A black and white photograph of three young women on an outdoor staircase. The woman at the top is standing and leaning against the railing, wearing a dark polka-dot crop top and dark pants. The woman in the middle is sitting on a step, wearing glasses, a light-colored ruffled top, and jeans with a large tear. The woman at the bottom is sitting on a step, wearing a light-colored short-sleeved shirt and dark pants. They are all smiling at the camera. The background shows a building with many windows.

# STUDENT SURVIVOR TOOLKIT



**EQUAL RIGHTS**  
ADVOCATES

This Toolkit is intended to help students who have experienced sexual assault, sexual harassment, or dating violence while enrolled at a **college, university, or institution of higher education**. If you are a K-12 student or parent who needs assistance with a Title IX process, contact Equal Rights Advocates: [advice@equalrights.org](mailto:advice@equalrights.org)

### **Trigger warning:**

The following material discusses sexual violence, as well as victim blaming, gaslighting, shaming, disbelief of survivors, and institutional betrayal. You may want to take breaks while reading, or ask a trusted loved one or friend to read it for you, or with you.

### **Acknowledgments:**

This Toolkit was created by Equal Rights Advocates and the student survivor clients we assist through their Title IX cases. Equal Rights Advocates is a gender justice nonprofit organization focused on creating equitable schools and workplaces.

Thanks to the ERA law clerks and interns who contributed to this toolkit: Lindsay Campbell, Jessica Dean, Julia DiMartino, Emma Hyndman, Melissa Padilla, and Ruby Rawlinson.

Thanks to the ERA staff members who dedicated many hours, thoughtful energy, expertise, and survivor-centered compassion to this project: Brenda Star Adams, Jess Eagle, Maha Ibrahim, Harjit Kaur, Kel O'Hara, Katie Sexton, and Rebecca Sheff.

Most of all, **thanks to the student survivors** who contributed to their wisdom, courage, and powerful hearts to this toolkit: Mia Doe,\* Isha K., Virginia M., Samar R., and Sobia S. Your determination to make the world better for other survivors — and safer for all students — is the reason this toolkit exists. Thank you for leading our movement.

This resource was created and distributed by Equal Rights Advocates. Please credit us if you share, quote from, or refer to material found in the Student Survivor Toolkit. As a nonprofit organization that advocates for women to be fairly compensated and recognized for their labor, it is important to us that we are credited for our work.

*Dear survivor,*

**This is for you.**

We get it: figuring out what to do if you have experienced sexual violence as a student can be completely overwhelming. You might be asking yourself: How can I keep myself safe now? Will this disrupt my education? Should I report, and what happens if I do? What are my options if I don't? How does a Title IX investigation work? And how do I know which path forward I should take?

If you're feeling this way, we're here to help you figure out what's next.

This Toolkit was created by survivors for survivors like you. It's the resource we wish we had when we were in your shoes. It is designed to empower you with the information you need to make the choices you want. It's here to support you in deciding what to do next and give you the tools you need to make that happen. Most importantly, it's here to let you know you aren't alone in this experience. You are now part of a strong community of survivors and supporters who are always there for each other. No matter who you are or what you want to do next, we have your back.

**What information will you find in the Survivor Toolkit?**

The following pages cover a broad range of topics related to campus reporting options, activism and advocacy, and self care. You'll find advice from other survivors, information from lawyers about your rights and how to navigate an investigation, and insight from campus activists about how to share your story and connect with other survivors. We will walk you through the campus Title IX complaint process from beginning to end, and offer solutions outside or in addition to that process. (Title IX has its own confusing legal language, so consult the glossary on page 14 when needed.) You'll also find culturally-specific advice for survivors who may have unique concerns about coming forward because of your identity, including members of the LGBTQIA+ and Muslim communities.

**How should you use the Survivor Toolkit?**

In short, it's up to you. We invite you to take the information you need and leave the information you don't. You can read it from cover to cover, skip through to the sections that feel most relevant for you, or let it sit in a drawer until you're ready to dig in. Maybe the Toolkit will make you feel empowered to move forward with an investigation, speak out about your experiences, or become an activist; maybe it will help you decide that the best way forward for you is to not take any action at all. Whatever you decide is okay. You have the backing of this community, no matter what.

We see you. We believe you.

*In solidarity,*

Equal Rights Advocates,  
and the survivors who created this toolkit

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# TIPS FOR SURVIVORS, FROM SURVIVORS



## **We asked student survivors, “What do you wish you had known about the Title IX process beforehand? What advice do you have for other survivors?”**

*\* Some survivors chose to use pseudonyms or remain anonymous*

### **You're not alone.**

“You do not have to carry all of this by yourself. You are not weak for asking for help. There are a lot of people that truly want to help survivors, so it’s okay to reach out.”

- Mia Doe\*

“Remember: you are choosing to help the University make sure there is not a sexual predator on campus. I went into the process feeling like everyone was doing me a favor, and that wasn’t true. I was doing them a favor.”

- Sobia S.

“Telling your story to anybody is important. If they don’t listen to you, you go to the next person, because it’s important to get your justice. Even if there are people that don’t listen to you, there are other people that will hear you out, and they will do something about it.”

- Virginia M.

“Follow up on everything. And trust your gut.”

- Anonymous survivor

“You’re not alone. There are other survivors who will stand with you, who know what you’re going through and what you’ve been through. You deserve to be believed, listened to, and helped.”

- Anonymous survivor

### **It takes time.**

“There is a lot of waiting around [in Title IX]. It takes a long time and there are long pauses between one step and the next.”

- Anonymous survivor

“Be aware from onset that you’re going to be advocating for promptness. Oftentimes there’s not enough staff, the Title IX people aren’t competent, or they’re just waiting you out and hoping you drop the case or graduate.”

- Maha Ibrahim, ERA attorney and survivor advocate

“Get the school to tell you the timeline for each step, and who will be getting back to you.”

- Sobia S.

## ***Assert your rights.***

"If your school tells you that you have to report it to the police first, don't listen. That's not true."

- Samar R.

"You can say no. You can ask beforehand what a meeting is going to be about. You can ask someone to be there with you. You can pause a meeting and say 'I need a minute.' If you don't understand something, ask for an explanation. You can say 'this is what I need.'"

- Sobia S.

"You are allowed to have a legal advocate and a support person so please, take advantage of it!"

- Mia Doe\*

"Many students don't know that they can ask for their tuition back. It doesn't mean it's going to happen, but you should ask."

- Sobia S.

## ***It's a difficult process.***

"For the investigator's interviews, pick a time where you won't feel rushed to finish. Take your time and breathe while telling your story. Bring your advisor to be with you. Take some time to relax before and after."

- Isha K.

"You don't have to tell anyone the details of your story on demand, especially if they're not directly involved in the investigation and conducting official investigatory processes when they ask."

- Maha Ibrahim, ERA Attorney & Survivor Advocate

"Have a friend or advisor read the emails from the University about the case to let you know if there's a trigger."

- Sobia S.

"Don't let anyone make you second guess yourself, but be prepared for victim-blaming. The language the investigator used during my interviews about the sexual assault made me question myself. In hindsight, I think that was the intent."

- Isha K.

"The investigator will also do a character assessment and officially determine your credibility. It's unfair, but you should know so you can pay attention to what you're saying, how you're saying it, and your body language."

- Sobia S.

## ***The outcome.***

"If you go through the Title IX process and they do not rule in your favor, it does not mean that the sexual assault didn't happen. You know what happened and that's truly the only story that matters."

- Mia Doe\*

"Your school officials are not the ultimate authority on Title IX. Even if they say 'that's that,' you can get help from organizations like ERA if you are being mistreated, ignored, blamed, or anything else that doesn't feel or seem right."

- Survivor Advocate & ERA Attorney Maha Ibrahim

"What I've had to learn the hard way is that the conclusion of my Title IX case did not bring me the closure I was desperately seeking... I thought if I just made it to the date of the hearing, it would all be over and poof, I'd never think about it again. Legally, the absolute best-case scenario happened for me. But still, I felt no sense of victory. I might have won my safety and peace of mind on campus, and I am so incredibly grateful for that, but I did not get an overwhelming sense of joy and suddenly start looking at the world through new eyes. But I know what has helped me: admitting that I wasn't okay. Admitting that I needed help. And, most importantly, admitting that it wasn't my fault."

- Mia Doe\*

## ***Final words of advice.***

"Try not to let something like this define you, because you are so much more than any of your scars, seen or unseen."

- Mia Doe\*

"Reporting should not be a disempowering process. Every student survivor should be able to know what specifically they are getting into and have all the support they need to feel heard. I hope that this toolkit helps survivors set themselves up for success in a system that is already against them. Stay Safe & Stay Strong <3."

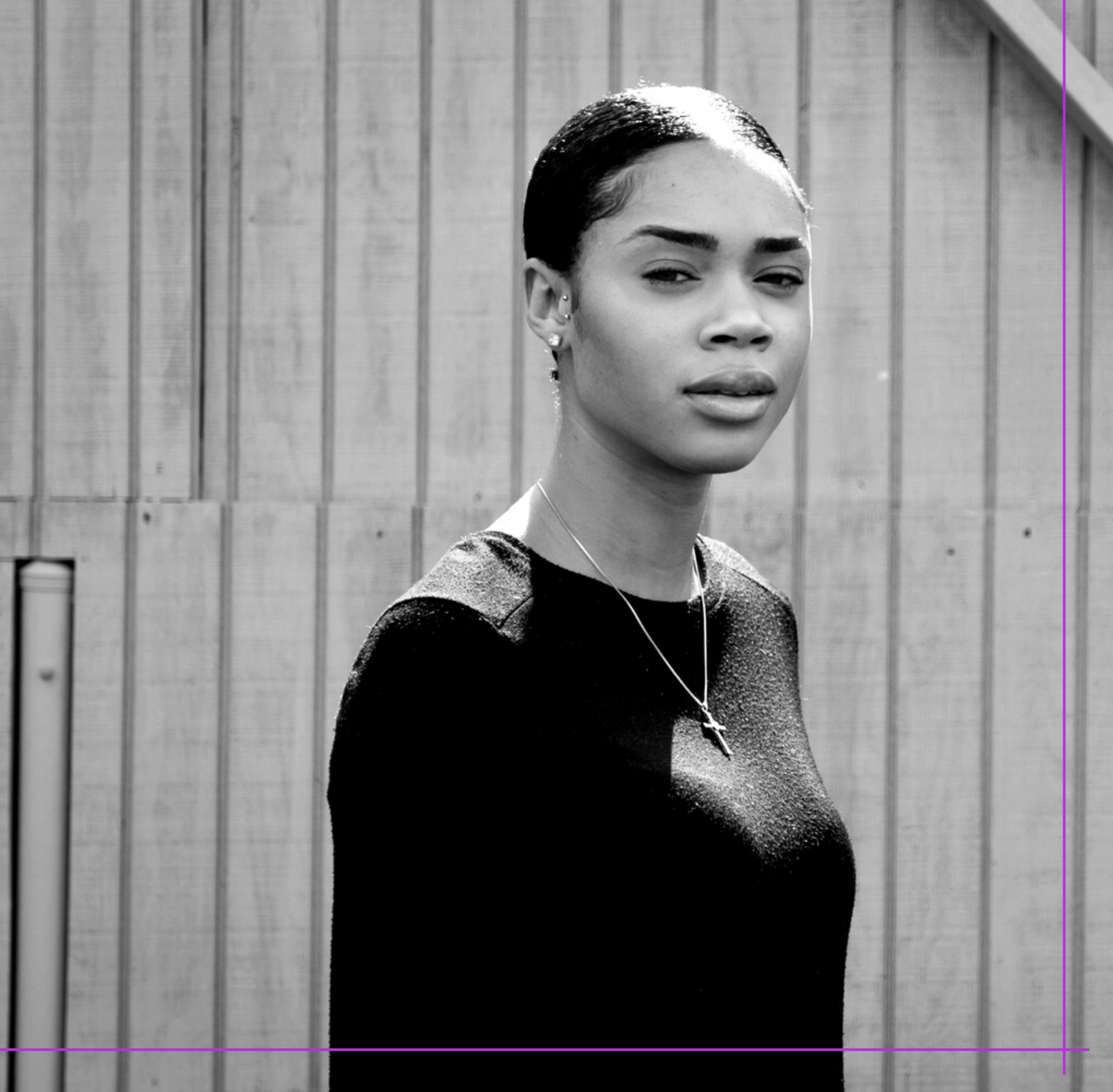
- Isha K.

"Regardless of the outcome of the hearing, you are extremely brave for coming forward and speaking out. What happened to you is not your fault. The journey to healing is a long one and you are not alone; we believe you! It is okay to lean on friends, family, and your advocates for the support you need throughout the Title IX process; we are here for you!"

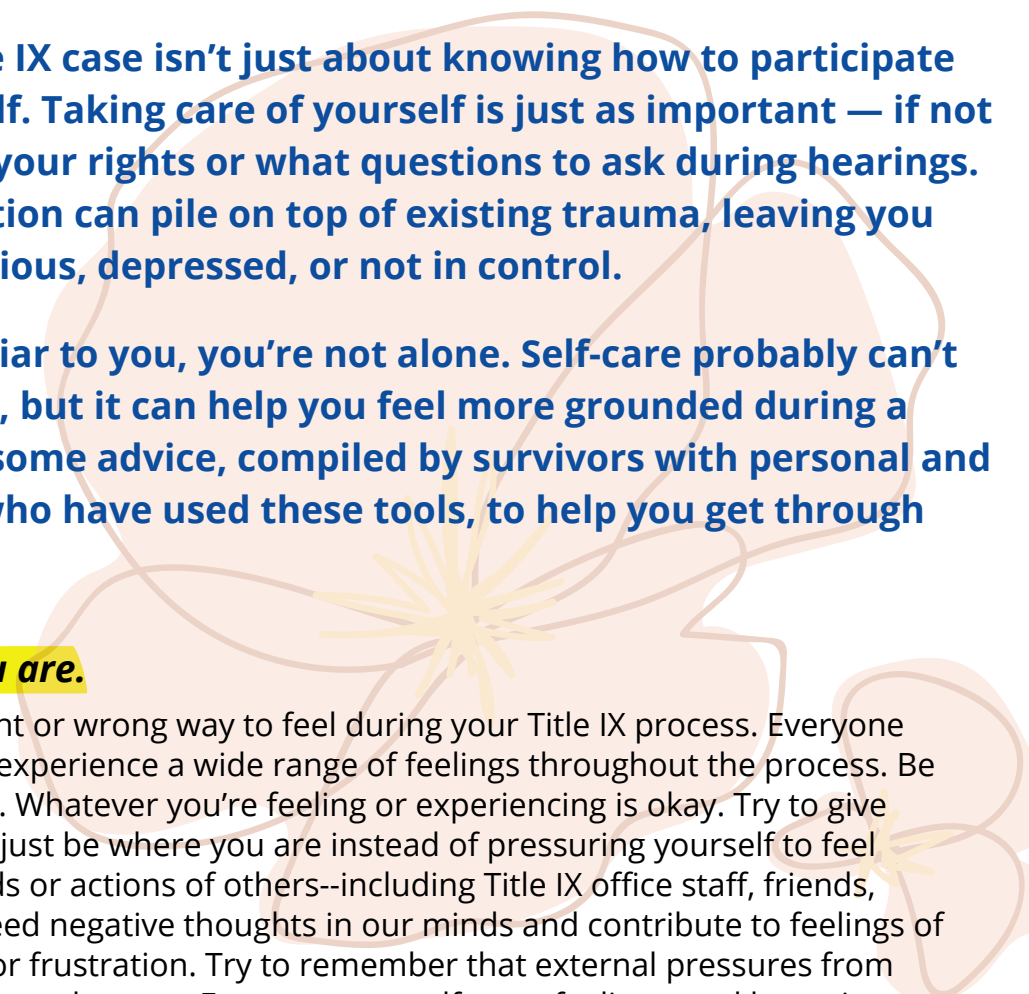
- Harjit Kaur, ERA attorney and survivor advocate







# **SELF-CARE FOR SURVIVORS**



**Getting through your Title IX case isn't just about knowing how to participate in the Title IX process itself. Taking care of yourself is just as important — if not more so — than knowing your rights or what questions to ask during hearings. The stress of an investigation can pile on top of existing trauma, leaving you feeling overwhelmed, anxious, depressed, or not in control.**

**If any of this sounds familiar to you, you're not alone. Self-care probably can't totally stop these feelings, but it can help you feel more grounded during a challenging time. Here is some advice, compiled by survivors with personal and professional experience who have used these tools, to help you get through your Title IX case.**

### ***Meet yourself where you are.***

Please know that there is no right or wrong way to feel during your Title IX process. Everyone reacts differently, and you may experience a wide range of feelings throughout the process. Be patient and gentle with yourself. Whatever you're feeling or experiencing is okay. Try to give yourself grace and the space to just be where you are instead of pressuring yourself to feel differently. Sometimes the words or actions of others—including Title IX office staff, friends, family, or other students—can feed negative thoughts in our minds and contribute to feelings of guilt, shame, confusion, anger, or frustration. Try to remember that external pressures from others are just that: they are external to you. Focus on yourself, your feelings, and honoring where you are.

