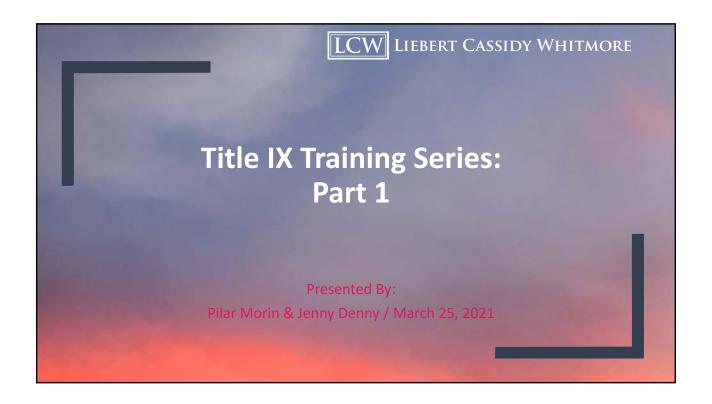
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# **Changes Are Coming**

- Gender Identity & Sexual Orientation
   Discrimination: Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation (Jan. 20, 2021)
- Executive Order on Guaranteeing an Educational Environment Free from Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity (Mar. 8, 2021)

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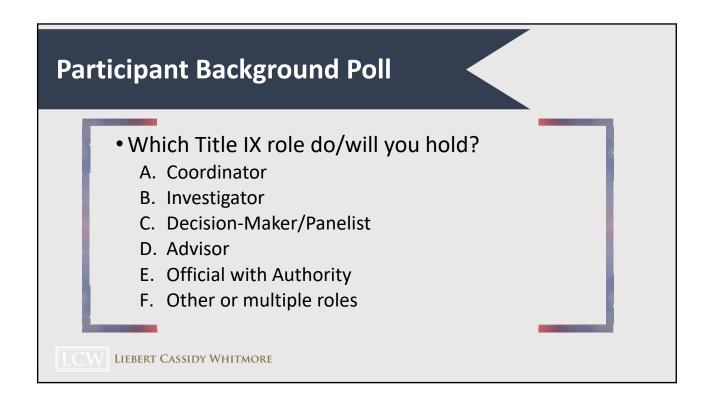
# **Required Training Components**

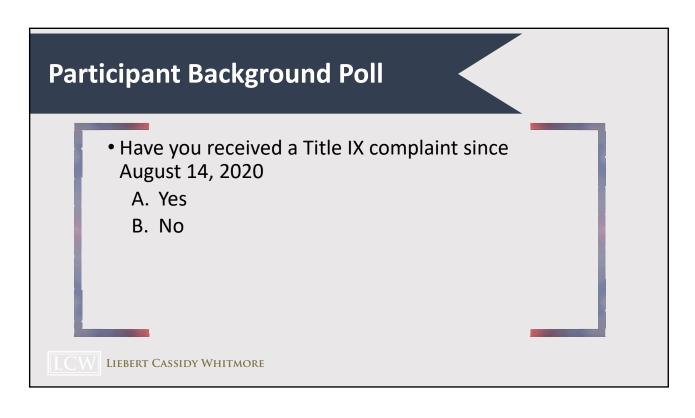
- Definition of sexual harassment
- Scope of education program or activity
- How to conduct investigation and prepare investigative report
- How to implement grievance process
  - Hearings
  - Appeals
  - Informal resolution process
- How to serve impartially
- Decision-makers: Hearing technology and issues of relevance



