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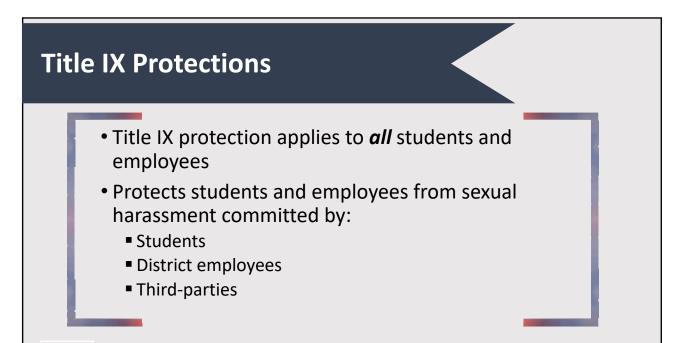
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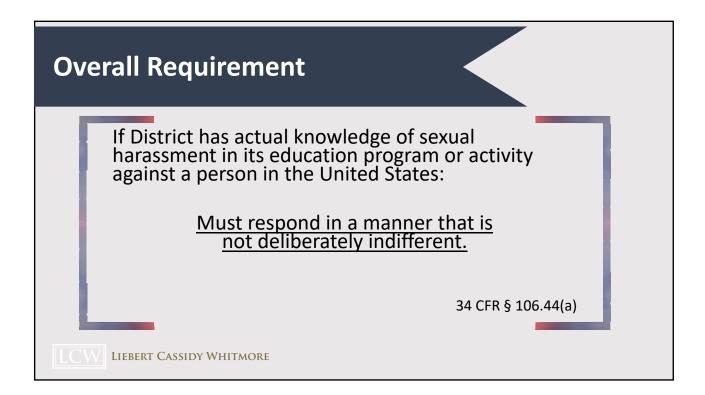




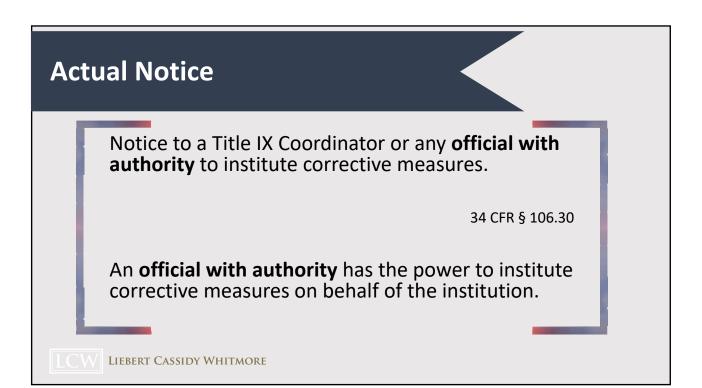
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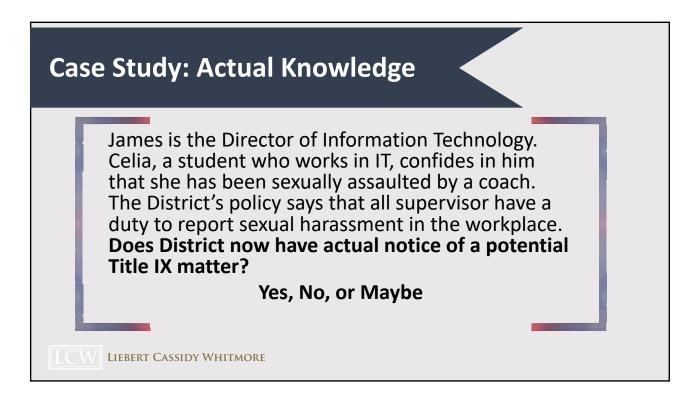






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Presented By: Jenny Denny

Sexual Harassment: Three Categories

- Quid pro quo: An employee conditioning an aid, benefit, or service on complainant's participation in unwelcome sexual conduct
- Unwelcome conduct so severe, pervasive, <u>and</u> objectively offensive that it effectively denies a person equal access to education program or activity; or
- Sexual assault, dating violence, domestic violence, or stalking

