



DISTRICT OF COLUMBIA
PUBLIC SCHOOLS

Title IX Update for CARE Team

August 7, 2020



Title IX Major Policy Changes

Definition of Sexual harassment

- Sexual Harassment under Title IX is defined as 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 recipient's education program or activity; or "Sexual Assault," "Dating Violence," "Domestic Violence" or "Stalking" as defined in the Clery Act

Conflicts with DCPS definition and Student Safety Omnibus Act Definition

Previous definition was an "or" not "and", limits the conduct that falls under Title IX

Renaming of Interim Services to Supportive Measures

- Individualized services provided to a complainant and respondent that are non-punitive, non-disciplinary, and do not unreasonably burden the other party yet that are designed to restore or preserve a person's equal access to education

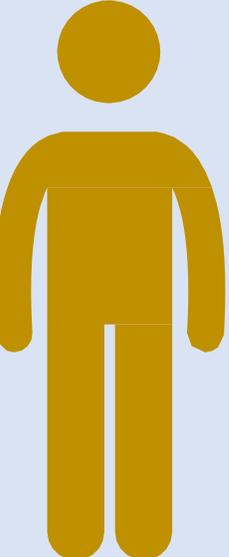
Definition of Jurisdiction

- Assessment of whether school district has substantial control over the context where sexual harassment occurs. Title IX is not applicable when students are traveling abroad

Dismissal, Party participation in process and Grounds for appeal

- Allegations that don't meet the Title IX threshold must be dismissed.
- Expansion of parties involvement in final resolution (including questioning and review of draft reports)
- Appeals require standardized grounds in order to effectuate the appellate process

Title IX Regulations Training Requirements



Title IX Coordinator

Formal training needed

Can't be the decision-maker

Can serve as an investigator



Employees w / Actual Knowledge (all DCPS employees, refresher training needed)

Investigator(s) (4 staff including the Title IX Coordinator only 2 have formal training)

**Decision- Maker(s) (2)
(formal training helpful)**

**Appellate Member (s)
(Instructional Superintendents and CIO—formal training needed)**

Advisors (pool needs to be created)

