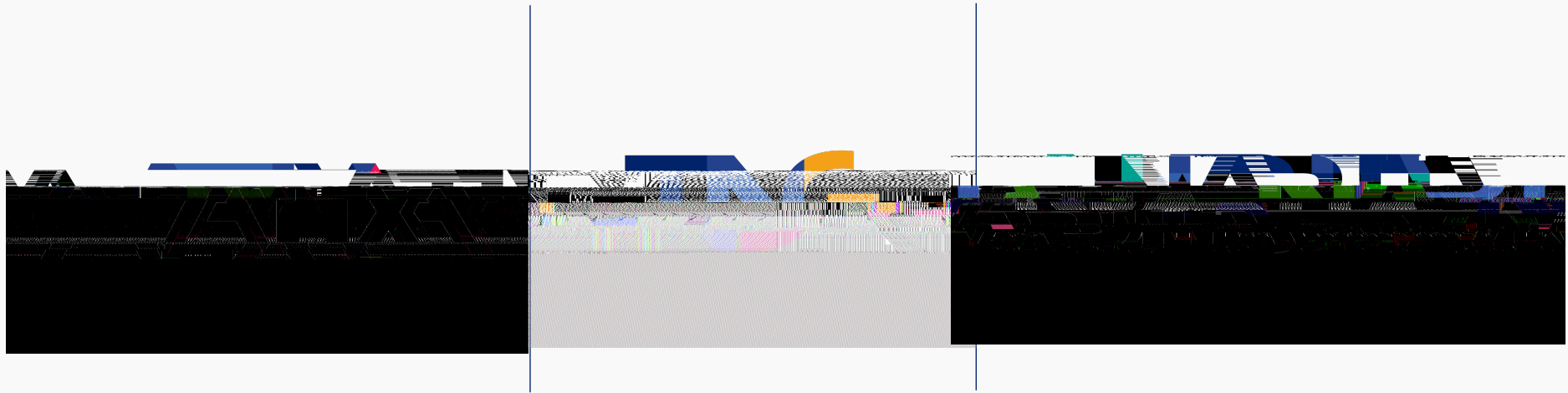
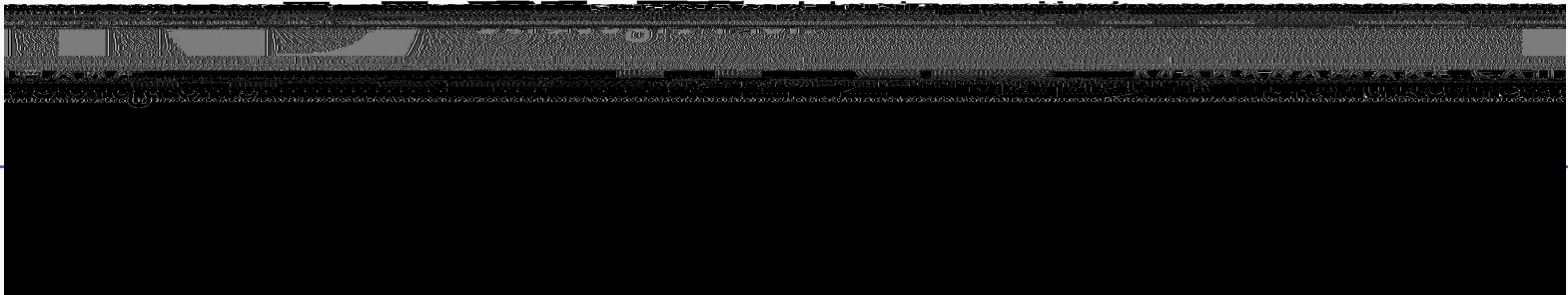


Title IX Coordinator and Administrator

Coordinator One: Foundations
Training & Certification Course



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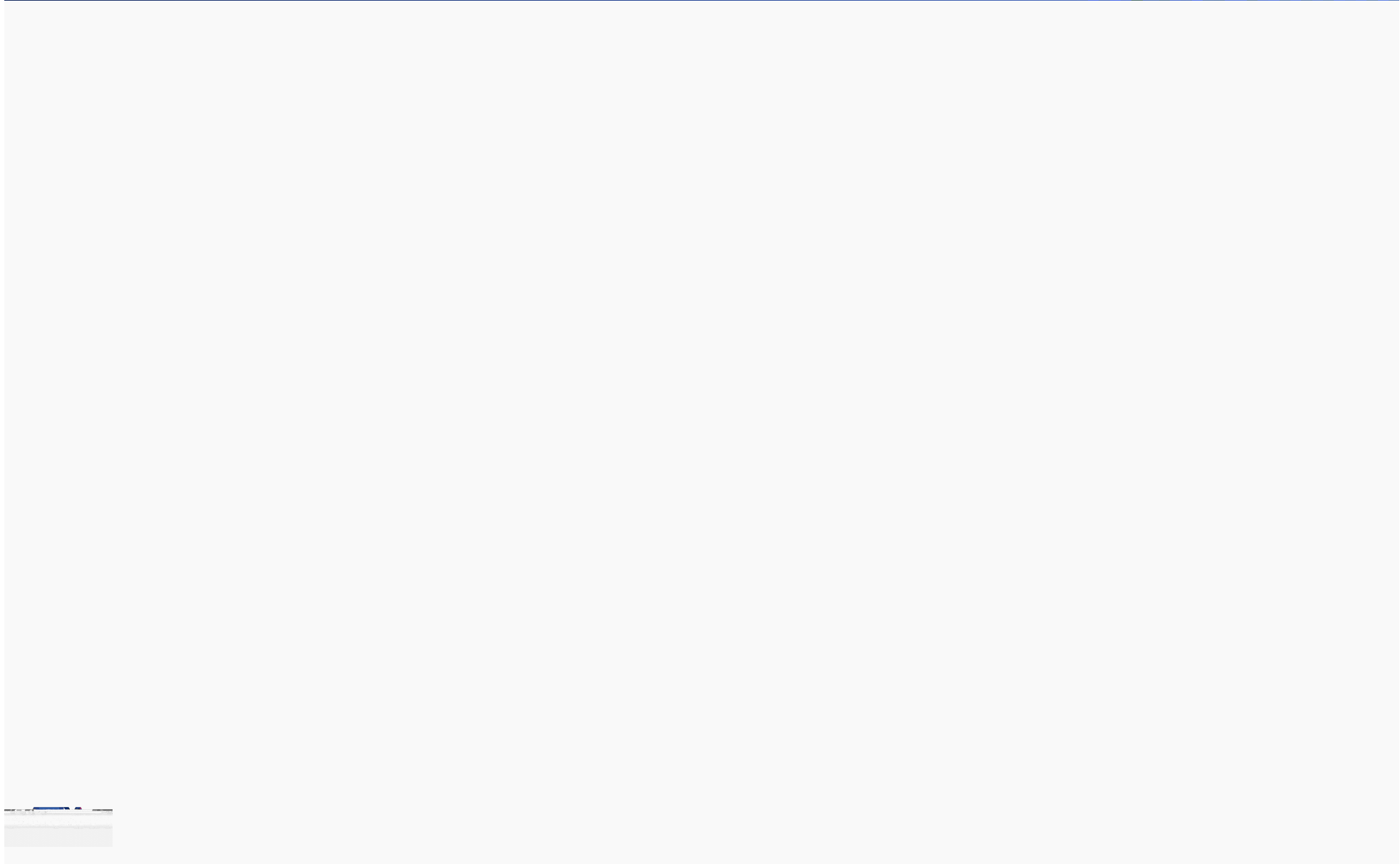
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CONTENT ADVISORY

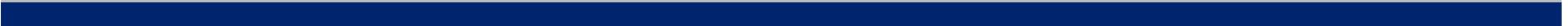
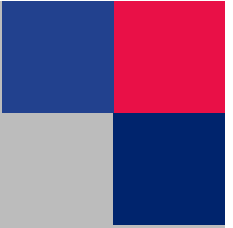
The content and discussion in this course will necessarily engage with sex- and gender-based harassment, discrimination, and violence and associated sensitive topics that can evoke strong emotional responses.

ATIXA faculty members may offer examples that emulate the language and vocabulary that Title IX practitioners may encounter in their roles including slang, profanity, and other graphic or offensive language.

