

# TITLE IX TRAINING

**Clafin University**  
**Session 2 – August 2020**

# TRAINING AGENDA

- Service as a Title IX Coordinator
- How to conduct a Title IX investigation
- How to conduct a Title IX informal resolution
- How to conduct a Title IX hearing
- How to conduct a Title IX appeal
- Wrap-Up / Q&A

## SERVICE AS A TITLE IX COORDINATOR

- The Title IX Coordinator is designated and authorized by Claflin University to facilitate grievance procedures and grievance processes under Claflin's Title IX Policy.
- The Title IX Coordinator is responsible for coordinating Claflin's efforts to comply with its responsibilities under Title IX of the Education Amendments Act of 1972 and federal regulations issued thereunder (collectively, "Title IX").

## TITLE IX COORDINATOR

Absent a conflict of interest, Shirley Biggs serves as the Title IX Coordinator for Claflin University.

Shirley Biggs

Title IX Coordinator

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## TITLE IX COORDINATOR – ACTUAL KNOWLEDGE

- The only persons who can receive “actual knowledge” of a report of sex discrimination, including sexual harassment, under Title IX are:
  - The individuals identified as Title IX Coordinator under Clafin’s Title IX Policy, and
  - Clafin’s President
- When other employees of Clafin University become aware of sex discrimination, including sexual harassment, they should report it to the appropriate Title IX Coordinator, but Clafin’s obligation to initiate grievance procedures are not triggered until “actual knowledge” occurs.

## TITLE IX COORDINATOR RESPONSIBILITIES – ACTUAL KNOWLEDGE

- When “actual knowledge” of sexual harassment exists, the Title IX Coordinator must:
  - Analyze whether a conflict of interest will require the case to be handled by someone other than the default Title IX Coordinator
  - Promptly contact the complainant
  - Offer supportive measures
  - Consider the complainant’s wishes with respect to supportive measures
  - Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and
  - Explain how to file a formal complaint
- **Document these steps in writing.**

## TITLE IX COORDINATOR – SUPPORTIVE MEASURES

- **Definition.** The term “**supportive measures**” refers to non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed.
- **Purpose.** Supportive measures should be designed to restore or preserve equal access to Clafin University’s education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Clafin’s education environment, or deter sexual harassment.

# EXAMPLES OF SUPPORTIVE MEASURES

- Restricting contact between the parties by issuing a “No Contact” Order, or mutual restrictions on contact between the parties;
- Providing an extension of time or other course-related adjustments;
- Modifying work or class schedules;
- Providing campus escort services;
- Changing work or housing locations;
- Offering leaves of absence;
- Increasing security and monitoring of certain areas of the campus;
- Providing counseling and/or medical services;
- Providing academic support service, such as tutoring; and
- Arranging for complainant/respondent to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the academic record.



## ADDITIONAL OBLIGATIONS RELATING TO SUPPORTIVE MEASURES

- **Confidentiality.** The Title IX Coordinator and other Clafin employees must treat supportive measures confidentially.
- **Coordination and Implementation.** Regardless of when supportive measures are made under the Title IX Policy, the Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

# FORMAL COMPLAINTS

- **Definition.** The term “**formal complaint**” refers to a document filed by a Complainant or signed by a Title IX Coordinator alleging sexual harassment against a Respondent and requesting that Claflin investigate the allegation of sexual harassment.
- **There are only two ways a formal complaint can come into existence:**
  1. A Complainant can file a formal complaint with the Title IX Coordinator. It must be signed by the Complainant or otherwise must indicate the Complainant is filing the formal complaint, **or**
  2. The Title IX Coordinator can sign a formal complaint where the Complainant has not filed one.

## FORMAL COMPLAINTS – SUBSTANTIVE REQUIREMENTS

### **Requirements for a formal complaint:**

- The Complainant must be participating, or attempting to participate, in an education program or activity of Claflin;
- The formal complaint must include allegations that, if true, would constitute sexual harassment as defined under Title IX.

## DEADLINES IN A TITLE IX CASE

A case should be investigated and adjudicated within 90 days of the date on which a formal complaint is filed by a Complainant or signed by the Title IX Coordinator.

- The Title IX Coordinator can extend timelines for good cause;
- The Title IX Coordinator will provide written notice to the parties explaining the reason for any extension.

