



GRAND RIVER | SOLUTIONS

2022 Draft Title IX Regulations

A Summary Session for Colleges and Universities

June 28, 2022

About Us

Vision

We exist to help create safe and equitable work and educational environments.

Mission

Bring systemic change to how school districts and institutions of higher education address their Clery Act & Title IX obligations.

Core Values

- Responsive
- Innovation
- Accountability
- Transformation
- Integrity

Meet Your Facilitators



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She/Her

Director of Consulting
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Overview of Topics

1

Scope Clarity (& Expans

2

Definitions

3

Procedural Updates

4

So Much More

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REMINDER

Continue to follow current policies and procedures consistent with the 2020 Financial and state law

Background

Released
unofficially June 23,
2022 – Happy
Anniversary!

July 8 FR
publication would
take us to ~Sept. 6
for the initial,
mandatory
comment period.

Expected to be
published in the
Federal Register
July 8th.

Anticipating an
Extension... TBD

2020 Final Rule

- Nov. 2018 Publication → May 2020 Final → August 2020 Effective
- 140,000+ Comments



(Proposed) Expanded Scope

- Sex-Based Harassment (Proposed § 106.2) includes Discrimination on the Basis of Sex (Proposed § 106.10)

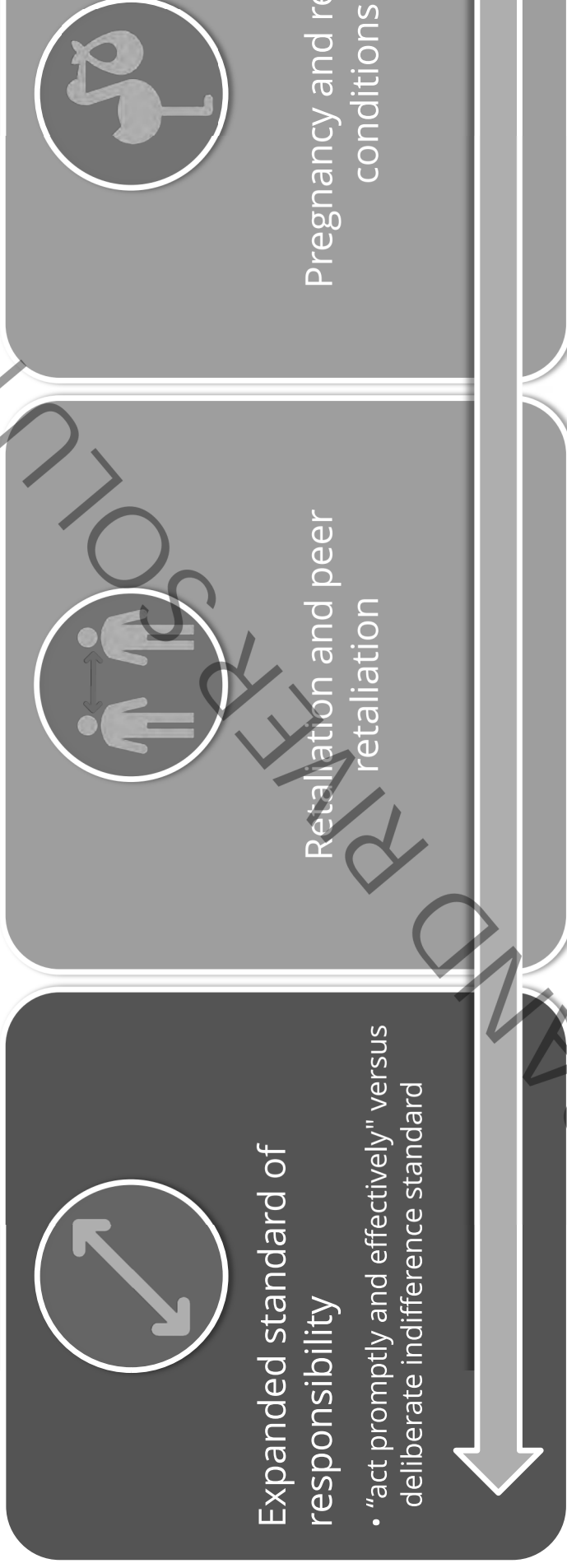
SEX-BASED HARASSMENT

- Quid pro quo
- Hostile environment: “Severe **or** pervasive”
- Specific Offenses, including sexual assault, dating violence, domestic violence, and stalking

DISCRIMINATION ON THE BASIS OF SEX

- discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

(Proposed) Expanded Responsibility



LGBTQI+

- “sex stereotypes, sex characteristics,... sexual orientation, and gender identity.”
- separate rule making for athletic eligibility standards



