

Title IX Compliance Training Certification

Train the Trainer Oregon School Personnel Administrators Fall 2023 Conference

Thompson & Horton

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Join the K-12
Title IX Leadership
Alliance

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OSPA Title IX Training Fall 2023

Yesterday 8-9 a.m. Compliance Certification Part 1 10:15 a.m.-Noon Compliance Certification Part 2 2:30-3:45 p.m. Investigation Training 3:45-5 p.m. Coordinator Training	Today 9:30-11:30 a.m. Decision-Maker Training Noon-1:30 p.m. Informal Resolution Training
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A row of ten light bulbs hanging from a cord. The seventh bulb from the left is illuminated and has a colorful, multi-colored glow. The other bulbs are unlit and have a standard grey glow.

Ground Rules

- ✓ Ask questions/share perspective
- ✓ Not legal advice/keep it hypothetical
- ✓ Materials will be available for website posting

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Handouts!

bit.ly/OSPA2023





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Polling Access



Option One

Use this QR code

Option Two

☒ Go to Pollev.com on any browser

☒ Accept or dismiss cookies

☒ Enter THLaw411 as the Username

☒ Skip when asked to enter your name



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A man and a woman are standing in a meeting room, looking at a whiteboard covered with pink sticky notes. The man is pointing at one of the notes. They are both wearing professional attire. The room has blue chairs and a wooden table in the foreground.

Train the Trainer Tip

Informal Resolution Facilitator Training (covered in our Compliance Certification Training):

- ✓ What is "Sexual Harassment" under Title IX?
- ✓ What is the scope of the educational institution's "education program or activity"?
- ✓ What are the steps in the Title IX sexual harassment grievance process?
- ✓ How do you serve impartially without bias?

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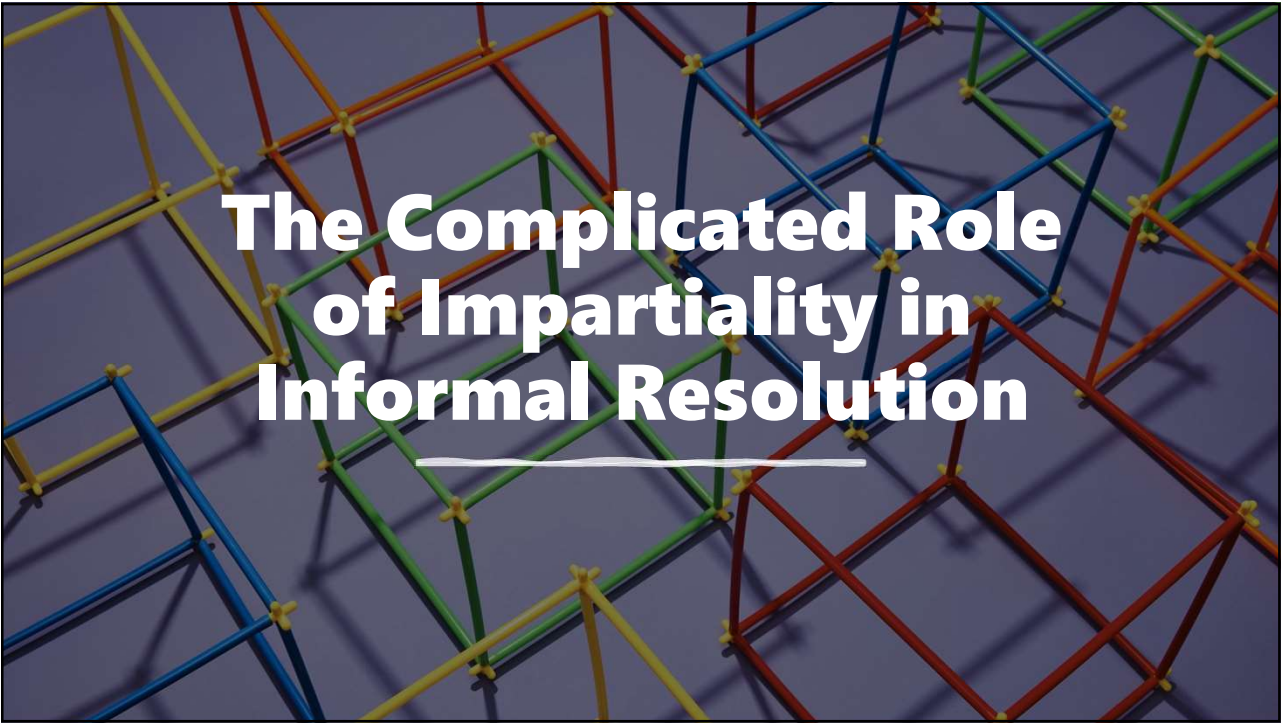