34 CFR § 106.30

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Education Program or Activity

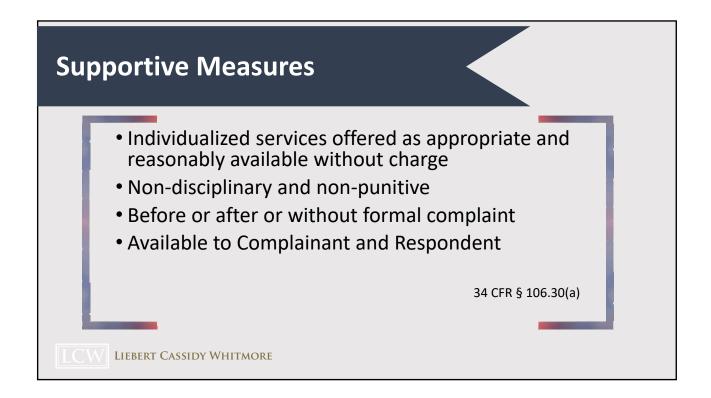
- Locations, events, or circumstances over which the District exercised substantial control over respondent and context
- Any building owned or controlled by a student organization
- Must occur against the complainant in the United States
 - Title IX not triggered by incidents outside the U.S.

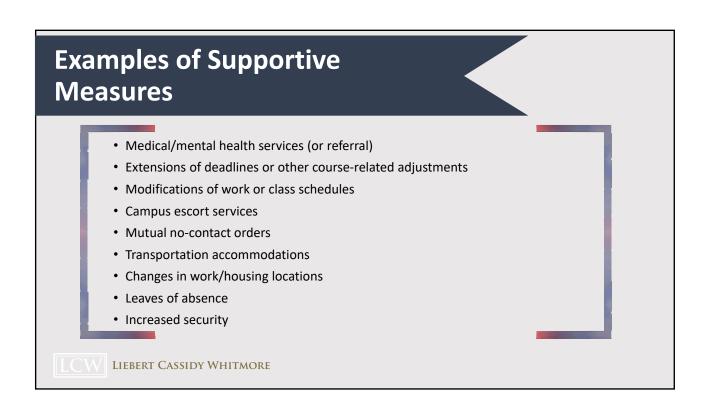
34 CFR § 106.44(a)

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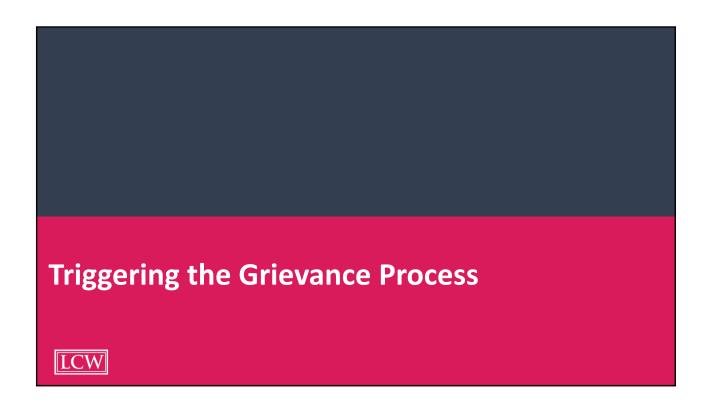