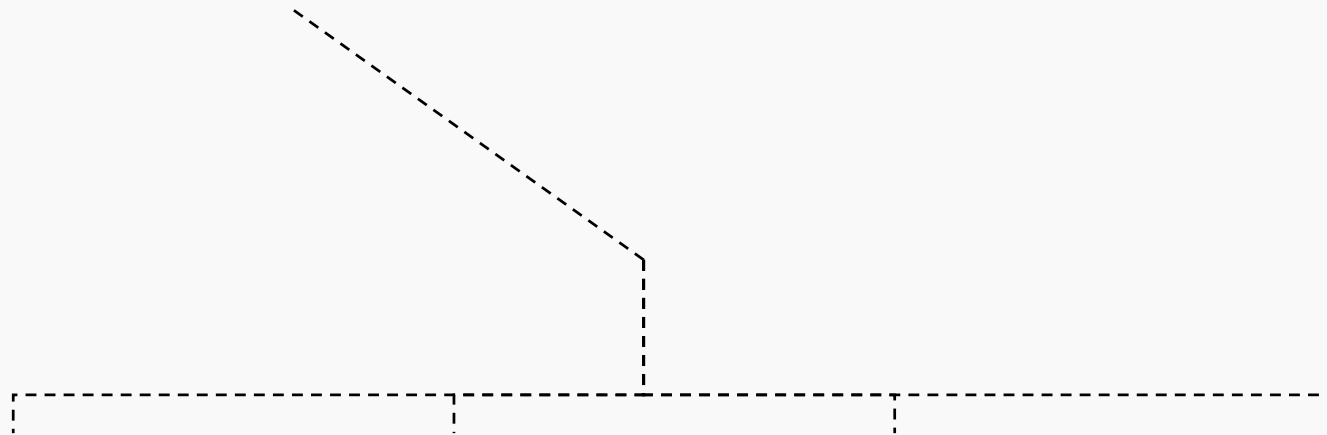


AGENDA





SAMPLE TITLE IX TEAM STRUCTURE FOR HIGHER EDUCATION





TITLE IX TEAM STRUCTURE: ADDITIONAL CONSIDERATIONS

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THE TITLE IX COORDINATOR

- Recipients are required to designate at least one employee as the “Title IX Coordinator”
- Administrator with significant authority and wide-ranging responsibilities
- Affects change across many departments, including human resources, academic affairs, athletics, and student conduct
- Some institutions will allocate part-time responsibilities to the Coordinator while others will dedicate a full-time position
- Title IX Coordinator has become a profession within the field of civil rights compliance

TITLE IX COORDINATOR: ROLES AND RESPONSIBILITIES

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ROLE OF THE INVESTIGATOR



ROLE OF THE DECISION-MAKER(S)

- Determine whether institution's policy has been violated based upon the applicable standard of evidence
 - Decisions must be based upon an independent assessment of the evidence gathered during the investigation and/or provided during a hearing, to include an assessment of the credibility of the parties and witnesses

ROLE OF THE APPEAL DECISION-MAKER



ROLE OF INSTITUTION-APPOINTED ADVISORS



TIX TEAM TRAINING REQUIREMENTS

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REQUIRED TRAINING TOPICS

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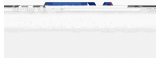
REQUIRED TRAINING TOPICS (CONT.)





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TITLE IX



A BRIEF HISTORY OF TITLE IX: PRE-1972



A BRIEF HISTORY OF TITLE IX: 1972-1979



A BRIEF HISTORY OF TITLE IX: 1980

A BRIEF HISTORY OF TITLE IX: 2021-PRESENT

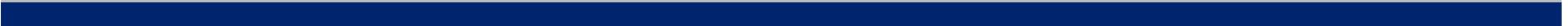
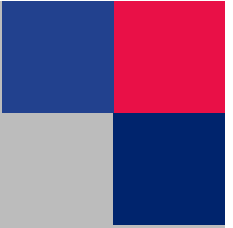


KEY TITLE IX-RELATED ISSUES

- Program Equity
- Recruitment, Admissions, & Access
- Pregnancy
- Athletics
- Employment, Recruitment, & Hiring
- Extra-curricular activities
- Housing
- Access to Course Offerings
- Salaries & Benefits
- Financial Assistance
- Quid Pro Quo
- Hostile Environment
- Sexual Assault
- Domestic Violence
- Dating Violence
- Stalking

THE IX COMMANDMENTS

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FRANKLIN V. GWINNETT PUBLIC SCHOOLS

503 U.S. 60 (1992)

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GEBSER V. LAGO VISTA INDEP. SCHOOL

524 U.S. 274 (1998)



DAVIS V. MONROE COUNTY BD. OF ED.

526 U.S. 629 (1999)

Finding in favor of Davis v. The State of Mississippi expanded on the
Gebel case

- The institution must have "actual notice



ROLE OF THE OCR & TITLE IX



ROLE OF THE OCR & TITLE IX (CONT.)

CIVIL LAWSUIT VS. ADMINISTRATIVE ACTION

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OCR GUIDANCE



OCR GUIDANCE (CONT.)



ADDITIONAL OCR RESOURCES

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CLERY ACT AMENDMENT: VAWA SECTION 304

VAWA Section 304 created extensive new policy, procedure, training, education, and prevention requirements for:

Sexual assault

Stalking

Dating violence

Domestic violence

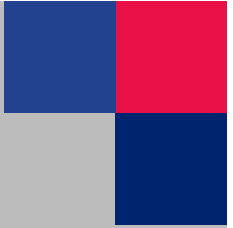
Written information on campus regarding on and off campus resources remedies interim measures and resolution mechanisms and options

Listing of policy and procedure elements required in the ASR

Listing of key training elements and requirements

Required educational programs and campaigns

CLERY ACT AMENDMENT:



- Personal Jurisdiction
- Covered Programs
- Geographic Jurisdiction
- Subject Matter Jurisdiction
- When Title IX Does Not Apply
- Group Discussion



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WHEN DOES TITLE IX APPLY?



WHEN DOES TITLE IX APPLY?

WHEN DOES TITLE IX APPLY?



WHEN DOES TITLE IX APPLY?

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WHEN DOES TITLE IX APPLY?

Geographic Jurisdiction

- Sexual Harassment and Discrimination cases
 - Must be dismissed if did not occur against a person in the United States, but...
 - Contrary case law
 - There is NO expectation that you exercise jurisdiction over off-site/off-campus incidents UNLESS
 - The property is owned or controlled by the school OR
 - The property is being used for a program or event sponsored by the school or an organization recognized by the school OR
 - The property is owned or controlled by an organization recognized by the school

WHEN DOES TITLE IX APPLY?



WHEN DOES TITLE IX APPLY?



WHEN DOES TITLE IX APPLY?

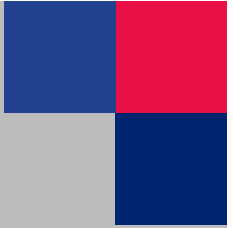
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IF TIX JURISDICTION IS NOT PRESENT

- Behavior could still violate and be addressed under:
 - Institutional harassment/discrimination policies
 - Student Handbook/conduct policies
 - Technology/Acceptable Use policies
 - Employee Handbook/conduct policies
 - Professionalism standards
- Institution should still take steps to:
 - Provide support and resources to the Complainant and campus community
 - Address any “downstream effects”
 - Determine if there are patterns or institutional variables that

GROUP DISCUSSION QUESTIONS





- Required Definitions
- ATIXA Definitions
- Consent Construct
- Navigating First Amendment Protections

CREATING AND IMPLEMENTING APPROPRIATE POLICY & PROCEDURES



CREATING AND IMPLEMENTING APPROPRIATE POLICY & PROCEDURES (CONT.)

- TIXC must be an integral part of the policy/procedure development and review process
 - Ensure all policies/procedures related to sex/gender misconduct and discrimination are legally accurate and complete
 - Confirm that new or revised grievance procedures are posted and published promptly and that old procedures are removed from publications and websites
 - Beware of multiple conflicting or varying versions of

CREATING AND IMPLEMENTING APPROPRIATE POLICY & PROCEDURES (CONT.)





DEFINITIONS OF SEXUAL HARASSMENT

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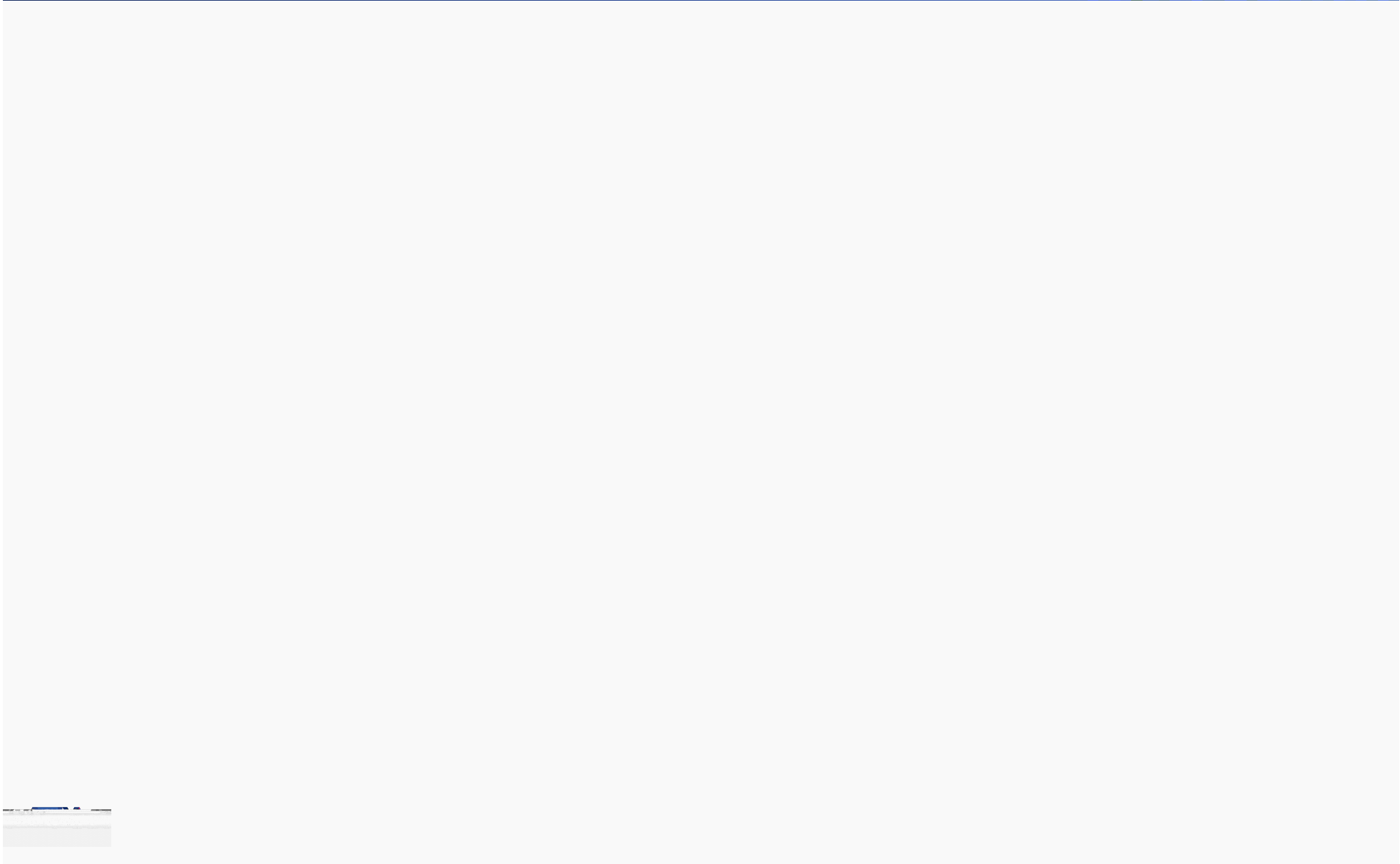
REQUIRED DEFINITIONS –

