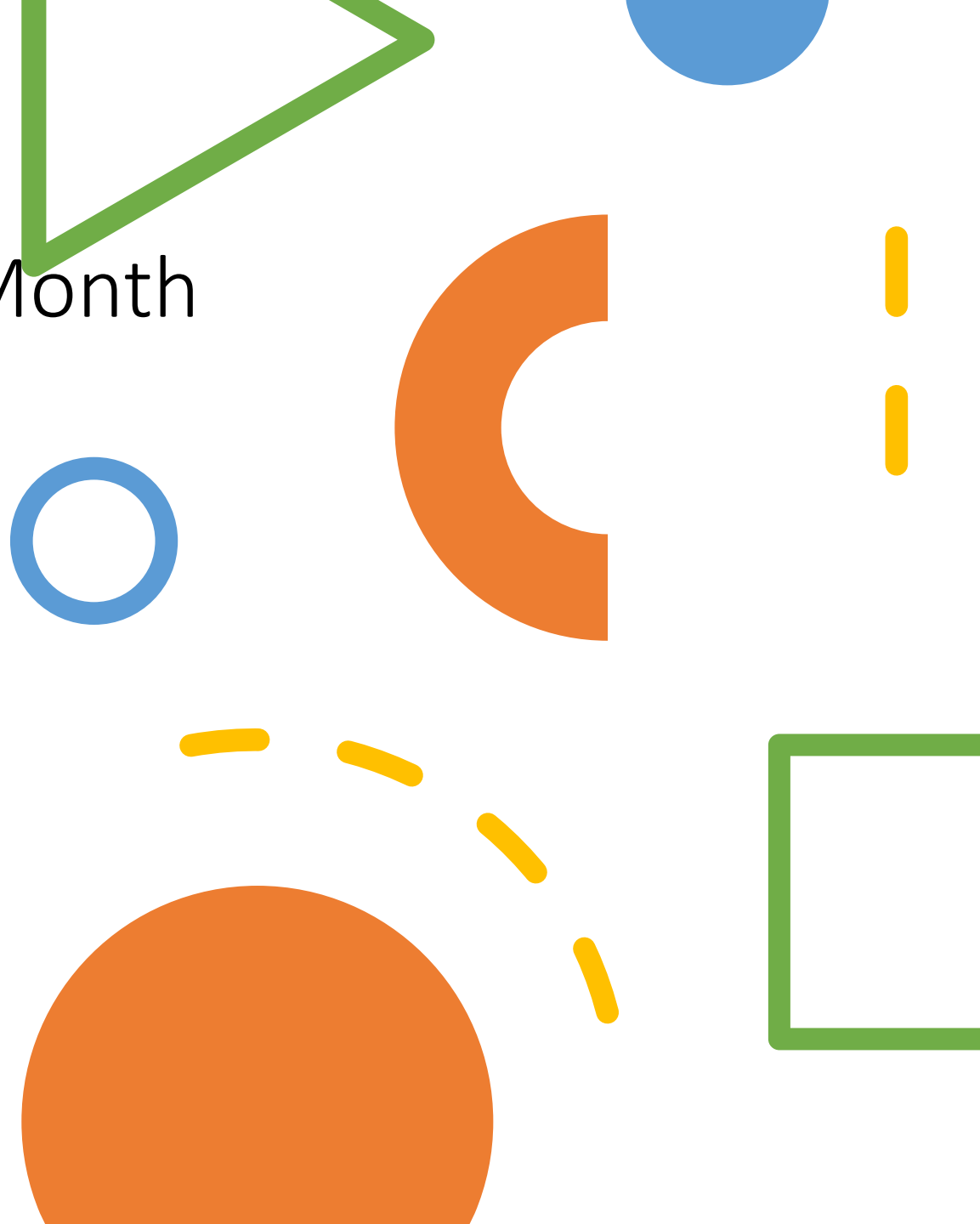


Domestic Violence Awareness Month

Title IX Training
College Police Department
Southwestern College

Mardi Walters, Ed.D.

October 16, 2024



Our learning objectives



- What is Title IX?
- What does it do?
- Actual notice and knowledge
- Responsible Employee
- Definitions
- How do I report?
- What should I do?



1972

What is Title IX?