Responding and Notification

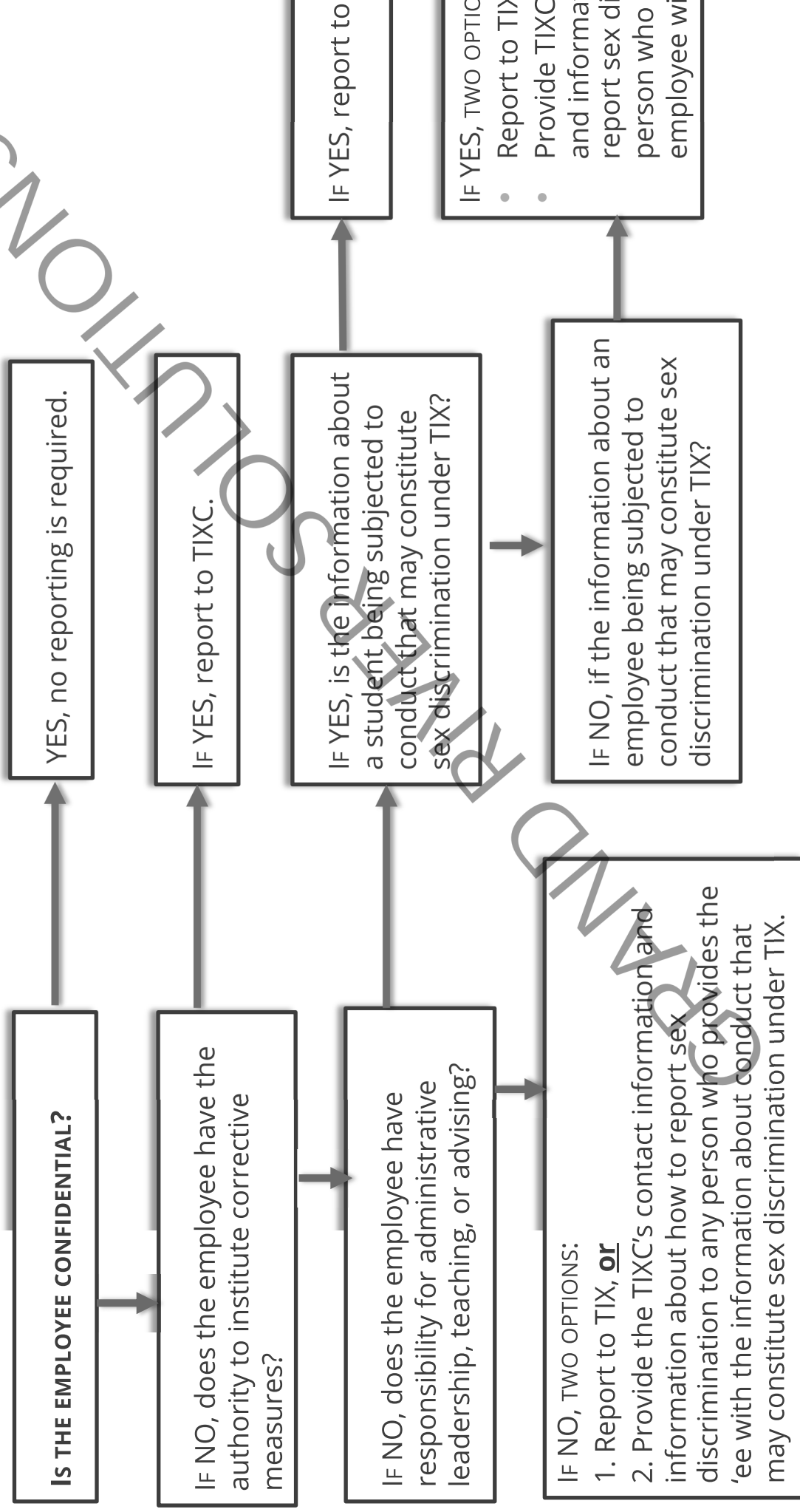
"actual knowledge"

- "[R]equire a recipient to take a prompt and effective action to end any prohibited sex discrimination has occurred in its education program or activity, to prevent its recurrence, and remedy its effect" (Proposed § 106.44(a))
- Supportive measures

Employees required to notify the TIXC (proposed § 106.44) are those who are **not** confidential, and:

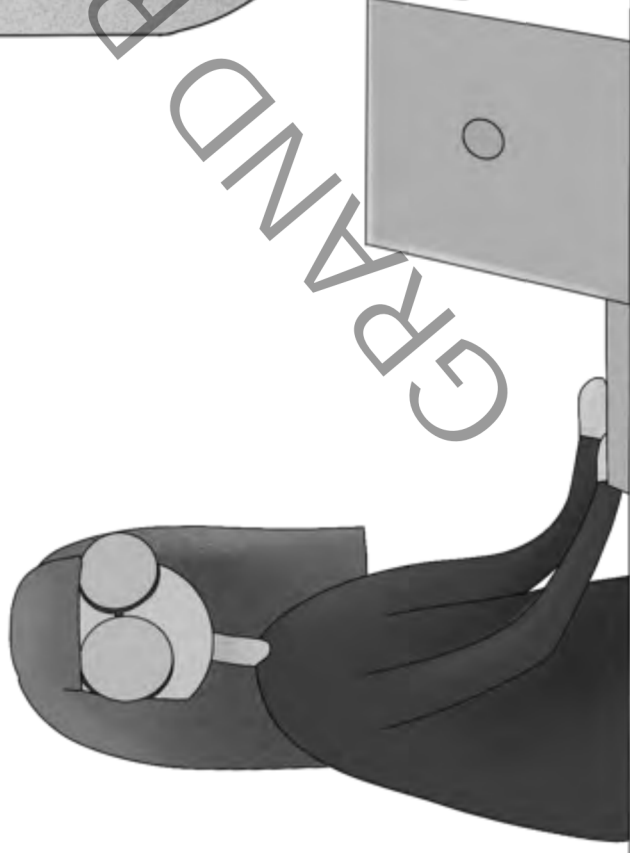
- have responsibility for administrative leadership, teaching, or advising
- have authority to institute corrective measures
- All other employees who are not confidential employees*