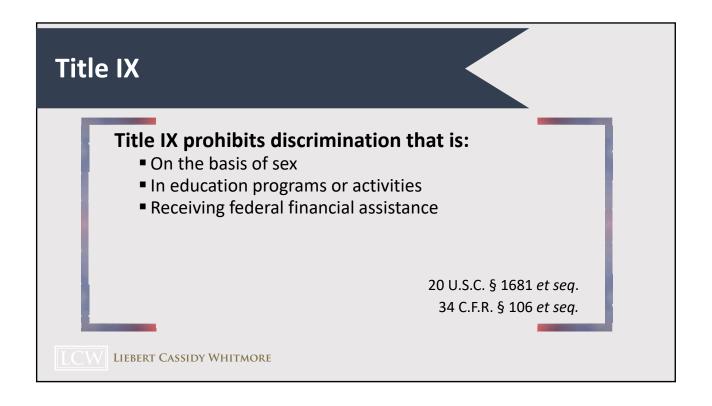
# Participant Background Poll ICW

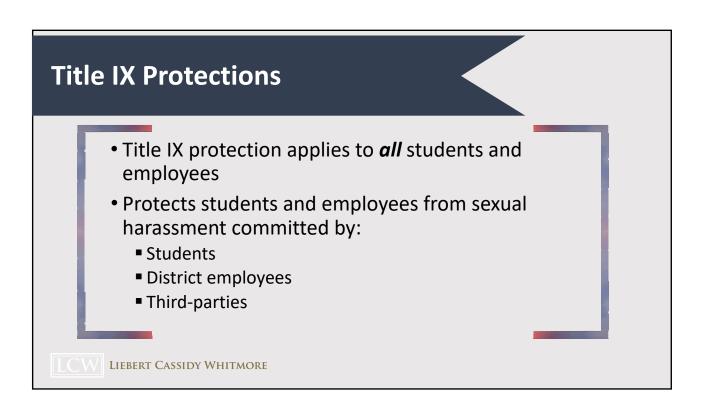






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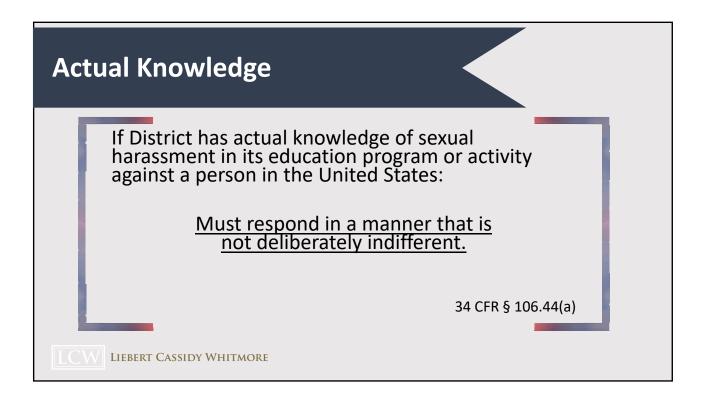


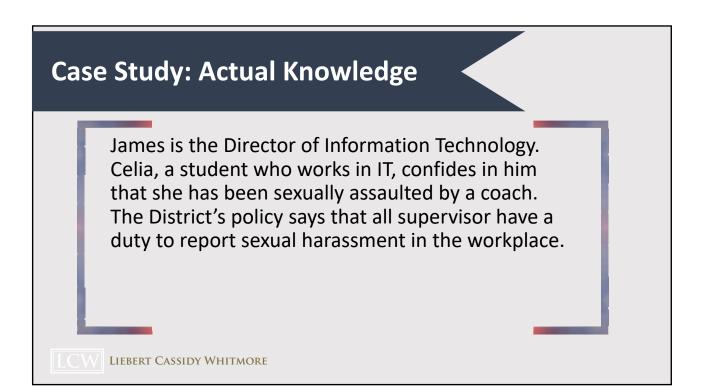


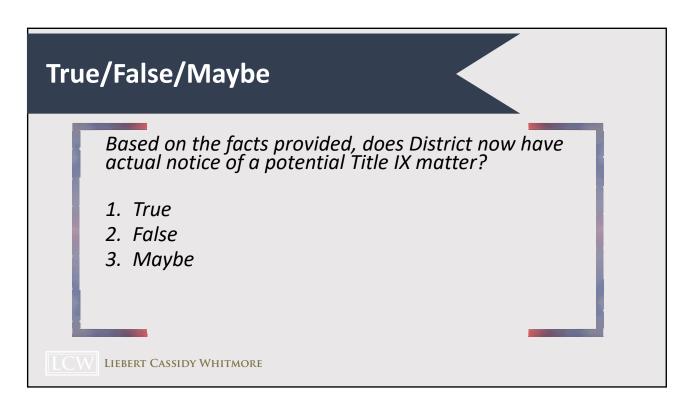


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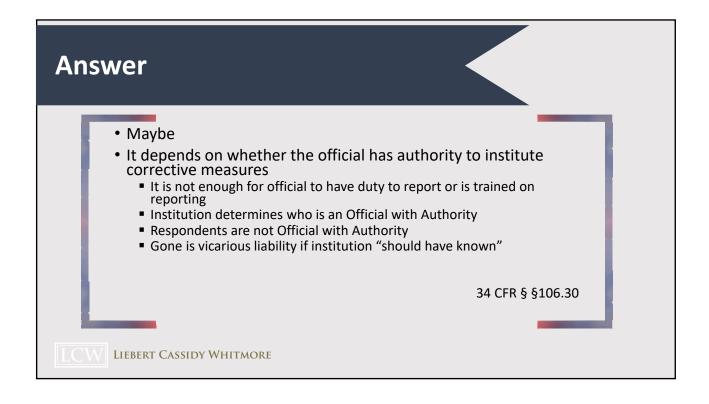


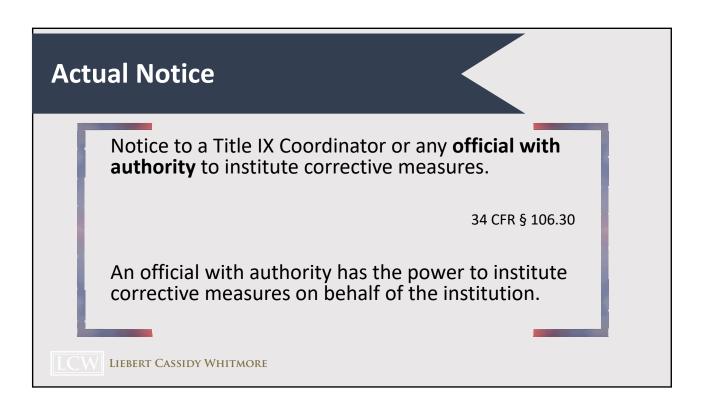






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# **Sexual Harassment**

- Quid pro quo: An employee conditioning an aid, benefit, or service on complainant's participation in unwelcome sexual conduct
- Unwelcome conduct so severe, pervasive, <u>and</u> objectively offensive that it effectively denies a person equal access to education program or activity; or
- Sexual assault, dating violence, domestic violence, or stalking

34 CFR § 106.30

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# **Sexual Harassment**

- Determination re severity, pervasiveness, and offensiveness
  - Not applicable to reports of quid pro quo sexual harassment
  - Not applicable to reports of of sexual assault, dating violence, domestic violence, or stalking
  - Consider surrounding circumstances, expectations, relationships
  - Reasonable person standard

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Celia who is a work study student reports to the Title IX Coordinator the following:

James, the Director of Information Technology, has told her she can get more hours if she goes out with him. He only asked her out once. He did not reduce her hours when she said no.