“No person in the United States shall, **on the basis of sex**, be excluded from participation in, be denied the benefits of, or be **subjected to discrimination** *under any educational program or activity receiving federal financial assistance.*”

20 U.S.C. §1681 & 34 C.F.R. Part 106 (1972)

Pre-Title IX Landscape

Approximately 99% of school athletic budgets in the United States went to boys' and men's sports

The concept of parity in sports was immediately contested by male coaches and administrators, as well as politicians like Senator John Tower (R-Tex.)

Females were encouraged to become a nurse, teacher and to study home economics



Legislative History Leading up to Title IX

Title VI of the Civil Rights Act –
Prohibits discrimination **on the basis of race, color, or national origin** in any program or activity receiving federal financial assistance.

1964

Executive Order 11246 –
Prohibits federal contractors from discriminating **on the basis of race, color, religion, or national origin**.
“Sex” was added in 1968; renamed Exec. Order 11375.

1965

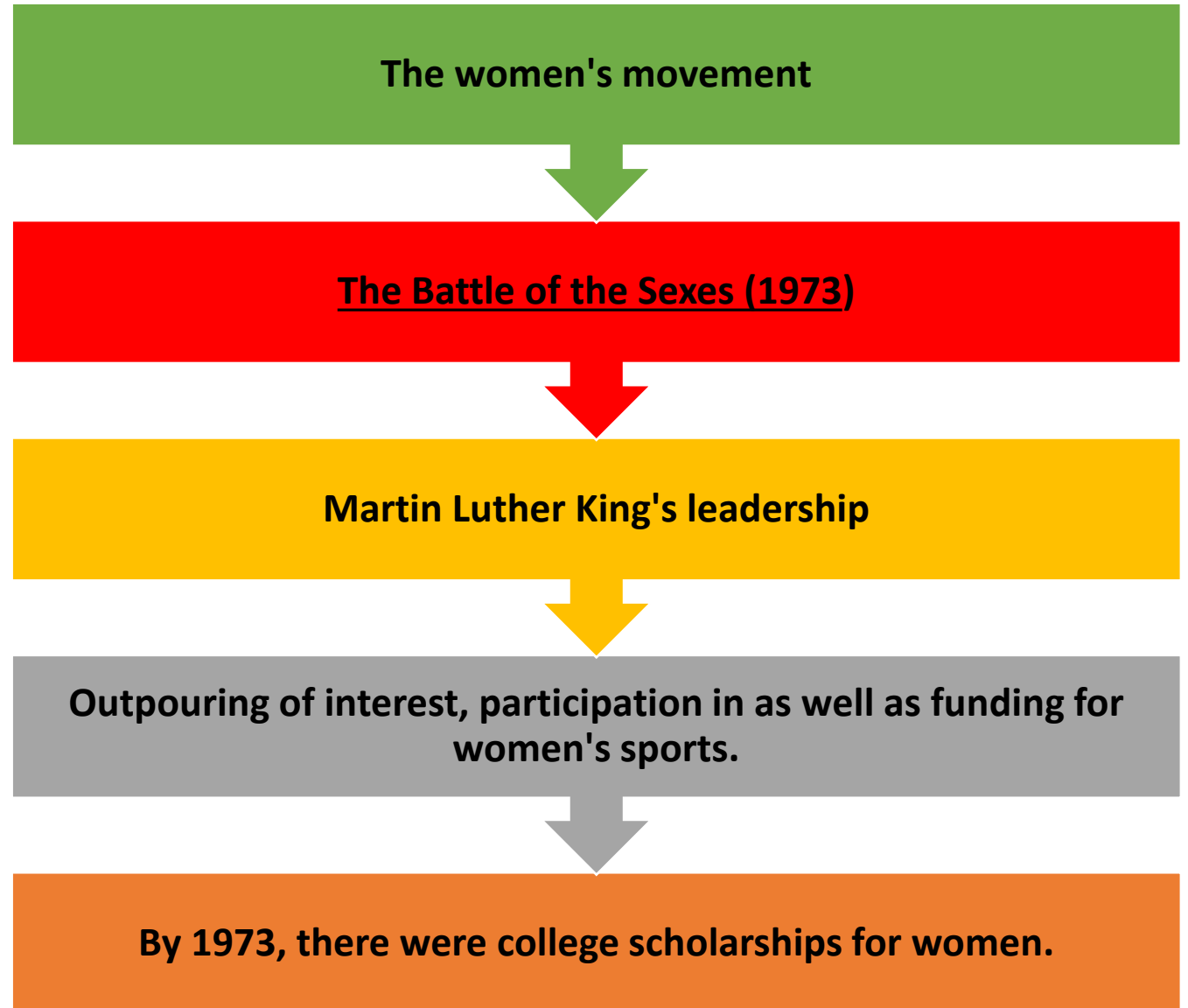
1964

Title VII of the Civil Rights Act –
Prohibits discrimination in the terms, conditions, or privileges of **employment** on the basis of an employee’s race, sex, color, religion, or national origin.