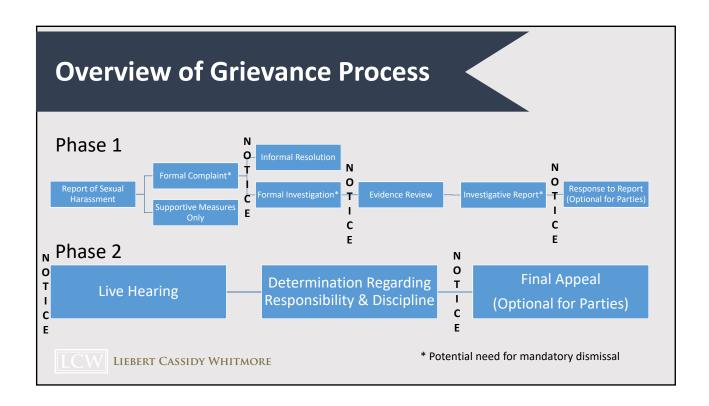
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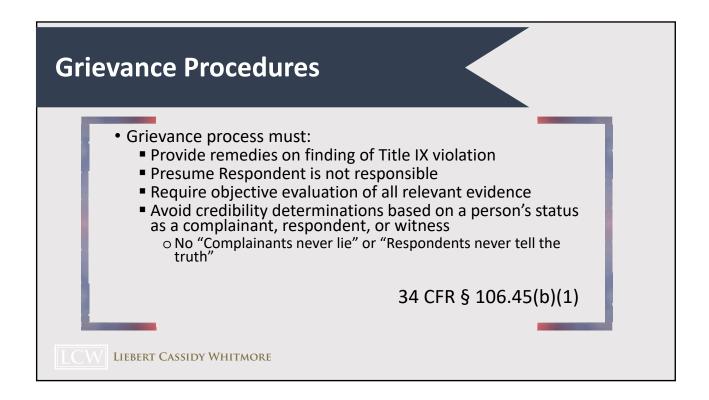


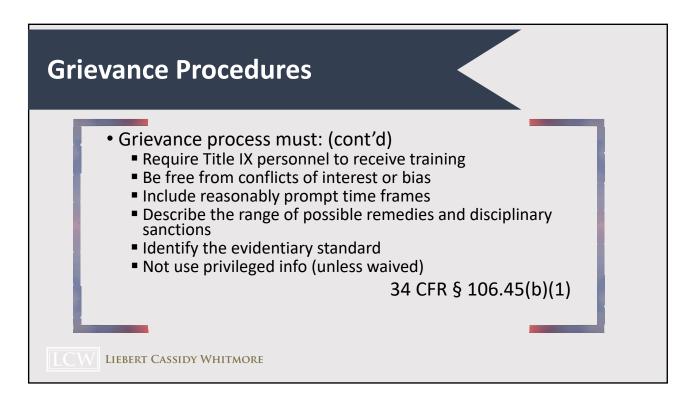
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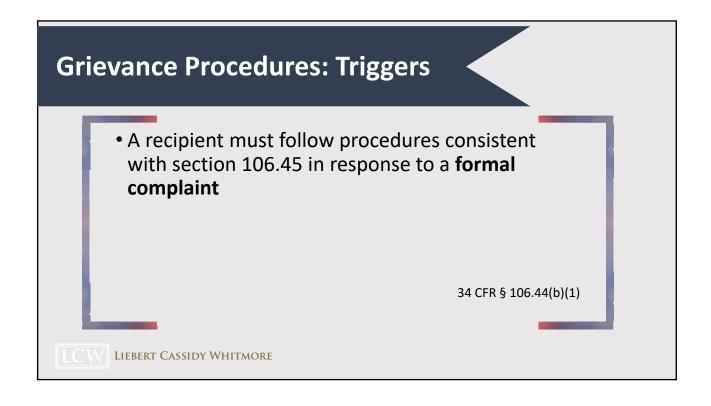