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# **True or False**

Celia's report does not meet the definition of sexual harassment under Title IX because a reasonable person would not find the conduct so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the institution's education program or activity?

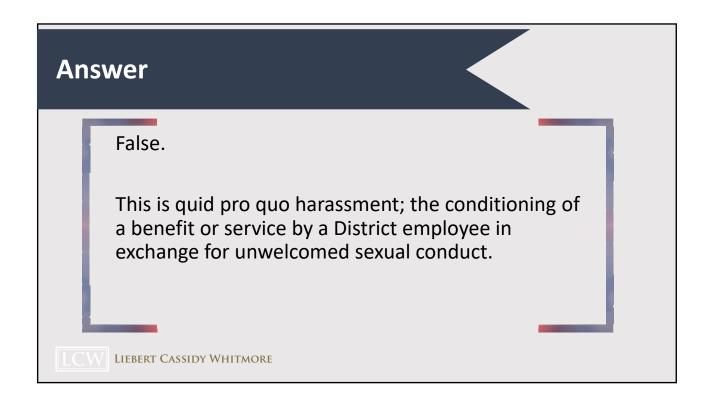
True, False or Maybe

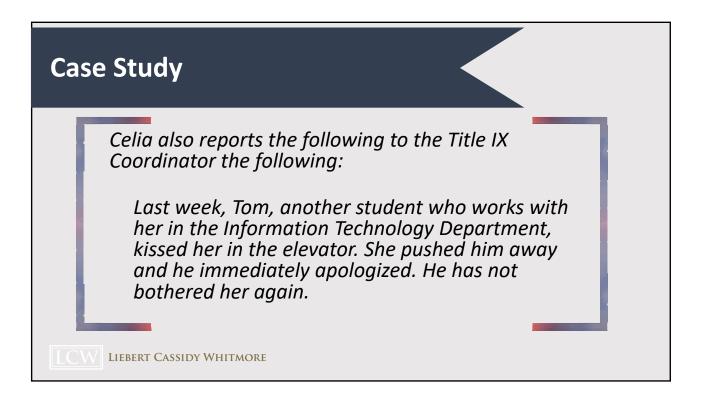


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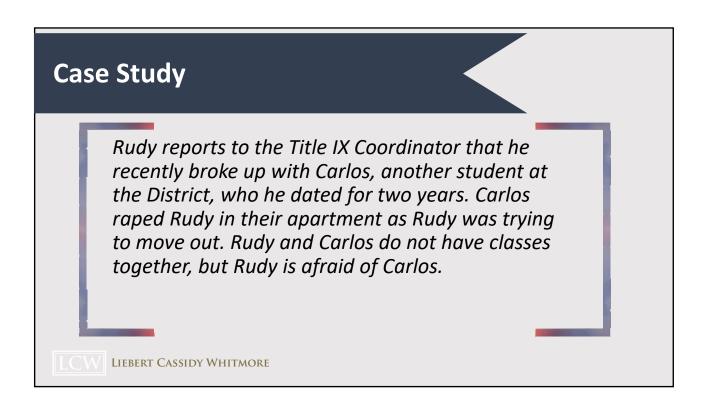


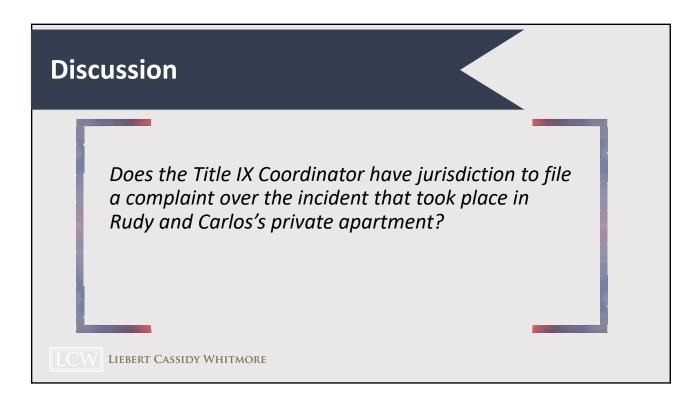
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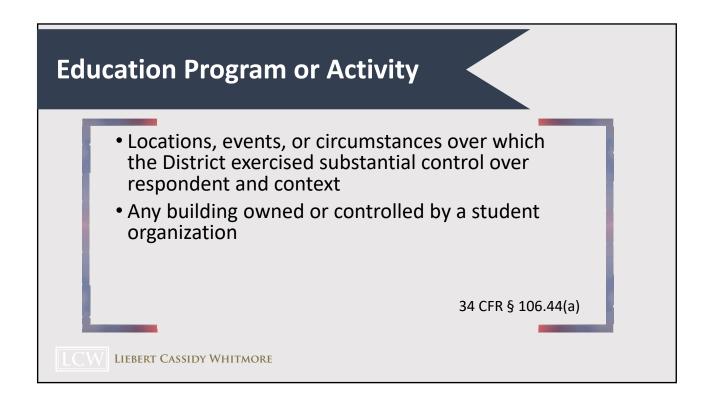