HOSTILE ENVIRONMENT: "UNWELCOME"

HOSTILE ENVIRONMENT: “REASONABLE PERSON”

HOSTILE ENVIRONMENT: "SEVERE"

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HOSTILE ENVIRONMENT: "OBJECTIVELY OFFENSIVE"

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SEXUAL ASSAULT (CONT.)



DOMESTIC VIOLENCE



STALKING



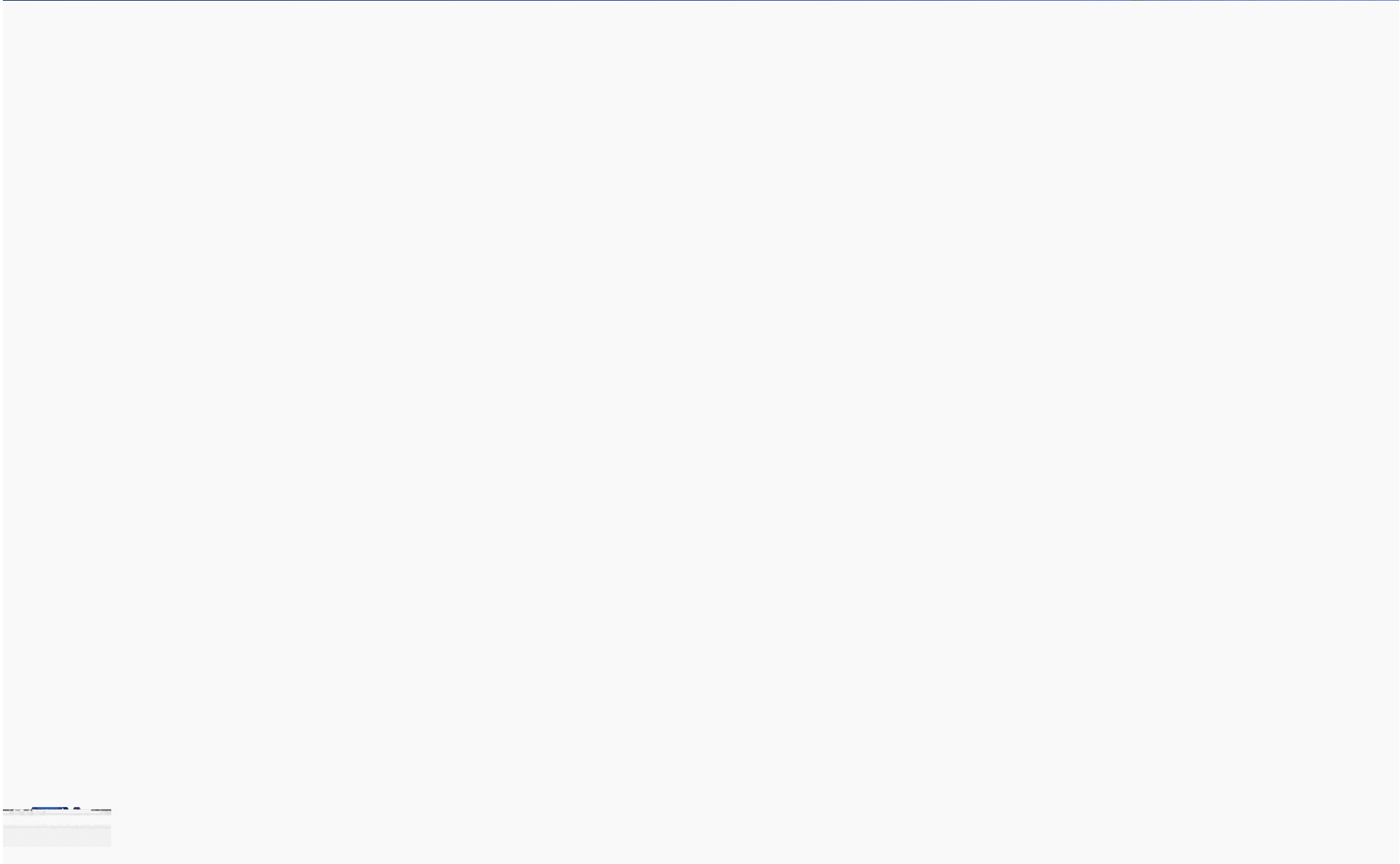
STALKING (CONTD.)

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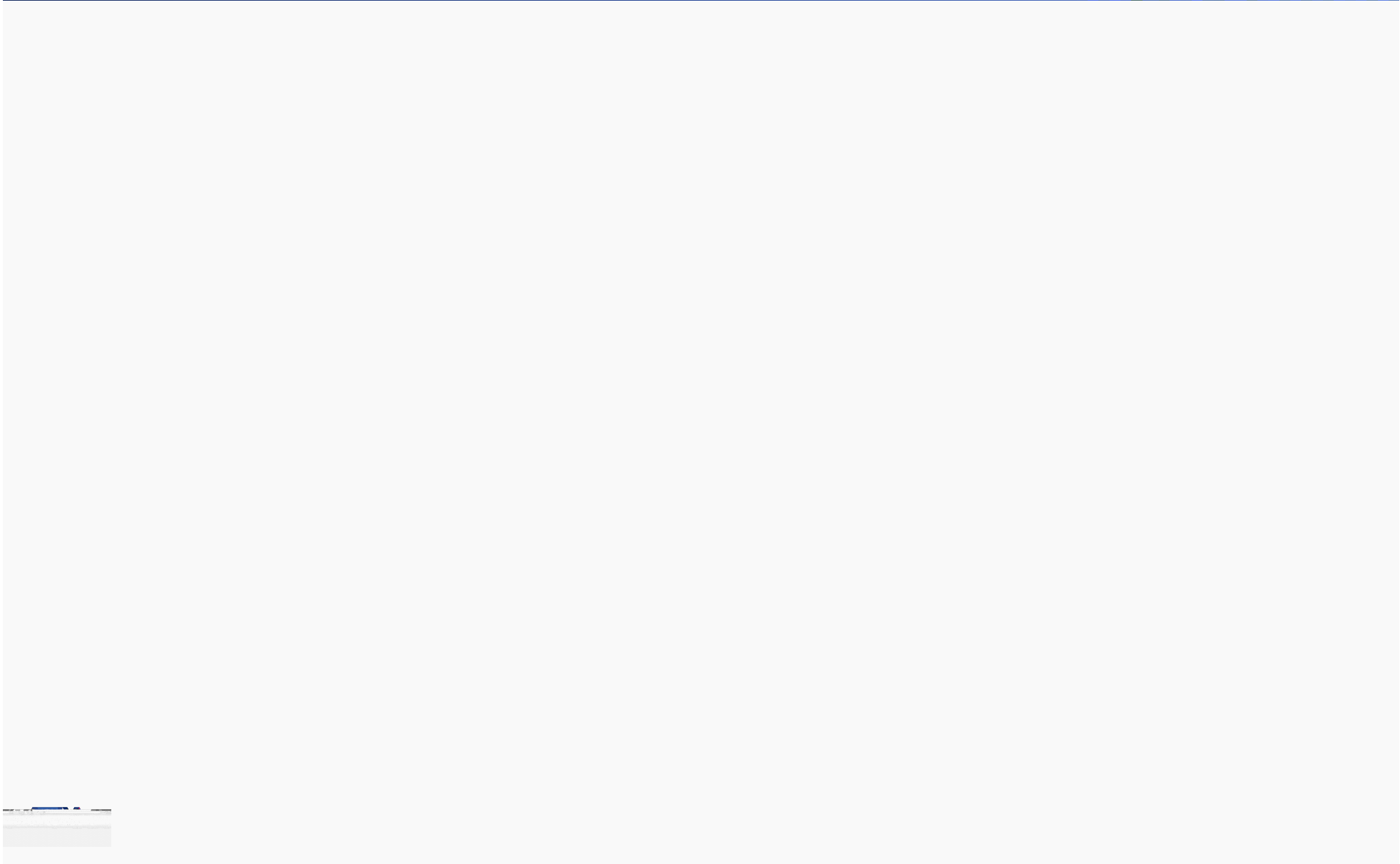
OTHER POLICY DEFINITIONS

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RETALIATION – REGULATION DEFINITION



RETALIATION



ATIXA MODEL DEFINITIONS: SEXUAL EXPLOITATION

Sexual Exploitation non Title IX e al ha a men

- Occurs when one person takes non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute one of other sexual harassment offenses.
- Examples of sexual exploitation include, but are not limited to:
 - Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
 - Invasion of sexual privacy (e.g., doxxing)

ATIXA MODEL DEFINITIONS: SEXUAL EXPLOITATION (CONT.)