### ***Practice the basics.***

The foundations of self-care can be some of the first things we let go of when things get hard, but they're also some of the most important ways to sustain ourselves. Getting enough sleep, drinking water, eating nourishing foods we enjoy, and moving our bodies in ways that are accessible and feel good are all things that support our well-being and emotional regulation. If you're struggling to do or remember these things, try scheduling reminders, setting alarms, reaching out to a friend or loved one for encouragement or material support (bringing meals, refilling water bottles, etc). No need to seek perfection; doing a little bit at a time is just as important.

### ***Remember joy.***

It can be easy to get lost in grief or pain when we're going through a tough time. The idea of having fun can feel distant, insignificant, or even wrong, but doing things we enjoy can actually support our resilience. Whether that's enjoying your favorite hobby, dancing around your room, or scheduling a movie night with a friend, light moments can help us keep us going. If you're really struggling to do or feel anything positive, ask yourself this question: can I remember a time when I was having fun? When I was filled with joy? Knowing there was a time you felt that way can help you believe you'll get back there.



## ***For Title IX Meetings and Other Challenging Moments***

### ***Bookend the event.***

Do something kind and relaxing for yourself before any Title IX hearing, meeting, or task, whether it is having your favorite cup of tea or listening to a relaxing song. Be sure to schedule something self-affirming afterwards, too, so you're not alone or left in a triggered or traumatized state without support. Perhaps plan to take a walk, hangout with a friend, watch a favorite show or movie, or schedule a therapy session for soon after so that you can process whatever happened with a professional.

### ***Ask for a break.***

Although it's easy to feel like you need to push through Title IX proceedings without pause, it's actually totally okay (and encouraged!) to take breaks if and when you need them. If you're in a Title IX meeting or hearing and feel yourself getting triggered or overwhelmed, try asking for a break before you feel like you absolutely have to stop; it's a lot easier to recenter yourself when those feelings are starting to build instead of at their peak. Some examples of when you might ask for a short break are:

- During a hearing
- In a meeting with your lawyer/care advocate/therapist
- In a meeting with school officials (as part of the formal adjudication process).

If you're working on a Title IX task by yourself, try setting a timer to remind you to put it down and walk away for a few minutes to stretch, drink water and clear your head. If you need a break from the entire process, you could also try asking your Title IX office for a brief (1-2 week) pause on the investigation or your role in it. You might not always be granted a break, but it is still your right to ask. The bottom line is that all these times and spaces are yours, and you are allowed to ask for a break. In the other less formal spaces, such as with your lawyer or therapist, you should always be granted the time and space you need.

### ***Shield yourself.***

Some of us, especially those of us who feel very connected to our energy or spirituality, may benefit from building a protective barrier around ourselves before something difficult or scary. Take a comfortable seat, close your eyes, and imagine a white light surrounding you. As you inhale, imagine the white light entering you as positive/good energy. As you exhale, imagine the white light emanating from you and forming a protective seal around you. Carry it with you through whatever you have to do. If you feel harmful people or ideas affecting you, imagine your light as pushing them away—across the room, across the horizon, or far enough away that they can't reach you anymore.

### ***Connect to your body.***

Many of us dissociate--or feel like we have disconnected from our body or reality—when revisiting some of the traumatic events. To stay grounded, there are a variety of simple things you can do. Try going to the bathroom and splashing water on your face or running your hands under water. Do some stretches, especially of the places in your body you feel most disconnected from. If you're in a situation where you'd like to make this less obvious to others, push down into the ground with the soles of your feet or other places where your body meets a surface, like the back and seat of your chair. You can also trace the lines on the inside of your hands with a finger or play with an acupuncture ring.

### ***Use your senses.***

If you're feeling anxious, stop what you're doing (ask for a break if you're in a meeting) and bring yourself back to the present moment by engaging your 5 senses. Anxiety is often based in the past or the future, so returning to the present can help us reduce anxious feelings. One exercise is to name five things you see, name four things you hear, name three things you feel, name two things you smell, and name one thing you taste. This exercise can also be helpful if you're dissociating from yourself, particularly from your body.

### ***Go to your glimmers.***

A glimmer is the opposite of a trigger, a mental cue to our bodies that we are okay. A glimmer can be a person, a place, a smell, a sensation, or a feeling that leads you back toward the feeling of safety and connection. Practice identifying glimmers when they happen and turning toward them in calmer moments. This practice will make it easier to return to them when you're struggling. One way to go to a glimmer is to carry a physical manifestation of it. An essential oil necklace with a soothing scent, a photo of your pet, a playlist of music you love, or a leaf from your favorite nature trail can all guide you and your mind back toward safety. Another idea is to create a mental version of your own (real or imagined) safe place. What image(s) represent that space? What emotions and sensations do you experience there? Concentrate on the details, and imagine your safe space as vividly as possible. It may help to choose a representative word to say that helps you conjure it. Go to your safe space when you feel anxious until you feel calmer.

## ***After It's Over***

### ***Pack it away.***

It might take time before you're ready to process your Title IX experiences. In this case you may need to compartmentalize, or put the feelings away, until you feel safe enough to unpack them. If you need help, try this guided visualization strategy: imagine yourself in a cozy, familiar home. In the home is a large room with a large walk in closet. You walk into

the closet, and there are many shelves with many boxes. Select a box, and bring it down. Open the box, and place in it anything and everything related to the Title IX process: emails, meetings, memories, feelings, sensorial memories, people, whatever. Close the box, and lock it. Place the box in the corner of the closet, up on the top shelf where you can barely notice it. Walk out of the closet, and close the door behind you. When you're ready to revisit the Title IX process and everything surrounding you, the box will be there waiting for you. Until then, you can walk away from it.

***Remember healing isn't linear.***

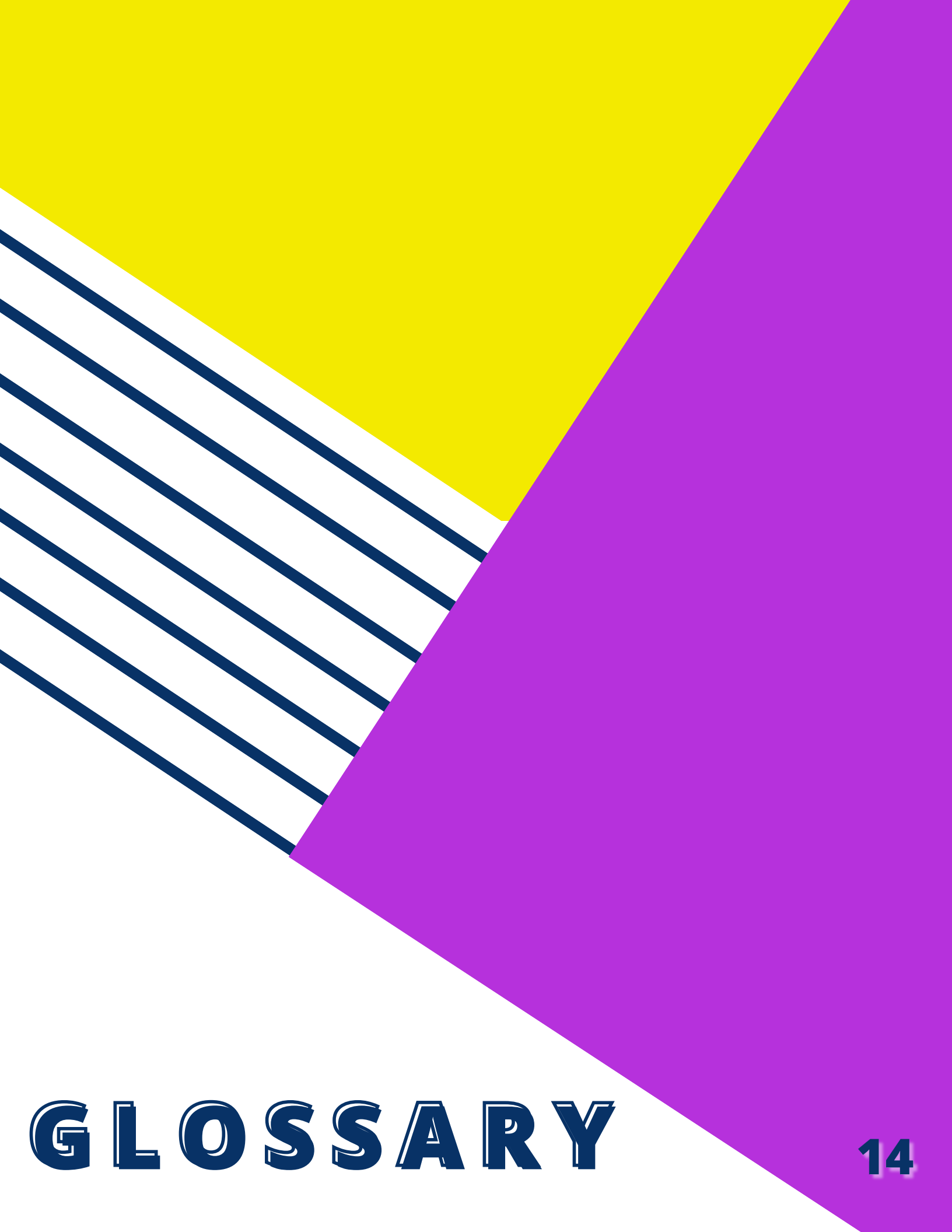
Some of us expect healing to happen in a straight line, to feel better every day as more time passes after a traumatic event. It's more like a roadmap with twists and turns. While time can help, healing actually happens at different times and at different rates: you might feel fine immediately after an incident but struggle more much later, or you could feel good one day and awful the next. Remind yourself that it's part of the process and that it's okay. Give yourself credit for small victories: are you better at remembering to drink water when you're having a hard day than you used to be? Does your anxiety not stay as long as it used to when it pops up? These gradual shifts through the ups and downs are how healing unfolds.

***Separate your healing from your Title IX process.***

Some of us believe that a fair Title IX process is what will validate our experiences and make us feel better. However, too many of us have seen that the Title IX process isn't always fair and doesn't always lead to the outcome(s) we're hoping for. If this happens, tying your well-being to the result of your Title IX case will only make it harder to heal. Instead, consider what healing looks like outside the Title IX process. What things do you need that are entirely under your control? It may help to think about what you would like to feel and work backwards from there. If you need to feel safe, maybe it's time to build stronger boundaries or join a connected, respectful community. If you need to feel heard, sharing with friends and family or using your voice to tell your story might be right for you. Some survivors find healing by becoming an advocate for others, but remember that doing so should always be your choice. Many of us are in this fight and you are always welcome, but never obligated, to join us.

**Not all of the strategies above will work for everyone, so find your own best tools for your trauma self-care toolbox. It might take some experimentation, and different strategies might be right for different situations. We hope this list at least gives you a place to start in developing a self care plan that works for you.**





# GLOSSARY

## Common phrases and what they mean in a Title IX context

\*These definitions are for informative purposes, and do not constitute official legal definitions. If you need to cite an official legal definition of one of these terms, or challenge your school's incorrect definition of a term in your case, please contact ERA for the full legal definition and citation, and/or help with your case.

- **Title IX:** Title IX is a law that is part of the Education Amendments of 1972. It makes it illegal for a school, university, or school district to discriminate against you based on your sex. Under this legal definition, “sex” includes a person’s actual or perceived gender assigned at birth, gender identity, and sexual orientation. Title IX protects your access to education by making it illegal for any student to be denied that access on the basis of sex. Title IX therefore can be used to protect survivors’ access to education due to gender-based violence (including sexual assault, sexual harassment, and intimate partner violence) and other gender-based discrimination.
- **Adjudication:** the process by which a formal complaint is made, investigated, and decided under Title IX.
- **Advisor/Advocate:** an individual who supports you through the Title IX process. This person may be, but does not have to be, an attorney. The advisor/advocate role differs from that of a support person in that they counsel you on your rights under Title IX and your school’s specific policy. They are there to provide a strategic lens into the process.
- **Alternative Resolution (“AR”):** the process by which a complaint is resolved “informally,” AR allows you and the other party to resolve a Title IX complaint without going through a formal investigation and hearing. AR options vary and depend on your school’s particular policies. See the [Alternative Resolution](#) section of this Toolkit on page 45.
- **Appeal:** the process of challenging a Title IX decision in an attempt to change the outcome. In the Title IX context, this usually arises after the school has made a final (or sometimes a preliminary) determination about whether the conduct occurred. A party that disagrees with the decision may start an appeal process to have the decision reviewed. See the [Guide to Appeals](#) section of this Toolkit on page 53.
- **Complainant:** the person who files a Title IX complaint. In most cases, this is you, the survivor.
- **Complaint:** the document that explains the conduct you are complaining about.
- **Credibility:** refers to how “believable” a person is. Throughout the process, each party’s and witness’s credibility will be assessed by the investigator and/or the hearing officer, typically based on things like consistent/inconsistent statements, evidence that shows they are being truthful/untruthful, or how the investigator/officer interprets their mannerisms.
- **Cross-Examination:** refers to the part of the hearing where you are asked questions from the other side. The questions are sometimes proposed ahead of time by the other party’s advisor/attorney. You might be questioned directly by the opposing advisor/attorney, or the hearing officer may ask you the opposing advisor/attorney’s questions.



- **Finding:** the outcome of a Title IX case/complaint process that finds the Respondent responsible or not responsible for the conduct alleged in your complaint. “Responsible” is the Title IX equivalent of “guilty.”
- **Gag Order:** an instruction not to speak about the incident(s) or behavior contained in your Title IX complaint. Breaking a gag order could result in disciplinary action from your school.
- **Gender Discrimination** (official Title IX definition): being treated differently and worse at school because of your actual or perceived gender or gender identity. This includes conduct based on your sexual orientation, as well as sexual harassment, sexual violence, dating violence, or stalking.
- **Hearing:** a proceeding before a hearing officer or panel in which evidence and argument are presented to determine whether or not a violation of school policy has occurred, and whether the Respondent is responsible (“guilty”). See the Hearing Preparation section and the Step-by-Step Guide section of this Toolkit.
- **Hearing Officer:** the person who presides over the Title IX hearing like a judge presides over a courtroom. The hearing officer, among other things, is responsible for deciding the format of the hearing, what evidence will be considered, what testimony is credible, and whether, based on the evidence presented, the Respondent violated the school policy and is responsible for the incident(s) in your complaint.
- **Mediation:** an attempt to resolve a case without a formal hearing. Often this includes discussions between the parties, facilitated by a qualified individual, the mediator.
- **No-Contact Order** (Mutual No-Contact Order and Unilateral No-Contact Order): a No-Contact Order prohibits contact (electronic or in-person) and communication between two people - usually the Complainant and the Respondent. A No-Contact Order can be Mutual, meaning neither party is allowed to contact the other, or it can be Unilateral, meaning only one party is prohibited from contacting the other. If someone violates the order, the school will likely take disciplinary action.
- **Office for Civil Rights (“OCR”):** the United States Department of Education’s Office for Civil Rights enforces Title IX, among other statutes. If you believe that your school has violated your rights during the Title IX process, you may file a complaint with OCR (See the “Your Rights & What to Do if They’re Violated” section of this Toolkit). OCR then evaluates, investigates, and resolves the complaint. OCR also provides guidance to educational institutions and agencies on how to comply with the law.
- **Preponderance of the Evidence:** the evidence standard used to resolve campus Title IX cases. Using this standard, the school decides the outcome of the case by determining whether it is more likely than not (more than 50% likely) that the Respondent is “responsible” (“guilty”) for the incident(s) in your complaint.
- **Quid Pro Quo:** In the Title IX context, quid pro quo sexual harassment occurs when a person (usually one with authority, like a school employee or professor) tells another person (usually a student) that they can gain an advantage--such as a higher grade--by participating in or allowing unwanted sexual contact.



