

Overview of the Title IX Regulations & Campus Implementation

Effective August 14, 2020

The University of Texas at
TYLER

Primary Intent and Obligations

To provide students and employees with a safe learning and working environment that is free from sexual discrimination, harassment, and violence.

1. Provide primary prevention and ongoing education.
2. Respond to, remediate, resolve, and prevent reoccurrence.



Responsible Employee Reporting Requirements

- Under the institution's Sexual Misconduct Policy, **Responsible Employees** have a duty to report incidents and information reasonably believed to be sexual misconduct (prohibited conduct defined) under this Policy.
- All employees are Responsible Employees (except Confidential Employees). Responsible Employees include **all** administrators, faculty, and staff.
- Responsible Employees must report all known information concerning an alleged incident of sexual misconduct to the **Title IX Coordinator**.



Definition of “Sexual Harassment” under Title IX

Conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the institution conditioning the provision of an aid, benefit, or service of the institution on an individual’s participation in unwelcome sexual conduct (Quid Pro Quo);
2. 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 institution’s education program or activity;
or
3. “Sexual assault,” “dating violence,” “domestic violence,” or “stalking” as defined under Clery/VAWA.



A School's Obligation to Respond to Sex Discrimination & Sexual Harassment

- The institution has “**actual knowledge**” when the notice of sexual harassment, specifically, is submitted to the institution's Title IX Coordinator (TIXC) (or any official at the institution who has authority to institute corrective measures).

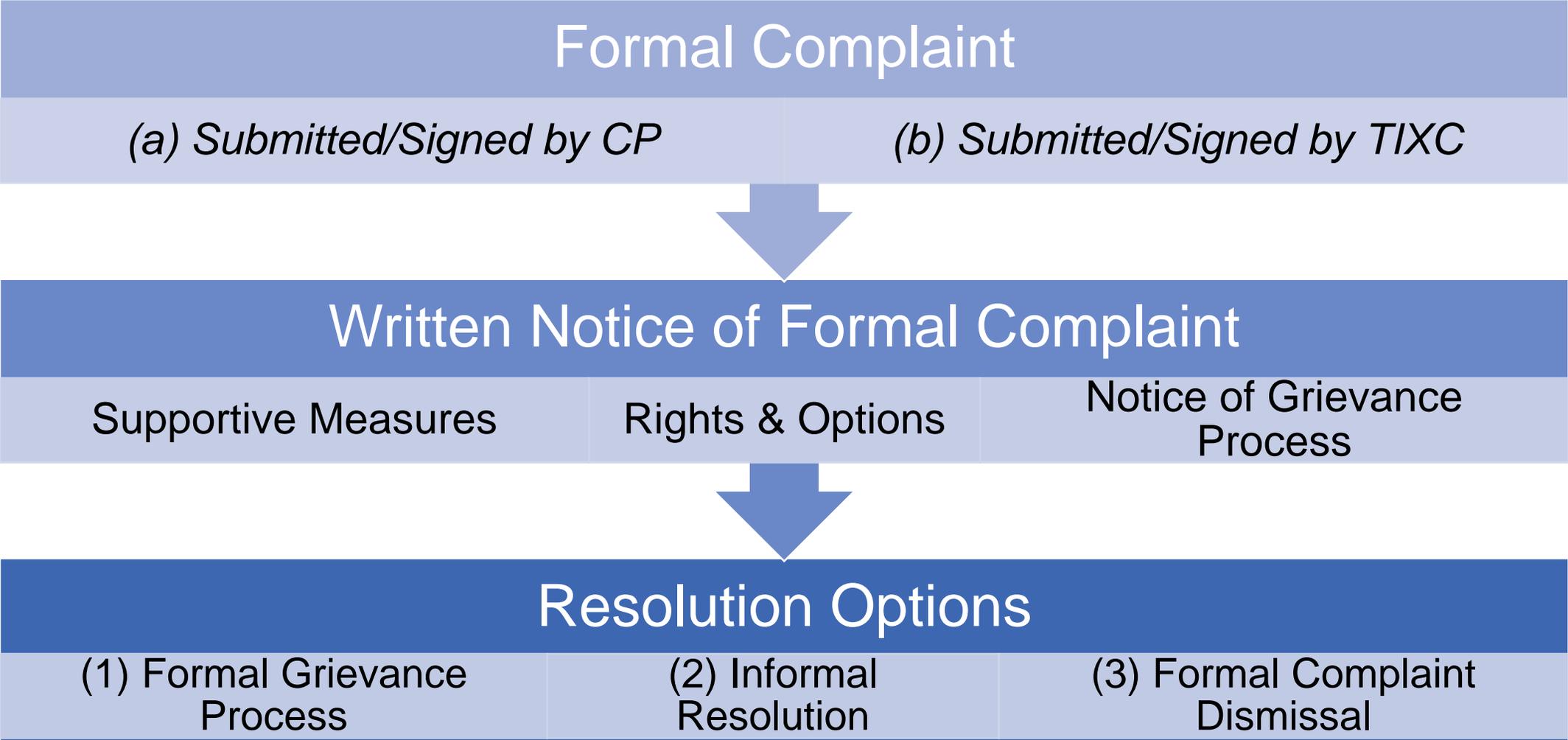


Reports Versus Formal Complaints

- **Reports** of sex discrimination and sexual harassment may be submitted by any person (e.g. complainants, third-parties, bystanders, employees) to the institution.
- In order to initiate the formal grievance process, a signed **formal complaint** must be received. Formal complaints may be made by:
 1. Complainant (actual alleged victim)
 2. Title IX Coordinator in limited situations



Title IX Resolution Flowchart



Title IX Grievance Process

Formal Complaint Filed



Emergency Removals

1. **Individualized safety & risk analysis:** Determines that immediate threat to the physical health & safety of any student or other individual arising from the allegations justifies the respondent's removal from the education program or activity.
 - Notice & opportunity to challenge the decision immediately following the removal.
 - Rights under **ADA & Section 504** still apply.
2. Doesn't preclude an institution from placing non-student employee respondents on **administrative leave** during the pendency of the grievance process.