## TITLE IX COORDINATOR – JURISDICTONAL ANALYSIS

- When analyzing jurisdiction, the Title IX Coordinator should do the following:
  - Treat the allegations in the formal complaint as true (i.e., asking the question: if true, would the alleged conduct constitute “sexual harassment”?)
  - Analyze the alleged behavior under each prong of the definition of “sexual harassment” to determine coverage:
    - 1) Bargaining conduct constituting *quid pro quo* harassment;
    - 2) Severe, pervasive and objectively offensive conduct; and
    - 3) Certain criminal conduct: sexual assault, stalking, domestic violence, dating violence
  - Keep in mind that the “on the basis of sex” element must be satisfied under all prongs of the sexual harassment definition.
  - Confirm the location where the harassment allegedly occurred

## FORMAL COMPLAINTS SIGNED BY THE TITLE IX COORDINATOR

Before signing a formal complaint, the Title IX Coordinator will consider these factors:

- severity and pervasiveness of the alleged sexual harassment;
- any pattern of alleged misconduct attributed to the Respondent (e.g., serial predation);
- risk of serious harm to any individual associated with Claflin;
- any alleged violence, threats, use of weapons, or similar factors;
- any involvement of law enforcement and/or criminal proceedings; and/or
- any other factor, whose consideration is permitted by applicable law, that directly or indirectly implicates Claflin's interests in providing a safe and productive learning environment.

## TITLE IX – RESPONSE TO A FORMAL COMPLAINT

- The Title IX Coordinator takes the following actions in response to a formal complaint:
  - Performs a conflict of interest analysis
  - Performs a jurisdictional analysis
  - Provides notice of allegations to the Respondent
  - Offers supportive measures to the Respondent
  - Explains the right to an advisor (and assign an advisor if a party does not engage an advisor of such party's choice)
  - Assigns an investigator (who does not have a conflict of interest)
  - Identifies the appropriate decision-maker / hearing officer

## TITLE IX COORDINATOR – CONFLICTS ANALYSIS

- When analyzing whether a conflict of interest exists, the Title IX Coordinator should do the following:
  - Self-reflect on whether the Title IX Coordinator has a conflict with respect to any aspect of the formal complaint;
  - Ask each person assigned to a role in the Title IX case to confirm in writing the absence of a conflict of interest;
  - Disqualifying conflicts include any relationship or other circumstance that would prevent an individual from approaching the case free of bias, prejudice of the facts or partiality.



## TITLE IX – MANDATORY DISMISSALS

**Mandatory Dismissal.** The Title IX Coordinator must dismiss a formal complaint insofar as it contains allegations that fit into any of the following categories:

- conduct that would not constitute sexual harassment under Title IX;
- conduct that did not occur in Claflin’s education program or activity; or
- conduct that did not occur against a person in the United States

## TITLE IX – PERMISSIVE DISMISSALS

**Permissive Dismissal.** Claflin has discretion to dismiss a formal complaint (or any part thereof) at any time (during an investigation or hearing) for the following reasons:

- the Complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- the Respondent is no longer enrolled or employed by the recipient;  
or
- specific circumstances prevent Claflin from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein

## EXAMPLES OF “SPECIAL CIRCUMSTANCE” DISMISSALS

- Where the complainant has ceased participating in the process. - Preamble, pp. 293, 938-39
- Where the “passage of time” results in Claflin’s “inability to gather evidence sufficient to reach a determination regarding responsibility.” – Preamble, p. 373 n. 562
- “When a formal complaint contains allegations that are precisely the same as allegations the recipient has already investigated and adjudicated.” – Preamble, p. 689 n. 939
- If the respondent is not under Claflin’s authority (e.g., a non-student, non-employee individual who came onto campus and allegedly sexually harassed a complaint), and Claflin “has no way to gather evidence sufficient to make a determination.” - Preamble, p. 966

## TITLE IX – PROCEDURE UPON DISMISSAL

- The Title IX Coordinator must provide written notice to the parties simultaneously regarding any decision to dismiss a formal complaint (or any part of a formal complaint). The notice must explain the reason(s) for the dismissal.
- The Title IX Coordinator should transfer the dismissed allegations to Clafin's Student Conduct office or Human Resources if such allegations may implicate policies administered by either of those departments.