Does an employee have to take any action because of what the employee knows about conduct that may constitute sex discrimination under TIX?



Geography and Jurisdiction

- Expanded scope
(Proposed § 106.11)
- ~~"in the United States"~~
(Current § 106.44(a))



"It also requires a recipient to respond to hostile environment based on sex within education program or activity in the United States, **even if sex-based conduct contributing to the hostile environment occurred outside the recipient's educational program or activity or outside the United States.**" (Proposed § 106.11)

Definitions

Student

Complainant (includes 3rd Party Complainants)

Retaliation and Peer Retaliation

Pregnancy or related conditions

Confidential employee

Supportive Measures

- Definition expanded from the 2020 Final Rule
- “Upon being notified of conduct that **may** constitute sex discrimination under Title IX, the IX Coordinator must offer supportive measures, as appropriate, to the complainant and the respondent to the extent necessary to restore or preserve that party’s access to the recipient’s education program or activity” (Proposed § 106.44(g))
- Supportive measures may include but are not limited to:

counseling;

extensions of deadlines and other course-related adjustments;

campus escort services;

increased security and monitoring of certain areas of the campus;

restrictions on contact between the parties;

leaves of absence;

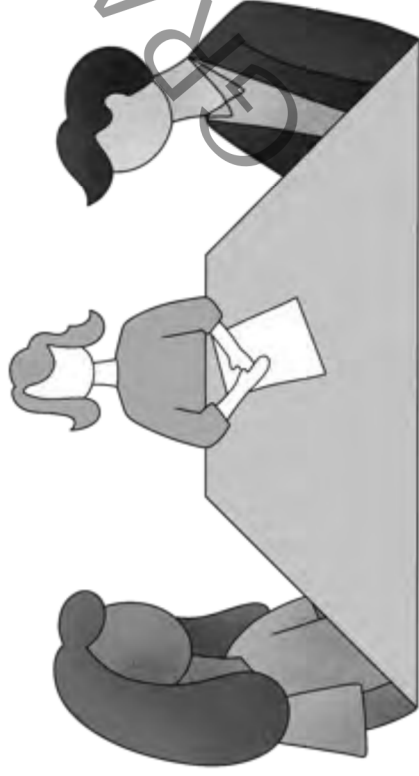
voluntary or involuntary changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative;

training and education programs related to sex-based harassment.

Informal Resolution

When may
informal
resolution begin?

Other changes?



Formal Resolution



Investigations,
Hearings, and the
Single-Investigator
Model

Cross-
examination?

Credibility analysis;
“Process for
evaluating
allegations and
assessing
credibility” (Proposed
§ 106.45(f)(1))

Standard of
evidence; The
preponderance of
the evidence
standard of proof,
unless* (Proposed §
106.45(h)(1))

Training

- SPECIFIC OBLIGATIONS TO TRAIN

Employees: Scope and obligations; responsible employee duties; pregnant/parenting

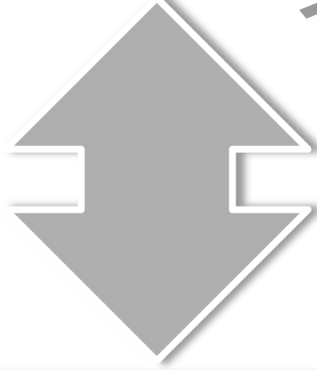
Investigators, decisionmakers, and other persons who are responsible for implementing the recipient's grievance procedures or have the authority to modify or terminate supportive measures

Facilitators of informal resolutions

TIXC and designees

Notice and Comment

The 60-day comment period begins the day the proposed rule is published in the Federal Register.



DATES: Comments must be received on or before [INSERT DATE] OF PUBLICATION IN THE FEDERAL REGISTER].
ADDRESSES: Comments must be submitted via the Federal eRule <http://www.regulations.gov>. However, if you require an accommodation, submit your comments via <http://www.regulations.gov>, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Do YOU WANT TO SUBMIT A COMMENT TO THE DEPARTMENT?

Join us for our comment writing session on Tuesday, July 12th to learn more about the process and how to submit your comments.

Thank you!

Email Us

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