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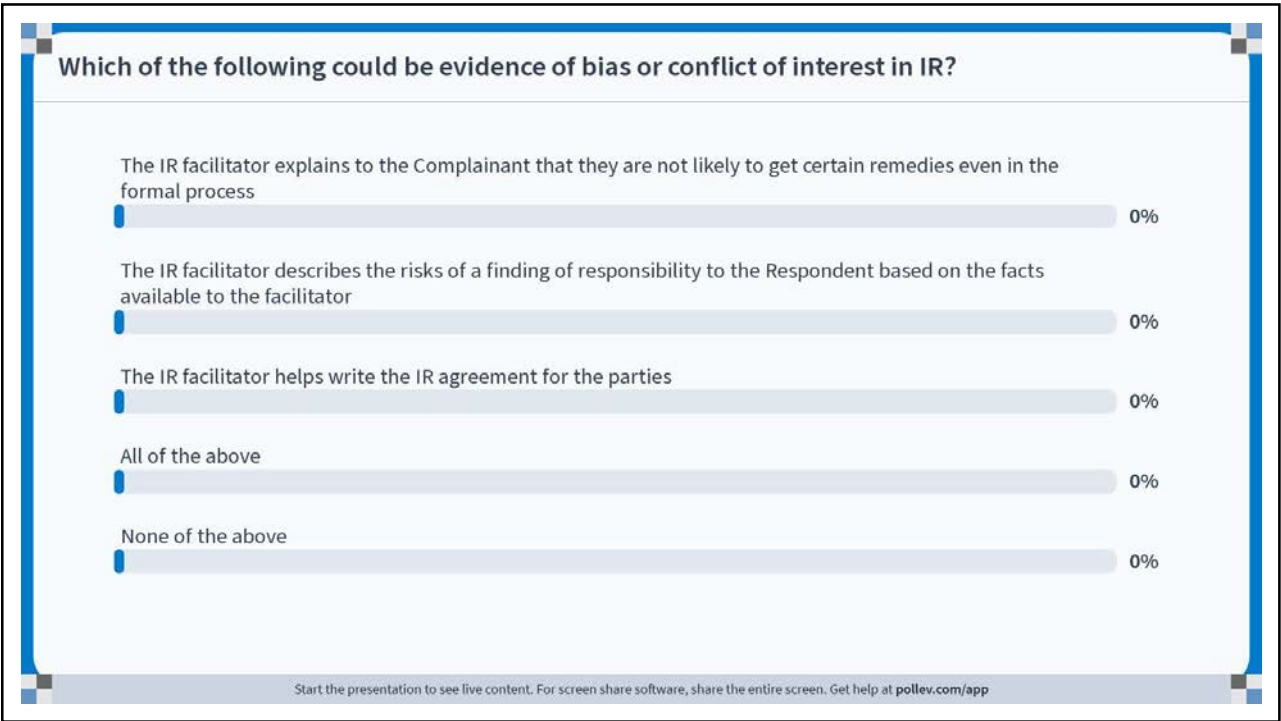
Informal Resolution Theory

- Informal resolution is not intuitive
- The role is very different from other roles in the Title IX process
- Certain skills may increase the chances of success

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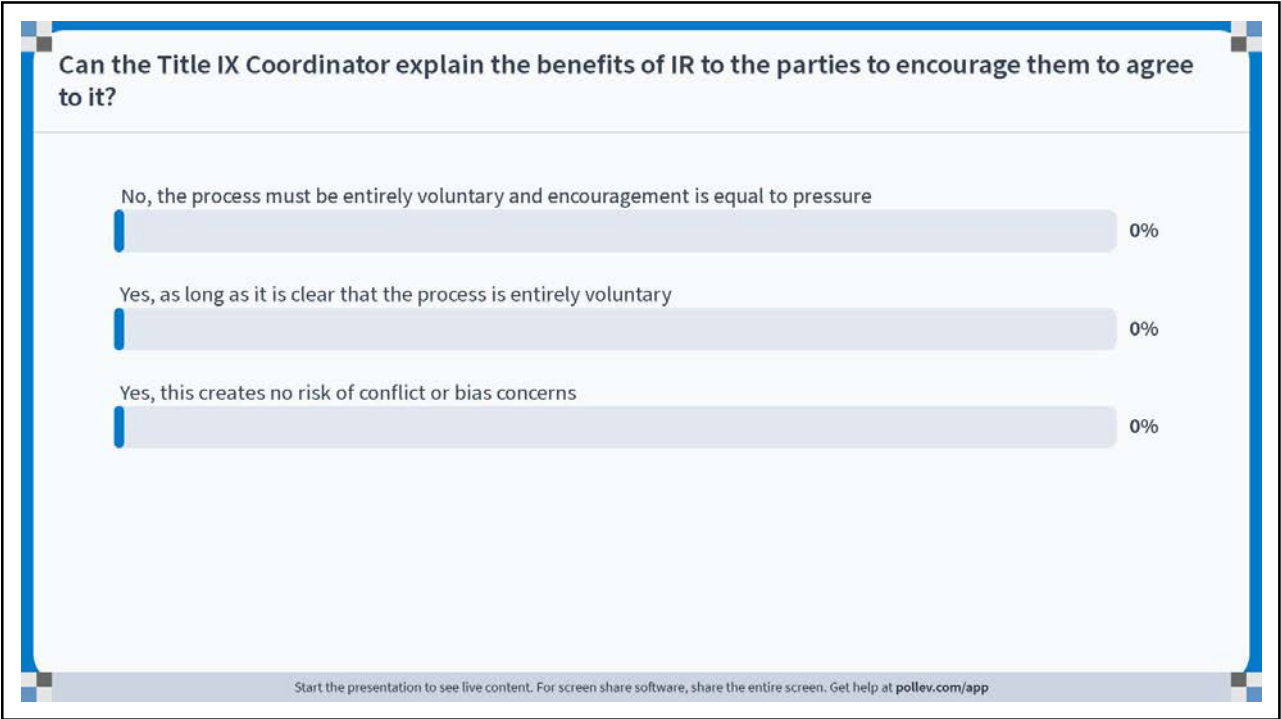
Benefits of IR