1972

Title IX (On the basis of SEX)
passed and signed into law by
President Nixon

What did Title IX change?



Post Title IX



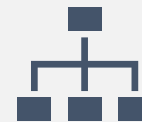
1975: Department of Health, Education, and Welfare (HEW) **codified Title IX regulations.** HEW was the precursor to the current U.S. Dept. of Ed.



1979: Supreme Court **created a private right of action under Title IX** in Cannon v. U. of Chicago, 441 U.S. 677 (1979)



1979: HEW **promulgated three-part test for athletics to evaluate equity in athletic participation** and access to resources and equitable opportunities.



1980: U.S. Department of Education **created Title IX oversight** transferred to Dept. of Ed.'s Office for Civil Rights (OCR)

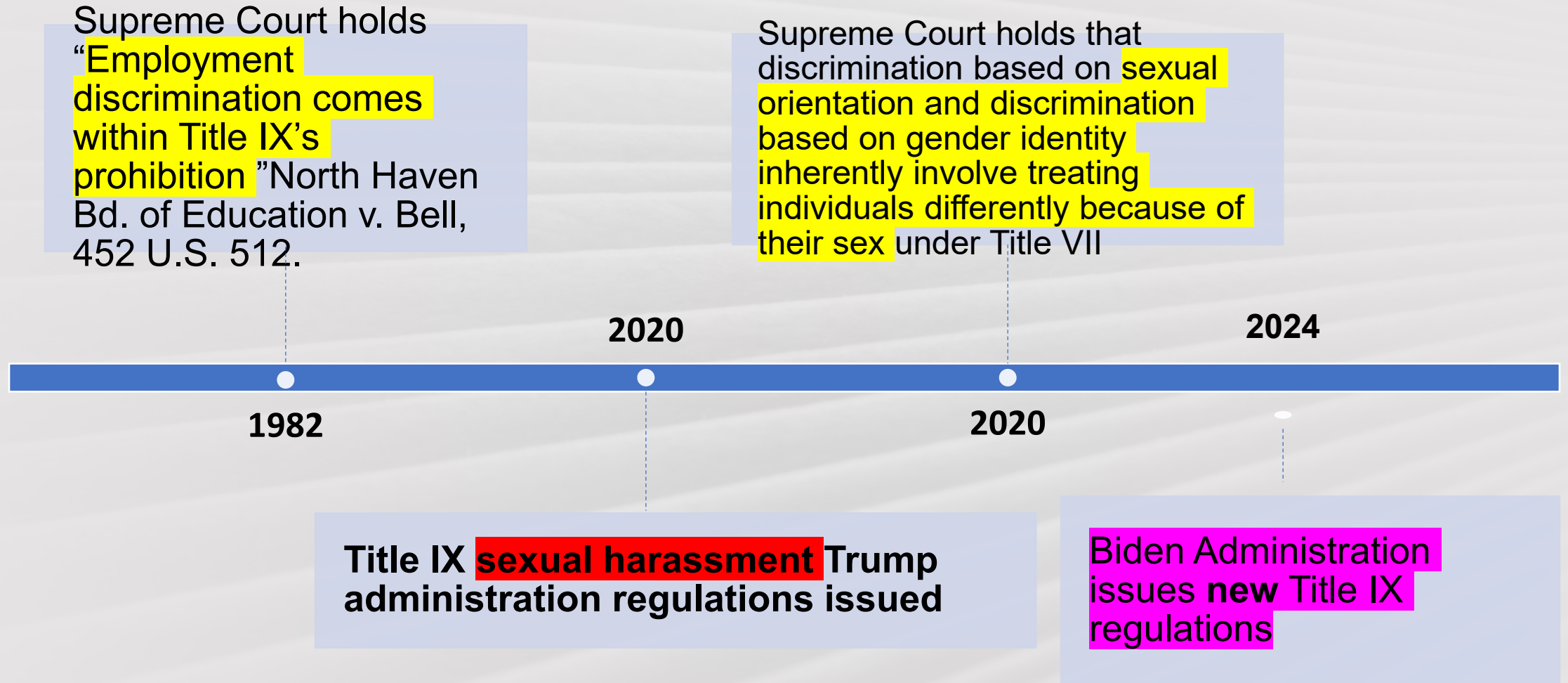


Athletics today because of Title IX

The five most frequently offered college sports for women are, in order:

- (1) basketball, 98.8% of schools have a team**
- (2) volleyball, 95.7%**
- (3) soccer, 92.0%**
- (4) cross country, 90.8% and**
- (5) softball, 89.2%**

Expansion of Title IX

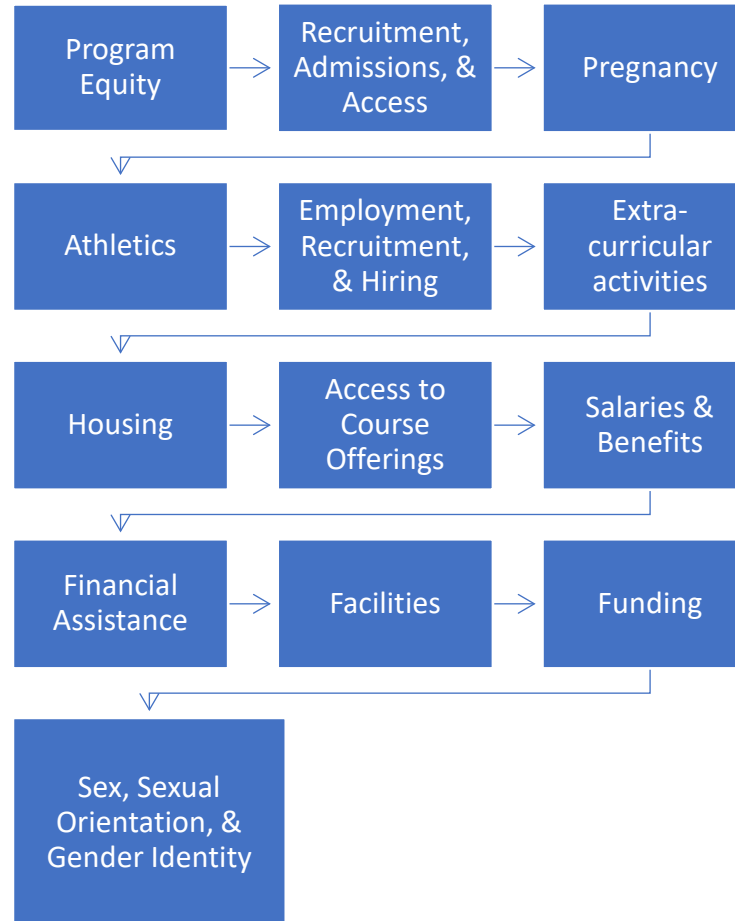


Jurisdiction of Title IX



Title IX Related Areas

Sex Based Discrimination



Sexual Harassment

- Quid Pro Quo
- Hostile Environment
- Sexual Assault
- Domestic Violence
- Dating Violence
- Stalking

Retaliation

Examples of Discrimination

Failing to provide equal athletic opportunity.

Sex-based discrimination in recruitment, selection and admission to (STEM) courses and programs.

Sex-based discrimination in recruitment, selection and hiring of faculty in any program.

Failing to provide lactation spaces for females on campus.

Failure to stop harassment in the classroom.

When does Title IX apply?

Title IX applies, and **jurisdiction is required**, when the Recipient has:

- Control over the harasser (Respondent) AND
- control over the context of the harassment.

“Education program or activity” means...

- locations, events, or circumstances under substantial control.

Greeks and Student Organizations

- **any** building owned or controlled by an officially recognized student organization



Jurisdiction Test

Personal Jurisdiction

- **At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the Recipient's education program or activity.**

The OCR adopts a fairly broad definition of what could constitute “attempting to participate.”

- Can include dual enrollment students, alumni, prospective students/employees, medical residents, etc.

Institutional Responsibilities

Once an official with authority *has actual notice* of Discrimination/Harassment/Retaliation (DHR) and or sexual harassment/sexual misconduct, the institution must:

Take immediate and appropriate steps to **investigate** what occurred. The obligation to investigate is absolute, even if just an Initial Assessment is completed

Take prompt and effective action to: **Stop** the behavior

Prevent the recurrence

Remedy the effects

This is regardless of whether the Reporting Party makes a formal complaint or asks the school to take action.