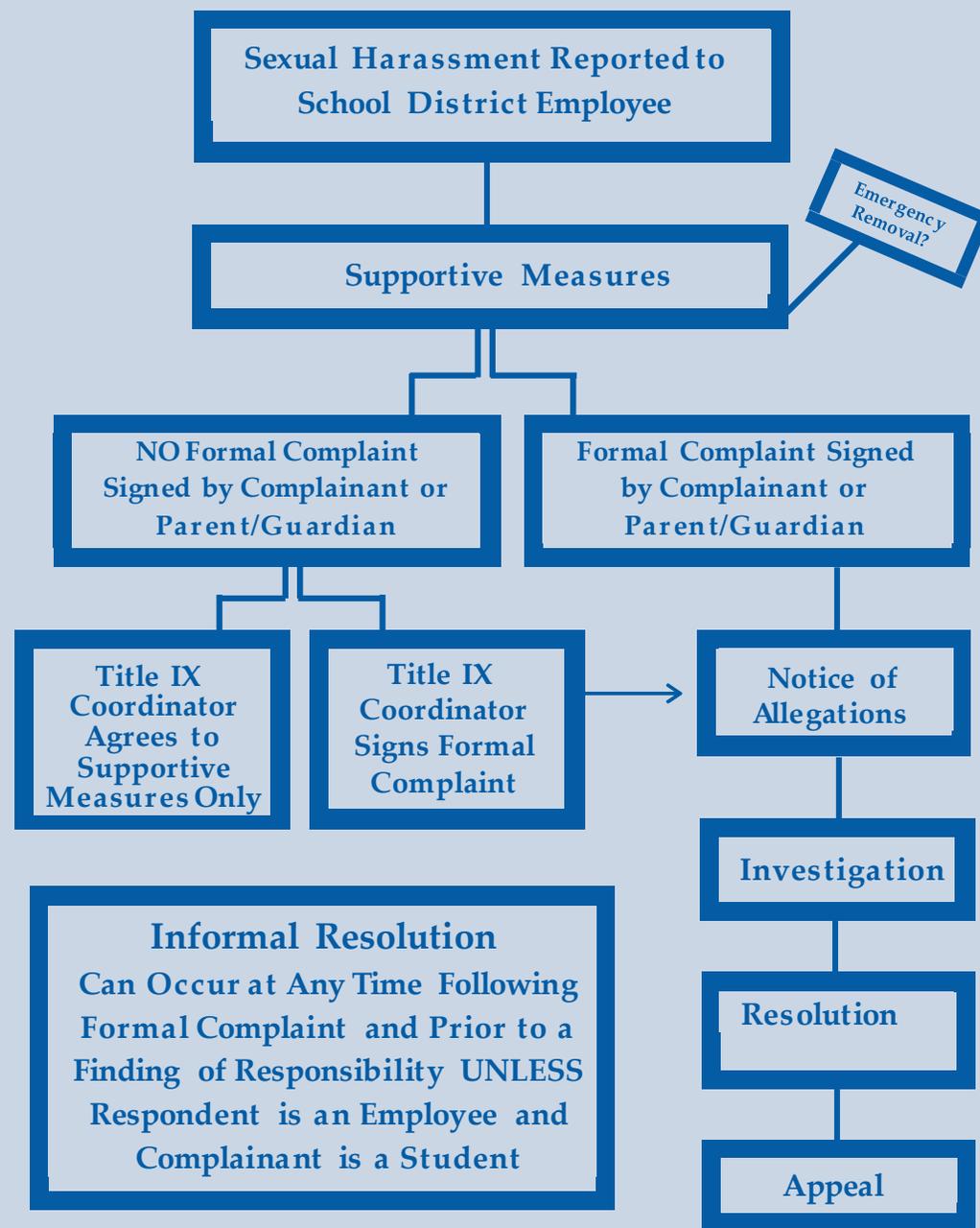
Modification to Business Processes

DCPS local regulations and the new Federal Title IX regulation will require DCPS to have two resolution tracks for cases where sexual misconduct is involved. Below are changes the CARE team will have to implement in response based on the new regulations:

- Adjustments to intake process to ascertain if a student/parent wants to pursue a formal grievance filing (which must be submitted in writing);
- Prescribing support services for all involves parties;
- Providing each party the opportunity to review the investigative report and provide feedback prior to its finalization; and
- Providing each party the opportunity to pose questions to the other side in lieu of holding hearings.
- Creation of new forms (written complaint, party inquiry, party review, dismissal, notice of allegation, emergency removal)

It is important to note that changes and regulatory nuances will not have any bearing on the response and support provided to students

Process Flow Chart



INVESTIGATIVE TIMELINE

1

INVESTIGATE

- Notice of Allegations
- Notice of all interviews with sufficient time to prepare

2

Parties inspection and review of evidence and opportunity to provide written response

10 days

3

INVESTIGATIVE REPORT

4

Parties review of final report and opportunity to provide written response

10 days

5

Question and answer period between parties facilitated by Decision Maker
RESOLUTION