- Examples (continued):
 - Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
 - Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when

ATIXA MODEL DEFINITIONS: SEXUAL EXPLOITATION (CONT.)



ATIXA MODEL DEFINITIONS: SEXUAL EXPLOITATION (CONT.)

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CONSENT CONSTRUCT

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CONSENT



NAVIGATING FIRST AMENDMENT PROTECTIONS

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NAVIGATING FIRST AMENDMENT PROTECTIONS (CONT.)

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THE PROCESS



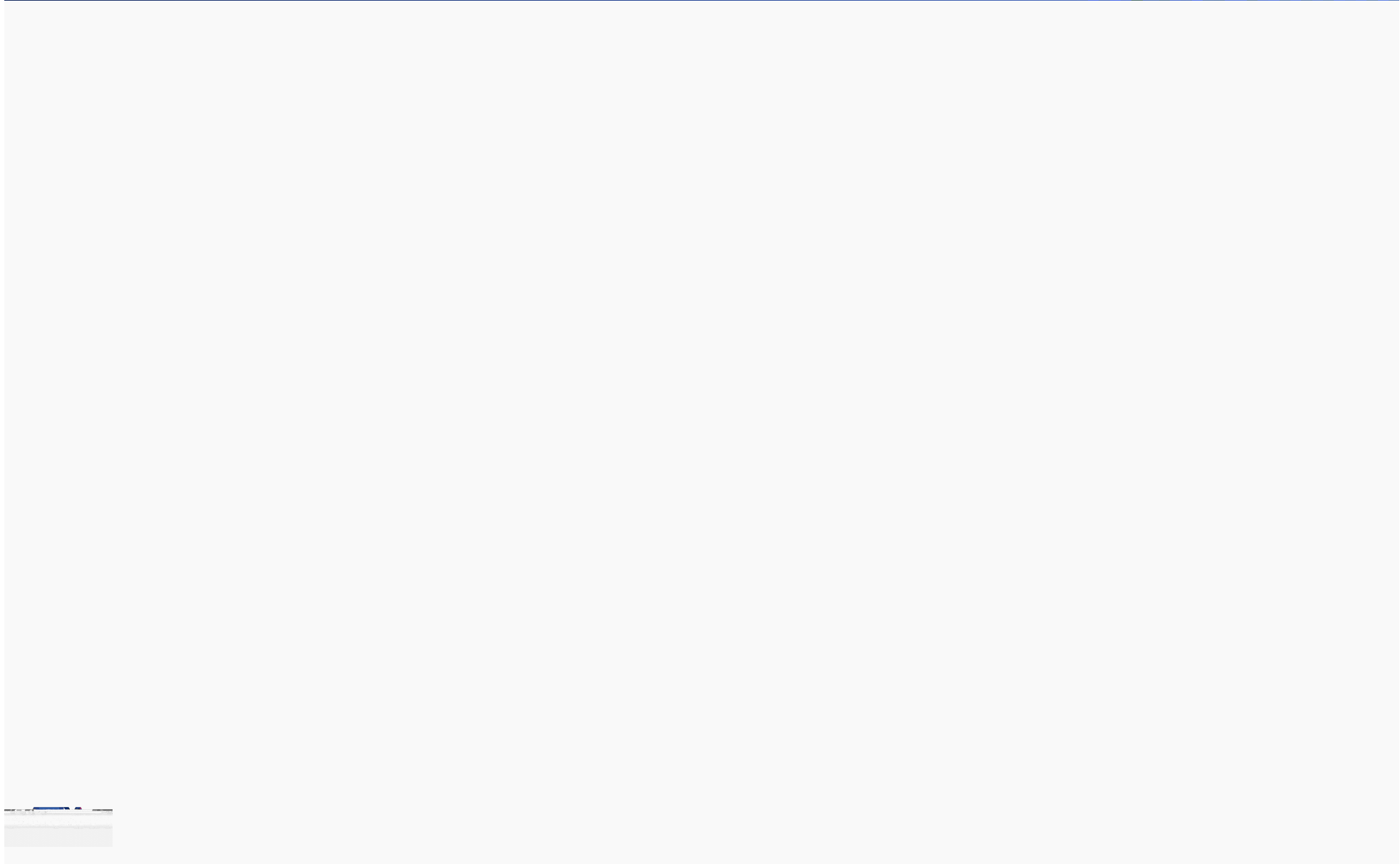
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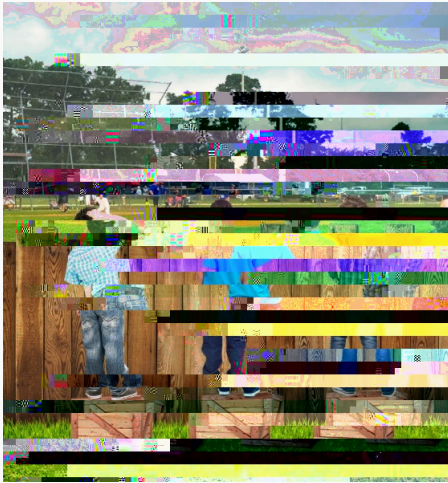
PROMPTNESS



OVERSIGHT AND COORDINATING PROMPT AND EQUITABLE GRIEVANCE PROCEDURES



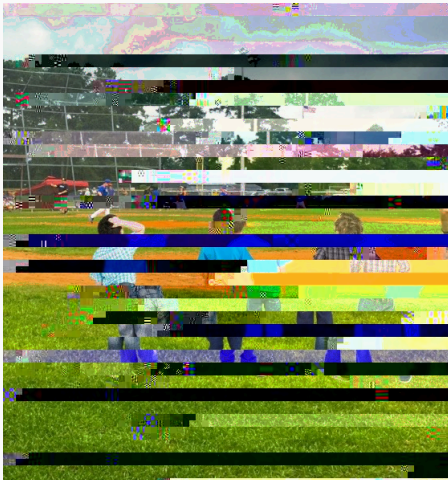




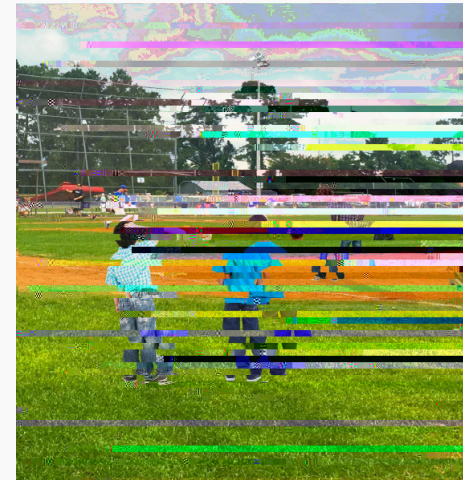
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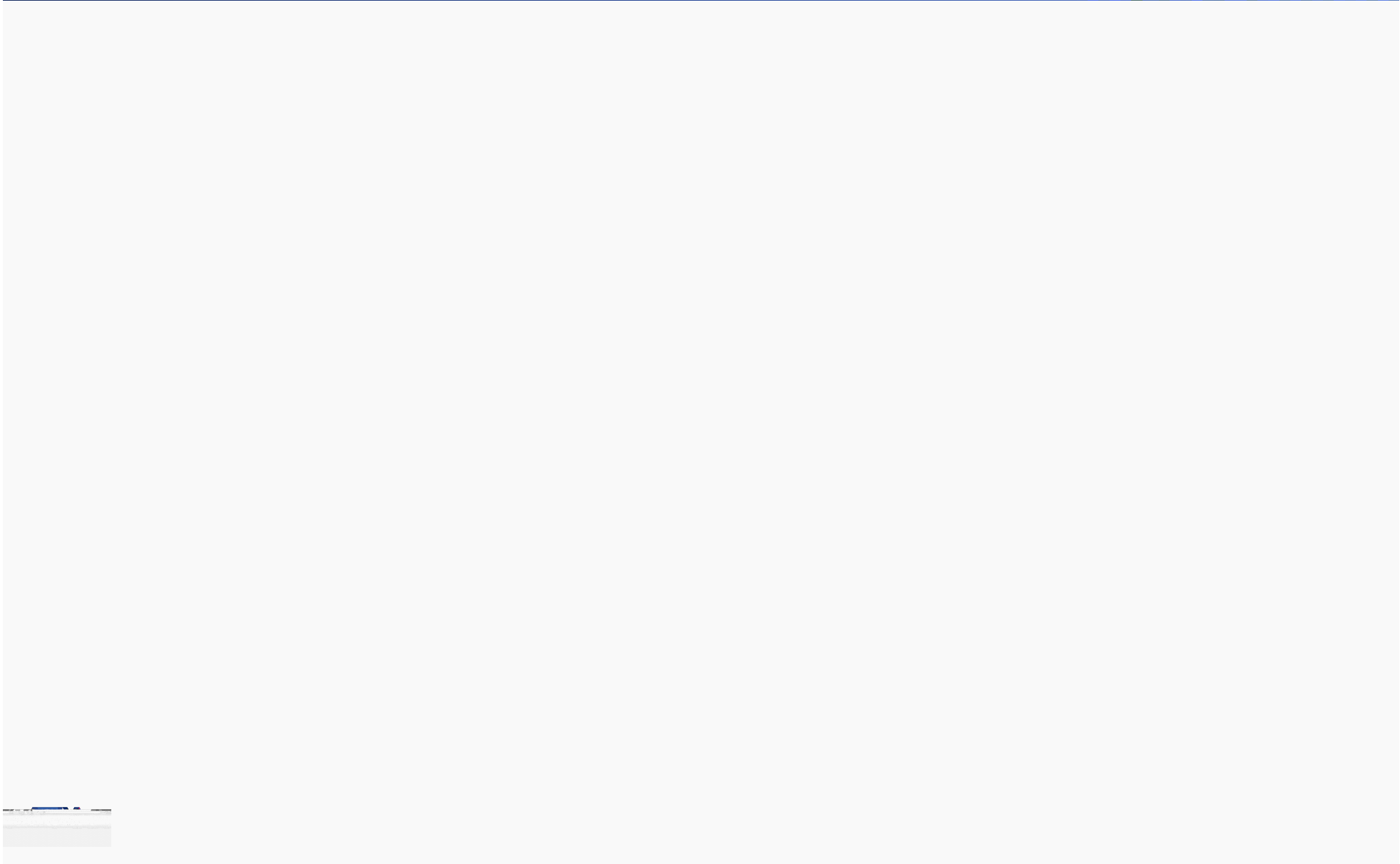
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CLERY: VAWA SECTION 304 (CONT.)