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# **Employee Issues**

- Must respond to sexual harassment as defined by California Fair Employment and Housing Act (FEHA) and Title VII
  - Different definition compared to Title IX
- Title IX obligations might conflict with collective bargaining agreements

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# **Student Issues**

# Student services – discipline/due process:

- Must be consistent with federally guaranteed due process rights
- Cannot remove, suspend, or expel a student unless discipline is related to college activity or attendance
  - Exception for sexual assault and sexual exploitation
  - Must still follow Title IX regulations

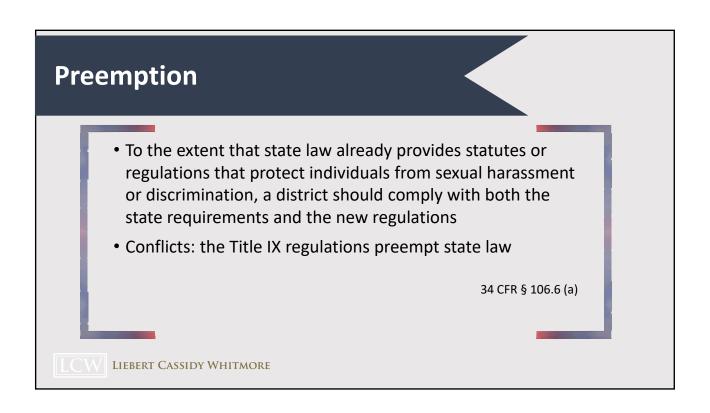
Ed. Code §§ 76033 and 76034

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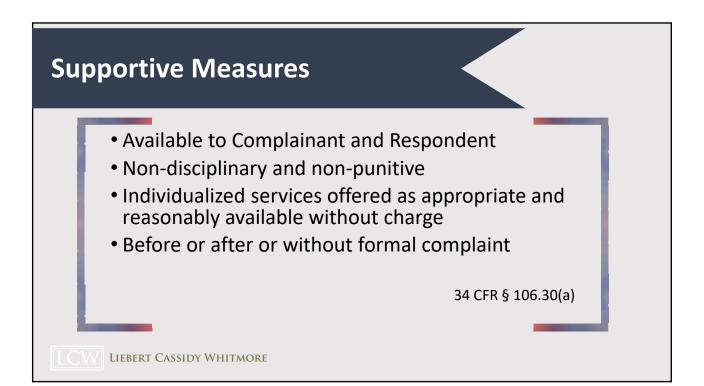
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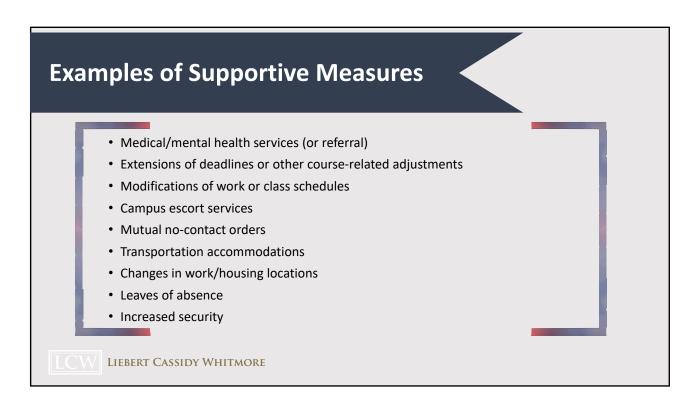






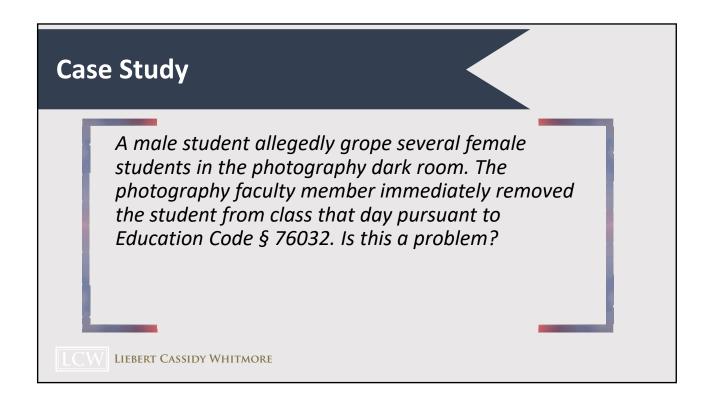
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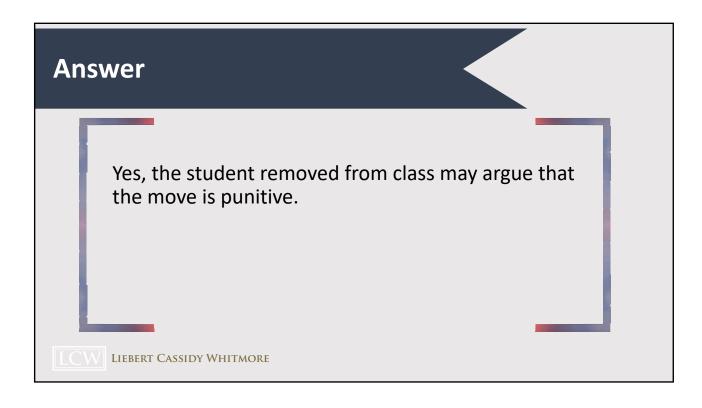