## TITLE IX – NOTICE OF ALLEGATIONS

The “Notice of Allegations” that the Title IX Coordinator sends to a respondent will include the following:

- Notice of the grievance process, including any informal resolution process.
- Notice of the allegations potentially constituting sexual harassment as defined in this Policy, including sufficient details known at the time.
- Affirmation that the respondent is presumed not responsible and that a determination regarding responsibility will be made at the conclusion of the grievance process.
- A statement informing the parties of their right to an advisor.
- A statement regarding the prohibition of submitting false statements.

## TITLE IX COORDINATOR – ADVISOR ISSUES

- The Title IX Coordinator should advise a party of the right to an advisor of the party's choice.
- Advisors can be attorneys, but Title IX does not require an advisor to be an attorney.
- If a party does not engage an advisor, the Title IX Coordinator should appoint an advisor for that party.

### **Interacting with Advisors**

- Advisors have no active participation rights under Title IX except for the right to cross-examine persons testifying in a live hearing.
- Maintain control, and treat each party's advisor equally.
- Demand professional decorum from all persons involved, including advisors.

# TITLE IX – EMERGENCY REMOVALS AND ADMIN LEAVE

## **Emergency Removals**

Clafin has the discretion to implement an emergency removal of a respondent where an individualized assessment reveals:

- An immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment; however,
- A respondent must receive an immediate opportunity to challenge the emergency removal

## **Administrative Leave for Employee-Respondents**

- Non-student employees can be placed on admin leave
- Administrative leave can be paid or unpaid, at Clafin's discretion

## THE INVESTIGATOR'S ROLE

- Analyze and disclose whether the investigator has any conflicts of interest;
- Evaluate relevant evidence (according little, if any, weight to relevant evidence that would be excluded under the Federal Rules of Evidence);
- Provide the parties with the same opportunities to be accompanied to any related meeting or proceeding by the advisor of their choice;
- Provide written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings to any party whose participation is invited or expected with at least ten (10) calendar days for the party to prepare to participate;
- The investigator shall not restrict any complainant or respondent from discussing the allegations under investigation or gathering and presenting relevant evidence.



## COLLECTING EVIDENCE IN AN INVESTIGATION

- All relevant evidence must be objectively evaluated (regardless if it consists of the parties' own statements, statements of witnesses, or other evidence).
- Corroborating evidence is good, but it is not necessary in every case. A party's statement, if credible, is evidence regardless of whether additional objective, corroborating evidence is available.
- Provide both parties equal opportunity to inspect any evidence directly related to the allegations in a formal complaint regardless of whether Clafin intends to rely on it in reaching a determination regarding responsibility and regardless of whether it is inculpatory or exculpatory .
- The evidence given to the parties for inspection and review must consist of all evidence directly related to the allegations; determinations as to whether evidence is "relevant" are made when finalizing the investigative report.

# INVESTIGATIVE REPORTS

- Before completing an investigative report, the investigator must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy.
- The parties will have at least 10 calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report.
- The investigator must create an investigative report that fairly summarizes relevant evidence.
- At least 10 days prior to a hearing on the formal complaint, the investigator must send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

# TITLE IX – EVIDENTIARY STANDARDS

**Standard of Evidence.** The standard of evidence that applies to all Title IX cases is the **preponderance of the evidence** standard.

- Preponderance of the evidence means that the evidence is enough to cause the decision-maker to believe that a particular fact is more likely than not to be true
- This standard must be used uniformly for all cases regardless of respondent

**Presumption of Innocence.** There is a presumption that the respondent did not violate the policy until a determination otherwise is reached through the grievance process.

**Burden of Proof.** Clafin bears the burden of proof and of collecting relevant information.

# TITLE IX – RULES OF EVIDENCE

**ALL RELEVANT EVIDENCE IS ADMITTED UNLESS A TITLE IX EXCEPTION APPLIES.** The complex rules that apply in state and federal courts for admission and exclusion of evidence do not apply to exclude relevant evidence in Title IX matters. The only exceptions are for:

- Legally privileged information;
- Sexual propensity evidence; and
- Evidence of prior sexual conduct (unless offered to prove consent or that someone other than the Respondent committed the alleged conduct)

**Defining Relevance.** Title IX does not define “relevance.”

- The term “relevance” should be given its common meaning: something is relevant if it is probative of, or tends to prove or disprove, a point that is at issue in the formal complaint.