6

APPEAL
Based on grounds

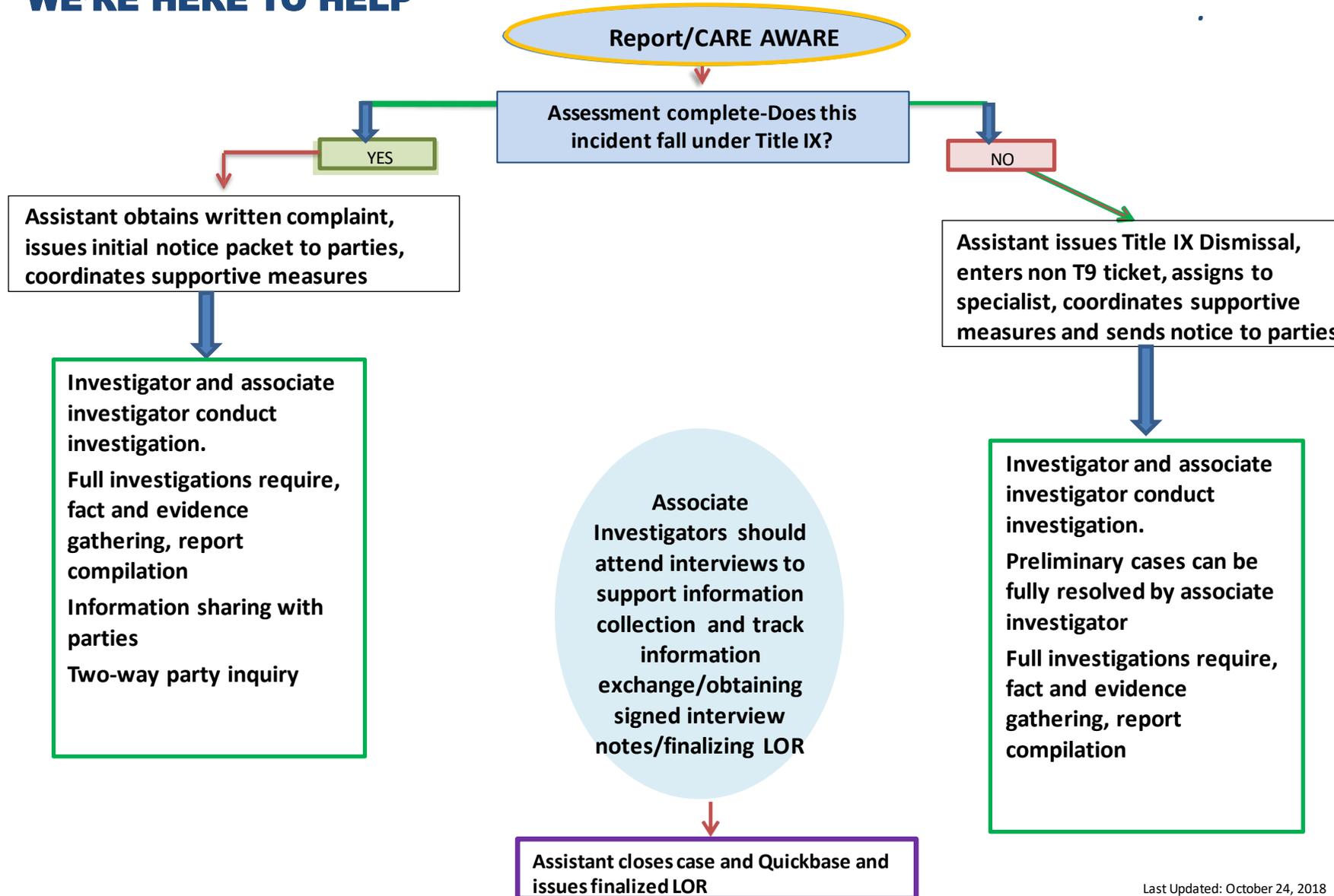
SEVEN STEPS TO RESOLUTION

1. Receiving a Report
 2. Assessment and Categorization
 3. Assignment of Supportive Measures
 4. Party Notification
 5. Investigation
 6. Party Inquiry and Inspection
 7. Resolution
-

District of Columbia Public Schools CARE Team

SEXUAL HARASSMENT, SEX DISCRIMINATION, DATING/SEXUAL VIOLENCE (internal flow chart)

WE'RE HERE TO HELP





CARE IS AWARE
“Reporting”



Receiving a Report

Who can receive a report?

Who can file a report?

How can a report be filed?

What is the time frame for entering and assigning a ticket once a report has been filed?

Receiving a Report

Who can receive a report? **Any DCPS employee can receive a report**

Who can file a report? **Students/parents/third party**

How can a report be filed? **Online, email, telephone, walk-in, social media posting**

What is the time frame for entering and assigning a ticket once a report has been filed? **1 business day**



The RIGHT TRACK “Assessment”

Assessment of Sexual Harassment and Sex Based Discrimination

Track 1 Title IX

Requires a formal written complaint

Must meet the definition of sexual harassment/sex-based discrimination

DCPS must have jurisdiction



Track 2 Sexual Misconduct Not Title IX

Does not require a formal written complaint

A sexual act that does not meet the definition of Title IX sexual harassment/sex-based discrimination