- **Respondent:** the person in a Title IX case who is accused of harming the Complainant. In most cases, this is the person who sexually assaulted or sexually harassed you.
- **Retaliation:** another word for punishment based on asserting your rights. Under Title IX, it is illegal for your school to retaliate against (punish) you for reporting sexual violence or gender discrimination, or participating the Title IX process or a related investigation or legal action. Examples of retaliation at school can include being disciplined, withholding your transcript, removing you from classes or sports teams, and/or restricting your ability to move around campus.
- **Sanctions:** the consequences against the Respondent if the case results in a finding of responsibility. Sanctions may include dismissal from campus, suspension, mandated learning on sexual violence, consent, or gender discrimination, a warning, or anything else the hearing officer deems relevant and appropriate.
- **Sexual harassment:** ranges from unwanted touching, gesturing, and inappropriate jokes, to someone promising you a good grade or a promotion in exchange for sexual favors or requiring sexual favors in order to give you something you deserve or want in a school or work setting. Sexual harassment does not always have to be “sexual.” It can also look or feel like teasing, intimidating or offensive comments based on stereotypes (e.g., about how certain people “are” or should act), or bullying someone based on their sex, gender identity (man, woman, trans, intersex, nonbinary, two-spirit, gender queer/fluid, etc.) or sexual orientation (queer, bisexual, lesbian, gay, asexual, pansexual, etc.). There is no requirement that the sexually harassing person or persons derive any sexual pleasure from their acts or that they are sexually attracted to their victim.
- **Sexual assault:** a physical invasion of your body. It can sometimes result in bodily harm or injury, as well as psychological and emotional trauma. The definition of sexual assault varies by school but generally includes rape, as well as other acts that invade or hurt your body, such as inappropriate touching, groping, attempted rape, forcing you to perform a sexual act, or penetrating any part of your body with a part of their body, or with an object, if such touching/penetration was done without your consent or when you were unable to give consent (i.e. by intoxication or otherwise).
- **Sexual misconduct:** a broad term encompassing a range of offensive behavior including sexual assault, sexual harassment, and other unwelcome conduct of a sexual nature.
- **Substantiated:** if your allegations were substantiated, that means the school found it is more likely than not that the conduct occurred (i.e. that there was a violation by the Respondent of the school’s Title IX policy).
- **Support person:** an individual who provides emotional support through the Title IX process. A support person differs from that of an advisor because their focus is on your emotional well-being and navigating the process through that lens. They often help you identify and request supportive measures from the school, and they can usually sit in on an interview or hearing to provide emotional support.

- **Supportive measures:** these are accommodations provided by the school to help you during the Title IX adjudication process (typically called “interim” measures) or after the investigation is over and a finding is made (typically called “supportive” measures). They can include things like changing a grade to pass/fail, transferring to a different class, moving dorms, etc.
- **Title IX Coordinator:** a person designated by the school (usually a school employee) whose job it is to make sure the school is complying with Title IX. These responsibilities include responding to complaints of sexual assault, sexual harassment, and other gender discrimination, coordinating the investigation process and hearing, and thoroughly understanding the school’s policies and procedures as they relate to Title IX.





# **A STEP-BY-STEP GUIDE TO TITLE IX**

# THE TITLE IX PROCESS

**While there is no legal deadline, the Title IX process should usually take about 60 - 90 days. However, in some cases it takes much longer. This is just an estimated timeline.**

***Please see instructions on how to complete each step in the Step-by-Step Guide below.***

## **Step 1** Make a Report

Contact your school's Title IX Officer. You should be able to find contact info on your school's website or in the student handbook, or ask a trusted teacher. Email or call to set up a meeting.

**about  
1 week later**



## **Step 2** Meet with the Title IX Office

During the meeting, you'll likely be asked to decide whether you want to file a formal Title IX complaint or not. The investigative process and alternative options should be explained so you can make an informed decision.

**at the same time**

## **Step 3** Supportive Measures

During the meeting, you should be told what help is available to you (exam extensions, housing change options, counseling), even if you do not move forward with a formal complaint.

**1-3 weeks later**



## **Step 4** Respondent is Notified

If you decide to move forward with a formal complaint, the person who assaulted or harassed you (called the Respondent) will be notified that a Title IX complaint was filed against them and an investigation is beginning. They will be given a summary of your complaint.



continued

## The Investigation

*Overall, the investigation (Steps 5-7) can take 2-12 months*

### Step 5

Interviews & Evidence

#### Takes 1-4 weeks

You will be interviewed by an investigator about what happened. Separately, the Respondent will be interviewed. You can present evidence and identify witnesses. You can suggest follow-up questions for the investigator's interviews with the Respondent and witnesses.

1 - 4 weeks later

### Step 6

Statements & Responses

#### Takes 1-6 months

You'll receive a summary of how you answered the interview questions from the investigator, called your Summary Statement. You'll also receive a separate Summary Statement from the Respondent. Review both carefully and make any corrections. The Respondent will do the same. There may be some back and forth to finalize the Statements.

2 - 4 weeks later

### Step 7

Investigation Report or Alternative Resolution

The investigator will issue the final report before the hearing. If you don't want to move forward with a hearing, you may decide at this point (or any point earlier in the process) to pursue an Alternative Resolution instead.

2 - 4 weeks later

### Step 8

The Hearing

Lasting 1 to 3 days, the hearing is where you and the Respondent will both testify and answer questions about your experiences. Your advocate/advisor will ask questions of the Respondent, and the Respondent's advocate/advisor will question you. Witnesses will provide their testimony.

1- 2 weeks later

### Step 9

Finding Issued (Final Results)

The hearing officer or hearing panel will make a final decision about whether the Respondent is responsible (Title IX equivalent of "guilty") or not responsible. If responsible, sanctions (consequences) or discipline will be issued against the Respondent.

#### Optional Step 10 - Appeal (Within 10 days - 1 month)

If the final outcome is not in your favor, you may be able to appeal. You typically have 10 days to submit an appeal. Contact an advocate like the ones at Equal Rights Advocates right away if you want help with this.

**This guide offers a general map of how the Title IX process should go, given current laws. At some schools, the process will vary. But if it is significantly different and you believe your rights have been violated, you can contact a free legal advocate by going to [equalrights.org/enough](https://equalrights.org/enough) or by texting #ENOUGH to 40649.**

**See also the “Your Rights & What To Do If They're Violated” section of this toolkit for more. It’s possible a legal advocate could help you navigate this process.**

### ***How long will it take?***

Unfortunately, there is no answer to how long it will take to complete the Title IX process, because there is not currently a legal deadline for schools. The process typically takes several months, but it could last for a year or more depending on your school and the facts of your complaint. Your school might provide an estimated timeline in its Title IX policy or grievance procedures, which should be publicly available online. (California law requires schools to publish timelines for each stage of the process.)

Be aware that your school could issue extensions at any point during the process, meaning they need additional time to complete a certain step. Likewise, if you need more time to complete a step of the process, do not be afraid to ask for an extension. Extensions generally should not last more than 30 days, and your school should not issue more than a few extensions throughout the whole process. Legally, your school must have a good reason for issuing an extension, such as disability accommodations, exam periods, or a temporary absence by a party, key witness, or investigator. (More on this below in Step 3: Supportive Measures).

If you believe your school is dragging out your Title IX case unnecessarily, contact a free legal advocate: [equalrights.org/enough](https://equalrights.org/enough).

## **STEP 1: REPORT THE INCIDENT(S)**

If you decide that reporting is right for you, start by talking to the Title IX Coordinator for your school, whose contact information should be available on your school’s website or in your student handbook. Or, you can report to a school employee who you trust. That person should be able to tell you about Title IX and how to report sexual harassment/sexual assault. Every school employee is supposed to be trained on how to direct you to your school’s Title IX Office. If they don’t know, ask them to help you figure it out confidentially.

- **If you are under age 18**, most states’ legally require any teacher/school employee who learns of incidents involving child abuse (including sexual assault by peers) to report the information to **police or Child Protective Services**, even if you do not want them to.
  - **If you are over 18 and in college or another post-secondary school**, and you report to an employee with “authority to take corrective action,” that employee must relay your report to the Title IX office, even if you don’t want them to.
- If you’re not sure whether you want to involve your school’s Title IX office, and you are 18 or older, you should be able to report to a school counselor, who should be able to keep your report confidential if you want them to, and provide you with information and resources.



If you report the incident(s) by email, be sure to clearly state that you are emailing about Title IX, and that you experienced sexual harassment or sexual assault. (See the [Glossary](#) section of this Toolkit for official definitions of those terms.) There may be an online reporting form to fill out, which could be available on the Title IX page of your school's website. You do not need to share the details of what happened yet — you will likely have to tell the whole story at a later meeting — but be sure to say generally what happened, when it happened, and who was involved. If you do not want to share names at first, that's OK, but you should say whether the person was another student, professor/faculty, or a school employee. In order for the report to be official, you must sign your name to the email so they know who is making the report.

*Usually within 1 week*

## **STEP 2: MEETING WITH THE TITLE IX COORDINATOR**

Someone from your school's Title IX office should respond to set up a meeting a few days later. At this meeting, you can decide whether you want to file a formal Title IX complaint or an informal complaint. Regardless of what you decide, the Title IX Coordinator should ask you at this point if you would like to receive any supportive measures to help you feel safe.

The meeting should take place at a safe, private place on campus during normal school hours. There may be more than one person in the meeting, for example, the Title IX Coordinator and an investigator.

In this meeting, you should be asked whether you want to file a formal Title IX complaint. A formal complaint means continuing on with the Title IX process, including an investigation involving the person who harmed you and any potential witnesses, which could result in accountability or punishment for the harmer. If you file a formal complaint, that decision will be documented in writing and signed by you, which may occur during this first meeting.

You should also be offered supportive measures at this point in the process, which might include safety measures, resources, and/or support to help you manage your classes or housing. (See the Supportive Measures section below).

If you do not want to go through the formal Title IX complaint process, you have the option of filing an informal complaint instead. With an informal complaint, you would not be required to name the person who harassed or assaulted you if you don't want to. But if you do want to report the person by name, an informal complaint is another way to let your school know what the person did so that there is a record on file in case others come forward to report the same person. Your school should still offer you supportive measures if you decide to file an informal complaint and forego the Title IX process. (See Supportive Measures section below).

If you choose to file an informal complaint, it is possible that an investigation could still take place, because your school has a legal obligation to make campus safe. So they may feel obligated to investigate the incident in order to keep other students safe. If that happens, the person who harmed you could be notified and investigated, even if you haven't filed a formal complaint. Your name should not be shared as the person who reported them, and you would not be required to

participate in the investigation. (Request and confirm this with your school.) However, it's possible the harmer might be able to identify you based on the investigator's questions about when and where the incident occurred. If you do not want an investigation of any kind to occur, you should not reveal any details during your initial Title IX meeting. In that case, the meeting would simply be a way for you to ask for supportive measures.

During this meeting, the Title IX Coordinator should also explain your option of pursuing an Alternative Resolution, which means not going through the formal investigation and hearing process, but rather trying to reach a resolution with the other party that feels right for both of you. At many schools, you can ask to engage in an Alternative Resolution at any point during the Title IX process, and if you're not satisfied, you can choose to return to the formal Title IX process at any time. For more information on this, see the Alternative Resolutions section under Step 6.

If the incident(s) you report do not fall under Title IX jurisdiction (i.e. it took place off campus, the harmer is a student at a different school, or the incident does not meet Title IX's official definition of harassment/assault), the school should let you know during this meeting. Some schools have set up alternative processes within the same office for cases that fall outside of Title IX's jurisdiction but involve similar types of harm. Or the Title IX Coordinator might choose to refer the incident to another school office, such as the Student Misconduct office.

Also during this meeting, you should be told about your right to have an advisor accompany you throughout the Title IX process. That person can be, but does not have to be, a lawyer or legal advocate. You may choose to change advisors during the process, for example if you are initially working with a counselor and then decide you'd like an attorney advisor for the hearing. Be sure to communicate any changes in advisor to your school in case they need any additional information or documentation.

If your school refuses to investigate your report under Title IX, or dismisses it entirely because they claim the conduct does not constitute sexual harassment/assault, contact a legal advocate: [equalrights.org/enough](https://equalrights.org/enough)

## STEP 3: SUPPORTIVE MEASURES

During your first meeting, the Title IX Office should offer safety and/or support options for you, which might include:

1. **No-Contact Orders:** The campus equivalent of a restraining order, a No-Contact Order could help you to feel safer at school. It usually means you and the Respondent (the person who sexually assaulted or harassed you) are not allowed to be in the same place at the same time, and not allowed to contact one another in person, by phone, email, social media, or any other form of communication. Sometimes the No-Contact Order may also bar you both from asking someone else to contact the other person on your behalf. Some No-Contact Orders specify that if either of you shows up at the same location as the other at the same time, the second person to arrive must leave. If either of you violate the No-Contact Order, there may be consequences from your school, which could include anything from a warning to suspension.

A No-Contact Order is usually an interim measure, meaning it is temporarily in place only for the duration of your Title IX process. If the Respondent is found responsible (“responsible” is the Title IX equivalent of “guilty”), the No-Contact Order may be extended until one of you graduates. If you have requested a No-Contact Order as a supportive measure without pursuing a formal Title IX investigation, or if the Respondent in your case is found to be not responsible, you could try asking your Title IX office to keep the mutual No-Contact Order in place until one or both of you graduate. However, there is no guarantee that the school will agree to that.

- Mutual No-Contact Orders: Under current federal law, schools are supposed to offer supportive measures to the parties equally. This may result in your school attempting to issue a Mutual No-Contact Orders (meaning that the order goes both ways, against you and the Respondent, prohibiting both of you from contacting each other). However, Unilateral (“one-way”) No-Contact Orders (which only prohibits the Respondent from contacting you) that ban direct communication between the parties are permitted

**In California**, beginning January 1, 2022, a new law that ERA helped pass requires schools to issue a Unilateral (one-way) No-Contact Order protecting survivors unless there is a specific reason why the Respondent also needs protection (for example, the Respondent alleges that you harassed them, or you are interfering in the investigation in some way). If the Respondent is found to be responsible, the law requires the No-Contact Order to be one-way without exceptions.

**2. Academic Support:** The Title IX Coordinator might offer to communicate with your professors on your behalf and ask them to excuse absences, grant extensions on assignments or exams, or consider allowing you to withdraw from or defer a class without it impacting your transcript. However, while the school (and therefore its professors and instructors) are required to provide supportive measures to preserve/restore your equal access to education, the Title IX office may not be able to force your professors to provide requested accommodations in all cases.

**3. Housing accommodations:** If you’re living in the same dorm or school housing as your harmer, the school might offer you the option of immediately moving, and they may help facilitate a move for you. Under current federal law, your school may not be able to force your harmer to move before they are officially found Responsible if such removal would constitute an “unreasonable burden” on the Respondent or be deemed disciplinary or punitive. However, moving the harmer might be permissible at your school depending on the circumstances.

**4. Other resources:** The Title IX office might offer you a list of resources both on and off campus for medical and mental health support.

If you decide not to file a formal Title IX complaint, this will likely be the end of the process for you. Your school may decide to investigate the incident on their own, but you would not be required to participate. See the Healing and Power through Activism section of this toolkit for other ways to speak out.

If you do file a formal Title IX complaint, continue to Step 4.

*About 1 - 3 weeks later*

## **STEP 4: THE RESPONDENT (HARMER) IS NOTIFIED**

If you file a formal Title IX complaint and your school decides to open an investigation, the Title IX Office will immediately notify the person who harmed you (the assailant or harasser) that you have filed a complaint against them and that an investigation will take place. At the same time, but separately, the school should send you an official notification as well.