The rules recognize that IR is efficient and effective

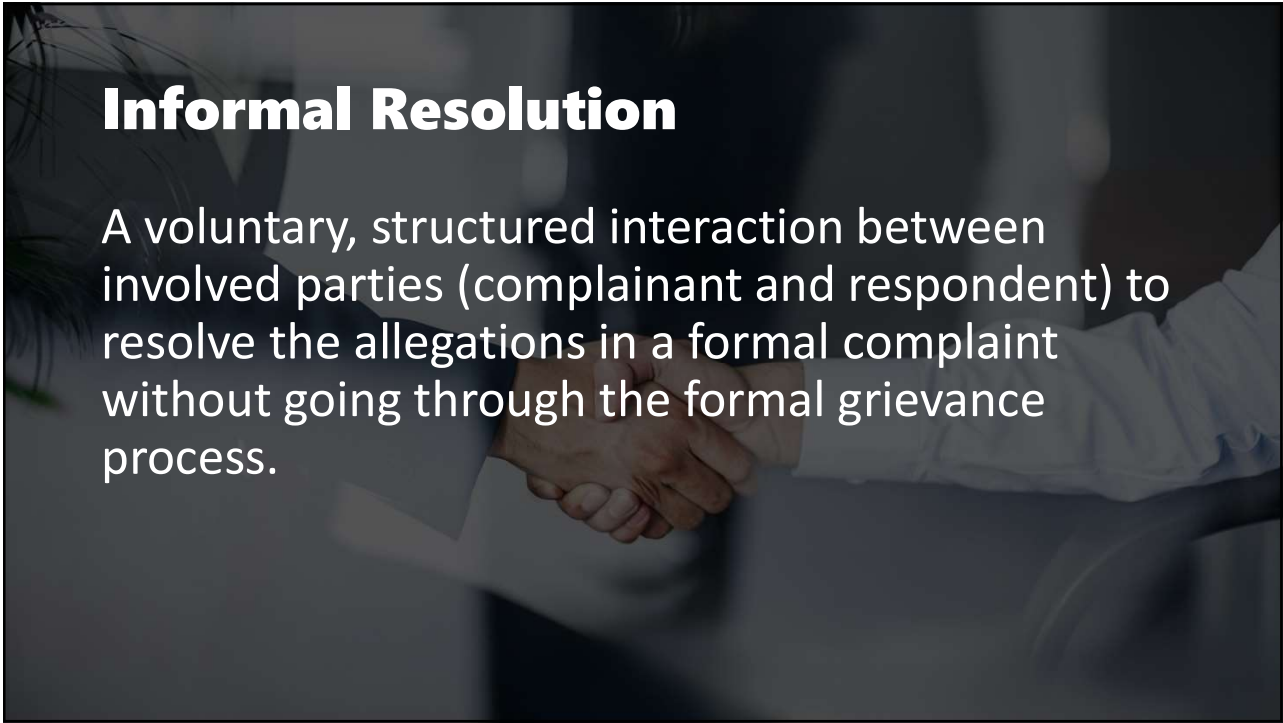
- Flexibility in Process
- Less Adversarial
- Speed
- Restorative Nature/Not Zero Sum
- Similar Outcomes
- Mutual Agreement Provides Control