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EQUITY CONCERNS

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EQUITY CONCERNS (CONT.)



TITLE IX AND TITLE VII

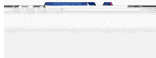


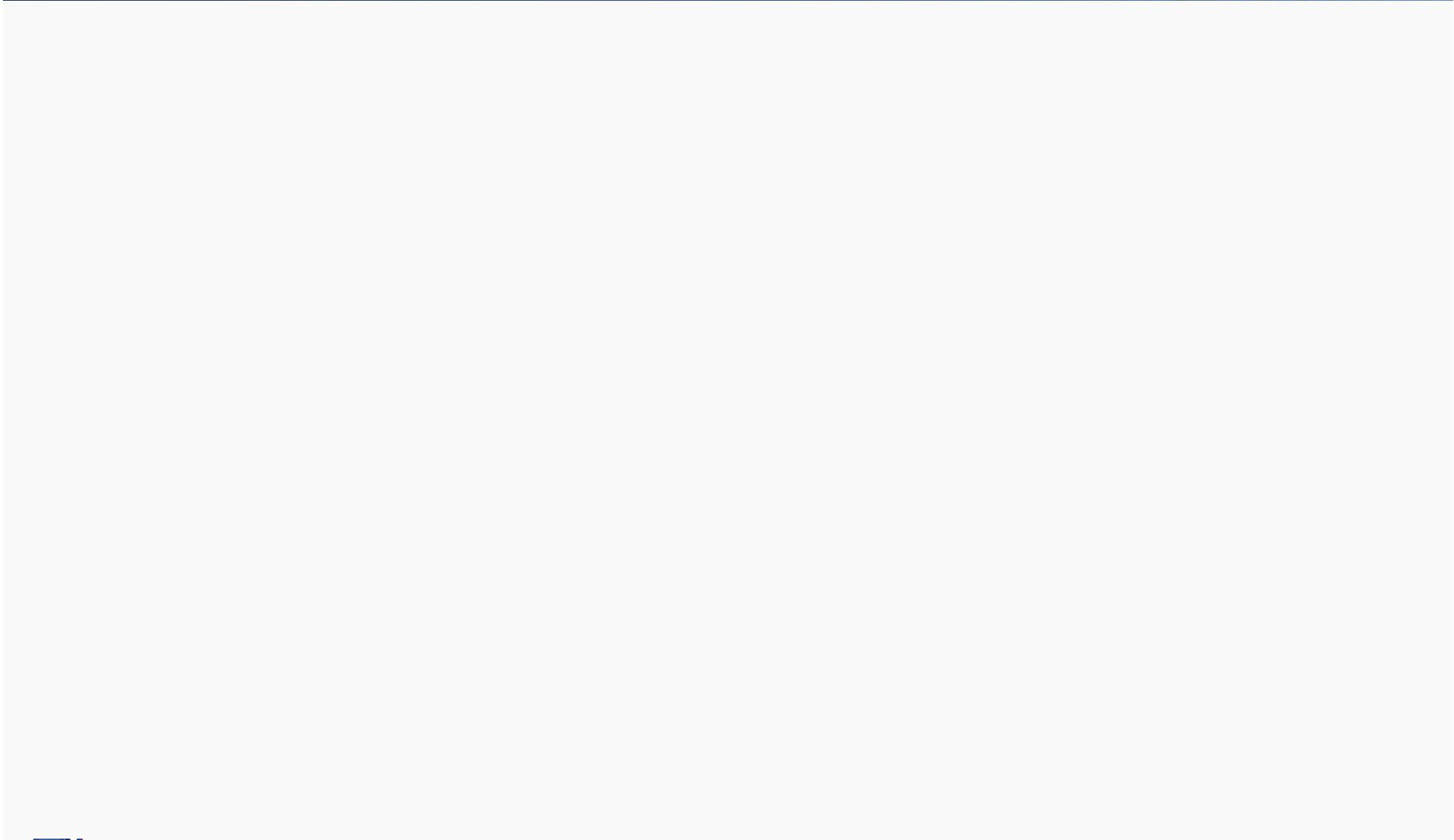
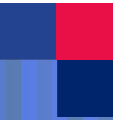
ONE POLICY-TWO PROCESSES (1P2P)

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POINT PERSON FOR REPORTS AND COMPLAINTS

- The Title IX Coordinator must ensure the institution is promptly engaging in:
 - Initiation of the initial assessment
 - Implementation of response to stop the alleged harassment/discrimination
 - Provision of supportive measures to the parties
 - Provision of information about how to make a formal complaint
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THE CLERY ACT: CAMPUS SECURITY AUTHORITY (CSA)



CSA VS. MANDATORY REPORTER



PRIVILEGE VS. CONFIDENTIALITY VS. PRIVACY

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PRIVILEGE VS. CONFIDENTIALITY VS. PRIVACY

Confidential

- Designated by the institution
- Do not have to report harassment or discrimination of which they become aware

PRIVILEGE VS. CONFIDENTIALITY VS. PRIVACY

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INITIAL ASSESSMENT

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INITIAL ASSESSMENT

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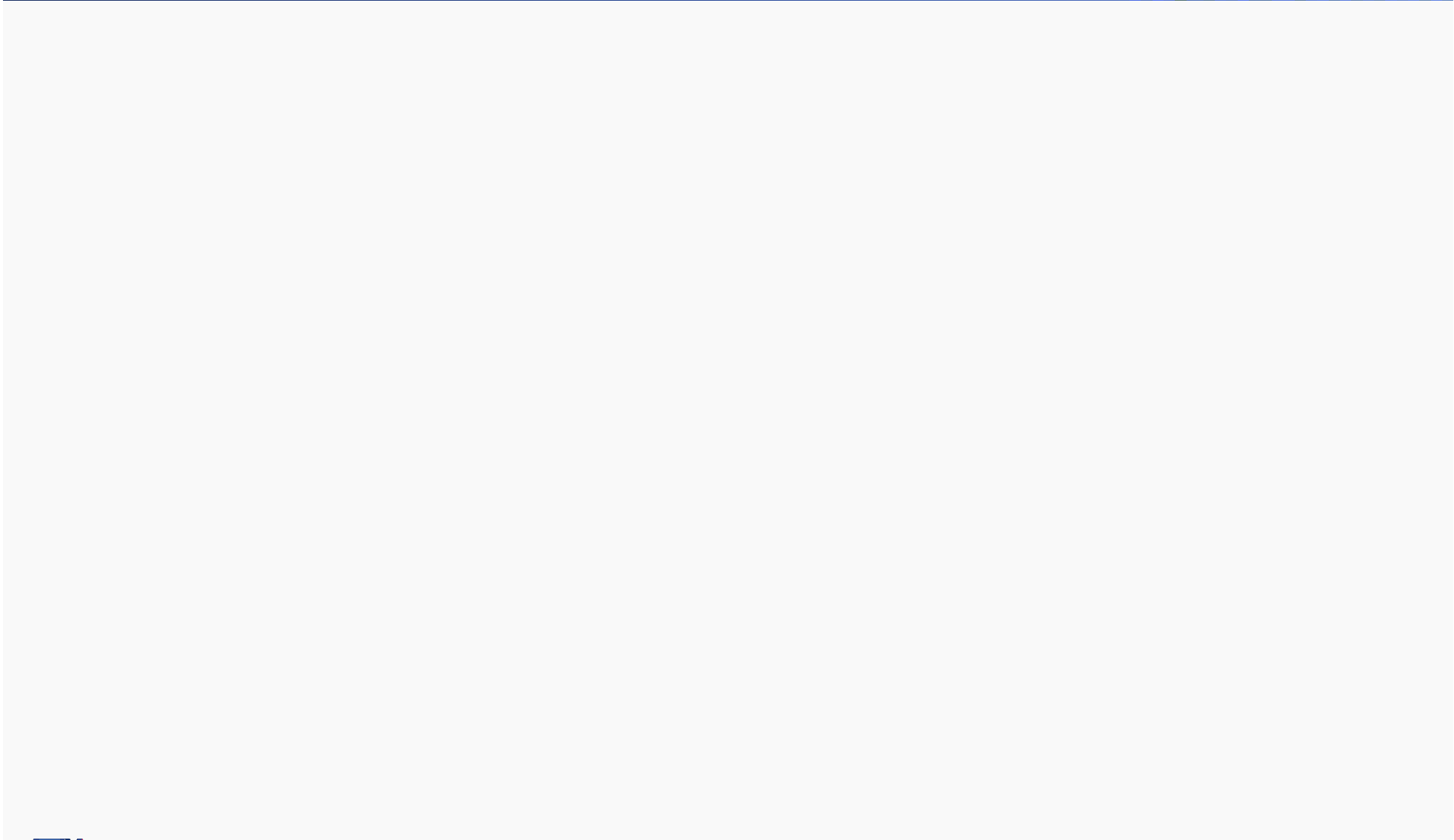