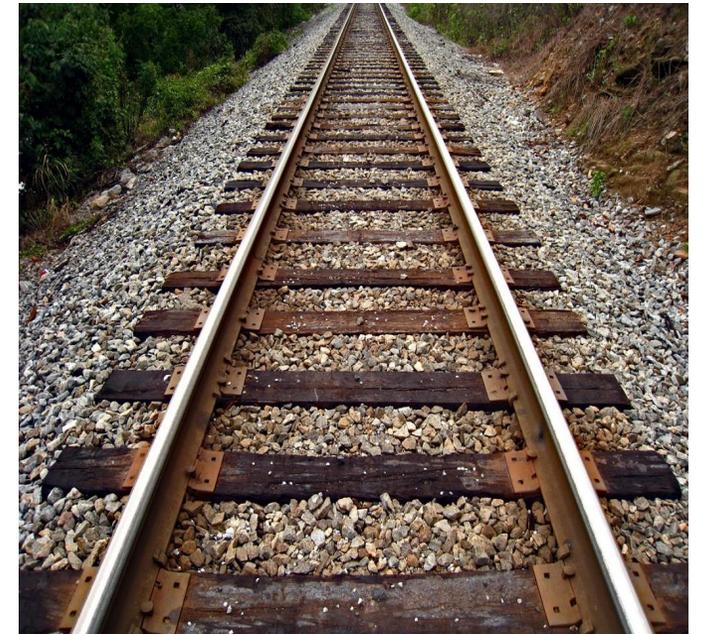
Location does not remove educational impact

Exercise: Title IX vs. Other Sexual Misconduct Not Title IX

<https://www.youtube.com/watch?v=e5dj8E3IFwo>

<https://youtu.be/e5dj8E3IFwo>

Identify instances of sexual misconduct in the video, discuss which track you would categorize it under, explain why.





Supportive Measures for our Students



Supportive Measures

What

• defined term and intentional deviation from "interim measures" individualized services provided to a complainant or respondent that are non-punitive, non-disciplinary, and do not unreasonably burden the other party yet are designed to restore or preserve a person's equal access to education

- Non-disciplinary
- non punitive
- individualized services
- interactive process

Offered

- to complainant and respondent (can be refused)
- as appropriate
- as reasonably available
- without fee or charge

When

- promptly
- before filing of formal complaint **OR**
- where no formal complaint has been filed

Examples include:

- Counseling referral
- Separation plan
- Schedule changes

Supportive Measure form must be uploaded by IA



Party Notification “Written Formal Notice”

What is formal written notice?

- Written Notice notifies all parties of the allegations, DCPS jurisdiction, applicable code, their rights and procedural expectations.
- Written notice must be sent to the complainant and respondent
- With support from the Title IX Coordinator the IA will send written notice



“The Investigation”

What is an investigation?

An investigation is a *legal* and *systematic* process of identifying, gathering, preserving and evaluating evidence for the purpose of enforcing statutes, rules and regulations in pursuit of justice. Investigators fact find and provide an unbiased account of the facts.

The primary goals of an investigation are to:

- Verify that a violation has been committed
- To collect, preserve and process sufficient evidence in accordance to law and Agency directives to support a finding.

Investigative Steps

- 1. Case Initiation**
- 2. Assessment of Allegation**
- 3. Development of Investigative Plan**
- 4. Conducting the Investigation Safely and Accurately (interviews, evidence collection)**
- 5. Investigative Report**
- 6. Letter of Resolution/Recommendations**
- 7. Case Closure**