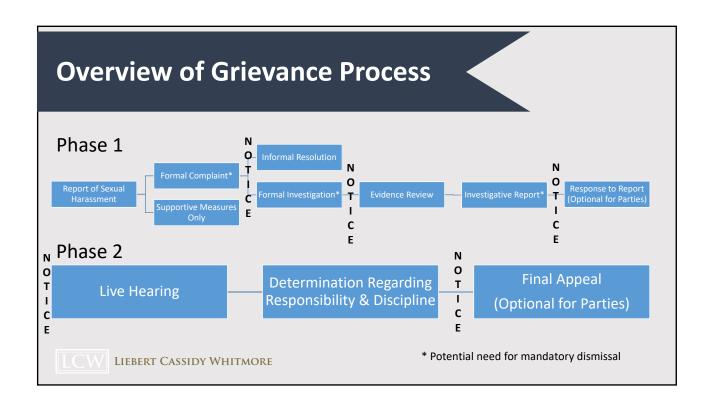


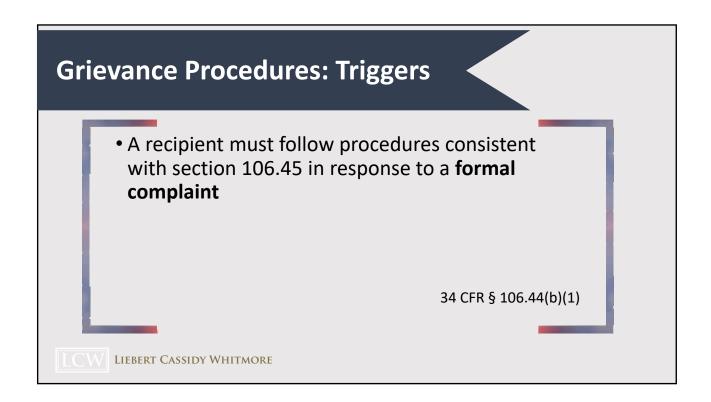
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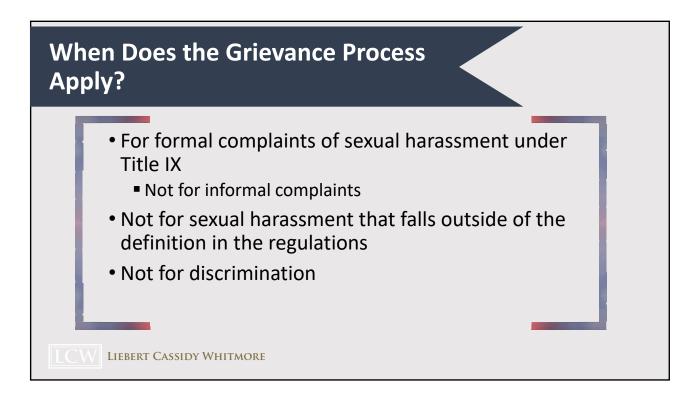






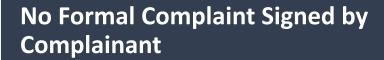












- If the alleged conduct falls under Title IX but the Complainant refuses to submit a formal complaint, the Coordinator must:
  - Close the report OR
  - Become the signatory (but will not become the complainant)

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# **Consolidating Complaints**

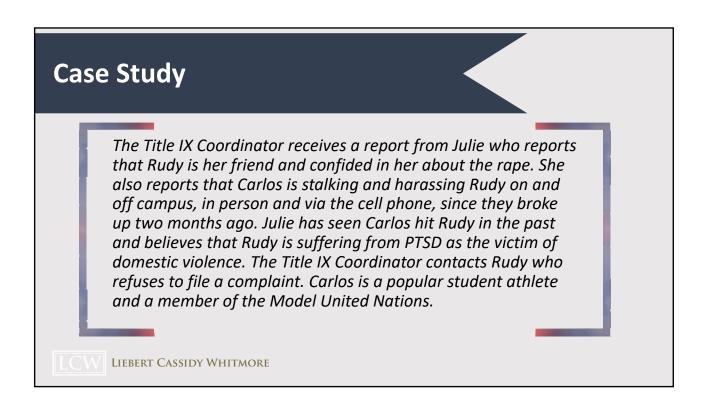
Discretion to consolidate complaints:

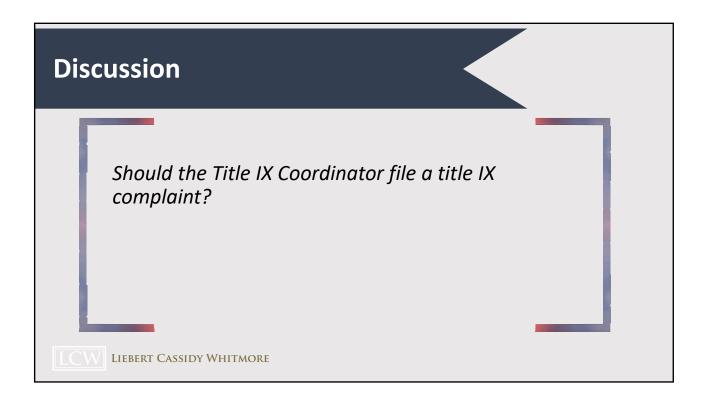
- arise out of the same facts or circumstances (so intertwined that their allegations directly relate to all parties) and
- involve more than one complainant, more than one respondent, or counter-complaints