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REPORT V. COMPLAINT

- Distinguish between a “report” and a “formal complaint”
- Upon receiving a “report” (either from the would-be Complainant or a third party):
 - Reach out and provide support.
 - Provide supportive and interim measures to the person alleged to have experienced the harassment. May also offer to the would-be Respondent.
 - Explain process to make a formal complaint.
 - Must be in writing and signed by the Complainant but can be made in any format (on paper or electronic) and made at any time
 - Also explain option to report to law enforcement (VAWA requirement)





REQUESTS FOR CONFIDENTIALITY (CONT.)





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PPTVWM (CONT.)

- Factors to consider:
 - Additional complaints of sexual harassment involving the same Respondent
 - Whether the sexual harassment was committed by multiple individuals
 - Whether the Respondent has a prior history of violence
 - Whether the report reveals a pattern of behavior at a given location or by a particular group
 - Whether the Respondent threatened further sexual harassment or violence against the Complainant or others
 - Whether a weapon facilitated the sexual harassment



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SUPPORTIVE MEASURES



COMMON SUPPORTIVE MEASURES

- Referral to counseling and/or medical/health services
- Referral to the Employee Assistance Program
- Visa and immigration assistance
- Community or community subgroup education
- Altering housing situation (if applicable)
- Altering work arrangements for employees
- Safety planning

MANDATORY DISMISSAL OF A FORMAL COMPLAINT



DISCRETIONARY OR PERMISSIVE DISMISSAL OF A FORMAL COMPLAINT

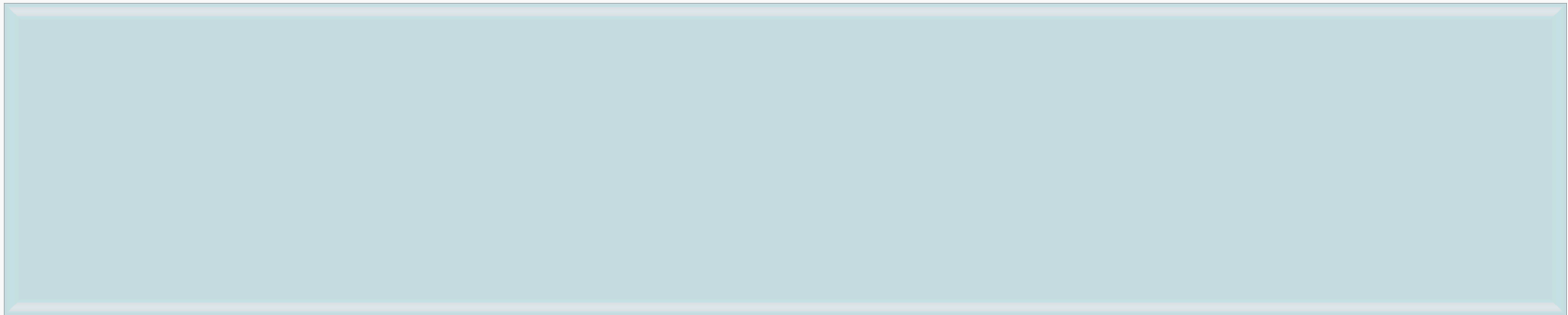
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MANDATORY OR PERMISSIVE DISMISSAL OF A FORMAL COMPLAINT

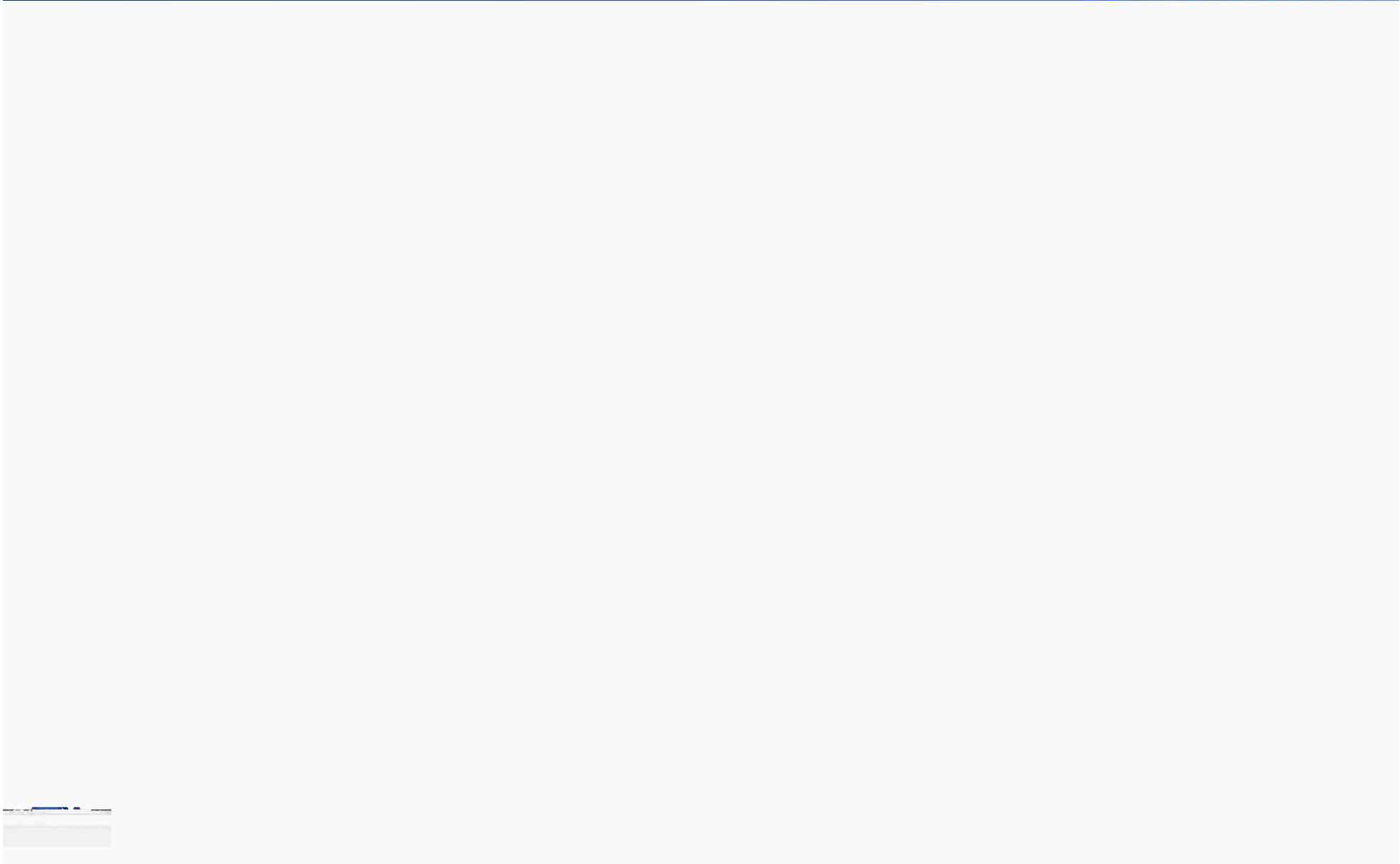
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EMERGENCY REMOVAL

EMPLOYEE ADMINISTRATIVE LEAVE



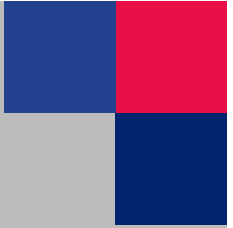


NOTICE REQUIREMENTS PRIOR TO INVESTIGATION

After receiving a formal complaint the Recipient must provide the following information to the complainant:

NOTICE REQUIREMENTS PRIOR TO INVESTIGATION (CONT.)

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- Regulations Requirements
- Types of Informal Resolution
- Informal Resolution Considerations

INFORMAL RESOLUTION – TITLE IX REGULATIONS

- The Title IX regulations include a provision that encourages informal resolution, and it is a worthy practice, when voluntary
- **Informal resolution** is not defined in 34 CFR 101.1180-128 (r2400 (rr) -3 2u2403556 r).

INFORMAL RESOLUTION



INFORMAL RESOLUTION CONSIDERATIONS

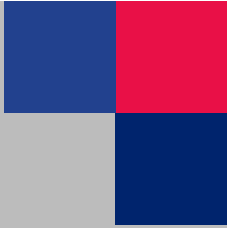
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- Amenability of the parties to Informal Resolution
- Likelihood of potential resolution, taking into account any power dynamics between the parties
- Motivation of the parties to participate
- Civility of the parties
- Cleared violence risk assessment/ongoing risk analysis
- Whether an emergency removal is needed
- Skill of the Informal Resolution facilitator with the type of complaint

INFORMAL RESOLUTION CONSIDERATIONS (CONT.)