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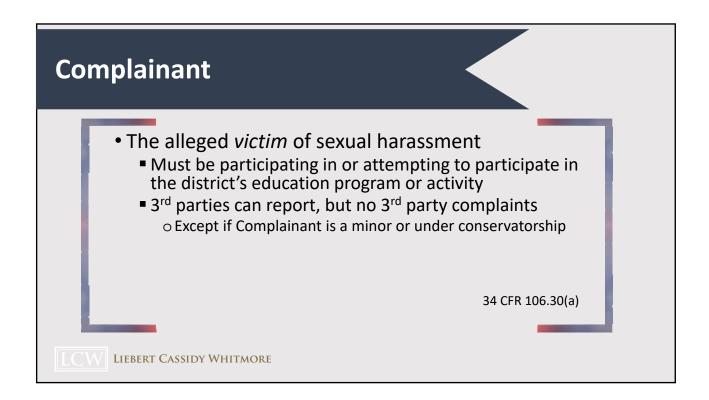
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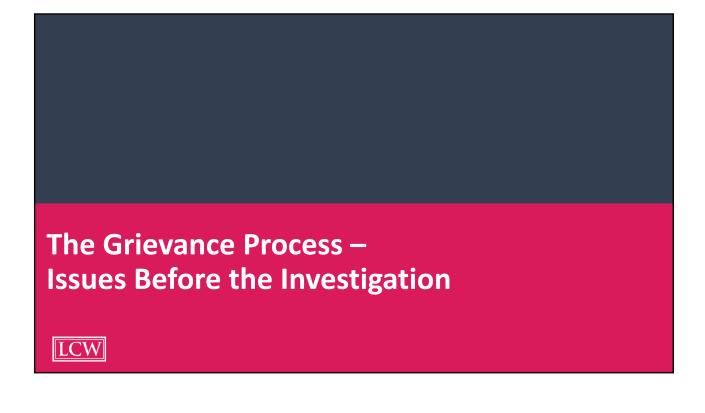
When Does the Grievance Process Apply?

- For formal complaints of sexual harassment under Title IX
 - Not for informal complaints
- Not for sexual harassment that falls outside of the definition in the regulations
- Not for discrimination: treating individual differently/unfavorably because of that person's sex

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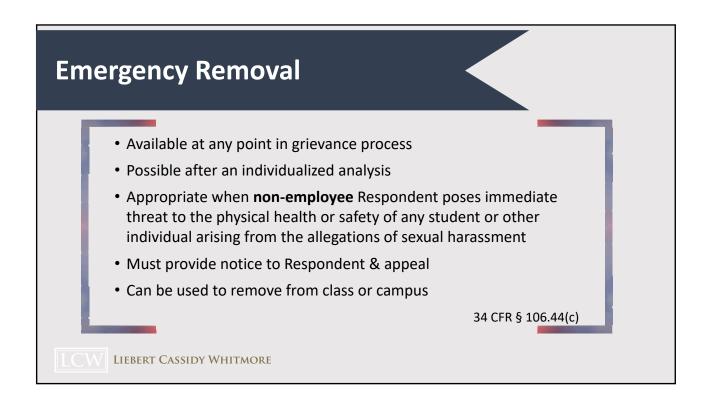


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Role of Advisors Before Hearing

- Not required before hearing
 - May attend investigative interview(s), participate in evidence review, help Party prepare response to investigative report
- May not obstruct interview or disrupt grievance process
- District may require confidentiality agreement