**Assigning Weight to Evidence.** Although all relevant evidence should be considered, evidence with a low indicia of credibility should be assigned little weight, e.g., hearsay, unauthenticated documents, character evidence, etc.

# INVESTIGATE WITH IMPARTIALITY

**All Title IX investigations must be conducted in an impartial manner:**

- No bias is allowed;
- No prejudgment is allowed; and
- No conflicts of interest are allowed

# ANALYZING WITNESS AND PARTY STATEMENTS

- Witnesses may see the same event, but interpret it differently.
- Individual backgrounds may solidify parts of an incident in a witness' mind, while other details remain vague.
- It is important to be aware of assumptions made by any party so that the Title IX grievance process is fair.
  - Focus on information about which the person giving a statement has personal knowledge.
  - Give little, if any, weight to hearsay evidence or evidence about which the person giving the statement has no personal knowledge.
  - Give little, if any, weight to opinion statements from a lay witness, including lay statements that purport to give “expert” opinions.
  - When a party offers “expert” testimony, analyze whether the proffered witness is qualified to provide the expert testimony. Give little, if any, weight if the witness does not possess adequate qualifications.

# DEVELOPING WITNESS QUESTIONS

## **Rely on questions that do not suggest an answer.**

- Avoid leading questions.
- Avoid asking “multiple choice” questions.
- Avoid assuming facts not in evidence when asking questions. Example:
  - When the sexual contact is in dispute: “Where were you when you had sex with the Complainant?”
- Avoid hypotheticals.
- Try to be precise in asking questions.

# QUESTIONING TECHNIQUES

- Don't be afraid of silence; allow a person giving a statement to fill the silence when appropriate.
- Do not let anyone—including advisors—bully you away from a line of relevant questioning.
- Respect requests for clarification, but let the person who needs clarification request it.



## ADDITIONAL QUESTIONING TECHNIQUES

- Take careful notes in an investigation and use notes of prior comments to develop additional questions. (In hearings, however, rely on transcription or other recording rather than taking notes.)
- Open-ended questions are often the strongest questions.
- Confront witnesses with hard questions, but avoid leveling accusations.
- Take careful notes of non-verbal behavior while conducting questioning.
- Follow up on contradictions.
- Avoid getting stuck on immaterial details.

# INVESTIGATING CONSENT DISPUTES

If consent is placed in dispute by a party, the investigator should consider all relevant facts and circumstances, including without limitation the following:

- the presence or absence of affirmative words or actions indicating a willingness to engage in the sexual contact at issue,
- whether a reasonable person would have understood the words and acts at issue as expressing consent; and
- whether there are any circumstances, known or reasonably apparent to any of the involved parties, demonstrating incapacitation or any other inability to make a voluntary choice to engage in sexual contact.

# ASSESSING ALLEGATIONS OF FORCE

Types of Force to consider:

- Physical violence
- Threats & Intimidation
- Coercion

# ASSESSING INCAPACITATION

- Assessing incapacitation is very fact dependent
- The use of alcohol or drugs does not automatically affect a person's ability to consent to sexual contact.
- If the degree of intoxication goes beyond the stage of mere reduced inhibition and causes the victim to not understand the nature and consequences of the sexual contact, the person cannot provide consent.

## **Respondent Drunkenness**

- Whether the complainant consented to sexual contact does not depend on whether the respondent was drunk
- The complainant's incapacitation will be assessed based on whether a reasonable sober person would have been able to ascertain that the complainant was incapacitated.

## TITLE IX – INFORMAL RESOLUTION

- Permissible only after a formal complaint is filed
  - Parties must provide voluntary, written consent after receiving detailed notice of allegations and explanation of informal resolution process
  - Cannot compel students to agree to informal resolution as a condition of enrollment
  - Never permitted where accusation is that employee sexually harassed a student

# THE ROLE OF THE INFORMAL RESOLUTION FACILITATOR

- When parties voluntarily consent to informal resolution, the Title IX Coordinator shall designate someone as the facilitator of the informal resolution process.
- The facilitator acts as a neutral mediator and can be a Claflin University employee or a contractor engaged by Claflin.
- Responsibilities of facilitator:
  - Caution parties that no gag orders are permitted under Title IX, but explain that the informal resolution process works best when all involved respect the confidentiality of the process.
  - Remain neutral but encourage parties to consider the pros and cons of proceeding with an investigation and/or hearing.
  - Conclude the informal resolution process when any party decides to withdraw.
  - If a resolution is reached, facilitate the execution of a written agreement memorializing the parties' resolution.
  - Explain that a formal complaint that is resolved in the informal resolution process is considered closed and will not be reopened.

