



PARTNERING WITH STUDENT AFFAIRS ON TITLE IX HEARINGS

April 13, 2023

DAN SCHORR, LLC

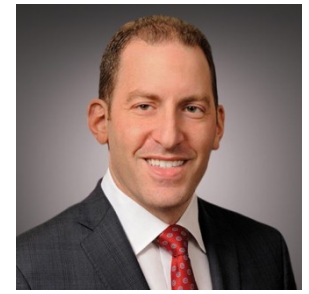
OUR SERVICES

- Title IX, Civil Rights, and Misconduct Investigations
- Decision Makers and Hearing Officers
- Hearing and Process Advisors
- Trainings
- Policy and Program Reviews
- Interim Title IX Coordinator Coverage
- Expert Witness Testimony

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DAN SCHORR

President
New York



Dan Schorr is a former criminal prosecutor and municipal inspector general with more than 20 years of legal and investigative experience. He manages a variety of complex assignments, including investigations into sexual misconduct, Civil Rights, and fraud allegations at educational institutions, corporations, and government entities. In addition to specializing in Title IX investigations, Dan assists higher education and K-12 schools by conducting policy and program reviews, training personnel on all aspects of Title IX and Civil Rights compliance, and serving in hearing officer and decision maker roles. Dan is a pre-approved Sexual Misconduct Investigator for the United Educators ProResponse Expert Services Benefit.

ALYSSA-RAE MCGINN

Vice President
Boston



Alyssa-Rae McGinn has extensive experience leading a variety of complex investigations, with particular expertise in conducting investigations at educational institutions and corporations into allegations of sexual misconduct and identity-based harassment involving students, faculty, staff, and corporate leadership. Alyssa-Rae has also served as a decision maker and hearing chair for matters brought under the 2020 Title IX regulations and as an interim Title IX Coordinator to support and supplement the Title IX function at schools.

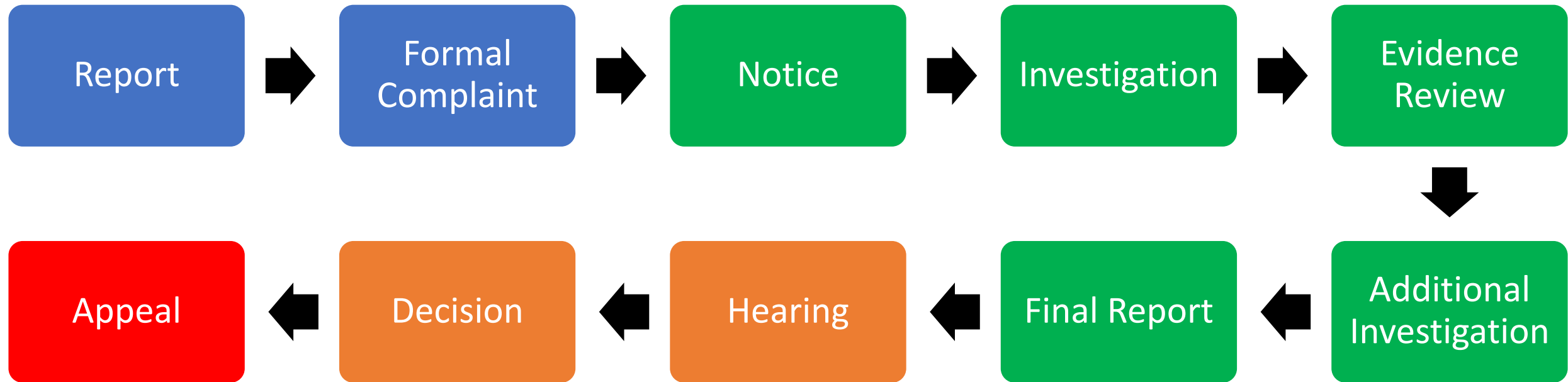
COMMUNICATING THE ROLE OF THE TITLE IX HEARING

- Required by 2020 Title IX Regulations, as well as certain federal court decisions and state law
- Best practice for due process
- Permits full development of facts for independent decision-maker
- Permits decision-maker to assess credibility live
- More formal than most educational misconduct hearings, but should not be as formal as a judicial procedure