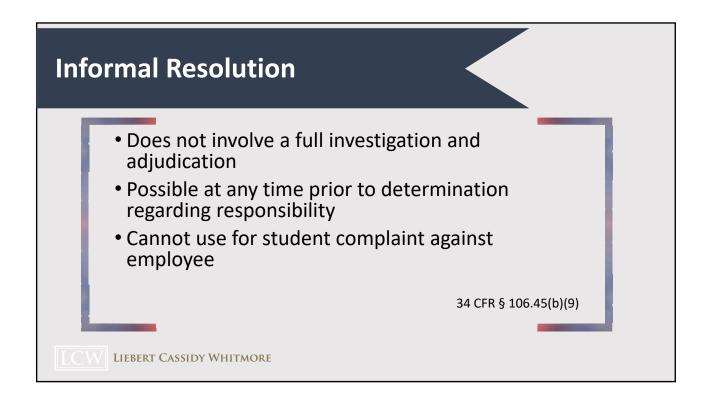


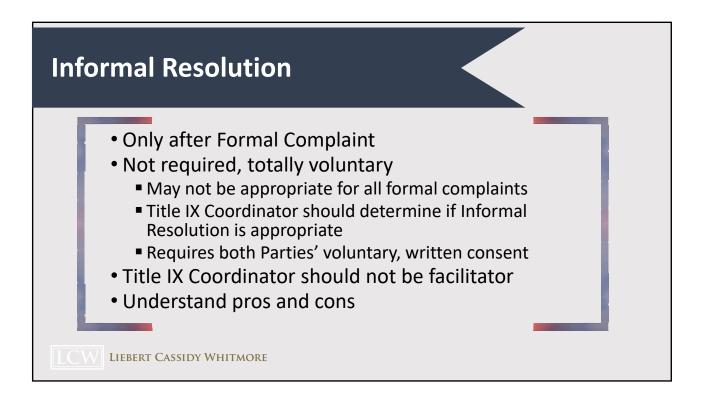
The Grievance Process – Informal Resolution and Formal Investigation





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Carlos reports to the Title IX Coordinator that he broke up with Rudy last semester. At the time of the breakup, Rudy was a student at the District, but he is no longer enrolled. Carlos recently realized Rudy was stalking him on campus and filed a formal complaint. Rudy is now an adjunct employee at the District. The District initiated its grievance process. Can the District offer the Parties informal resolution?

Yes, No, or Maybe?



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The Investigator

The investigator must:

- Be free of biases and conflicts of interest
- Conduct the investigation—gather inculpatory and exculpatory evidence
- Be trained on issues of relevance to create an investigative report that fairly summarizes relevant evidence
- Write the report



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- Title IX regulations require "preponderance of the evidence" or "clear and convincing evidence standard" 34 CFR § 106.45(b)(7)(i)
- California law requires "preponderance of the evidence" Ed. Code, § 67386
 - It is more likely than not that the fact occurred

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Evidence Review

Complainant and Respondent:

- At least 10 days time
- Right to inspect and review evidence directly related to the allegations
- Right to submit written response to evidence
- Investigator must consider response before completing report

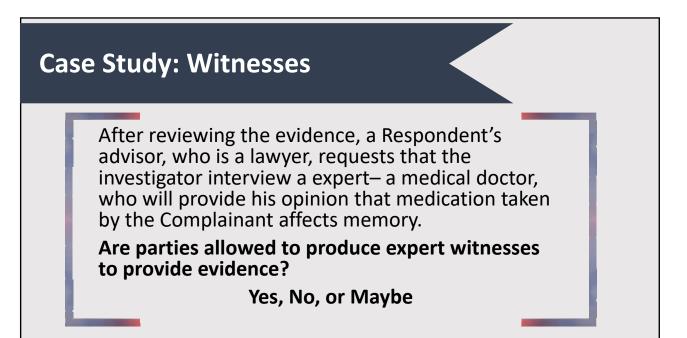
34 CFR §106.45 (b)(5)(vi)

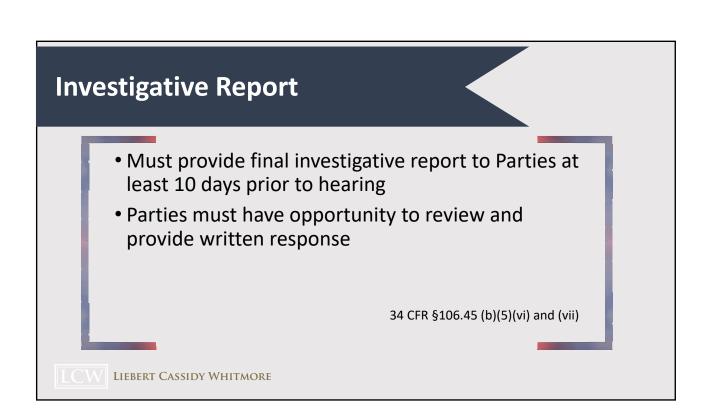
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The Grievance Process – The Hearing and Determination Regarding Responsibility