# TITLE IX – ROLE OF HEARING OFFICER

- The hearing officer is the decision-maker for all Title IX cases.
- In preparation of a hearing, the hearing officer should complete the following steps:
  - Analyze and disclose any conflict of interest
  - Review the hearing packet (which the Title IX Coordinator will provide) prior to the hearing:
    - Investigation Report
    - Statements
    - Incident Report(s)
    - Letters
    - Guidelines for Hearing
  - Give both parties (and their advisors) an equal opportunity to attend a pre-hearing conference to discuss hearing procedures and expectations.

# HEARING PROCEDURES AND RULES

- The hearing officer will preside over the hearing, administer procedural rules and maintain order during the hearing
  - The Title IX policy requires all parties, witnesses and advisors to maintain professional decorum throughout a hearing
- For hearings occurring virtually, the hearing officer or such individual's delegate will act as the host for the virtual meeting platform
- The parties will receive an equal opportunity to appear for and participate in the hearing (with an advisor)
- Witnesses will be called for testimony
  - The hearing officer will administer direct questioning
  - Each advisor will receive an opportunity to cross-examine each witness and testifying party
  - Before a witness or testifying party is required to answer a cross-examination question, the hearing officer will rule upon whether the question will be allowed
- Each complainant and respondent will have an opportunity to address the hearing officer with a verbal statement of up to 5 minutes in length



## RULING ON CROSS-EXAMINATION QUESTIONS

- The hearing office will permit all questions seeking “relevant” evidence with the following exceptions:
  - Questions seeking legally privileged information will not be permitted;
  - Questions about a complainant’s sexual predisposition will not be permitted, and
  - Questions about a complainant’s prior sexual behavior will not be permitted unless such questions are (1) offered to prove that someone other than the respondent committed the alleged sexual harassment, or (2) focused on sexual behavior between the complainant and the respondent and offered to prove consent.

## RULING ON CROSS-EXAMINATION QUESTIONS

- The hearing officer will provide a brief explanation for each ruling on whether a question will be permitted
- Title IX regulations do not require a hearing officer to give a lengthy or complicated explanation of a ruling on whether a question will be allowed.
- Instead, it is sufficient, for example, for a decision-maker to explain:
  - That a question is irrelevant because the question calls for prior sexual behavior information without satisfying one of the two applicable exceptions, or
  - That, because the question asks about a detail that is not probative of any material fact concerning the allegations, it is irrelevant. – Preamble, p. 1161

## EVIDENCE IS ADMISSIBLE IN TITLE IX HEARINGS IF RELEVANT

- Evidence that is inadmissible under the Federal Rules of Evidence is admissible in a Title IX hearing so long as it is relevant (except categories specifically excluded by the regulations).
- If evidence would not be admissible under the Federal Rules of Evidence, those rules should be treated as persuasive authority, which would result in according little weight to the evidence at issue by the hearing officer.
- However, strict adherence to the Federal Rules of Evidence is not required.
- Common objections: hearsay, unfair prejudice, settlement negotiations, character evidence, prior bad acts, lay witness opinion, argumenantive.

## REFUSALS TO SUBMIT TO CROSS-EXAMINATION

- If a party or witness does not submit to cross-examination at the live hearing, the hearing officer will not rely on any statement of that party or witness in reaching a determination regarding responsibility.
- However, the hearing officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

# WRITTEN DETERMINATION

- The Hearing Officer must issue a written determination of whether a Title IX Policy violation has occurred in each case.
- The Hearing Officer must send the written determination to all parties simultaneously.
- The written determination must include:
  - the allegations potentially constituting sexual harassment;
  - a description of the procedural steps taken from the receipt of the formal complaint through the determination;
  - findings of fact supporting the determination;
  - conclusions regarding the application of Claflin's code of conduct to the facts;
  - the result (and rationale) as to each allegation, including a determination regarding responsibility;
  - any disciplinary sanctions Claflin imposes on the respondent;
  - any remedies to be provided to the complainant; and
  - the procedures and permissible bases for an appeal.