From now on, the harmer will be called the Respondent, because they are the one responding to your Title IX complaint against them, and you will be called the Complainant because you are the one who filed the complaint.

- Note: Federal law currently requires that the Respondent will be assumed to be “not responsible” (not guilty) until proven otherwise. This does not mean the school should assume you are lying or that you are responsible for proving that the incident(s) occurred.

## **THE INVESTIGATION**

*Usually lasts 2-12 months\**

\*While your school is legally obligated to complete the Title IX investigation in a “reasonably prompt timeframe,” there is no set timeline for how long it should take. We recommend asking your school’s Title IX Office for a timeline at the beginning of the process. The timing may vary depending on the availability of parties and witnesses, the amount of available evidence, when during the school year the investigation is opened, and other factors. If you feel that certain parts of the process are taking too long, ask the Title IX Coordinator for an update. If the slowness continues, or if the Title IX Office is unresponsive, you may want to seek free help from a legal advocate ([equalrights.org/enough](https://www.equalrights.org/enough)).

## **STEP 5: INITIAL INTERVIEW & EVIDENCE**

*About 1 - 4 weeks*

The interview process varies from school to school. Most conduct in-person interviews, or interviews via Zoom, where you would typically speak to one or two people, such as the investigator and the Title IX Officer. During the interview, you will be asked to answer many questions about what happened. The Respondent separately will be asked to do the same in their own interview, which should happen after the investigator’s interview with you.

Recounting details of the incident(s) may be very difficult or triggering. For some survivors, it can feel like reliving the trauma. We highly recommend that you prioritize your emotional and physical health before, during, and after this interview. (Please see the Self-Care section of this toolkit for advice from other survivors.)

**Common questions** you should be ready to answer during the initial interview include:

- How do you know the Respondent?
- Where did the incident occur?
- What details do you remember about the events before, during, and after the incident?
- How did you react during and after the incident?
- Did anything affect your actions or awareness of the incident (intoxication, trauma response, etc.)?

Investigators who are not trained in trauma-informed practices may sometimes ask inappropriate or triggering questions that feel victim-blaming, shaming, gaslighting, or insinuate you are being dishonest, such as “why did you go back to the Respondent’s room if you didn’t want to have sex?” “why didn’t you say ‘no?’” or “why didn’t you call the police?” Sometimes these questions are necessary for the investigator to gather all of the relevant information, even if they feel victim-blaming. Ultimately, it is in your favor to answer honestly. However, if a question feels entirely inappropriate, you can point that out and ask why the investigator needs to know that information. You could say something like “I’m uncomfortable being asked what I was wearing because it feels like you’re suggesting that my clothes were relevant to the assault. Can you please explain why you need to know that information?”

Answer all questions as truthfully as you can, especially when you don’t remember something. It is always better to say **“I don’t know” or “I’m not sure”** instead of guessing if you’re unsure. For example, unless you are certain about a particular date or time, you can say “I’m not sure exactly when, but I believe it was on \_\_\_\_.”

If you and the Respondent had a prior dating or sexual relationship, or if you engaged in some consensual acts with the Respondent but others were non-consensual, you may be asked questions relating to how consent was communicated during the consensual activities. Again, you might receive questions that feel victim-blaming, such as “how did you communicate to the Respondent that you no longer wanted to engage in sexual activities with them?” While some of these types of questions may be allowed, others are not. For example, federal law prohibits some questions about your sexual history (such as questions about prior relationships you’ve had, or how many sexual partners you’ve had) except in limited circumstances, such as to prove that someone else other than the Respondent committed the misconduct in question, or to prove how consent was communicated between the parties.

In California, such questions are not expressly prohibited, but schools are prohibited from taking a survivor’s sexual history into consideration when making their decision in the case. Also in California, the law requires **affirmative consent**, meaning the Respondent would have to affirmatively get your consent for each sexual activity, as opposed to you being responsible for saying “no.”

## Witnesses

You will also be asked to provide a list of witnesses at this time. Witnesses often include anybody who saw the incident happen, saw you shortly before or after the incident, or saw you with the Respondent shortly before or after the incident. Witnesses also include anyone you called, messaged, or spoke to any time after the incident if you told them what happened, or even if you just said that something bad happened to you or asked for their support. If you went to a hospital or doctor’s office afterward, a doctor or nurse could be a witness. Witnesses

could also include anyone who observed changes in your behavior that began after the incident, such as depression, anxiety, fear, or trauma responses.

You might want to check with potential witnesses before listing them to make sure they are willing to be interviewed during the investigation (and possibly to testify at your hearing). Or, you can provide their names and just let the investigator know that they might be hesitant to get involved. You must provide the contact information for all potential witnesses, and the investigator will contact anyone they think has information that might be useful to their decision making. You should be allowed to add witnesses to your list later in the process if you think of someone else, or if someone else agrees to testify for you, but it's best to tell the investigator as early in the process as possible, especially if you don't want delays. The investigator might decide not to interview all of the witnesses you suggest if they think it is unnecessary.

## **Evidence**

Finally, you will be asked to submit any documentary evidence you have to the investigator. This includes written documentation, photos, audio files, screen shots, or other tangible proof from around the time of the incident that establishes where you were, who you were with, when it happened, any details of the incident, or how you felt afterward. Examples of evidence you could consider submitting include: text messages or voicemails with friends and/or with the Respondent; screenshots of social media messages and posts explaining what happened or asking someone for support; emails, phone records or call logs; rideshare app receipts; results from a rape kit; police report; articles of clothing worn during the incident (if Respondent's DNA might be on them); or photos.

If you're considering the Title IX process, begin gathering evidence now, just in case. Screenshot messages, especially on social media, in case they are deleted later. Save voicemails. You may want to ask witnesses now to write down what they remember so they don't forget details if the investigation takes a few months.

If you are comfortable doing so, it is best to provide all details related to your encounters with the Respondent as early as possible rather than adding details later. If you mention any new allegations during this initial interview process, for example you remember an additional incident that took place on a different date, or a new detail about the incident that changes the allegation from harassment to assault, the Respondent is entitled to formal notice of this new allegation, and it could start the process over again from the beginning.

## **STEP 6: SUMMARY STATEMENTS & RESPONSES**

### ***1 - 6 months***

After your initial interview, the investigator may follow up to ask further questions after speaking with the Respondent and/or witnesses. Once the interview process concludes, the investigator will send you a summary statement based on how you answered the interview questions.

Carefully read your summary statement. If the investigator got anything wrong, create a document noting the inaccuracies, which you should quickly send back to the investigator. Be explicit, i.e. "You misstated these details," and correct the details they got wrong with the correct information. This includes anything the investigator left out of your statement, or facts which are technically true but, in the context of the summary, give the incorrect impression. (For example, the statement



might say that you told the respondent the next day that everything was fine, but does not explain that you later told them you were not OK.)

Your statement is your chance to tell your version of the events, and those in charge will rely on it to make a decision later, so make sure everything is accurate. The Respondent will also have an opportunity to do this with their statement.

Once the investigator has approved statements from you, the Respondent, and the witnesses, as well as any other evidence, they will send a document for you to review that includes all statements and evidence that has been collected so far. This is usually referred to as Evidence Review. (For important details, see the Evidence Review section of this toolkit.) Please note that these documents can be very lengthy, sometimes up to hundreds of pages, so set aside plenty of time to review them, especially because you may be asked to respond to all the documents within a few days.

- **Warning:** It can be very triggering or emotionally difficult to read the Respondent's summary statement of what happened or their explanation for the evidence provided, as well as statements by some witnesses. We recommend having a trusted friend, loved one, or support person with you as you read, or "on call" to provide support. You could even have that person read it first and summarize it for you before you read it yourself. You may want to give yourself some time to process the information and your feelings before beginning to draft your response. (See the Self-Care section of this Toolkit for advice from survivors who have been through this process.)

## Response

You will then have a very short period of time to respond to the evidence and the other party's summary statement. Typically you are given between 3 and 10 days to write a response. If the timeline feels too short or difficult to meet because of school, work, or other considerations, you could try asking the Title IX office for a brief (~1-2 week) extension.

You will want to be very organized in your written response. We recommend breaking it up into parts or sections rather than writing one long response all at once. By writing your response in a list or outline format, you can respond to certain details in specific ways, which will make your response stronger and help your case. For example, you could create a list of inaccuracies (things that are blatantly false) in the Respondent's statement one at a time, and list the correct information next to each one, along with any evidence or testimony to support that. Consult your school's Sexual Misconduct or Title IX policy that is being used for your case as you write your response, and try to focus on the things that must be established in order for the Respondent to be found responsible. Be as factual and objective as possible to increase your chances of winning your case.

For more tips on this step of the process, see the Evidence Review section of this toolkit.

It is common for this part of the process to provoke new memories of additional information that you may have accidentally left out of your first statement, or that you blocked from your memory. If this happens, just include this honestly in your response to the investigator.

It is scientifically proven that many victims of traumatic incidents cannot remember every detail, or mix up the timeline of events, as the brain's way of protecting you from the effects of trauma. Don't worry if this happens to you, or feel that you are to blame. Just tell the investigator as soon as you realize. Don't be afraid to simply say something like "I forgot," or "I mixed up the timeline." Include any new details you remember, as well as any additional evidence or witnesses.

Sometimes, the Respondent's statement or evidence includes something that may make you doubt your right to pursue the investigation, such as pointing to casual communications you had with them after the incident. This is common. Many survivors don't realize right away that what occurred was sexual assault or harassment, or they may not admit it to themselves at first. It's important to be honest with the investigator, but you should never have to explain yourself. It is perfectly valid to say, for example, "Yes, I sent that text. I was still processing a difficult situation and navigating how to respond."

The investigator may request another meeting or interview with you after reviewing the evidence, in order to discuss any new information that came up. Beware that any new facts, evidence, or witnesses you provide to the investigator will likely trigger another round of interviews with you, the Respondent, and any related witnesses, which could delay the process.

*about 2 - 4 weeks later*

## **STEP 7: INVESTIGATION REPORT (OR ALTERNATIVE RESOLUTION)**

After both parties have a chance to respond to the summary statements and evidence, the investigator will write a final investigation report. Depending on your school, this report may just be a collection of all the evidence collected, or it may include assessments from the investigator, such as their understanding of your and/or the Respondent's credibility, or the credibility of witnesses. Sometimes, you and the Respondent will be provided an additional opportunity to review the report and make any final corrections or comments.

Once the final investigation report has been released, the Title IX Coordinator will set a hearing date, or they may ask if you are interested in an Alternative Resolution process instead.

### **Alternative Resolution**

Alternative Resolution is a way to resolve a Title IX case without going to a formal hearing. The options vary from school to school. Your school may ask what your goals are to help determine if your needs can be met outside of a formal hearing process. For example, some survivors want the Respondent to apologize or complete a consent course to learn why their behavior was wrong and how to change it. These are outcomes that cannot be achieved through the formal process, which results in formal punishment for the Respondent if found responsible.

While Alternative Resolution will not result in formal punishment for the Respondent (unless they agree to it, such as agreeing to transfer to a different college or program), it may be a good option for survivors who, after the investigation, are not confident that the case will turn out in their favor. In order for an Alternative Resolution to be pursued, both parties must be willing. Your school cannot coerce you (or the Respondent) into pursuing an Alternative Resolution by, for example, saying they will not provide you with supportive measures unless you pursue a resolution outside of the hearing process. Before agreeing, you should ask the Title IX Office to explain in detail what the process would entail, the timeline, and who would be involved. See the [Alternative Resolution](#) section of this toolkit for more.

## STEP 8: THE HEARING

*\*Note, in California, a hearing might not be required.*

See the [Preparing for your Hearing](#) section of this Toolkit for additional information and advice.

Current federal law requires your school to hold a live hearing in order to determine whether your allegations are true or not. If you go forward with a formal hearing, here are 10 important things to know:

- 1. Hearings often take between 1 and 3 full days.** They usually last multiple hours each day--often about 8 hours, but sometimes longer. Unfortunately, there is no law dictating hearing structure, so there is no way to know how long your hearing will be, how many days it will take, or how many breaks you should get throughout the process. We recommend asking the Title IX officer far in advance so you can mentally prepare. Usually the school offers a “pre-hearing conference” where these details are explained to you.
- 2. If the hearing’s length or structure seems unnecessarily trying or traumatic, you can ask for a different structure** that feels more manageable to you (or ask your advocate to do so on your behalf). Your request may be rejected, but it usually does not hurt to ask. Some examples include asking for a break every one to two hours, or asking for a day between hearing dates, if that feels best for you. You can make requests whether you are informed in advance or if you realize after the hearing begins that you need breaks.
- 3. The number of people who will be present varies.** In addition to you and your advisor, and the Respondent and their advisor, there will be a hearing officer or hearing panel that will decide the outcome of the case. Additionally, the Title IX Coordinator will usually attend the hearing to supervise and help with logistics. Witnesses, including the investigator, will only be allowed into the hearing room when it is their turn to be questioned.
  - **The hearing is private.** This means your family and friends cannot attend to support you (unless one of them is your official support person or advisor), and neither can the Respondent’s. If someone is invited to listen in who has nothing to do with adjudication of the case, this is a violation of your privacy rights, and you should say so as soon as you’re aware of it.
  - Typically, **each party is allowed one advisor at the hearing.** However, you can ask to be permitted to bring both a support person and an attorney. If your request is granted, the Respondent will be provided the same opportunity.
- 4. Your advisor and the Respondent’s advisor will be the ones asking the questions** of the other party. You and the Respondent will not be able to speak to each other directly or ask each other questions during the hearing. Your advisor will ask the Respondent questions, and the Respondent’s advisor will ask you questions.
  - In California, as of January 2022, advisors are not allowed to ask questions directly of the parties (you and the Respondent). Instead, questions are submitted to the hearing officer, who will ask the question in a less adversarial or aggressive way.

**5. You will not get to see the questions that you'll be asked in advance.** The person who is overseeing the hearing may ask you to submit your questions before the hearing, but they should not be shared with the other party. So prepare for a wide range of questions. You may want to ask a legal advocate to help you prepare. See the [Preparing for Your Hearing](#) section of this Toolkit for commonly asked questions and advice.

- If you feel a question is irrelevant (especially if the question is invasive or unfair), you can challenge it. According to federal law, the hearing officer must decide whether each question is relevant before the question is answered. So you can **ask the hearing officer to state whether the question is relevant** before you answer it. Doing so will ensure there is a record of the hearing officer's decision about the question's relevance should you choose to appeal the final decision later.

**6. You do not have to be in the same room as the Respondent during the hearing.** You have the right to request being located in a different room. Your school could, for example, set up the hearing to include video conferencing. If this is something you're interested in, ask well in advance--as soon as the hearing date is set, if not before. You can request a separate room if you know or suspect that the Respondent has hired a lawyer. Creating physical distance can help the hearing process feel less intimidating, especially if you will be questioned by a professional attorney. However, know that it can sometimes feel like the Respondent has an unfair advantage by physically being in the same room with the witnesses and Hearing Officer.

Tip: If you are participating in the hearing from your home via video conferencing, we recommend setting a **virtual background** so you can avoid the invasive feeling that may come from the Respondent seeing part of your home. You may also be able to request that the Respondent not see your video while you testify, and/or that you do not have to see them on video while they testify.

**7. Before the hearing, arrange a way to privately communicate with your advocate/advisor.** For example, with virtual video conferencing, some schools have told the survivor that they must stay on camera at all times. This is not strictly true: you have the right to communicate with your advisor during the hearing whether it is in person or not. If you need to speak to your advisor, try asking to be sent to a private video-conference "breakout room," or ask for a break to call your advisor while you are **off camera and muted** at the hearing. (Communications between you and your lawyer are confidential, unless you allow others to listen in.) If you and your advisor are in separate places during the hearing, you could also **text message** them or send them a private direct message in the video conference chat box to quickly ask and answer questions while the hearing is going on. However, **you cannot communicate with your advisor while you are being questioned**, unless you request and are granted a break.