Hearing

- Opportunity for Parties to respond to the evidence gathered before a Decision-Maker
- Neither Party may waive the right to a live hearing
 - Can choose whether to participate in the hearing and whether to answer cross-examination questions
- Must presume Respondent is not responsible for alleged conduct

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After the District provided the Parties notice of the hearing, the employee Respondent contacted the Decision-Maker and stated he accepted responsibility and wanted to bypass the hearing in order to expedite the disciplinary decision. Because the Respondent admitted responsibility, can the Decision-Maker issue the determination regarding responsibility without the hearing?

Yes, No, or Maybe?



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Hearing Procedures

- Live cross examination by Party's Advisor
 - If party doesn't have Advisor, district must provide
 - Decision-maker must explain why question excluded
- Can cross examine virtually

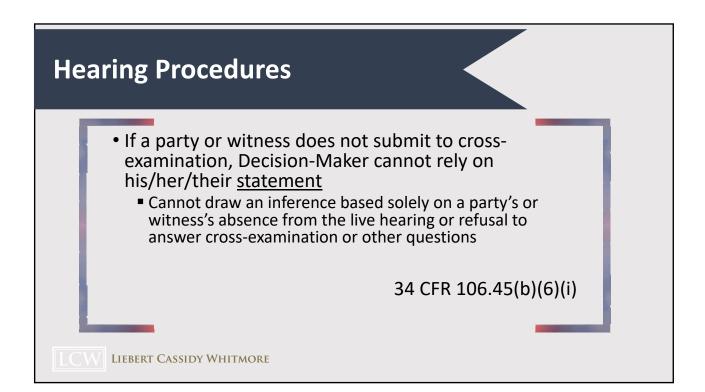
34 CFR 106.45(b)(6)(i)

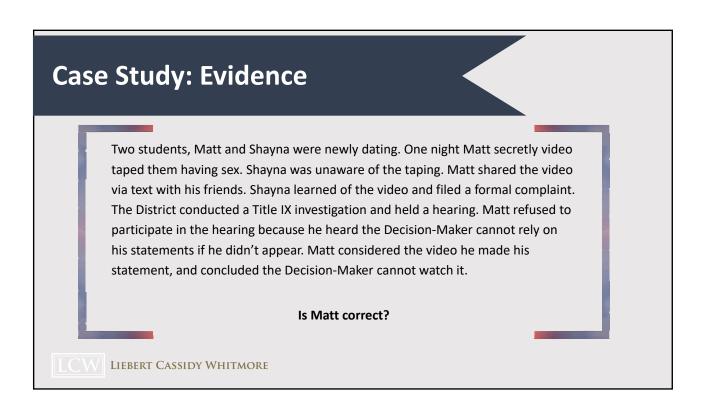


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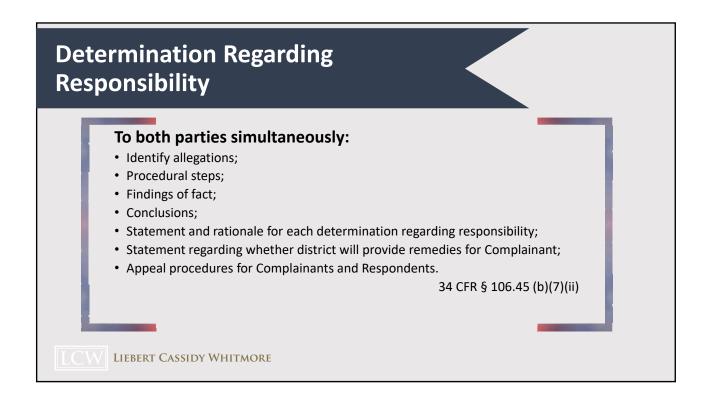