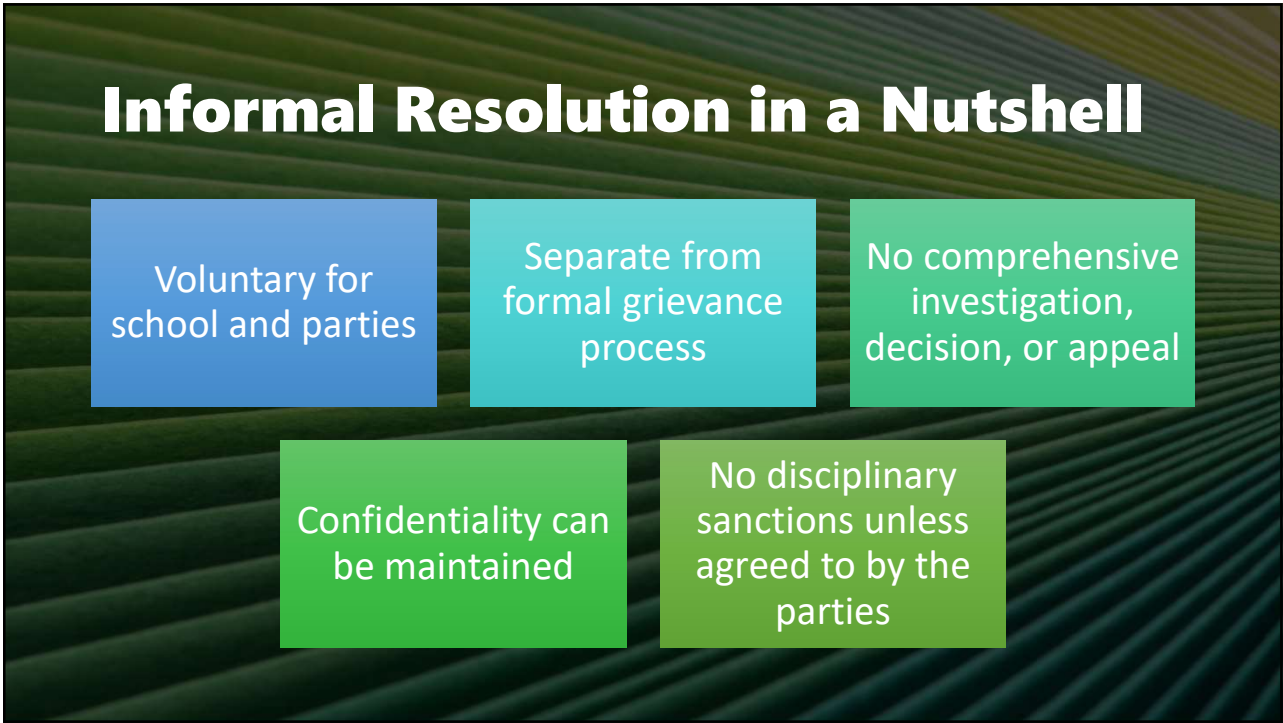
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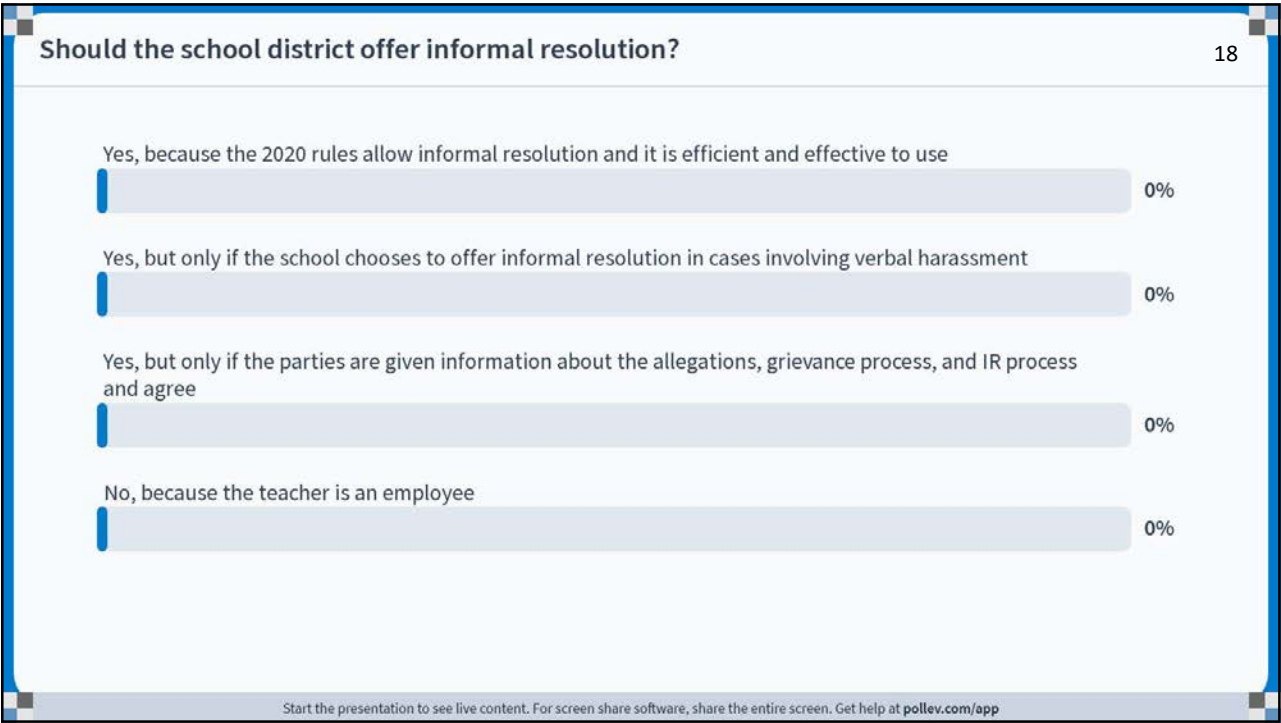
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Scenario