**8. If there are unfair, harassing, irrelevant, or unnecessarily repetitive questions, you can ask not to answer a question** and briefly explain why. But unfortunately, your school can still require you to answer if they want to. If you do object out loud to answering a question (even if you are forced to answer it anyway), you can write down the question(s) and your objection, in case it comes up later. You can also submit objections to the hearing officer via email so they are documented if you want to challenge the fairness of the hearing later.

9. When a hearing is required, **the investigator should not be the person deciding the outcome of the case.** Instead, the investigator should hand over the investigation files to the hearing officer or panel, including summary statements, evidence, notes, and other information they ascertained during the investigation, to be used in the officer's or panel's decision making. The investigator may be questioned by the hearing officer about their investigation, and both parties should have an opportunity to ask questions of them as well.

**10. You do not have to attend the live hearing or submit to cross-examination.** Until recently, survivors were required to attend a live hearing and be cross-examined (questioned at the hearing) in order for the case to end up in their favor. This is no longer the case, thanks to a new change to the law resulting from a federal lawsuit brought by ERA and our partner organizations. When the hearing officer is making their final decision, they can still take statements and evidence into consideration even if the party or witness does not attend the hearing or participate in cross-examination.

*about 1 - 2 weeks later*

## **STEP 9: FINDING ISSUED**

### **(FINAL RESULTS, CASE OUTCOME)**

After the hearing, the hearing officer or committee will issue a finding, which is the outcome of the investigation. This usually happens about 10 days after the hearing, but there is no official deadline.

A Finding of Responsibility means that the Respondent has been found to be responsible for ("guilty of") the assault or harassment, and will likely face consequences, known as sanctions. The sanctions likely will not be issued at the same time as the finding of responsibility; a separate individual or panel, such as the Dean, Principle, or student misconduct office, will decide that later. The Title IX office should notify you about which sanctions were issued. If you do not hear from them within 2 weeks, you could follow up with the Title IX Coordinator.

If the Respondent is found Not Responsible, or if the investigation was inconclusive, then no sanctions will be issued against the Respondent. If this happens, no sanctions should be issued against you, the survivor, simply for "losing" your case. You should only be subjected to sanctions if you commit a school conduct violation, such as violating a No-Contact Order, or making a knowingly false report.

Sanctions (consequences, or punishments) for the Respondent are usually based on the type of violation, how severe or intentional the incident was, any aggravating factors (such as whether you were intoxicated but the respondent was not), and past precedent at your school -- how they have handled similar findings before.

**Common sanctions** against the Respondent may include one or more of the following:

- Suspension (anywhere from a few weeks to years)
- Housing: required to move to a different on-campus dorm/living facility, or required to move off-campus
- Academic: required to drop any classes you share together; barred from taking the same classes as you in the future

- Extracurricular: banned from participating in a group, team, or organization (such as Greek life or sports)
- No Contact Order: prohibited from speaking to you or being within a certain distance of you
- Expulsion: kicked out of the individual school or sometimes the entire school system (such as the University of California system)

NOTE: A common misconception is that the finding of Responsibility will forever appear on the Respondent's school transcript. This is not true for most, if not all, cases. If sanctioned, the sanction itself will likely appear on the Respondent's transcript as, for example: "Suspension" or "Expulsion," but the transcript typically will not state the reason for the discipline, and it will only appear while the discipline is in place (for example, during the year the Respondent was suspended).

**No-Contact Orders:** Although your school may issue a Mutual No-Contact Order (applying to both you and the Respondent), you could request a Unilateral (one-way) No-Contact Order as one of the sanctions, which would apply only to the Respondent rather than limiting your movements and communications, too. The law permits your school to issue a Unilateral No-Contact Order at this stage, but sometimes schools still choose to only issue mutual orders.

- We believe survivors should never be negatively affected by sanctions, including by Mutual No-Contact Orders. If this happens to you, you could choose to **ask your Title IX office how to appeal that part of the sanction** while leaving the rest in place.
- **In California**, as of January 1, 2022, it is unlawful for schools to issue Mutual No-Contact Orders after a finding of responsibility has been issued, thanks to a new law ERA helped to pass.

If your school allows the respondent to appeal the sanctions decision, then you should be permitted to do so as well. (Federal law requires that appeal rights be made available equally to both parties.) However, the Respondent does have the right to appeal a sanction that is issued against them. If part of the sanction includes something that affects your rights, such as a Mutual No-Contact Order, you may be able to appeal and should seek legal help for this.

A finding of **Not Responsible** means the investigation ultimately did not find the Respondent responsible for ("guilty of") the assault or harassment. Sometimes the school finds affirmatively that the sexual misconduct did not happen. Other times, they do not have enough evidence to establish it was more likely true than not that the misconduct occurred. This does not mean they did not believe you, but simply that there was not enough evidence. Either way, if there is no finding of responsibility, the Respondent will not face consequences or sanctions. If this happens to you, it's possible that you could file an appeal and ask the school to redo parts of the investigation. If you decide to do this, you should act quickly. See Step 10 below.



## STEP 10: POSSIBLE APPEAL

### (FOR THOSE UNHAPPY WITH CASE OUTCOME)

If the Respondent is found Not Responsible and you would like to appeal (challenge) that decision, you can file an appeal. Usually, you only have about 10 days to do this, but it varies from school to school.

Appeal rights vary from school to school, but usually, you can appeal only for a few reasons, including:

- the investigator or hearing officer was biased
- there was a procedural error that impacted the investigation/outcome (for example, you were not given the opportunity to pose questions to the witnesses)
- you have new evidence that was not reasonably available to you during the process that would change the outcome; or
- the outcome is not supported by the evidence (meaning the hearing officer came to the wrong decision because the evidence overwhelmingly supported a finding of Responsibility).

If you want to appeal (or want help deciding whether to appeal), we advise contacting a legal advocate right away to help you with the process. You may even want to contact an advocate before the finding is issued if you think it might not be in your favor. It is difficult for lawyers to accept cases on short notice, so the earlier the better. You can also try asking for an extension from the Title IX Office as soon as possible to give you more time to get help for a possible appeal. Any extension granted to you will also be given to the other party.

For more, see the [How to File an Appeal](#) section of this Toolkit.

## Conclusion

Although the Title IX process can bring safety, justice, and closure, the process itself can be long, trying, and even re-traumatizing. Knowing this information before you begin can help you mentally prepare and potentially adjust your schedule accordingly. Consider asking for extensions for class projects or exams. Gather your support system: tell those you trust that you may need extra support in the coming months, consider getting a therapist, and know that legal advocates like those at Equal Rights Advocates are here to answer your questions and guide you. Asking for help can make a world of difference in your experience.

For more advice, check out other sections of this toolkit, including Self-Care Tips, Advice from Survivors, and Advice for LGBTQ+, Muslim, and South Asian Survivors. For further explanations of the legal process, see these sections: Hearing Preparation, Evidence Review, Alternative Resolutions, Your Rights & What To Do If They're Violated, and Guide to Appeals.

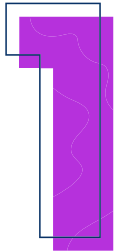
*Equal Rights Advocates provides free legal support to student survivors to help navigate every step of this process. Learn more here, or apply to speak with a legal advocate about your case here.*





# **YOUR RIGHTS AND WHAT TO DO IF THEY'RE VIOLATED**

**If you are a student survivor of sexual harassment or sexual violence, you have legally protected rights; this means that your school is obligated to do certain things — and is not allowed to do other things — to protect your education and well being. This guide explains some common ways that survivors' rights may be violated by schools and suggestions for what to do if your own rights are violated.**



**You have the right to:** know and understand your school's sexual misconduct policies. This means your school's policies should be located in an accessible place that's easy for students to find, and it should be easy to understand. The policy should include how to report sexual violence, the procedures for resolving complaints, and potential sanctions.

***Your rights may have been violated if:***

- Your school hasn't published their policies and procedures in an easily accessible place (such as online or in a handbook distributed to all students);
- Your school's policies are confusing or vague (e.g. don't include important details like definitions of misconduct or the steps involved in resolving your complaint).

***If you think your rights were violated:***

- Contact your school's Title IX office to see where the policies are available or ask for clarification on their contents.
- Request written notice of the investigation and procedures that will be used in your case if you have not received this information.
- Let your school's Title IX office know in writing if you have any concerns about the accessibility of their policies or what they mean, or if they failed to give you written notice of the procedures that will be used in your case. Write that you think they could be in violation of Title IX by failing to provide this information in an appropriate manner.



**You have the right to:** have your report of sexual misconduct investigated in a timely and fair manner.

***Your rights may have been violated if:***

- Your school fails to respond to your report, or refuses to investigate;
- Under current Title IX rules, your school's Title IX office must dismiss some complaints (including incidents that occur off campus or abroad) and may be allowed to dismiss others (such as complaints against someone who is no longer enrolled or employed by the school). Your school can still choose to investigate these complaints through another office, such as a student misconduct office.

- Your school drags out the investigation for significantly longer than the timeframe designated in their policy, or past the point of “reasonable” delay, without good cause;
  - While there is no longer a set legal definition of a “reasonable” delay or timeframe, a delay of more than a month or two before your school takes action on your complaint—especially without explanation—may be enough to establish a violation.
- Your school doesn’t let you present all relevant evidence, or gives you less of an opportunity to present evidence than the Respondent.
  - Recent federal government regulations significantly restricted the evidence that can be presented in Title IX cases, but thanks to a federal case that ERA and our partners brought, that is no longer the case. You should be able to introduce any relevant evidence at your hearing.

### ***If you think your rights were violated:***

- Request all information about your complaint (including the reason it was dismissed, if applicable) and investigation (including the school’s reason for refusing to grant any request you make) in writing.
- Ask for a written explanation of any investigation deadlines your school missed, or other delays.
- Request a written summary of the opportunities you and the Respondent have been provided to submit or review evidence. Object to any unfair opportunities or inequities in writing.



**You have the right to:** resolve (finish, or close) your Title IX matter in the way that feels best for you, and to be fully informed about any resolution.

### ***Your rights may have been violated if:***

- Your school pressures you into participating in an informal or alternative resolution, or won’t let you return to a formal process if the informal process isn’t working out;
- Your school forces you to submit a formal complaint, proceed with a formal investigation, or attach your name to a complaint instead of staying anonymous when you don’t want to;
  - If you report the incident but then decide not to file a Title IX complaint, your school may still choose to investigate the incident. In this case, they may contact the person who you reported and ask them about the incident. While the school cannot share your name without your permission, the harasser/assailant may be able to identify you as the person who reported them based on the details of the incident that is being investigated. The school is required under Title IX to protect you from retaliation.
  - Although you have the right to stay anonymous, know that this might limit the school’s ability to investigate or respond to what you experienced.

- Your school will not provide supportive measures unless you proceed with a formal complaint and investigation;
  - Supportive measures are those designed to support your ability to learn and feel safe without burdening or disciplining the other party, such as changing your housing, providing counseling services, asking your professors to grant extensions on assignments or other coursework adjustments, allowing you to drop a course without consequences on your transcript, etc).
- Your school won't tell you if or how the Respondent was sanctioned (punished) after a finding of responsibility.

***If you think your rights were violated:***

- Follow up on any in-person or phone conversations where you felt pressured or denied support with an email summarizing what was discussed and your concerns.
- If your school has a survivor support center or similar resource, reach out to them for help understanding and securing the supportive measures and resolution options that should be available to you.
- Request, in writing, information about sanctions and how they will be imposed after a finding of responsibility has been made.



**You have the right to:** talk about your experiences with sexual violence and the Title IX process.

***Your rights may have been violated if:***

- You are forced to sign a No-Contact Order or other agreement that prohibits you from talking about what you experienced (sometimes known as a gag order);
  - Because new federal Title IX regulations require interim supportive measures to be equally available to both parties, your school might issue a Mutual No-Contact Order. You may need to ask your school to issue a one-way (or Unilateral) no-contact order if you want the Respondent to be prohibited from talking about what happened while the investigation is pending, but don't want to be subject to the order yourself.
- Your school tries to prohibit you from talking to other people about the investigation after it's completed;
  - Your school may ask you to keep Title IX proceedings confidential while they are ongoing. This cannot be used to keep you from talking to potential witnesses or seeking support, and any restrictions should not apply after your case is resolved.

Note: Some survivors are threatened with or subject to a defamation lawsuit for speaking out about their experience of sexual violence, even though they are within their rights to do so. This is a separate legal issue from a Title IX rights violation (except potentially as a form of retaliation — see more below). See the Defamation section of this Toolkit for more. If this is a concern or problem for you, we recommend speaking with a lawyer who practices defamation law; contact ERA or a local Bar association for referrals.

### ***If you think your rights were violated:***

- A mutual No-Contact Order is issued that includes a gag order, submit a written request that the prohibition on talking about what happened be limited to the Respondent;
- The sanctions after a Finding of Responsibility include a mutual No-Contact Order, appeal the sanction on the grounds that you should not be subject to discipline as the Complainant. Request that a unilateral (one-sided) No-Contact Order be implemented against only the Respondent instead;
- Your school asks you to keep the details of your ongoing Title IX proceedings confidential, confirm in writing that you are still able to talk openly about your experience(s) of sexual harassment/sexual assault and the Title IX process, as long as you do not mention the Respondent's name.



**You have the right to:** not be retaliated against for filing a Title IX complaint.

#### ***Your rights may have been violated if:***

- You are harassed by the Respondent, their friends and family, or anyone else on their behalf, and your school doesn't intervene;
- A professor/instructor you reported for sexual misconduct threatens or gives you a lower grade in their class, especially if you were doing well before reporting them;
- Your school starts treating you poorly after you file a Title IX complaint, such as by making it harder to fulfill course requirements or threatening disciplinary action stemming from the incident or your report;
- Students start giving you looks, ostracizing you, making fun of you, calling you gendered names (like "slut" or other derogatory words), and generally making you feel excluded as a result of filing your complaint, and the school doesn't intervene.

### ***If you think your rights were violated:***

- Report any harassment or discrimination by the Respondent, or by third parties on the Respondent's behalf, to your school in writing and insist that the school take immediate action to investigate and stop the retaliation. Make sure to include that you think the harassment is a form of retaliation that is prohibited under Title IX;
- Document any concerns you have about how your school is treating you in writing. If you are having issues with one particular office or department, try reporting the retaliation to an individual or group with power, such as a dean, superintendent, or school board.

*The above is not a complete list of Title IX rights. To learn more, you can find a full list of rights on ERA's website. In addition to the ideas above, if you think your rights have been violated, we strongly suggest seeking out a legal advocate or lawyer such as those at ERA. [Click here](#) to apply to speak with an ERA legal advocate or attorney. If your rights were violated, an attorney could help you properly document the issues, advocate on your behalf to the school, and could advise you on any potential legal actions you could take based on your school's actions, including filing an OCR complaint and/ or complaint with your school district.*





# QUICK GUIDE TO EVIDENCE REVIEW

1

## What is evidence review?

Evidence review is a chance for both parties to review the investigative report and other evidence to provide feedback before the investigator finalizes it. The report describes the fact finding portion of the investigation, and typically details the alleged misconduct and summarizes relevant evidence. Parties should be provided with the report as well as the full evidence that was considered during the investigation (e.g. statement transcripts, screenshots, etc).

2

## What should I focus on during evidence review?

Your primary goal is to make sure your side of the story is as clear as possible and that all of the important information is captured in the investigative report. Start by reading the report itself and marking any issues you see. Depending how much time you have and how able you feel to engage with the material, it may help to read the report through once and then review it in more detail to pull out the things you want to respond to. We suggest focusing on the following:

- Missing information
- Factually inaccurate information
- Bias in the report itself (i.e. the way the report is written shows bias towards the other party)
- Information that is correct but out of context or used to draw the wrong conclusion

Once you have reviewed the report and figured out any areas of concern, you can then turn to the evidence itself. As attorneys we think it is good to look through all of it, but as advocates we understand that it doesn't always feel possible because of timing or triggers. If you have to prioritize, focus on finding any citations for your points above, and try to review evidence that was heavily cited or cited for an important point in the report.

3

## How should I structure my response?

The easier your response is to read, the more effective your argument will be. For ease of review, we suggest breaking it down into categories based on the above and using numbered or bulleted lists.