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# Formal Complaint by Title IX Coordinator

# **Considerations**

- Complainant's wishes
- Ability to conduct investigation without Complainant's participation
- District's need to protect campus safety
  - Respondent in position of authority
- Nature of alleged harassment
  - Multiple reports against same respondent



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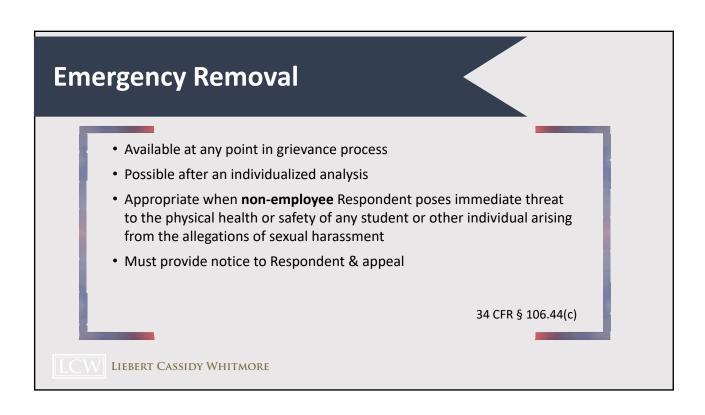
The Grievance Process – Issues Before the Investigation

LCW



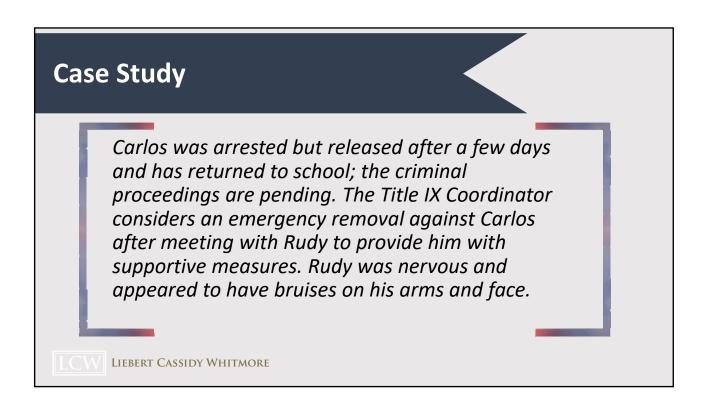
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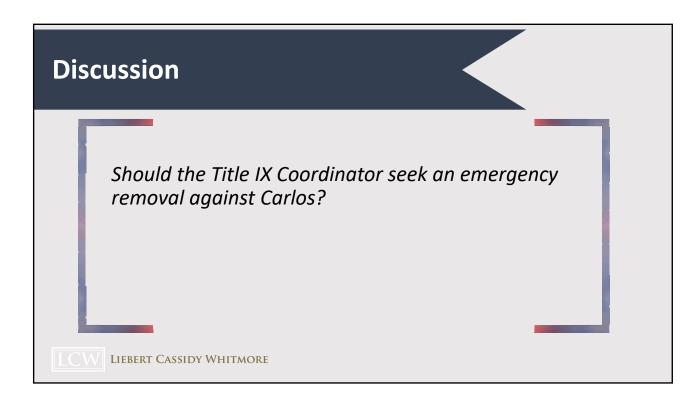






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# **Emergency Removal**

### **Considerations**

- The particular Respondent and the specific circumstances;
- · Whether there is an immediate threat
- Whether the threat is to the physical health or safety of one or more individuals
- Whether the emergency situation specifically arises from the allegations of Title IX sexual harassment.
- Applicability of any disability laws
- Appropriateness of other supportive measures in lieu of removal



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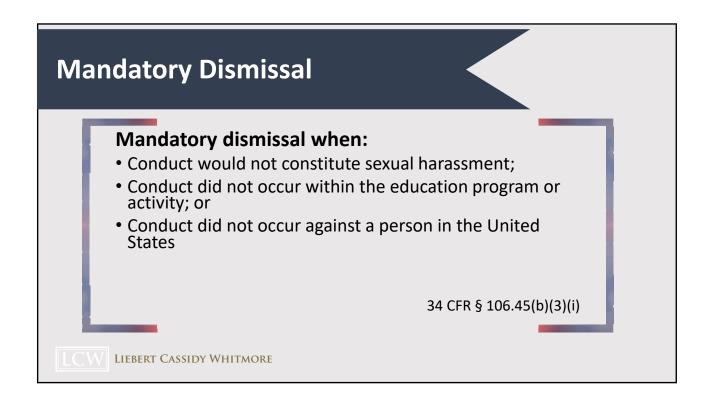
# **Administrative Leave**

