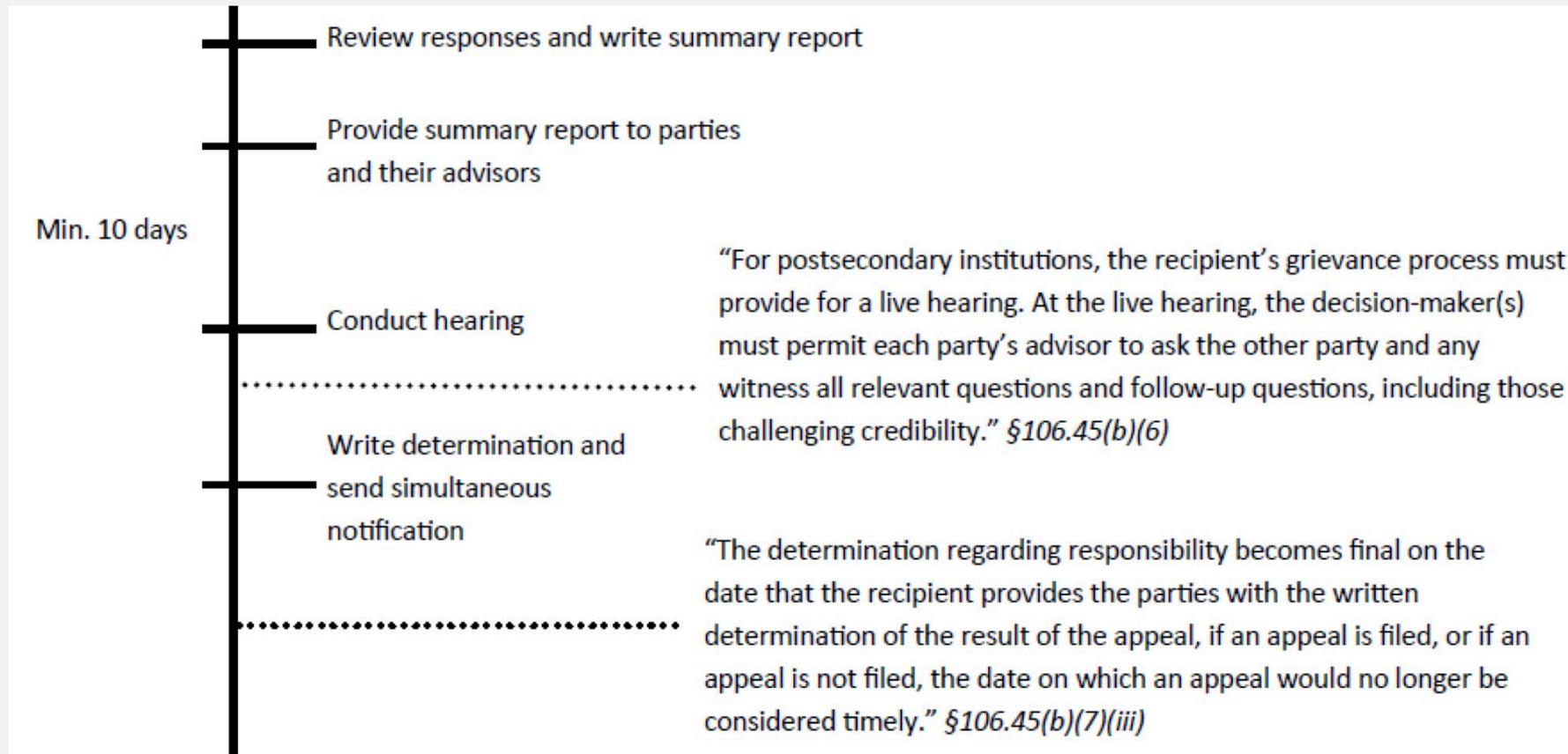
Summarized Flow of Title IX Grievance Process for Formal Complaints 34 CFR §106.45

This diagram is not intended to be exhaustive and does not constitute a checklist