Focus on your main points, and be thorough but efficient. It may be tempting to pull out everything in the report you disagree with or that is not quite right, but doing so may actually hurt you. It's easier for arguments to get lost in a long list and it can undermine your credibility to nitpick things that aren't relevant or important (it may be interpreted as petty or retaliatory).

# PREPARING FOR YOUR HEARING

**What is a Title IX Hearing?** A hearing is a proceeding, led by a hearing officer, in which evidence and argument is presented to help decide the outcome of your Title IX case. At the conclusion of the hearing, the hearing officer determines whether or not the Respondent is “responsible” (the Title IX word for guilty) for violating school policy based on the incident(s) in your Title IX complaint.

Hearings look different at every school, but in general, the hearing will consist of (1) optional opening statements by the Complainant (you) and/or the Respondent; (2) questioning of witnesses by the hearing officer (the Complainant and Respondent will submit questions for the hearing officer to ask the witnesses, but the questions themselves will come from the hearing officer); (3) questioning of the Complainant and Respondent by the hearing officer; and (4) closing statements (by the Complainant and Respondent). Both the Complainant and Respondent are entitled to an advisor and a support person at the hearing.

## 10 Tips for Hearing Testimony Preparation

### *Before the hearing*

1

#### **Plan.**

Come up with a plan to support yourself during the hearing. You may have to recount difficult details of the sexual assault or harassment that happened to you, and you may be asked questions that feel victim-blaming. Consider where you will do the hearing (if it is virtual), who will be with you, and what you might need to stay calm and focused (snacks, tissues, fidget items, etc.). Make sure you are in a comfortable place where you feel safe, and if you don't want others in your household to hear, make sure you are in a relatively sound-proof location. Whether in person or on zoom, **dress like you are going to a job interview.**

2

#### **Review.**

Read through your prior statements to the investigator and the investigation report to refresh your memory. It is important to be consistent, as long as everything is truthful. If your memory has changed or you now cannot recall details of the event (which is completely normal), be prepared to explain that at the hearing. For example, you might say something like “I’m sorry, it’s been several months since this happened, so my memory of the incident(s) is not as clear now as it was when I first reported to the Title IX office.”

3

#### **Discuss.**

Attend your school’s pre-hearing conference where the hearing officer will explain the procedure to you. Talk through your concerns about the hearing with your advisor and/or support person beforehand. Don’t be afraid to ask questions about what the hearing will be like, how to best prepare, and what you should do if you’re feeling uncomfortable, need a break, or need to ask your advisor a question during the hearing. Discuss with your advisor whether or not you want to submit to cross-examination.

## ***During the hearing***

**4**

### **Pause.**

If you find yourself overwhelmed during the hearing, feel free to ask for a break. It is your right to pause for any reason (to gather your thoughts, check in with your advisor and/or support person, take a few deep breaths, etc). Typically, if you are testifying and a question has been posed, the hearing officer will likely ask you to respond to the question before taking a break, with limited exceptions. If you need to consult with your advisor regarding the question that was asked, you can say that.

**5**

### **Focus.**

Answer each question honestly and completely, but stick to what is being asked. If the hearing officer needs more information, they will ask for it. You do not need to offer any additional information or details unless it is asked of you. Stick to direct and succinct answers whenever possible. Remember that your advisor or attorney has the right to suggest follow-up questions, so if they think it's important for you to elaborate on something, you can do so when it's their turn to speak. Or, if you are proceeding without a lawyer or advisor, you can always explain or elaborate on certain responses at the end of your testimony if you feel it's necessary. But generally speaking, you should stick to the questions being asked.

**“**

***This is your hearing, and you are entitled to understand what is going on 100% of the time.***

**6**

### **Confer.**

When in doubt about something that's going on in the hearing, ask to speak privately with your advisor and/or support person. This is your hearing, and you are entitled to understand what is going on 100% of the time. If you do not understand a question that is asked of you, tell the attorney or hearing officer you do not understand the question. Do not answer any questions you do not understand.

**7**

### **Ask.**

It is your right to submit additional questions you want witnesses to answer during the hearing. Before the hearing, make sure you are clear on the process for submitting these questions. During the hearing, speak up if you feel the hearing officer missed something, something needs to be clarified, or you want a witness to explain an answer. However, make sure to not speak over the hearing officer or anyone who is testifying.

# 8

## **Recall.**

If you do not remember the answer to a question, you can respond by saying “I do not know” or “I do not remember.” Try not to guess. If you guess because you’re trying to be helpful, and later it turns out your guess was wrong, that will reflect badly on your credibility. Remember that the most important thing is to tell the truth, and if you don’t remember something, then the truth is “I don’t remember.” If you need to take a moment to collect yourself, ask for it.



*If you find yourself overwhelmed during the hearing, feel free to ask for a break. It is your right to pause for any reason*

## **After the hearing**

# 9

## **Decompress.**

Take time for yourself after the hearing. Do something to decompress — take a walk, read a book, take a bath, journal... hearings are exhausting and can be retraumatizing, so recharging and exercising self-care is just as important as getting through the hearing itself. See the Self-Care for Survivors section of this Toolkit for more advice.

# 10

## **Reflect.**

Lots of survivors find it useful to journal or discuss their experiences with trusted confidants. Doing this may not feel right until months, or even years later, which is completely understandable.





# **ALTERNATIVE RESOLUTION**



**A formal investigation is not necessarily the best or only way to resolve your Title IX case. Many schools also offer an “informal” process, also known as alternative resolution (“AR”). AR may be a good fit for you if you are concerned about going to a hearing, hoping for a faster resolution to your case, or interested in an outcome that isn’t offered as part of the formal process. This guide will help you understand what AR options may be available and if they might be right for you.**

## 1

### **What is “Alternative Resolution”?**

Alternative resolution (AR), also called “early resolution” in some schools, is a way of resolving campus Title IX cases without going through the full formal investigation and hearing process. Historically, many school policies have allowed AR when both parties agree to participate, although some policies discouraged or prohibited certain types of AR (such as face-to-face mediation) for severe sexual misconduct. Under the new federal Title IX regulation effective August 14, 2020, AR—including face-to-face mediation—is available in all cases, regardless of the underlying misconduct.

## 2

### **When in the Title IX process does Alternative Resolution happen?**

While it depends on your school’s policy, AR is often available throughout the Title IX process. However, you might find that your—or the Respondent’s—willingness to participate in AR changes at different points in the investigation. The approach of a hearing or seeing the contents of the investigation report might make either one of you feel more (or less) confident about the outcome of a formal adjudication. We’ve even seen cases where a party requests AR moments before the hearing is scheduled to begin.

Just because you request AR does not mean you have to agree to whatever is proposed. No matter who requests AR, you should have the option to return to the formal process at any time before signing an agreement if informal resolution isn’t working.

Your school’s Title IX policies should explain how to request AR, but typically all it takes is asking the Title IX coordinator or investigator in your case. They will then send the request to the Respondent, and AR will proceed if you both agree to the informal process.

An advisor—such as an attorney or other advocate—can still assist you through the AR process, including by helping you figure out if you want to go to AR in the first place. For this reason, we suggest working with an advisor if you’re able to do so. ERA offers this type of free legal help as part of our ENOUGH program for student survivors. If we’re able to help you, you’ll be paired with a volunteer attorney who can help and advise you through the process.

## 3

### **Isn’t Alternative Resolution just a way for the Respondent to avoid getting in trouble?**

While we totally understand where that idea comes from, it’s not quite that simple. We often

compare AR to a settlement in a court case—where the person suing and the person being sued come to an agreement before the case gets a chance to go to court. In a formal adjudication—like at a trial—both parties present their side of the incident and a neutral decision maker determines if the alleged conduct likely happened or not. AR is a chance for the parties to avoid the risks and downsides of the formal process and negotiate a resolution that meets both parties' goals without an official decision being made about what happened one way or another. Depending on what you want from a Title IX investigation, this might feel like a good way to resolve the matter, or it might not; there are a lot of potential pros and cons to AR that we explain in more detail below.

## 4

### **What are some reasons I might choose Alternative Resolution over a formal process?**

Unfortunately, many survivors don't get the outcome they hope for from a formal Title IX adjudication. Even if you feel like you have a strong case, a positive outcome in a Title IX investigation is never a guarantee. The process can end in a finding that the Respondent did not violate school policy, or the sanctions might not be what you hoped for even if the other party is found responsible. (In other words, even if the investigation finds that the Respondent was responsible for what happened, they won't necessarily be suspended or expelled.)

Even if survivors can achieve the "best" possible outcome through the formal process, we find that such an outcome often does not meet all of our clients' goals. For example, many survivors want an apology from the Respondent or for the other party to learn why their behavior was wrong and how to change it. Sanctions imposed after a formal process often don't address these goals. They are usually more focused on separating the parties or punishing the Respondent for violating school policy.



***"For example, many survivors want an apology from the Respondent or for the other party to learn why their behavior was wrong and how to change it."***

Additionally, many survivors' goals can be achieved without going through the formal process. For example, some survivors want to ensure that the other party cannot contact them or enroll in any of their classes. While this could be achieved through suspension or expulsion after the Respondent is found responsible through the formal process, it can also be achieved through an agreement between the parties and the school, without going through the formal process.

It's also important to know that the Title IX process can be traumatizing in and of itself, no matter what the outcome is. This is particularly true under the new federal Title IX rule, which requires direct cross-examination by the other party's advisor. Repeated interviews, the stress of responding to urgent requests from your Title IX office, or any other part of the process that is not trauma-informed can be traumatic for many students. If you are worried about the impact of a hearing on your mental health, or if you've already been traumatized by the Title IX process and want it to be over sooner, AR might be a good option for you.

Alternative Resolution is a chance to resolve your Title IX case without the risks and limitations of a formal process. It can be an opportunity to meet some, if not all, of your goals while limiting further trauma and achieving outcomes that would not typically be offered by your school during formal sanctioning. If you have an advisor, they can help you think through what you can hope to achieve through AR that you wouldn't get through the formal process, and if it is the right choice for you.

## 5

### **Will Alternative Resolution go on a Respondent's transcript?**

In short, no. Because AR does not result in an official finding of responsibility, it will not go on the Respondent's transcript. However, this is also often true if the Respondent is found responsible through a formal process. A Respondent's transcript typically won't include that a Title IX violation occurred; it will only state the discipline for the period it is imposed. For example, a transcript might read "Suspension" but will only appear during the period of suspension. Many survivors mistakenly believe that transcripts reflect that a student was found responsible for sexual misconduct, but that is not the case in most schools. This knowledge may impact your decision regarding how important or useful it feels to go through the formal process.

## 6

### **Can the Respondent be punished through Alternative Resolution?**

As mentioned above, it might feel like AR allows respondents to avoid accountability. However, an AR agreement can include terms that create consequences for the misconduct, such as no longer being able to participate in certain extracurriculars or needing to complete a sexual respect and consent course in order to graduate. While this is not the same as formal discipline and may not include an acknowledgement of responsibility, you will still have an opportunity to settle on terms that feel satisfying and give you a sense of closure, including ones that feel like a form of punishment or accountability.

## 7

### **I want the Title IX process to validate what I went through. Won't I miss out on that if I go to Alternative Resolution?**

Some survivors feel very strongly about their Title IX process ending in a finding of responsibility, and may choose to opt out of AR because of this. This is absolutely valid, and only you can decide how important this type of validation is for you. However, remember that the Title IX process isn't always fair and won't always achieve your goals. If the Respondent is not found responsible, or if the school does not issue sanctions that are in line with what you want to happen, the formal process might not provide the validation you're hoping for.

It's important to understand both the potential risks and rewards of a formal adjudication, including what you can and can't achieve through that process. Once you have all the information, you can make an informed decision about whether formal or informal resolution is the best choice for you. There is no right or wrong answer.

## 8

### Will other people—like my friends, family, and classmates—be disappointed or not believe what happened if I choose Alternative Resolution?

When people are applauding you for standing up for yourself by reporting for Title IX, or if you're not sure they will believe what you went through without an official finding of responsibility from your school, it's easy to feel like you have to go through the formal adjudication process to prove you're strong and that your experience was real. This is not true, and anyone who pushes you for these reasons might not understand the possibilities and advantages of Alternative Resolution.

Reaching an AR agreement that achieves your goals can be just as powerful as going to a hearing, if not more so because it focuses on what you want, not what the school (or anyone else) thinks should happen. If anyone questions the validity of your experience without an official finding, you can try explaining to them that negotiating doesn't work when the other party has no reason to agree to your terms. Ask them: if the Respondent didn't do this to you, wouldn't the Respondent feel confident that a hearing would end without consequences and therefore turn down AR? This explanation may somewhat oversimplify things, but it can help get your point across.

At the end of the day, your decision should be based on what process feels best for you. Anyone who loves and supports you should have your back, no matter what you decide.

## 9

### How do I make the Respondent engage in Alternative Resolution?

Unfortunately, you cannot make the Respondent agree to Alternative Resolution or cooperate with you during an informal process. One disadvantage to AR is that its success depends on how willing the Respondent is to engage in negotiations. If the other party is confident that the Title IX process will end in their favor, they have less reason to entertain an Alternative Resolution that they see as burdensome. That said, remember that the Respondent is the one facing severe sanctions; as long as there's a possibility they could be suspended or expelled, they are likely to at least entertain the possibility of AR.

**Note: We advise against mediation as a form of Alternative Resolution in most sexual assault cases.** Many schools propose mediation as a form of Alternative Resolution. We do not recommend engaging in mediation that involves confronting your harmer directly, i.e. being in the same room to speak about what happened, because this can be very traumatic and often inflicts more harm on the survivor. Another reason we advise against it is because mediation implies that both sides are in some ways responsible for what happened, and so that is how the mediator will negotiate the resolution. As the person who was harmed, you should be under no pressure to accept any responsibility or consequences for what happened to you.

# 10

## I might want to go to Alternative Resolution but I'm not sure yet. Now what?

Because Alternative Resolution is a possibility throughout the Title IX process, it is best to start thinking about it early on. Make sure you have all the information from your school about how both the formal and informal processes work and set your expectations around what you can achieve through both. If you feel ready to make an informed decision but not ready to decide, try listing all of the goals you hope to achieve by reporting, then come up with potential terms based on those. (You can find a list of ideas below.)

You can also make a list of deal-breakers. For example, you might not want to agree to any AR agreement that includes a mutual (as opposed to one-way) No-Contact Order.\* You can always add things to the list or take them away later. If you have an advisor, work with them to make this list so that you're aligned on what you want to happen and so that they can help you think through terms that would support your goals.

- \*Tip: We don't recommend you agree to a mutual no-contact order because it restricts your movement and can subject you to discipline if you are found in violation.

Preparing before AR is on the table can give you more time to process the possibility and decide how you feel about it. It can also help you feel more prepared for a last-minute AR proposal from the other party, and less stressed by a potential negotiation. Some survivors experience trauma symptoms like shut down or panic if they're forced to make a quick decision about going to AR or the terms it will include; planning ahead may help if this is something you're concerned about, and will help your advocate negotiate on your behalf if you don't feel comfortable or able to participate in negotiations.

# 11

## What should I ask for in an Alternative Resolution?

There is no one-size-fits-all approach to AR – that's one of the benefits of it. Terms will vary widely based on considerations such as your goals and the relative bargaining power of you and the Respondent. Think creatively and holistically about agreements that will meet your needs, ideally in collaboration with an advisor or support person.

Here are some ideas for terms, broken down by broad goals, to get you started:

### Safety and separation:

- A unilateral (one-way) No-Contact Order, rather than mutual No-Contact Order (against both parties), that includes specific terms such as a required minimum distance between you and the Respondent, protection from digital and third-party communication, instruction that the Respondent will leave a location if you're both present regardless of who arrived first, and clear consequences for violations.
- The parties will not enroll in the same classes or extracurricular activities, and you have the right of first selection.
- The Respondent agrees to stop participating in extracurricular groups that contributed to the incident in some way, such as a fraternity.



- The parties will not be housed in the same dormitory or building, and the Respondent's housing will be changed if needed instead of yours.
- If either or both parties are employed on campus, you will not work in close proximity or report to one another, and the Respondent will not visit your place of employment during your working hours.
- The Respondent transfers to another school, takes a leave of absence, or attends an abroad or remote program for a set period of time, ideally until you are no longer enrolled. (Don't forget to consider your postgraduate study plans.)