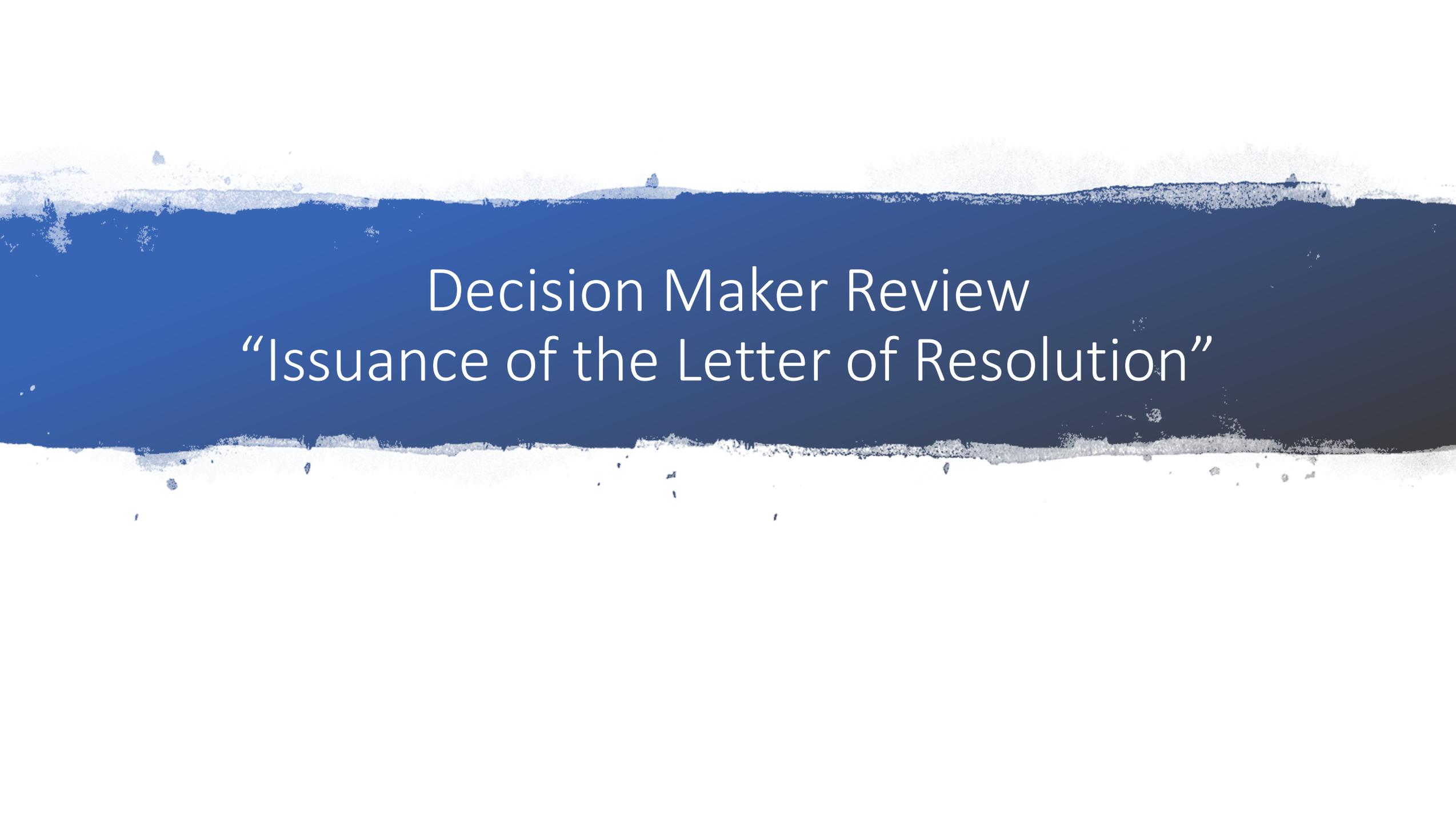


Information Sharing “Party Inquiry and Inspection”

Information Sharing

The new Title IX regulations requires school districts to give each party the opportunity to review the evidences and letter of resolution prior to finalization. What does this mean for you?

1. Interview notes should contain questions and responses (record interviews/invite an associate investigator to co-facilitate the interview to capture accurate information.) Complete the new interview template and obtain signature from interviewee to confirm accuracy of content
2. Fill out the *Evidence Inspection* and *Party Inquiry* forms submit to both parties (Each form has a 10-day review period attached). In the event no response is received by day 10, document the record and proceed with closure.
3. The DRAFT LOR must also be shared with parties prior to issuance, this must be done after OGC approval.



Decision Maker Review
“Issuance of the Letter of Resolution”

The Decision Maker Review and Approval

The new Title IX regulations require the decision maker to review draft letters of resolution and the investigative file. What does this mean for you?

1. Prior to submission of the draft letter of resolution please ensure the case file is update, all documents and communication exchanges between parties are properly labeled and uploaded in the applicable sections of the database.
2. The decision maker will review all information, once approved the decision maker will email the document to the associate investigator for electronic signature, file completion and case closure.



Appellate Procedures

The Appeal Process

The current appeal process still mandates two levels of appeal facilitated by the Office of Integrity.

- **Level I appeals are heard by the Instructional Superintendent**
- **Level II appeals are heard by the Chancellor's panel**

The Intake Assistant will provide all documents for review to the requisite appellate party.