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- Title IX Coordinator's Role
- When to Investigate
- Who Should Investigate
- Role of Law Enforcement

SUPERVISING INVESTIGATIONS

The Title IX Coordinator is responsible for

- Determining extent of investigation
- Appointment of Investigators
- Coordination/supervision of Investigators and investigations
- Investigation strategy
- Assurance of supportive measures
- Timeline compliance
- Providing institutional memory to Investigators
- Training Investigators
- Facilitating the sending of notices to the parties (e.g., Notice of



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WHEN DO YOU INVESTIGATE?



WHO SHOULD INVESTIGATE?



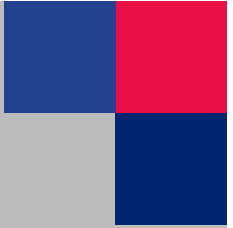
SHOULD THERE BE MORE THAN ONE INVESTIGATOR?

No specific requirements

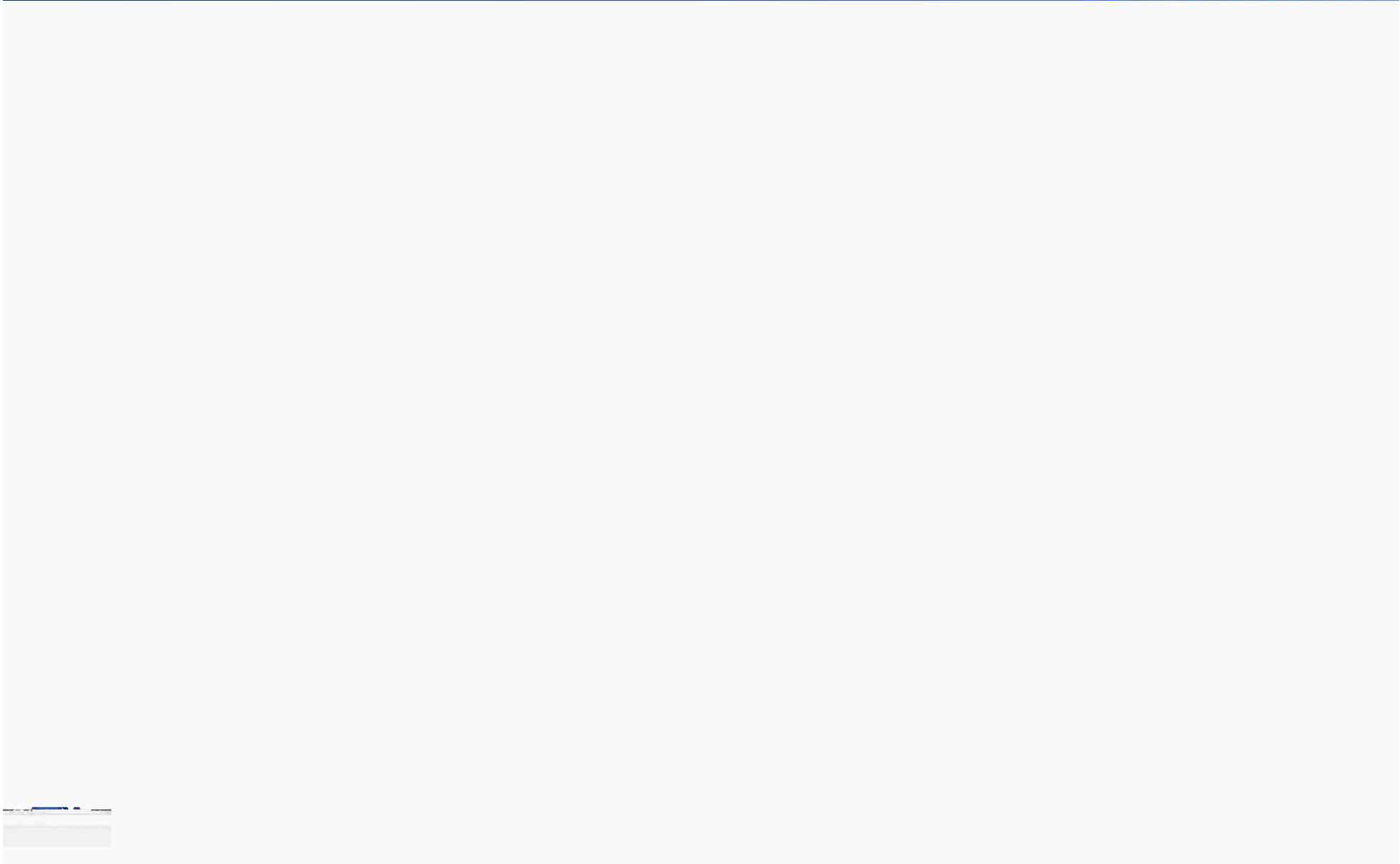
- Investigation must be prompt, thorough, and impartial
- Investigator must collect the maximum amount of relevant information available
- A pool of Investigators may help to ensure that investigations meet these requirements
- Who investigates may be strategic to each specific complaint
- Team = ability to brainstorm investigation steps and lines of questioning with co-Investigators and co-facilitate interviews
- Flexibility if there is any conflict with Investigators and parties

ROLE OF RECIPIENT LAW ENFORCEMENT IN CIVIL RIGHTS INVESTIGATIONS





- 10 Steps
- Investigation Strategy
- Rights of the Parties
- Understanding Evidence
- Credibility
- Investigation Report
- G.A.S. Framework
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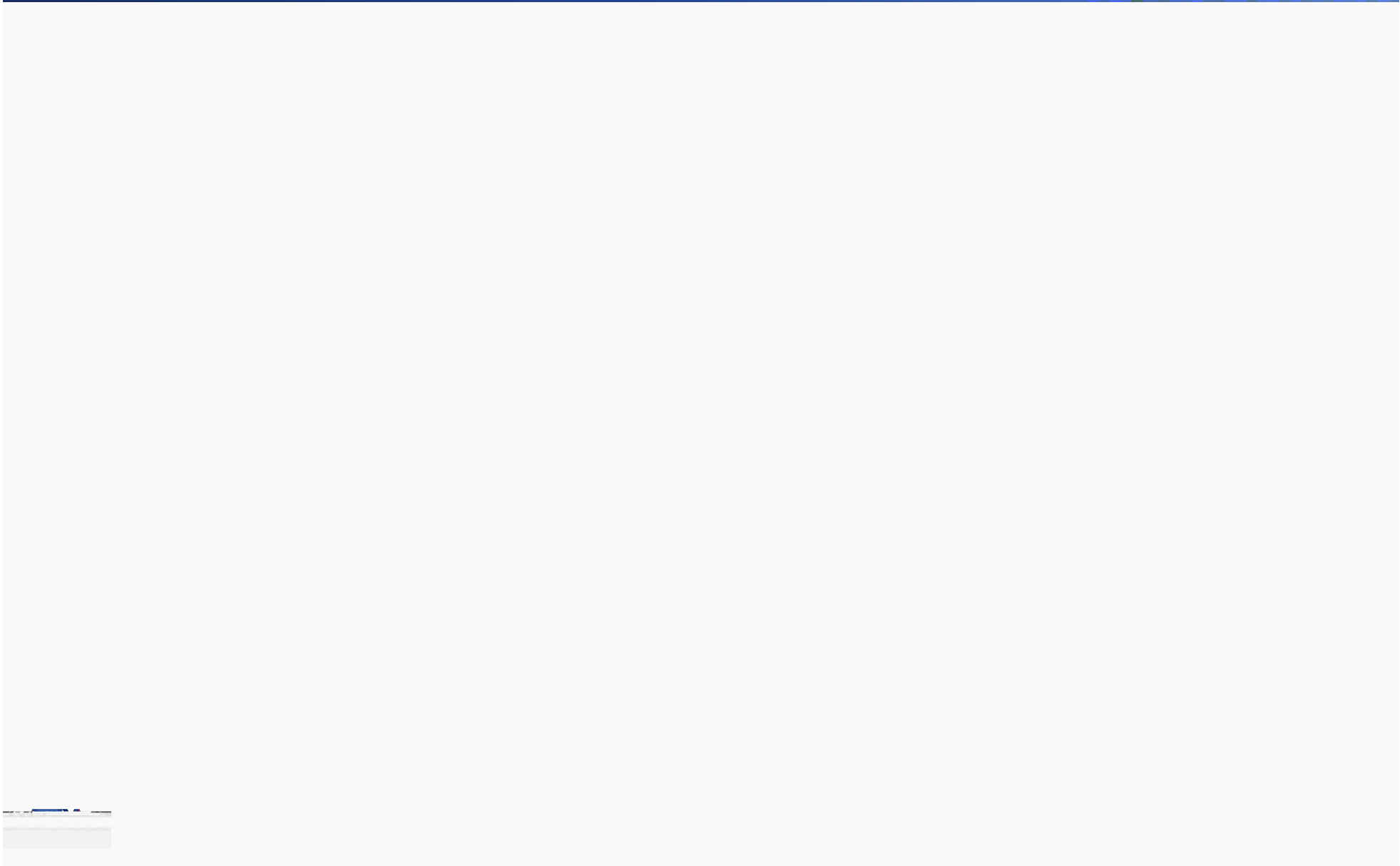


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INVESTIGATION: STRATEGY IS KEY