### **Accountability or changed behavior by the Respondent:**

- Requiring the Respondent to "successfully" complete a rigorous (12+ week) anger management course, sexual respect and consent course, batterer's intervention course, and/or a similar educational program.
- Respondent agrees to engage in individual therapy to address specific concerns such as violent tendencies, anger issues, or sexual respect/consent.
- The Title IX Coordinator or similar neutral party reads victim and witness impact statements (how the incident has affected you) to the Respondent.
- **Only** if you want this: arrange for a private accountability conversation between the parties or a group accountability circle that also includes community members.
  - NOTE: These types of dialogues should be done carefully, ideally with guidance from experienced transformative and/or restorative justice facilitators. Organizations such as [RJOY Oakland](#) may be contracted to design and implement effective restorative processes.



***"These types of dialogues should be done carefully, ideally with guidance from experienced transformative and/or restorative justice facilitators."***

### **School response and policies:**

- School Title IX officials agree to enforce any agreements established through AR (see section on enforcement below for more).
- School Title IX officials agree to protect you from retaliation. This may include dismissing any pending disciplinary charges against you stemming from the incident, favorably addressing accusations of retaliation against you, and addressing any third-party harassment on behalf of the Respondent.
- School Title IX officials agree to meet with you and your advocate to discuss any issues that arose during the process and best practices for moving forward. ERA has extensive experience working with schools to modify their policies and practices, and we can potentially help you identify specific changes or issues to raise.

### Terms to avoid:

- Any agreements that would explicitly or effectively discipline you or potentially expose you to future discipline.
- Any agreements that would force you to change your own schedule, housing, or habits, or restrict your freedom of movement.
- Any acknowledgement that your allegations were false.
- A gag order of any kind, including orders that prohibit you from speaking or writing about your experience with the Respondent or during the school process.
- **NOTE:** While effective negotiations may require terms that bind you as well as the Respondent (such as a mutual No-Contact Order instead of unilateral one), such terms should be limited as much as possible to avoid improperly infringing on your rights (e.g. while both parties agree not to contact each other, only the Respondent is prohibited from talking about their experience with you to third parties).

## 12

### What are the enforcement mechanisms for Alternative Resolution?

Enforcement will vary depending on the terms of the agreement and the school, but some ways you could ask the school to enforce your Alternative Resolution agreements include:

- Enforcement by campus police: violation is a campus safety issue;
- Enforcement by the Title IX or Student Conduct office: violation is a disciplinary issue;
- Proof of the Respondent's compliance is required to remain in "good standing": standing affects their eligibility to register for classes and graduate (e.g. proof of completion of an anger management course must be submitted to the Title IX office by a certain date in order for the Respondent to enroll next semester);
- Relevant offices should be informed of terms that they could be responsible for enforcing (for example, the Registrar's office should be informed if they need to schedule the Respondent's class registration window after yours).

**AR can be a beneficial way to achieve some, if not all, of your goals, and secure an agreement not available in the formal Title IX process. Even if AR ultimately proves unsuccessful, the fact that you can choose to return to the formal process at any point means that attempting to reach an informal resolution through AR has essentially no risks with potentially high rewards. No matter what path you choose, your experience and concerns are valid and we believe you.**



# HOW TO FILE AN APPEAL

1

## **What is a Title IX appeal?**

After your Title IX case has been investigated and adjudicated, your school will issue their findings of responsibility (decision about whether the Respondent violated the school misconduct policy) and, if applicable, sanctions (punishment for the misconduct). If you or the other party object to the findings or the sanctions, you should both have an opportunity to appeal them. This means that the decision will be reviewed by an office or administrator who did not handle the original complaint; they will decide if the original decision should stay in effect or if there was an issue that needs to be corrected.

2

## **Can I appeal if I disagree with the outcome of my Title IX case?**

Usually, yes. However, schools typically only allow parties to appeal their Title IX outcome on certain grounds. While the specific grounds for appeal vary by school, common grounds for appeal include:

- the sanctions were disproportionate to the findings (meaning the sanctions were either too severe or not severe enough);
- there was a procedural error that altered the case outcome;
- the outcome is not supported by the evidence (meaning the findings were unreasonable based on the evidence); or
- the investigator was biased. (NOTE: Bias is extremely difficult to prove and cases are very rarely reversed on this ground.)

Check with your Title IX office or in your school's policies to find out what grounds for appeal are available.

3

## **When and how should I file my appeal?**

This information should be provided to you by the Title IX office along with the finding of responsibility and grounds for appeal. If this is not the case, reach out to the Title IX Coordinator for more information. Keep in mind that appeal deadlines are often short; you may only have 5 or 10 days to file your appeal. You can request an extension if you need more time to write your appeal or find someone who can help you.

4

## **What will be reviewed during an appeal and what will the result be?**

This varies by school. Some schools review cases de novo at the appeals stage, which means all of the evidence is re-reviewed and re-considered during the appeal without regard for whatever findings the investigator originally made.

In this case, the investigator's findings may be overturned and new findings or sanctions may be issued. Other schools, particularly those that only allow appeals for procedural issues, may only review the investigator's decision for glaring procedural or other errors and will not re-review or re-weigh all of the evidence. In this case, the decision maker will usually not make factual findings but rather will either affirm the original finding) or will remand (meaning "send") the case back to the investigator and instruct the investigator to cure (meaning "fix") any problems they found. This might involve, for example, instructing the investigator to interview a particular witness or provide the parties with an opportunity to respond to evidence or allegations.

## 5

### **What should I include in my appeal?**

Establish your chosen grounds for appeal (see the list above) and support your argument with any information that is relevant. When possible, cite to specific pages in the investigation report or hearing transcript. Try not to get distracted by things that you are unhappy with but that are not part of the grounds for appeal; for example, if your school does not allow you to challenge the reasonableness of the findings, don't argue that the investigator's decision is wrong because they didn't weigh the evidence correctly. Be efficient and well organized so your appeal is easy to read.

If you are appealing based on the ground that the outcome is not supported by the evidence, be sure to identify all of the evidence that supports the finding you want, including your own testimony and any evidence supporting why the school should believe you over the respondent. Remember that while most, if not all, of the information, facts, and evidence are very important to you, some might not necessarily be legally relevant to your appeal. If you include a bunch of information or arguments that are unrelated to the appeal, it will distract from your appeal and may make it harder to win.

## 6

### **What if I need more help?**

Equal Rights Advocates may be able to provide free additional information or support, especially if you are in California. Because of the short timeline in Title IX appeals, do your best to connect with us (or any support resource) as early as possible. This could even mean reaching out before you have a final decision in your case so that you are prepared to respond quickly, or so you have an advocate on standby ready to assist if necessary.



# **ADVICE FOR MUSLIM & SOUTH ASIAN SURVIVORS**



## Advice for Muslim and Sikh Survivors

### ***How I navigated conversations about sexual violence with my family and community.***

By Sobia S., student survivor

**Despite the prevalence of sexual assault in South Asian communities in the United States, many families still avoid having these important conversations. Instead of having open conversations about safety and responsibility, much of the onus of sexual assault prevention is placed on womxn.**

**Sexual assault is a topic that often can be swept under the rug in South Asian communities. While it is not spoken of very openly, sexual assault drives a lot of fears and practices in our community. Some of our families may instill values such as “young people should get married early,” or say things like “cover your chest with your dupatta” or “cover your head with your chador.” Some of us grow up hearing, “don’t go here late at night,” “don’t hang out with those people,” and “the devil is the third when two are alone.”**

1

### ***Our lack of language can be limiting and isolating.***

As a community, we don’t have a lot of models for how to navigate conversations about sexual violence. Much of the language we have around sexual assault is suggestive, preemptive, and usually framed as the responsibility of the womxn so that she does not become a victim. This means that when sexual harassment or assault does occur, there isn’t a lot of language available to speak about what happened. It can be difficult to move the conversation from blaming the victim for supposedly not engaging in preemptive behaviors to addressing the assailant’s actions and their effects on the survivor.

Additionally, many of our communities do not share common terms of usage (in Punjabi, Hindi, or Urdu) for female and male anatomy. The words that are commonly used for female and male anatomy are often considered forms of vulgar and crude profanity. This lack of language puts survivors in very difficult situations. If we cannot even discuss our body parts without being considered crude, how can we have thoughtful discussions about preventing and addressing sexual assault? How can we talk about being violated when we cannot name the parts of the body that were violated without using shameful language or when these body parts are not supposed to exist outside insults?

It is quite telling that many words or phrases used as insults discuss a man’s honor in relation to the womxn in his life (his sister/mother). There aren’t equivalent words or phrases for men as the concept of honor has always lain in the private parts (read: honor) of the female body.

But we survivors know a woman’s vagina is her own; the honor of another does not reside there.



**Trigger warning:** the following section describes childhood sexual abuse and may be triggering for some readers.

When I was a child, my uncle molested me. I knew something wasn't right, and I eventually tried, as a six- or seven-year-old, to talk to my mother about it. I didn't know what to say, where to start. He had touched a part of me that wasn't supposed to exist, that was so actively ignored, and yet I had to make it exist to protect myself. Eventually, I told my mother that I had been touched "down there."

As an adult now, and a marriage and family therapist trainee, I make sure my siblings teach their children the names of their respective genitalia to shed some of the shame of having a body and to arm them with language to protect themselves.

“

*"The reality of sexual assault is so unspoken in our community that my mom didn't have a frame of reference for how to react."*

2

## ***Understand that there are no models for this conversation.***

As a young woman, my mom often told me stories about the 1947 Partition, about how women from every side were being brutally and violently raped, and how women carried poison with them so that they could kill themselves or their daughters rather than have their and their family's honor be violated. Rape has always been used as a tactic of war for this very reason, because there is violence is "dishonoring" men in relation to the women of their family.

If, traditionally, death is preferable to being raped, how do you tell your family that you have been sexually assaulted? How do you tell them that you're still alive and need them to be there for you? It's incredibly difficult. Many family members don't know how to react, how to make sense of this reality.

When I told my mom that my graduate advisor had sexually assaulted me, I could see her trying to process. I tried to give her time and space to do so. I could see her cycling through thoughts and questions: How did this happen? Why did you let this happen? Why didn't you tell me? Who is he? Where is he? I'll break his legs!

While some of these questions were difficult and hurtful, I knew that the reality of sexual assault is so unspoken in our community that my mom didn't have a frame of reference for how to react. Oftentimes, our family members don't understand what survivors might need emotionally. They don't understand that the assault is now a part of our daily reality, and we need to process it and understand how to live with it.

With time, my mother started checking in with me, asking me what I needed, how I was, and cooking for me. I had to learn to accept love from my mother in the way she knew how to communicate it: through food. While I was participating in the very difficult and emotionally taxing Title IX process, I got sent home with extra food from my mom almost every day.

# 3

## ***Remember that not every family is the same.***

My mom is a central figure in my community. She knows a lot of people, and a lot of people know her. She is the pinnacle of Muslimhood for many people in our ethnic enclave. Recently, one of her good friend's daughters reached out to me. She had been sexually assaulted.

I spent time talking to this young woman about her situation and what support, if any, was available to her. I asked her if she felt comfortable getting some support from her mother. She said no, she didn't. It was hard for her to hear and understand that while my mother's initial reaction was not ideal, she had been able to accept me, love me, and support me while some mothers in our community, for a variety of reasons, might not be able to do so. For this reason, it's so important to respect a survivor's choice not to talk to their family about being sexually assaulted as much as it's important to support those who do want to talk to their families. The ugly truth is some families in our community may potentially disown a sexual assault survivor, victim blame, or even further hurt the survivor.

This is where families of choice (or chosen families) become so critical in our community. In the case of this young woman, I hoped to become part of her family of choice as she gathered safe people around her in her journey toward bringing her assailant to justice. As survivors, if we have the bandwidth to do so, we need to make ourselves available and open ourselves to other survivors. For this young woman, she shared that it was helpful to have someone in her corner who understood her ethnic background and at the same time didn't immediately write off her entire culture or religion simply because of her parents' inability to be supportive in this area—an area in which they had extreme social conditioning to act from a shame-based frame.

# 4

## ***Consider having conversations about assault in general.***

Part of the reason that conversations around sexual violence are so difficult in our communities is because they don't happen, and then, when they need to happen, these conversations often occur in a crisis situation. Consider having conversations with family about the realities and prevalence of sexual assault and violence before someone (else) in your family needs support. Begin preemptively building models for appropriate responses.

One day, at my partner's family's home, there was a South Asian drama playing in the background that featured domestic and sexual violence being enacted upon one of the characters. I used that opportunity to ask their family why the character, a woman in this case, didn't speak to anyone, what options were available to her, and where she could get support. When everyone agreed that there weren't a lot of options for her, it opened the conversation up to one of our relatives who was also being domestically abused (probably also sexually abused). We talked about her options and why she might've felt like she had none. We talked about changes we would like to see, what systems we would like to see in place, and how we would like to be there for anyone when they face violence of any type. It was a small, but perceptive, cultural shift starting at home.

It is important to use the resources that already exist in our lives to foster these important discussions as a part of our everyday interactions. This normalizes these conversations and also helps take the onus off survivors.

## Conclusion

Conversations around sexual assault in South Asian communities are difficult because they navigate a delicate and intricately connected network of social issues that our communities face, from a lack of language around sex and sexuality, to shame culture and the ways that family systems can both support and silence survivors. While there are some common threads in South Asian families and the ways they react to sexual assault, each family is unique. We have all, I'm sure, heard of extreme cases in which family members will execute honor killings of women that they believe have dishonored or shamed the family. Stories that we might not hear as often are stories of growth, support, transformation, translation, and healing.



*"These are the conversations that will cast light on shadows of shame and help make our experiences stories of strength for others in our community."*

In my own family, I've slowly shared parts of my stories of sexual assault with various people and have been surprised by the empathy and validation I've received — as well as the stories of other men and women in my family also being sexual assaulted by family and people in the neighborhood, not strangers as many of us are taught to fear as children.

With this in mind, if you have the bandwidth and capacity for it, and only if it is safe for you to do so, you might want to consider having and normalizing conversations around sexual assault in your families and communities. These conversations may not initially be as supportive, direct, wholesome, or validating as you might initially like, but they are the start to unraveling centuries of generational trauma. These are the conversations that will allow our communities stop sexual assault from being a tool to silence those assaulted and their stories; these are the conversations that will cast light on shadows of shame and help make our experiences stories of strength for others in our community.





# ADVICE FOR LGBTQ+ SURVIVORS



**If you are an LGBTQ+ survivor, you may have unique concerns about the Title IX process. LGBTQ people experience higher rates of violence and lower rates of institutional empathy than their cisgender and heterosexual peers. Below are some common concerns and issues LGBTQ+ students often face when reporting harm, and suggestions for how to handle them.**

## **1 *If you tried to tell an authority figure about your experience and they didn't believe you, or you're worried they won't help you:***

Even though you have the right to feel safe at school, for many of us, getting help isn't always easy. If you're afraid to report because you're worried that a professor, staff member, or Title IX coordinator won't take your experience seriously, you aren't alone. Over half of LGBTQ student survivors say they did not report harassment or assault because they doubted it would resolve the problem, and over 60% of LGBTQ students who did report say school staff did nothing or told them to ignore it. ([GLSEN 2019 climate survey](#))

If you want to report the incident(s) but feel hesitant about doing so, try enlisting allies or community members to support you. You can ask a trusted friend or family member to be with you when you report, or you can connect with an anti-violence advocate on campus or from a local community organization to accompany you or help you make a plan for reporting. If your school has an LGBTQ+ club or resource center, you can also seek support there, even if that just means having a safe place to talk about your concerns so you feel less alone.

If you decide you don't feel comfortable reporting, you can also use the allies mentioned above to help you make a safety plan that doesn't rely on intervention from your school. Ultimately, you are the best person to judge what path forward is right for you, and whatever you decide to do is okay.

## **2 *If you feel like your identity is misunderstood or not respected by the people responsible for helping you:***

Feeling unseen or misunderstood is hard at the best of times, and feels even worse when you're already navigating a traumatic situation. Whether the available Title IX resources feel geared towards heterosexual experiences or you've been misgendered by the Title IX coordinator, implicit and explicit forms of exclusion are unfortunately common and incredibly harmful for LGBTQ+ survivors. But remember that you're not alone.