Cleo is a student in Teacher Thompson’s class and reports that the teacher regularly makes highly sexualized comments in class, making Cleo uncomfortable.



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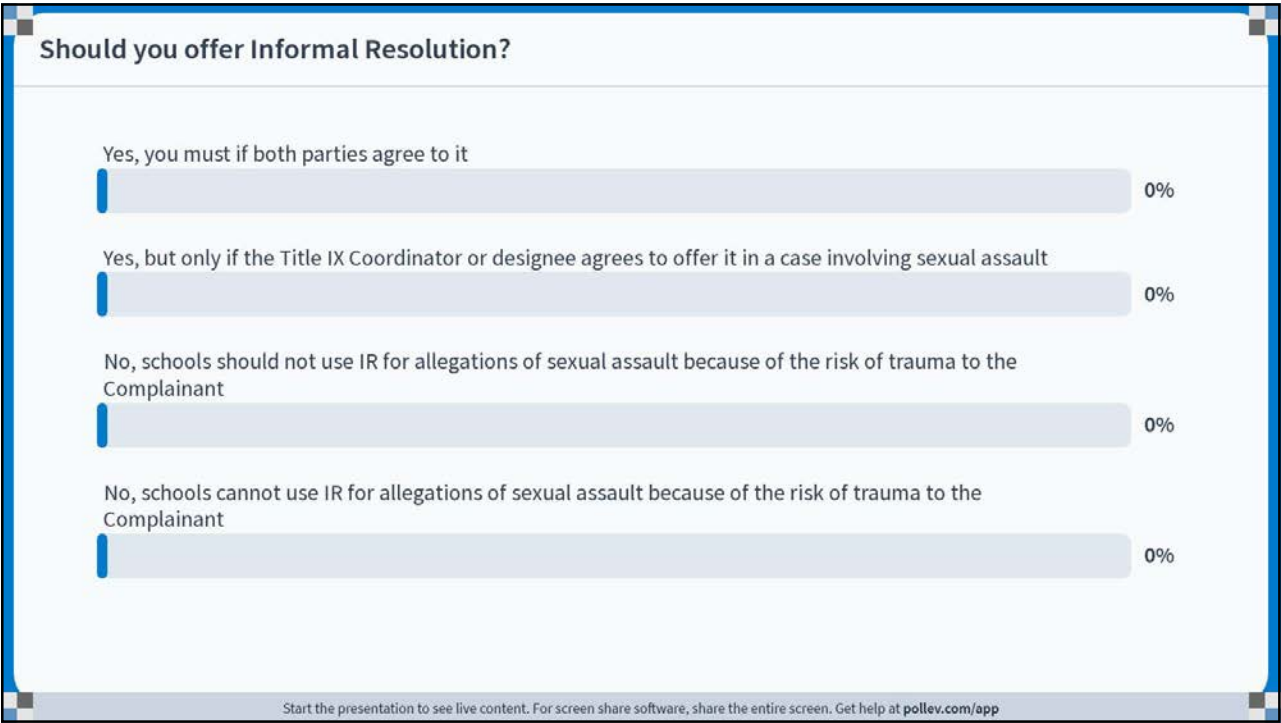
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Scenario

Charlie reports that Ryan sexually assaulted Charlie on an overnight trip for an athletic team. Ryan reports that they believed the conduct was consensual.



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Informal Resolution Formalities

- Both parties must agree (get it in writing)
- School can offer IR but is not required to do so
- You should think now about if there are "off limits" topics for you (e.g., sexual assault)
- Be consistent



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Trauma & Informal Resolution

Informal Resolution can promote:

- ✓ Empowerment
- ✓ Recognition
- ✓ True Resolution

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Scenario

You reach out to the Complainant, Cole, and the Complainant’s parents as the first step in your informal resolution mediation process in a complaint involving Reese. You introduce yourself, describe the process, and ask if they have any questions. They have none. After the phone call ends, Cole emails you the following:

I don’t really want to do this; my parents are making me. Reece deserves to be kicked out of school and I know that can only happen if there is an investigation.



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Should informal resolution proceed?

No, because the Complainant does not want to do so

No, because the Complainant is not open to reaching a resolution

Yes, because the Complainant is a minor so their parent's decision prevails

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An illustration of a clipboard with a checklist and a pencil. The clipboard has a red clip at the top and a purple border. The checklist has three items: the first two are checked with green checkmarks, and the third is unchecked with a grey square. A yellow pencil with a pink eraser is positioned to the right of the clipboard.