# IDENTIFYING APPROPRIATE SANCTIONS

- Title IX regulations grant broad discretion to Clafin to determine the appropriate **sanctions** when Clafin's grievance process results in a finding that the Title IX policy has been violated.
- Relevant Considerations:
  - Precedent in similar circumstances, if any;
  - The severity of the conduct and its impact on the complainant; and
  - Whether the respondent can be rehabilitated.

## IDENTIFYING APPROPRIATE REMEDIES

- Title IX regulations grant broad discretion to Clafin to determine the appropriate **remedies** when Clafin's grievance process results in a finding that the Title IX Policy has been violated.
- Relevant Considerations:
  - What, if any, equal access to Clafin's education program(s) or activity/activities has been lost or diminished by the violation of the Title IX Policy?
  - What, if anything, could be done to restore the Complainant's equal access to education programs and activities of Clafin?

## TITLE IX – APPEALS

- Grounds for an appeal:
  - Procedural irregularity that affected the outcome
  - New evidence not reasonably available that could affect the outcome
  - Conflict of interest by institutional participants that affected the outcome
- When an appeal is filed the Title IX Coordinator must give written notice of the appeal to the other party
- The non-appealing party must be given a chance to respond
- Each party is allowed to appeal any decision of the hearing officer in whole or in part
- The Title IX Coordinator must provide appeal procedures equally to all parties



## TITLE IX – ROLE OF THE APPEAL OFFICER

- Absent a conflict of interest, Claflin’s President, Dr. Warmack, or an assigned appeal representative will serve as the appeal officer to hear and decide any appeal that is filed under the Title IX Policy.
- The appeal officer will apply the preponderance of evidence standard in deciding an appeal.
- The appeal officer must do the following:
  - Analyze and disclose any conflict of interest.
  - Review all appeal materials relating to the case, including (without limitation) the notice(s) of appeal and briefing submitted by each party, all of which the Title IX Coordinator will provide to the appeal officer.
- The Appeal Officer will decide whether to affirm or overturn the challenged decision based on a review of each issue on appeal and upon considering only issues that have been properly appealed under Claflin’s Title IX Policy.
- The Appeal Officer will issue a written decision. The appeal officer’s decision shall be considered final.

# TITLE IX – APPELLATE BRIEFING

## **Briefing Schedule**

- Clafin’s Title IX Policy establishes a default briefing schedule:
  - Each party may submit to the Title IX Coordinator an appellate brief within 10 calendar days following the date on which the Title IX Coordinator has provided notice of the appeal to the parties.
  - Each party should submit the party’s appellate brief electronically (in MS Word format) to the Title IX Coordinator, using the email address for such person provided in Clafin’s Title IX Policy.
  - The Appeal Officer may grant an extension of time to submit such briefing.

## **Briefing Standards**

- An appellate brief should not exceed 15 pages of double-spaced text (exclusive of any attachments). The Appeal Officer has the discretion to extend this page limitation.
- An appellate brief should take the form of a written statement in support of, or challenging, the outcome of a live-hearing in a case that is appealed under Clafin’s Title IX Policy.

## APPEALS – WRITTEN DECISION AND FINALITY

- Following the briefing period, the appeal officer must issue a written decision describing the result of the appeal and the rationale for the result.
- Such written decision shall be provided simultaneously to the parties by the Title IX Coordinator.
- A determination regarding responsibility becomes final either on the date that Claflin provides the parties with the written determination of the result of the appeal, if an appeal is filed, or on the eleventh (11th) calendar day following Claflin's provision of the written determination to the parties (if no appeal is filed by either party during the 10-day period for filing an appeal).

# CONFIDENTIALITY AND RETALIATION

- Except where required otherwise by law or to carry out a grievance procedure or grievance process under Clafin's Title IX Policy, those holding roles in the Title IX process must maintain strict confidentiality regarding Title IX cases.
- Retaliation is strictly prohibited under the Title IX Policy:
  - for making a report or formal complaint of sex discrimination, including sexual harassment
  - for participating in good faith in any grievance procedure or grievance process
  - for choosing not to participate in a grievance procedure or grievance process

# WRAP UP – QUESTIONS AND ANSWERS