Formal Complaint Dismissals under Title IX

1. **Mandatory Dismissals** are required when the **definitional** or any element of the **jurisdictional** framework under Title IX is not met:
 - Conduct alleged constitutes “**sexual harassment**” under the regulations;
 - Conduct alleged occurs in the institution’s “**education program or activity**”;
 - Conduct alleged occurs against a person “**in the United States**”; or
 - Complainant is **participating in** or **attempting to** participate in the “education program or activity” of the institution.



Discretionary Dismissals

- Complainant withdraws the formal complaint or allegations;
- Respondent is no longer enrolled or employed at the institution; or
- Specific circumstances prevent the institution from gathering evidence sufficient to reach a determination as to the formal complaint or allegations.

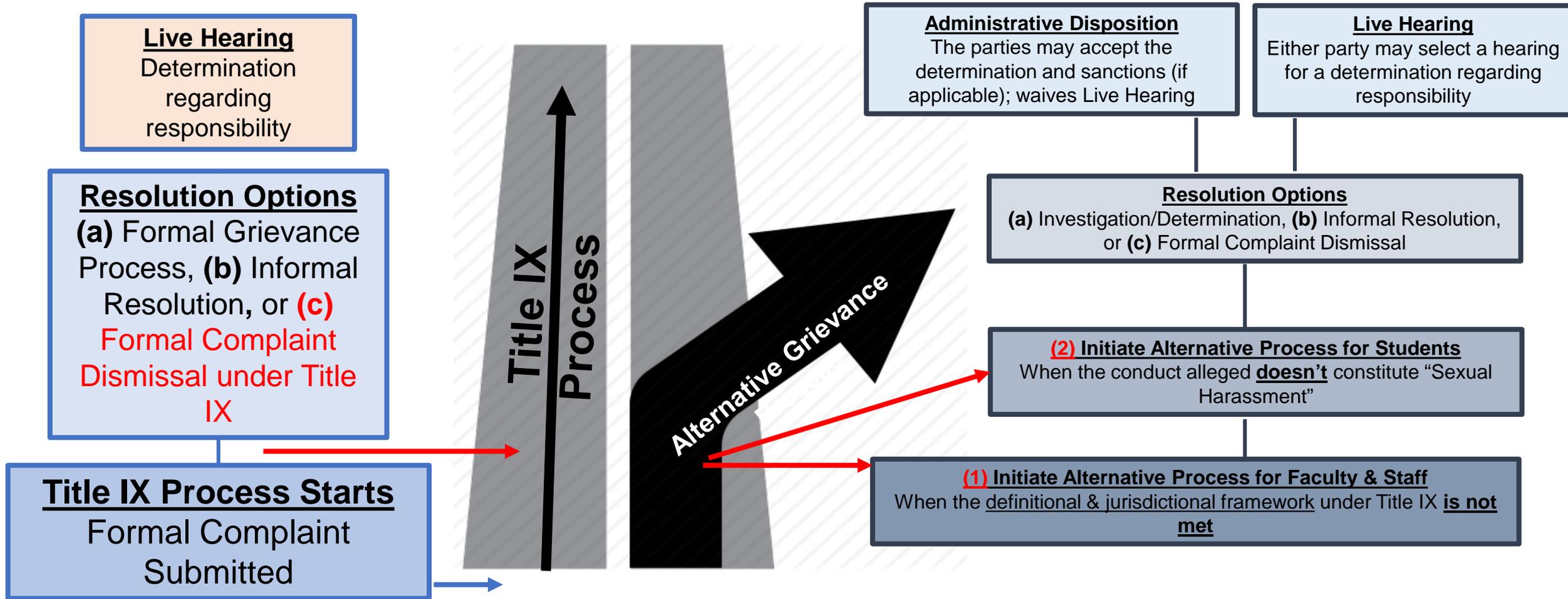


Alternative Grievance Process

- Dismissing a Formal Complaint under Title IX doesn't preclude an institution from addressing conduct prohibited under an institution's policy through a fair and equitable grievance process.



Institution's Sexual Misconduct Grievance Process



Informal Resolutions under Title IX

1. **It's an alternative resolution option** once a formal complaint is filed.
 - Available as an option at any time prior to reaching a determination regarding responsibility.
 - Doesn't involve a full investigation & adjudication.
 - May be facilitated through **mediation** (as an example).
 - Informal Resolution Process must include: (a) Written notice of allegations, (b) Requirements of the informal process, & (c) Any consequences resulting from participating in an informal process (e.g. record keeping).
2. Not permitted as a resolution option when an **employee respondent** is alleged of sexual harassment by a **student complainant**.



Live Hearings under Title IX

1. **Required under Title IX**; *unless resolved through an informal resolution agreement or a formal complaint dismissal.*
2. Both parties must have **access to evidence obtained** during the investigation, and equal opportunity to refer to such evidence during the hearing.
3. **Each party's advisor** must be permitted to ask relevant questions of the other party and any witnesses, including questions that challenge credibility:
 - Conducted orally, directly, and in real time by the party's advisor
 - Never permitted by a party personally



Live Hearings under Title IX

4. May be conducted with all of the parties **physically present** in the same geographic location; or
5. Any of the parties, witnesses, & other participants may appear **virtually**, with technology enabling participants simultaneously to **see & hear each other** (at the institution's discretion).
6. Must create an audio or audiovisual recording, or transcript of any live hearing, & make available to the parties for inspection & review.