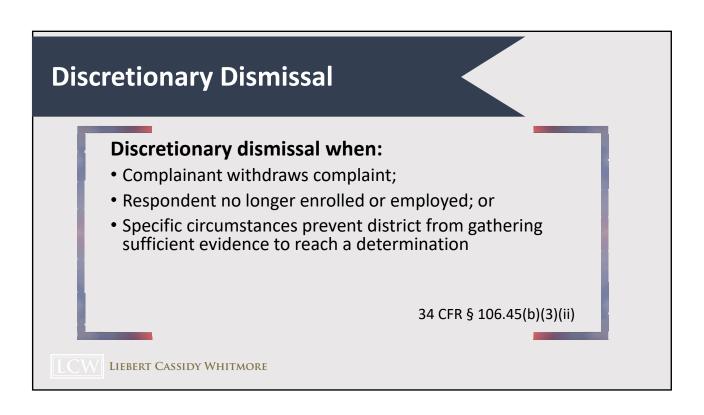
District has authority to place employee
 Respondents on administrative leave during Title
 IX grievance process

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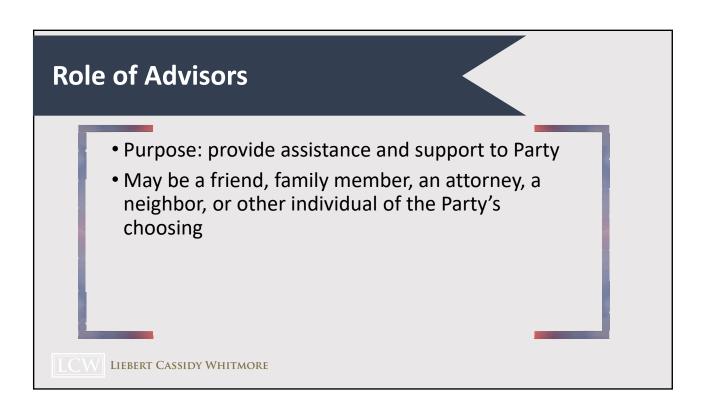






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# **Role of Advisors Before Hearing**

- Not required before hearing
  - May attend investigative interview(s), participate in evidence review, help Party prepare response to investigative report
- May not obstruct interview or disrupt grievance process
- Must sign confidentiality agreement



# The Investigator

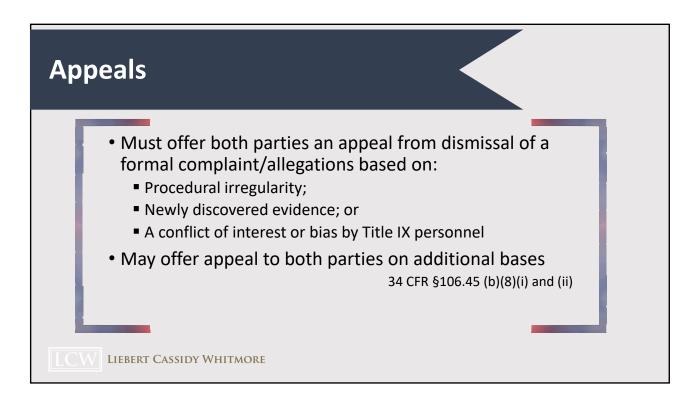
The investigator must

- Be free of biases and conflicts of interest
- Conduct the investigation
   – gather inculpatory and exculpatory evidence
- Be trained on issues of relevance to create an investigative report that fairly summarizes relevant evidence
- Write the report

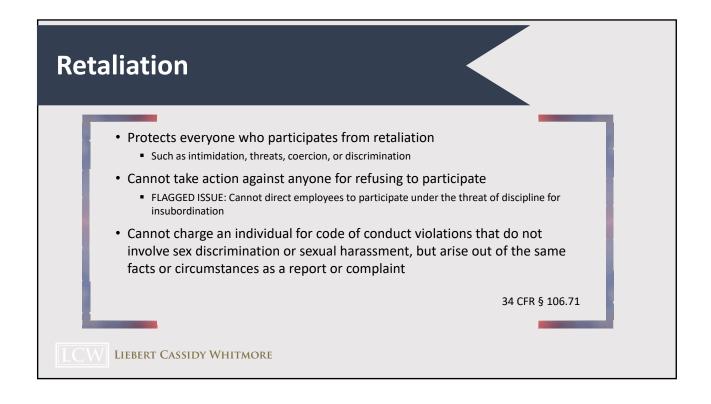
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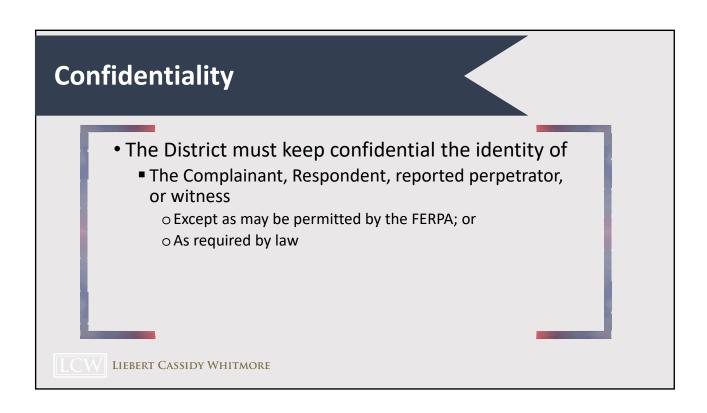