Try to advocate for yourself early and often in the Title IX process, and bring in additional help when it's useful or necessary. If you initiate a Title IX investigation, request an investigator who has been specifically trained on LGBTQ+ issues. Even if your school cannot provide such an investigator for you, you're calling their attention to important issues that they should prioritize in your case.

If being misgendered is a concern, consider including your pronouns in your complaint, and reminding the investigator or other school officials of your pronouns at the beginning of meetings. If you have a support person, ask them to handle correcting anyone who misgenders you. If your school does not have LGBTQ-specific support (in the form of available information or campus services), see if there's a campus Title IX advocacy group that can help you push for more inclusive resources.

### **3** *If you feel like your experience of harm is being judged or dismissed because you are gay, queer, or trans:*

There are many harmful myths and stereotypes about LGBTQ+ people that might feel like they are affecting how your Title IX complaint is understood or handled; for example, the homophobic stereotype that gay people are more promiscuous than straight people might be used to assume you gave consent, or assumptions about who is the more “masculine” or “feminine” partner might affect who is thought to have caused harm.

Try to proactively call out and correct these ideas as much as possible. Remind the investigator that LGBTQ+ people experience disproportionately high rates of sexual violence and low rates of institutional understanding. Point out any harmful ideas you think may be impacting how your case is understood, such as the idea that your past consensual sexual encounters impact whether or not this specific incident was consensual. Although it should not be your job to educate those in charge, if you feel like the investigator or Title IX coordinator is relying on improper or biased assumptions during your Title IX process, try providing them with resources about LGBTQ+ sexual or interpersonal violence that explain how these assumptions are inaccurate and harmful.

### **4** *If you're worried about putting the wellbeing of your community members at risk, even if one of them has harmed you:*

Like many marginalized groups, LGBTQ+ people often do not want to report sexual misconduct to authorities because we do not want other members of our community to be harmed by a system we rightfully mistrust. If you want your experience to be addressed by your school but don't want to risk the possibility that the person who harmed you could be suspended, expelled, or otherwise punished, you can ask for your case to be handled through an alternative resolution process (see Alternative Resolution guide on page 45). Alternative resolution is not a punitive process, and it can give you the opportunity to negotiate mutual agreements between you and the person who harmed you about how they will be accountable and how you will stay safe.

### **5** *If the harm you experienced feels systemic rather than just interpersonal:*

The harm you experience at school as an LGBTQ+ person might feel like it extends beyond you and one other person. You might be experiencing a pattern of discrimination from multiple students or faculty members, or the harm you experienced might point to a larger culture of intolerance on campus.

If you feel like your experiences are part of a larger problem, don't be afraid to elevate the issue beyond your Title IX office or expand the scope of who you go to for help. If you can, gather a cohort of people who recognize the same problems to advocate as a group, approach a dean or president to raise your concerns if the Title IX office isn't responsive, or file a complaint with the Office for Civil Rights so that the Department of Education is aware of the problem. The Department of Education has stated that it will prioritize fighting discrimination targeted at LGBTQI students. (For information on how to file an OCR complaint, visit the Know Your Rights guides on our website under “Equity in Schools and Universities.”)

You can also reach out to ERA's Free Legal Advice and Counseling helpline for assistance and insight into how to best fight for systemic change. Text #ENOUGH to 40649.



# SPEAKING OUT: HOW TO AVOID DEFAMATION

## *California only*

We believe all survivors have the right to speak out about what happened to them and share their experiences with whomever they want to. But unfortunately, the law does not always agree with us. This document will help you understand your rights and the risks that may be involved in speaking out publicly so that you can make an informed decision.

Note: This is an evolving and complicated area of law, so proceed with caution. We unfortunately cannot guarantee that you will be protected from a defamation lawsuit even if you follow this guidance. It is unlikely — but possible — that you could be sued, even if the person suing has no legal justification. In other words, just because someone is unlikely to win a defamation case against you does not mean they will not try to sue you anyway.

If you are accused of defamation for speaking out, you should contact an attorney who specializes in this area of law. Contact Equal Rights Advocates at [advice@equalrights.org](mailto:advice@equalrights.org) for a referral.

In California, the legal definition of **defamation** is a written (libel) or spoken (slander) communication that is false, unprivileged (“privileged” means what you said is protected from defamation), and causes reputational harm to the person who the communication is about.

If someone sues for defamation, the person suing is called the “**plaintiff**” and the person being sued is called the “**defendant**.” In order to file a defamation lawsuit, a plaintiff must be able to show 5 things:

1. the statement was framed as a statement of fact;
2. the statement was false;
3. it was ‘defamatory,’ or damaging to the person’s reputation;
4. it was not privileged (i.e. not protected by one of the privileges listed below); and
5. the communication has a tendency to injure or cause special damage.

In order for the defendant to prove that the communication was not defamatory, there are four affirmative defense to the lawsuit: truth, opinion, privilege (meaning that the speech was protected by one of the privileges below), and the statute of limitations (meaning the deadline for filing a defamation lawsuit has passed). If the defendant can prove an **affirmative defense**, they can defeat the case and end the lawsuit.

## ***What type of speech is privileged (protected)?***

“Privileged” speech refers to written or spoken communication that is protected for some reason, usually because the court thinks it’s important (such as important commentary on issues that matter to the public) or because it is necessary for things like allowing people to file complaints about harassment.

California has particularly strong free speech protections to keep people from using defamation lawsuits as a way to silence survivors. Speech that is privileged — and thus can't be subject to a defamation lawsuit — includes (but is not limited to):

- statements made in an official proceeding authorized by law, such as a Title IX case;
- statements made at (or in connection with) a government or legal proceeding, such as a legislative, executive, or judicial hearing;
- statements made in the public interest or “in furtherance of a common interest,” such as commentary about an important issue in society; or
- a fair and true report to a public media outlet regarding an official proceeding, such as a Title IX proceeding.

It is extremely unlikely that someone will prevail in a defamation lawsuit against you based solely on you making a Title IX report. If you make a statement to the press or a media outlet about a report you already made to a Title IX office, that statement is also likely protected by the law (under the “Fair and True Reporting” privilege) — meaning it likely cannot be used to sue you for defamation — but beware that there is no legal precedent you can rely on. There are cases where students have successfully defended defamation cases based on speech related to their Title IX report, but those cases are not binding on any court, so another court is free to make a different decision.

If you make a statement to a media outlet or in a press release, you may want to do these two things:

1. only restate what you already reported to the Title IX office, without elaborating and
2. rather than simply stating as a fact that the sexual assault or harassment occurred, accurately report what you reported to the Title IX office. Your statement should have the same gist as your Title IX report.

Finally, statements made at certain events, such as Take Back the Night, might be protected by the “common interest privilege.” This privilege is recognized when you and the person/people listening have a common interest, and what you say is non-malicious and meant to protect or further that common interest, such as raising awareness about sexual violence at your school.

### ***How can I use truth as a defense in a lawsuit?***

Truth can be used as a defense in a defamation lawsuit, but proving the truth of sexual harassment or sexual assault allegations can be tricky, and it depends on what exactly you said in the statement you're being sued for. Legally, there is a big difference between stating publicly that you made a Title IX complaint and sharing what you said in that complaint; versus stating what happened to you without referencing the complaint. If your statement is “I was assaulted by John Doe,” you might have to wait until trial to convince a jury that the statement is true. If, on the other hand, the statement was “I reported to my school's Title IX office that I was assaulted by John Doe,” you would have a greater chance of being able to dismiss the lawsuit before it goes to trial.

Therefore, if you plan to speak out about your assault, you are most protected if you do so by referencing what you reported to the Title IX office.

Another possible form of protection is that legally, statements related to sexual harassment or sexual assault can sometimes be considered opinion, not fact. If you can show that what you said was an opinion and not fact, that can be used as an affirmative defense in a lawsuit. Examples of speech that can be considered opinion include saying that the assailant's presence "made it very challenging for me to finish school."

### ***If I am threatened or sued for defamation, how do I respond?***

You will likely first receive a demand letter or other communication urging you to stop your behavior with a threat to sue if you do not comply. If a lawsuit is filed accusing you of defamation, you have 60 days to respond. You should immediately find a lawyer to assist you in responding to the lawsuit by filing an "anti-SLAPP (Strategic Lawsuit Against Public Participation) special motion to strike." This motion asks the court to throw out the defamation lawsuit because the speech is protected or because the plaintiff won't be able to prove their case at trial. If you win this motion, you won't have to go to court over the defamation case and prove to a jury that what you said was true.

Do not try to avoid being served with notice of a lawsuit, or ignore the complaint. If you don't respond, you will receive a judgment against you. You would likely have to pay an attorney an hourly rate to represent you, but if it's just for filing the motion mentioned above, it might not be too expensive. If you win, you can get your money back for the fees you paid.

We know that harassers are using the threat of defamation more and more to silence victims, and we know this area of law can be scary, overwhelming, and complicated. We are here to support you in speaking out about your experiences, and we welcome you to contact us to help you decide whether or not doing so is right for you. To make an appointment, email Equal Rights Advocates at [advice@equalrights.org](mailto:advice@equalrights.org) or text #ENOUGH to 40649.





# CONNECTING WITH OTHER SURVIVORS

**Through connection we empower, we grow, we heal, and we build community. For some, connecting with other survivors can be a meaningful step in their journey. To share space and create relationships with individuals who have experienced something similar to you can begin to foster a community filled with support and understanding. It takes strength and courage to share your story, and as a survivor, your resiliency shines through as a powerful tool for connection.**

**Here are some ideas about how to connect with other survivors:**

## **1** ***Join a survivor support group in your area.***

A great way to connect with others is to join a local support group for people who are going through a recovery process of some kind, or a social group for those simply seeking new friendships or a fresh sense of community. For some survivors, connecting with a new group of people can help build a new safe space to explore being social, where the trauma they experienced feels slightly more removed. For others, it can be difficult to meet and be around new people. Do what's best for you.

Many schools, organizations, churches, and community centers host these kinds of gatherings regularly, such as restorative justice groups, book clubs, counseling support groups, hiking groups and more. Find one that aligns with what you are comfortable with and attend to see if it's a good fit.

## **2** ***Join advocacy efforts.***

If you are a student, most campuses across the nation have student groups or organizations that are doing amazing work around gender justice and sexual assault and harassment awareness. If you are in the workforce, there are gender justice organizations and community centers that have inclusive organizing or volunteer opportunities as well. Check out [SafeBae's](#) volunteer program or use [RAINN's](#) volunteer search function to find an opportunity in your local area.

There are a multitude of ways to engage in survivor activism work, including at Equal Rights Advocates. (See the [Healing & Power through Activism](#) section of this Toolkit.) Getting involved in community organizing is a great way to connect with other survivors.

## **3** ***Participate in Equal Rights Advocates survivor focus groups.***

Equal Rights Advocates hosts focus groups periodically to learn how we might be able to improve our survivor services. During these focus groups, we also help facilitate a dialogue between survivors to share their stories, discuss challenges they've faced, and more. Some of the survivors who have participated in these focus groups have remained connected to each other and even organized additional events together. If you attend an ERA focus group, you will have the opportunity to meet other survivors from all over the country!

## 4

### **Engage with an online forum.**

There are numerous online blogs, forums, chat centers and more that are created for survivors to be able to connect. These overcome any geographical barriers, and some even have participants from around the world. Especially during a time when remote accessibility is important, this can be a great way to still engage in a space that fosters connection. [RAINN](#) and [Pandora's Project](#) both have survivor recommended online forums.

## 5

### **Become a mentor.**

For some, becoming a mentor to other survivors is how they remain connected to the community. To assist others in their journey and provide advice or support is healing for all who are involved. There are opportunities to mentor through community organizations, school advocacy groups, online, and more. Check out the mentorship opportunities at [Pandora's Project](#), [SafeBae](#), and [Our Resilience](#).

**Here are some useful tips to think about when connecting with other survivors:**

## 6

### **Take space and check in with yourself.**

Trauma affects us all differently. It might be helpful to think about providing some time before and/or after connecting with other survivors to do a self check-in. A self check-in can be journaling, a breathing exercise, calling a friend, taking a walk, or another self-care activity that provides space for reflection.

## 7

### **Listening is support.**

When connecting with other survivors, listening to what they are ready to share can be an essential form of showing your support. Practice gently infusing empathy into how you choose to engage with them. Advice can be helpful, but sometimes listening is all that is needed.

## 8

### **Connect, don't compare.**

It is human nature for us to feel inclined to compare ourselves to others. However, it is not a beneficial route to take for yourself. When connecting with other survivors, it is important to remember that everyone's journey is different, everyone has unique experiences and stories to share, and everyone may be at a different point in their own journey.

For some, useful tools such as remaining present or actively engaging in positive affirmations can reroute comparative ways of thinking. For instance, "I embrace my journey, because it is uniquely designed for me," is an example of a helpful affirmation to recite when you feel your mind is being taken down the comparison route. (See the Self-Care Tips for Survivors section of this Toolkit for more survivor-centered self-care tips.)







# **HEALING & POWER THROUGH ACTIVISM**

## ***Share your story, join forces with other survivors, demand change***

**For some, advocating for change alongside other survivors can be a powerful step in the journey toward healing. When survivors join forces to raise awareness, speak out, and demand change, it can make a big difference in the lives of other students and survivors.**

**Some survivors share their stories to raise awareness. Others support bills and public policies that help protect other students from sexual violence. And others share information on campus about how survivors can protect their rights in the Title IX process. These are great ways to connect with other survivors, help change the systems that caused you harm, and reaffirm your agency and power along the way.**

### ***Share your story***

Equal Rights Advocates and other groups can help you share your story publicly. Whether you choose to write anonymously or include your name, we can help you share your experience on our website where other survivors can find it, or potentially in a media outlet with a wider readership. Sharing your story in your own words, without needing to explain yourself or compare to “the other side,” can be cathartic, validating, and empowering.

Some choose to share their stories to let other survivors know they’re not alone--that there are people out there who understand them. Some want to encourage other survivors to seek help, share resources with them, or tell them things they wish they had known before. Others share their experiences as a way to advocate for change, whether it’s public policy/laws, or broader culture change that asks people to reexamine how they think about sexual violence or treat survivors.

At Equal Rights Advocates, we help survivors to share their stories in a variety of ways, including writing an op-ed, column, or blog piece, or making a video. A story-sharing coach can help guide you through the process to accomplish your goals. To see other survivors’ stories, visit [equalrights.org/stories](https://equalrights.org/stories).

### ***Advocate for change***

Organizations like Equal Rights Advocates are always trying to make the world a better place for survivors, and ultimately end sexual violence. We help write bills and advocate for them to become laws.

For example, in California we successfully passed the nation’s most comprehensive law protecting student survivors with a 2020 bill that will make it easier to report sexual violence, ensure survivors’ rights during the Title IX process, require school officials to complete trauma-informed trainings, and more. Student survivors were integral in getting this bill passed. Many called and emailed lawmakers, and shared the link so their friends could do the same. Others led the charge, testifying to California lawmakers about why the protections were needed. Some wrote pieces about the bill that were published in the New York Times and other newspapers.

We and other survivor organizations frequently have opportunities like this, with easy ways to contact lawmakers. Or if you are willing to get even more involved, you can help lead the fight for change to help ensure other students don't go through what you experienced.

To keep up with the bills and other policies we're sponsoring, sign up for our weekly Action Alerts at [equalrights.org/join-the-action-team](https://equalrights.org/join-the-action-team).

### **Raise awareness**

Let other students know their rights. Many survivors don't know what to do next after being sexually assaulted or harassed. Our goal at Equal Rights Advocates is to provide clear answers to that question and make sure students know their options. You can help us do that by hanging flyers (that we provide) or passing out information on campus. The materials advertise the text-in number to our ENOUGH program (100% free and confidential), where student survivors can get information about their options and their rights from a legal advocate, and can receive legal representation throughout the Title IX adjudication process. If you want to get even more involved, you can host an interactive "Know Your Rights" workshop at your school with a template, presentation, and materials we provide.

For more information on how to get involved, visit [equalrights.org/ENOUGH](https://equalrights.org/ENOUGH).