CURRENT REQUIREMENTS

- Live hearing
- Independent decision-maker
- Parties guaranteed advisors
- Advisors have opportunity to cross-examine other parties and witnesses
- Respondent can observe cross-examination of Complainant
- Parties may be in separate locations
- Must be recorded – written, audio, or audiovisual

THE TITLE IX PROCESS



HEARING PROCESS

- Identification of hearing officer(s) and scheduling
- Hearing notice
- Pre-hearing conferences with each party and their advisor
- Hearing, including party statements and questioning of parties/witnesses from hearing officer(s) and advisors
- Conclusion of hearing
- Analysis of relevant evidence, credibility, and policy standards by hearing officer(s)
- Possible consultation with administrators on sanctioning
- Issuance of written determination to parties and advisors
- Appeal opportunity
- If no appeal, written determination finalized

IDENTIFYING HEARING PERSONNEL

- Hearing Facilitator: Coordinates logistics and communication
 - Usually Title IX Coordinator or Title IX administrative personnel
 - Internal liaison for external resources
 - Procedures must follow institutional policies and federal and state law
- Decision-Maker(s): Leads hearing procedures and renders determination
 - Internal or external
 - Individual or panel
 - Must be familiar with institutional policies and federal and state law
- Advisors: Support parties and conduct questioning
 - Parties must be permitted to use the advisors of their choosing
 - Internal or external
 - Should be comfortable with questioning/cross-examination procedures and best practices
- Support People: Emotional support for parties
 - May be allowed according to your policy
 - Internal or external
 - May be assigned or chosen

HOW STUDENT AFFAIRS CAN PREPARE STUDENTS FOR THE HEARING

- Ensure parties have an advisor with whom they are comfortable
- Ensure parties have a support person if permitted, and/or a support network
- Connect to resources and implement accommodations
- Secure private and comfortable space for hearing
- Answer all questions, or direct questions to the Title IX Coordinator
- Paint a clear picture about what to expect
 - Who will be present
 - Setting and technology
 - What questioning will be like
 - Questions they might receive
 - Timeline for before, during, and after the hearing
- Remember to treat all parties and witnesses equally!

POST-HEARING SUPPORT

- Even when the matter is concluded, it is important to continue providing support
- One (or both) parties will probably not be satisfied with the outcome
- The hearing may trigger negative mental and emotional responses for participants
- Ensure everyone impacted is connected to needed services
- Be transparent, clear, and honest about next steps and moving forward
- Be available for future assistance – it might take time for someone to realize what they need

SETTING EXPECTATIONS ON THE ANTICIPATED REGULATIONS

- New federal Title IX regulations expected in 2023
- Hearing requirement may be eliminated
- Institutions may have discretion to determine whether they will hold live hearings or opt for meetings between the decision-maker(s) and parties to assess credibility, considering:
 - Campus culture
 - Available resources
 - Prior and potential litigation
 - Practices that have/haven't worked well under the 2020 regulations
 - Due process
 - Impact on parties
- In the circuits and states that have made live hearings mandatory, institutions will have to continue holding hearings

THE TITLE IX AND CIVIL RIGHTS

PODCAST



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"Final Table is a compelling, timely, and fast-paced story of a sexual assault survivor's fight to regain control of her life in the face of fear, self-doubt, international intrigue, and looming retribution. Former sex crimes prosecutor Dan Schorr's nuanced and layered debut novel smashes stereotypes and cliches with a strikingly original and memorable narrative."

- **SUNNY HOSTIN**,
Emmy-Winning Co-Host of *The View* and best-selling author of *I Am These Truths* and *Summer on the Bluffs*



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