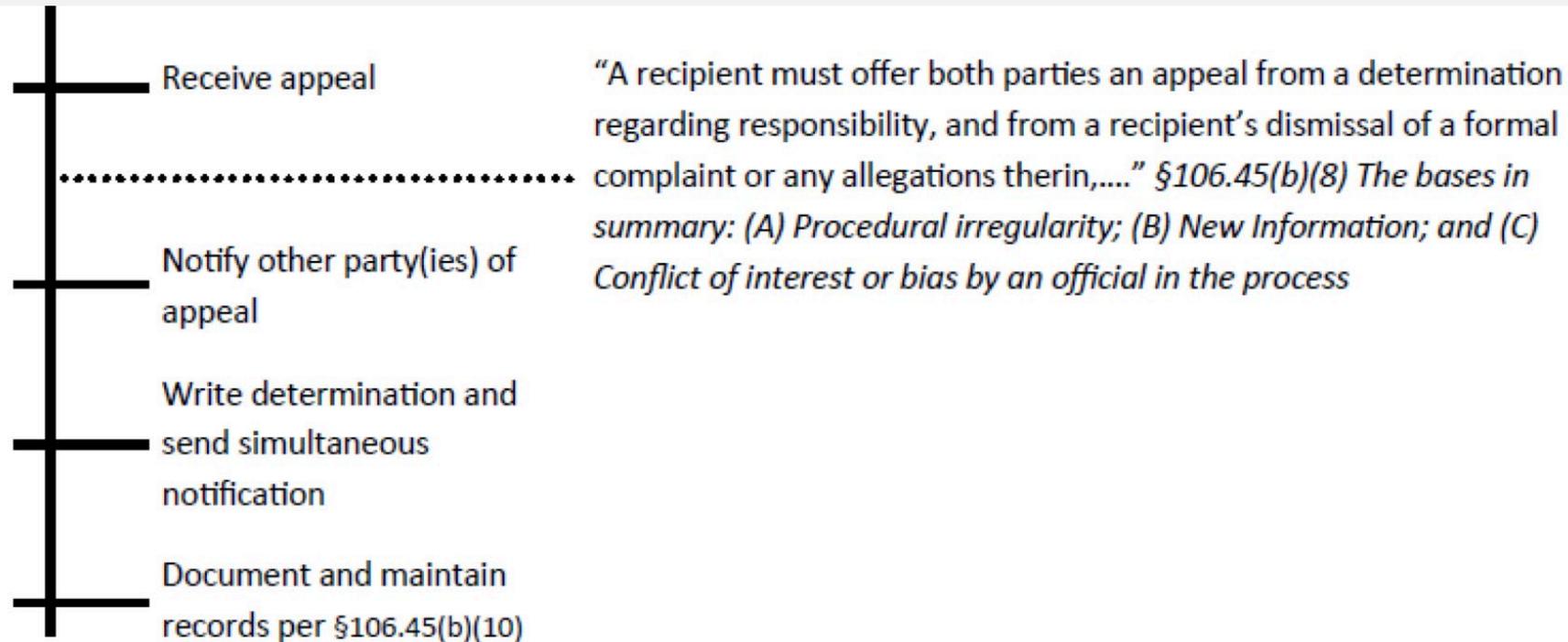
Summarized Process (2/3)

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Summarized Process (3/3)

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Additional Resources

ASCA Webinar- [Overview of Title IX Regulations](#)

ASCA White Paper- [Title IX of the Amendments of 1972: 2020 Regulation](#)

Dept. of Education Regulations, Federal Register- [34 CFR Part 106, ID 1870-AA14](#)

About ASCA

The Association for Student Conduct Administration is the only non-profit, professional membership organization devoted to the advancement of the higher education student conduct profession

Membership in ASCA shall generally be open to any person who has a legitimate interest in the mission, vision, core values and activities of the Association and who agrees to abide by the provisions contained in the Associations Bylaws and Statement of Ethical Principles and Standards of Conduct.

ASCA Core Values: Advocacy; Community; Equity & Inclusion; Education; Integrity; Leadership



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