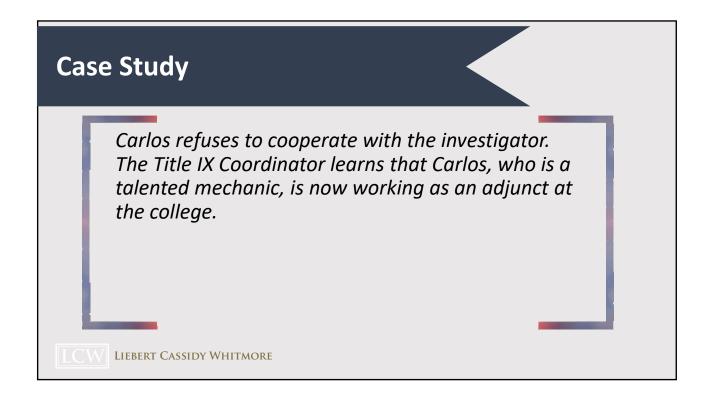


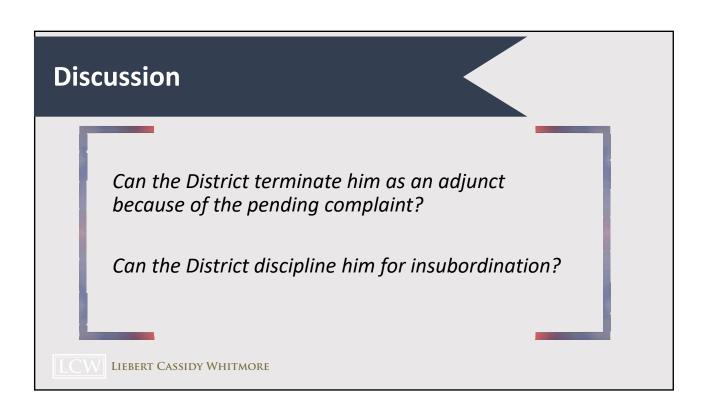
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In March, campus security cameras captured an attack in a college parking structure. The Title IX Coordinator recognizes Carlos as the attacker. It appears from the footage that Carlos pulled Maria, a student from his auto mechanics class, into his car and sexually assaulted her. Maria did not report the incident.



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# **Discussion**

Does this trigger the District's Title IX obligations?

If Maria refuses to file a complaint, what should the Title IX Coordinator do?

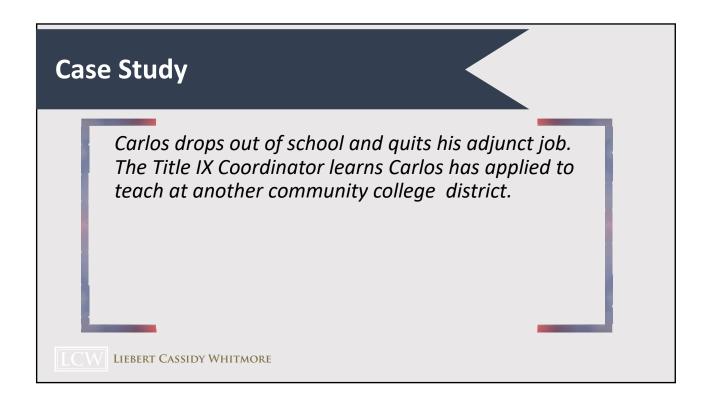
If a report is filed, should the Title IX Coordinator consolidate the matters?

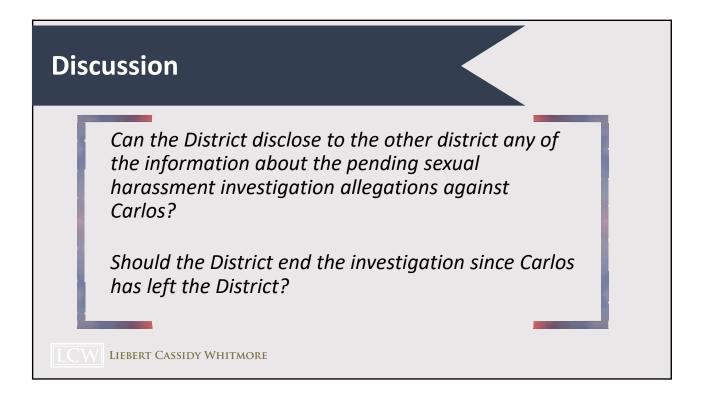


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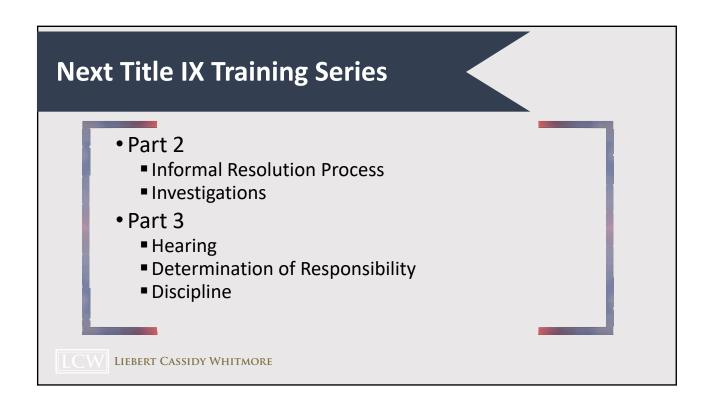
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