Request to Participate

- The Title IX Coordinator or their designee can **offer** the IR process to one party
- Either party also may submit written **request** to Title IX Coordinator to participate in IR
- Either way, promptly notify the other party of the request and provide both parties your written Notice & Consent
- Both parties must voluntarily consent to participate
- If either party declines, the Title IX Coordinator should notify other party that informal resolution has been terminated and resume formal Grievance Process

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Notice & Consent

Notice **must include**

- Requirements for informal resolution process
- Including circumstances where informal resolution precludes parties from resuming Grievance Process for formal complaint based on or arising from same allegations
- Including record-keeping requirements
- Including when information from the IR process can be used elsewhere (e.g., formal complaint process, discipline)



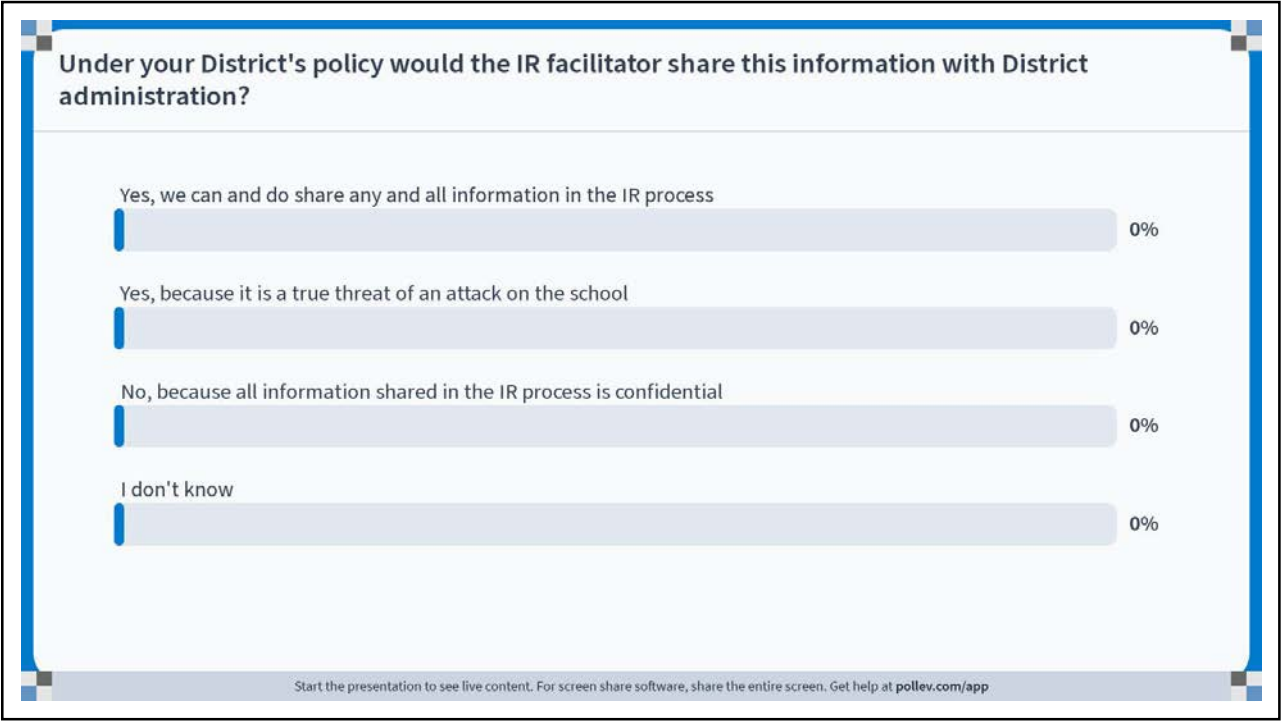
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Scenario

During informal resolution, the facilitator learns from one of the parties that the other party sent a threat by text message threatening to blow up the school if the Title IX process does not go their way