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UNDERSTANDING EVIDENCE

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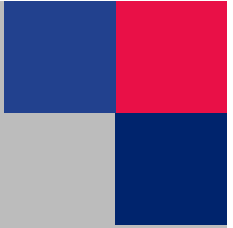
THE INVESTIGATION REPORT





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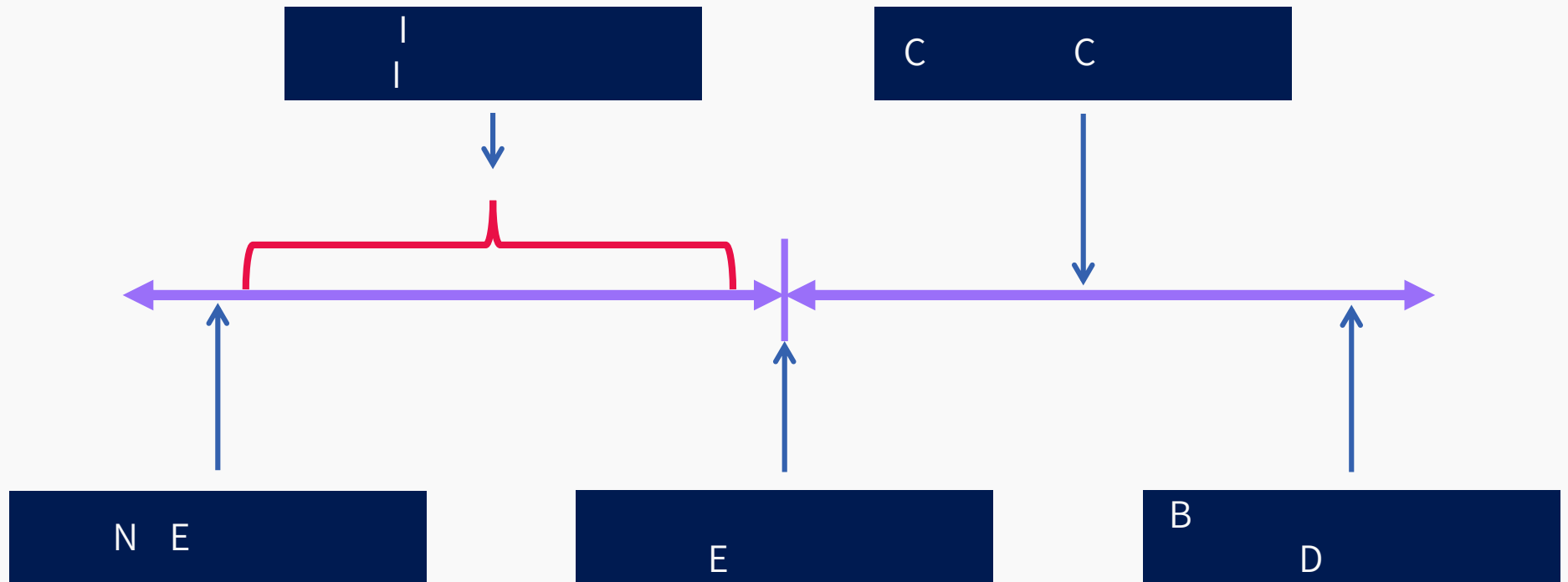
- Title IX Coordinator's Role
- Standard of Evidence
- Making a Determination

DECISION-MAKERS IN TITLE IX PROCESSES

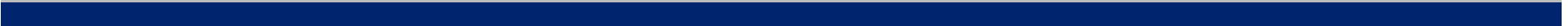
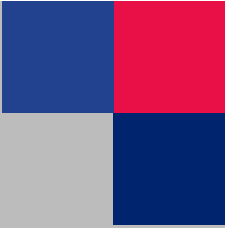


STANDARD OF EVIDENCE

EVIDENTIARY STANDARDS



DECISION-



SANCTIONING CONSIDERATIONS



SANCTIONING CONSIDERATIONS (CONT.)

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SANCTIONING CONSIDERATIONS (CONT.)

- What is appropriate?
 - Separation/expulsion? Suspension? Lesser sanctions?
- Sanction(s) must be reasonable and reflect the severity of the behavior
 - May consider prior misconduct
 - What is the role of precedent?
 - May consider attitude
 - May also be educational (i.e., targeted to stop and prevent)
 - What best compensates for loss or injury to Recipient or individuals?
 - Compliant with laws and regulations

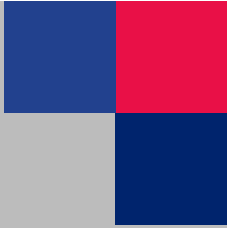
SANCTIONING CONSIDERATIONS (CONT.)

- Ensure that remedies are equitable
- Ensure that remedies are not clearly unreasonable in light of the known circumstances
- The institution may have already taken steps to protect the Complainant(s) even before the final outcome of the process (e.g., through no-contact orders) – these may be continued post-determination
- Avoid undue delays
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COMMON STUDENT SANCTIONS

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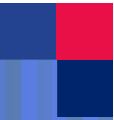
- Appeals
- Appeal Grounds
- Appeal Process



APPEALS (CONT.)

APPEAL GROUNDS

- A Recipient must offer both parties an opportunity to appeal a determination regarding responsibility, and from a Recipient's dismissal of a formal complaint or any allegations therein, on the following bases:
 - Procedural irregularity that affected the outcome of the matter
 - New evidence that was not reasonably available at the time the determination r(e)itio 9 ab -10(i(i) -2 -10(il -10(it 7 -7-4 () -2 (nti) -



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OVERSIGHT OF ATHLETICS GENDER EQUITY



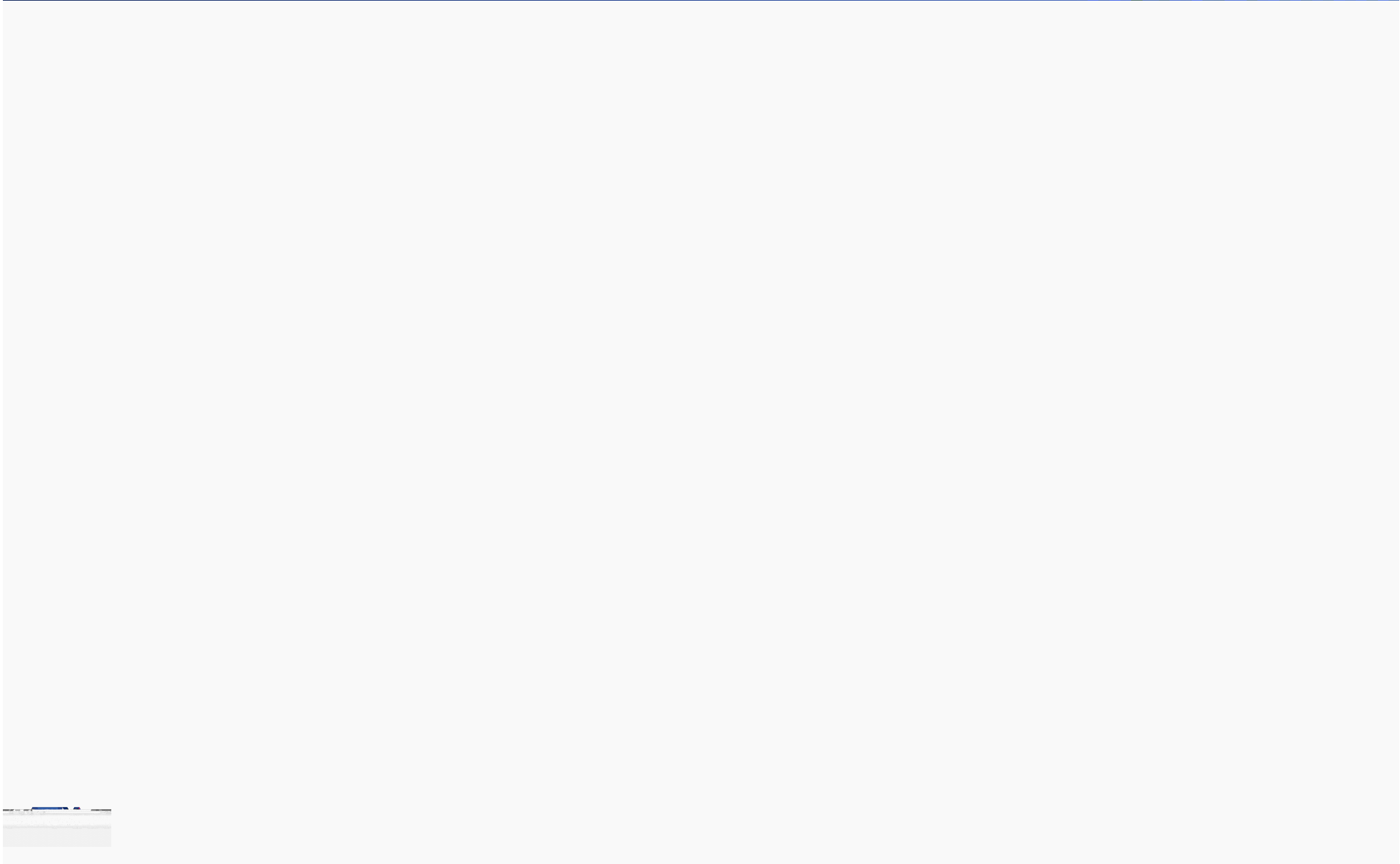
ASSESSING COMPLIANCE



ASSESSING COMPLIANCE (CONT.)









Questions?