What is “actual notice” mean?

§ 106.30(a) of the Final Rule defines what exactly constitutes such **actual knowledge**:

“Actual knowledge means notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX Coordinator or any official of the recipient who has the authority to institute corrective measures on behalf of the recipient, or to any employee of an elementary and secondary school.”

Translation: When you are told something, or witness something, REPORT IT to Title IX.

Role of the Responsible Employee

The Department of Education applies a “**responsible employee**” rubric to trigger response obligations by an institution.

A “responsible employee” is an employee who:

- **has authority to take action** to redress the harassment, or
- **has the duty to report** to appropriate school officials sexual harassment or any other misconduct by students or employees, or
- is an individual “**who a student could reasonably believe has this authority or responsibility.**”

A postsecondary institution or an elementary or secondary school was deemed to have notice requiring responsive action when a responsible employee “**knew**” or “**should have known**” about possible sexual harassment.

How do
employees
fulfill their
role?

1. Upon witnessing an incident or upon receipt of a report of:

- discrimination
- harassment
- retaliation



File a DHR report on the Title IX webpage



2. Upon witnessing an incident or upon receipt of a report of:

- sexual assault
- dating or domestic violence
- stalking



File a Sexual Misconduct report on the Title IX webpage.

How do I file a Title IX report?

File a report as soon as something is reported or told to you. Go to our webpage

<https://www.swccd.edu/administration/human-resources/title-ix-and-the-campus-save-act/index.aspx>

Title IX Must do the following after receipt of report:



Investigate:

Be Thorough

Reliable

Impartial



Process:

Prompt

Effective

Equitable



Remedies:

Act reasonably to stop discrimination

Act reasonably to prevent recurrence

Act equitably to remedy effects

What do I do if I don't know what to report?

1

Report
Discrimination,
Harassment
and/or Retaliation

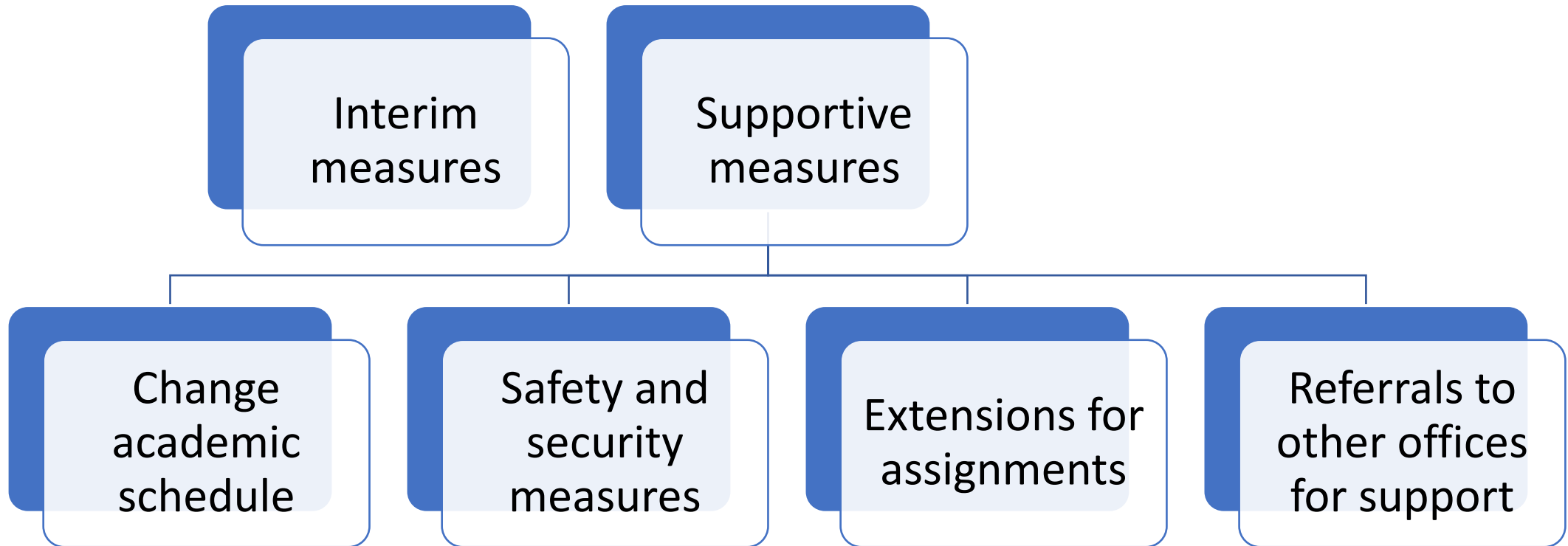
2

Report sexual
misconduct or
violence

3

Allow us to ensure
the matter gets to
the right office.