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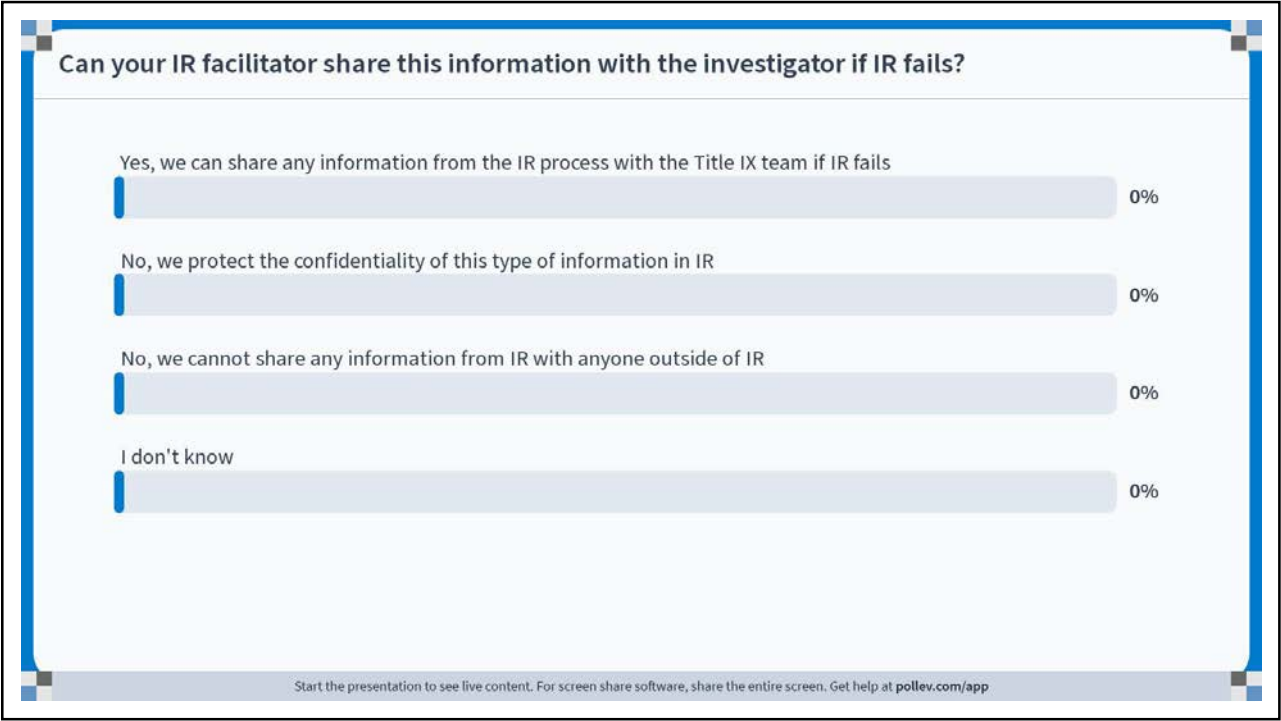
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Scenario

During the IR process, a party admits that they either made up the allegations or committed the alleged misconduct

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Requirements

- Parties may have advisor (attorney or non-attorney) and minor parents/guardians may attend
- Restrictions okay if equally applied
- Must be reasonably prompt

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- Mediation
- Restorative Justice
- Something Else?

Method



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Mediation

- May be governed by state law
- Is "facilitated resolution" of a dispute under Title IX "mediation"?
- In person or "shuttle diplomacy"?



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I believe face-to-face mediation is appropriate in sexual assault cases.

True

False

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A fluffy white cat with blue eyes is sitting and yawning, showing its pink tongue and teeth. The background is a solid light orange color.

Mutually Agreeable Time and Place

- Mutually agreeable time and place
- Begin early if possible
- Not close proximity to another mediation
- Neutral, comfortable location
- No privacy/confidentiality concerns

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Preparation

- IR facilitator should review all documents in the file for the case
- IR facilitator may wish to ask parties if they would like to submit documents or a statement before mediation begins
- Do not predetermine the case—you are NOT a decisionmaker
- Keep an open mind



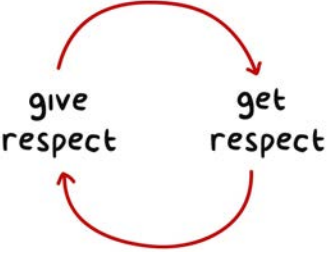
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Set Ground Rules

- Consider developing written information regarding the process and ground rules for informal resolution session
- Have all parties read and sign



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Respect All Parties

- Equal treatment for all parties
- Cultural sensitivity
- Understand emotions are high & acknowledge feelings

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Overview

- IR facilitators should begin with a solid "intro" so the parties understand expectations and the process
- Allow the parties to share their story with the IR facilitator *if they would like to do so*

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Listen

- Prompting questions are okay
 - “Why are we here?”
 - “Tell me more about...”
 - “Help me understand...”
- Resist urge to fill the silence
- Reasonable & neutral sympathy is okay
 - “I can tell this is hard for you”
 - “I’m sorry this is difficult”

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Be Approachable

- Friendly yet firm
- Empathetic yet impartial
- Listen carefully – cues
- Convey sense of optimism



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Broker – First Party

- Determine what the first party wants to ask for to resolve the process
- Brainstorm first—nothing is off the table at first, narrow down later based on the other party's response—and provide suggestions
- Make sure you understand if there has been information shared with you by the first party that is off limits to share with the other party
- Front any concerns with any of the suggestions before you go to the other party, but don't take it off the table



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Examples of Suggestions

- No contact orders
- Tutoring or academic adjustments
- Counseling (offered or required)
- Training (offered or required)
- Admission and apology for wrongdoing
- Apology for Impact only
- Managing course schedules
- Online courses
- Employee supervision



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- “What terms would help you reach a resolution in this case?”
- “I want to provide some options to consider, but these are just suggestions to help get/keep the conversation going.”
- “The other party offered [explain], what is your response?”



Broker – Second Party

- Follow the process you used with the first party, FIRST; don't immediately confront the other party with the first party's suggestions
- After discussing the second party's asks, consider if there is overlap you can discuss
- Then, address things that don't match up
- Continue brainstorming, explaining limits, and ensuring information that can be shared



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Remain Impartial

- Commitment to aid all parties
- Avoid accusatory language/placing blame on any party during discussions
- Do not invest emotionally
- Stay objective; focus on facts
- No consideration of external factors



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Remain Impartial

- Remind that you do not have material interest in outcome
- Be consistent
- Communicate effectively
- Transparency



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Be Inclusive

- Allow both sides to be fairly represented
- Communicate with any party necessary to address conflict
- Do not allow advisors (or parents) to steamroll process



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Focus on Resolution

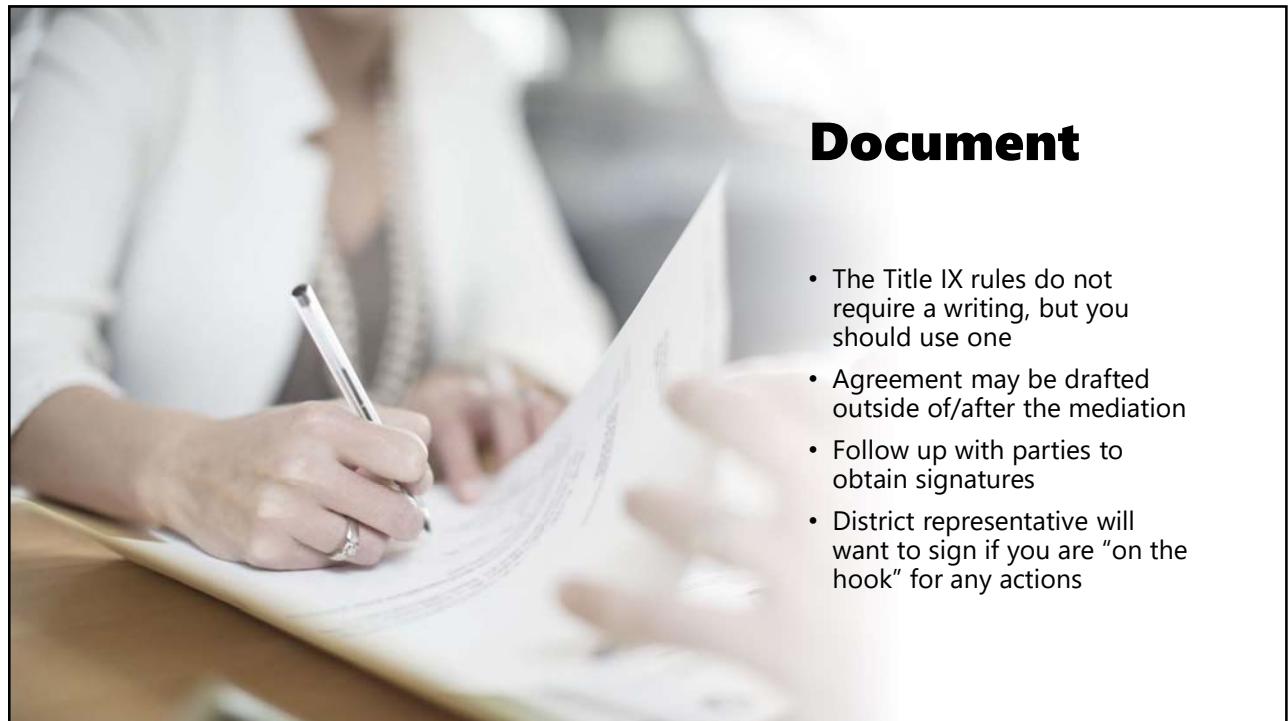
- Encourage parties to not react defensively
- Focus discussion on possible solutions as opposed to “rehashing” defensive statements or explanations

SOLVED

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Document

- The Title IX rules do not require a writing, but you should use one
- Agreement may be drafted outside of/after the mediation
- Follow up with parties to obtain signatures
- District representative will want to sign if you are “on the hook” for any actions



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When can the Title IX process resume after the IR process has begun?

Anytime

Anytime before an agreement is reached

Never

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Timeframes

- During informal resolution, time frames for formal Grievance Process will be placed on hold
- Think about putting time limits in place, but be flexible

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See final page.

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What happens if a party violates the IR agreement terms?

Nothing

Whatever is dictated in the agreement

The Title IX process begins again

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Thank You!

Questions?

Informal Resolution Training

Oregon School Personnel

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