Next Steps



The Title IX Process

For students and employees

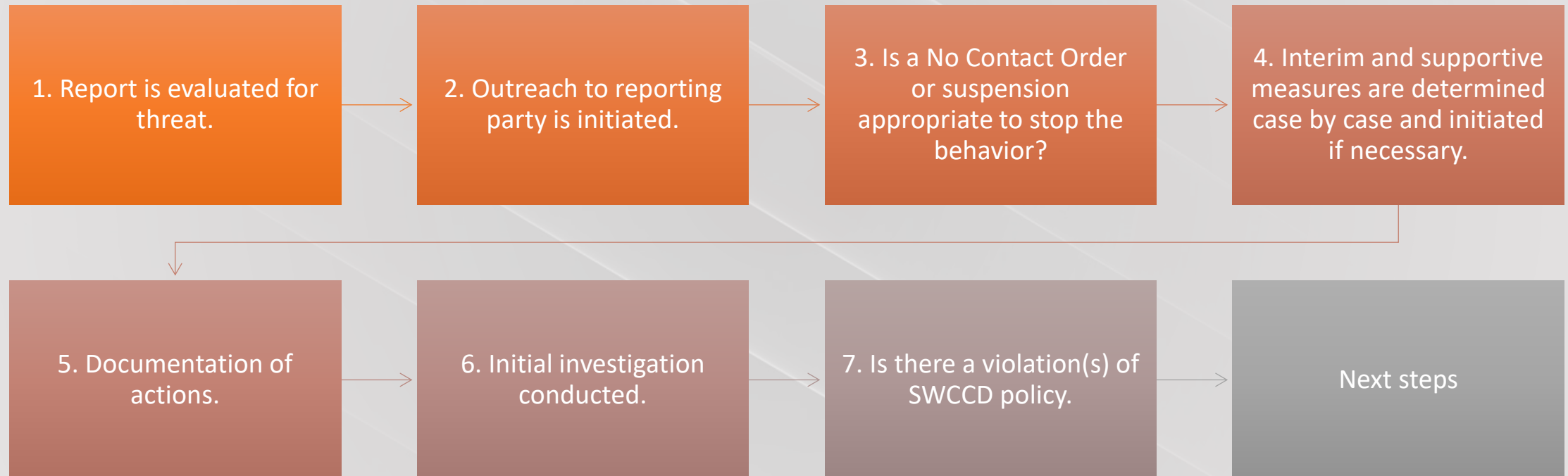
Due process afforded

Impartial investigation

Findings of fact

Remedy effects of misconduct

What happens after a report is received by Title IX?



What are the supportive measures a school must offer?

A school must offer supportive measures that “**are designed to restore or preserve equal access to the [school’s] education program or activity.**”

The 2020 amendments add that these include “measures designed to protect the safety of all parties or the [school’s] educational environment or deter sexual harassment.”

A school also must consider the complainant’s wishes in determining which supportive measures to provide and may not provide supportive measures that “unreasonably burden the other party.”

Examples of supportive measures include “counseling, extensions of deadlines or other course related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.”



Definition: Confidential Employee

Under Title IX, confidential employees are designated as being able to take confidential reports of sexual misconduct.

They are not required to report the victim's identity or other confidential information to the Title IX Coordinator.

Confidential employees include licensed medical, clinical or mental-health professionals such as nurses, counselors, social workers, physicians, psychologists and psychiatrists **when acting in their professional role.**

Definition: Sexual Harassment:

Sexual harassment means conduct **on the basis of sex** that satisfies one or more of the following:

- (1) An employee of the [school] conditions the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;

The first category is commonly referred to as “quid pro quo” sexual harassment, meaning that a school employee offers something to an individual in exchange for sexual conduct.



Definition: Sexual Harassment

(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 school's education program or activity; or

The second category incorporates the definition of sexual harassment set out by the Supreme Court in a case about when **a school may be required to pay financial compensation** in a lawsuit for sexual harassment by one student toward another student. The case is *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999).

Definition of Sexual Harassment

(3) '**Sexual assault**' as defined in 20 U.S.C. 1092(f)(6)(A)(v),

'**dating violence**' as defined in 34 U.S.C. 12291(a)(10),

'**domestic violence**' as defined in 34 U.S.C. 12291(a)(8), or

'**stalking**' as defined in 34 U.S.C. 12291(a)(30).

Definition: Sexual Assault

Sexual assault is a form of sexual harassment that is prohibited under Title IX.

It includes any sexual act directed against a complainant without their consent.

This includes acts such as rape, fondling without consent, incest or statutory rape. Any act of vaginal or anal penetration, however slight, with any body part or object, or oral genital contact of another person, without consent, is also considered sexual assault

Definition: Dating Violence

- Dating violence includes violence committed by a person who has been in a social relationship of a romantic or intimate nature with the complainant;
- the existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Definition: Domestic Violence

- Domestic violence includes felony or misdemeanor crimes of violence committed by:
- a current or former spouse or intimate partner of the complainant, a person with whom the complainant shares a child, a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, a person similarly situated to a spouse of the complainant under the jurisdiction's domestic or family violence laws, or any other person against a complainant who is protected under the domestic or family violence laws of the jurisdiction.

Definition: Stalking

- Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their own safety or the safety of others or to suffer substantial emotional distress.

The 2020 amendments cover instances of stalking based on sex—including stalking that occurs online or through messaging platforms, commonly known as cyber-stalking—when it occurs in the school's education program or activity



What is the address of the Title IX webpage again?

<https://www.swccd.edu/administration/human-resources/title-ix-and-the-campus-save-act/index.aspx>

Title IX Terms to be familiar with:



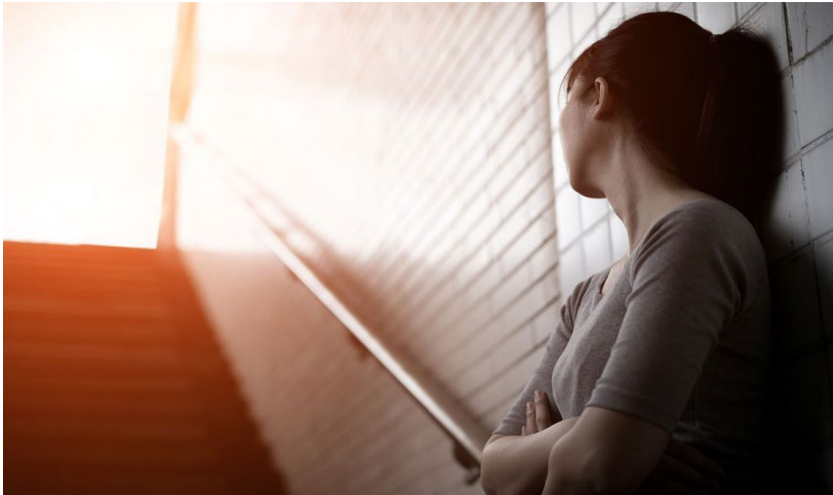
Role of Office of Civil Rights

- The Office for Civil Rights (OCR) under the U.S. Department of Education is responsible for establishing the **compliance standards to be applied in investigations and enforcement** of Title IX regarding sexual harassment.
- The OCR administratively enforces Title IX by conducting investigations of complaints filed by an individual, a representative, or a group.
- Engaging in compliance reviews.

Report reveals cost of \$73.7 billion to the state in health care, lost productivity and income and criminal justice and response program spending for domestic violence cases.

June 4, 2024

Read it [here](#).



The new analysis for California **draws attention to the underreporting of intimate partner violence to the authorities**, which is a common challenge across the country and around the world that is often attributed to women's fear of consequences from reporting and lack of trust in the criminal justice system.

Report reveals cost of \$73.7 billion to the state in health care, lost productivity and income and criminal justice and response program spending for domestic violence cases.

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Read the study [here](#).



Costs are in part due to the pervasiveness of this violence against women in the state.

More than half of California women experience intimate partner violence in their lifetime, according to the CalVEX survey released last fall.

One in 30 women – **more than 460,000 in California** – experienced physical and/or sexual violence from a partner in just the past year and those reporting these abuses in the past year faced greater health and social risks.



Questions?



Contact information

Thank you!

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[Title IX & Campus SaVE Act \(swccd.edu\)](https://www.swccd.edu/title-ix/campus-sa-ve-act)