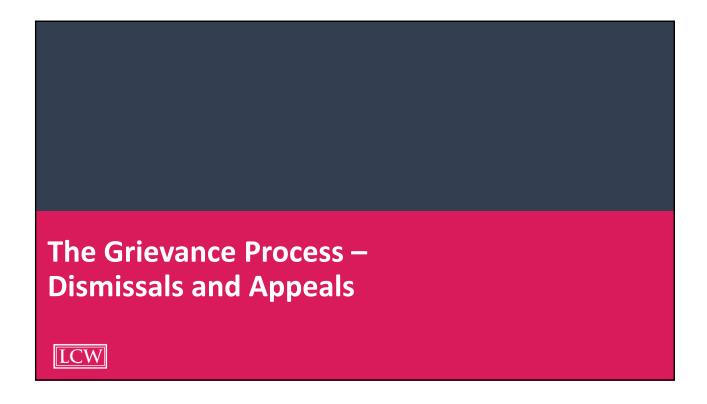
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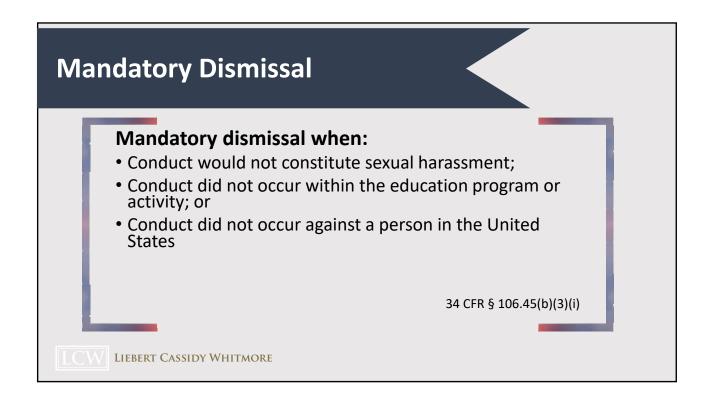


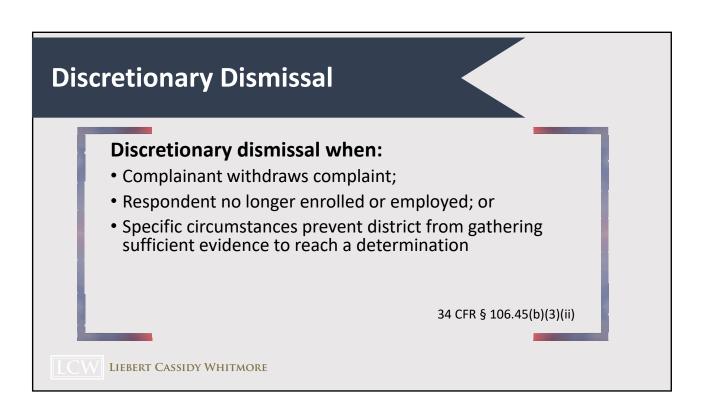
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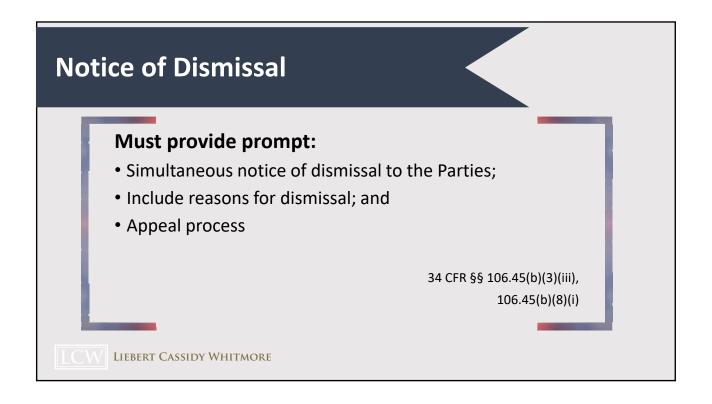


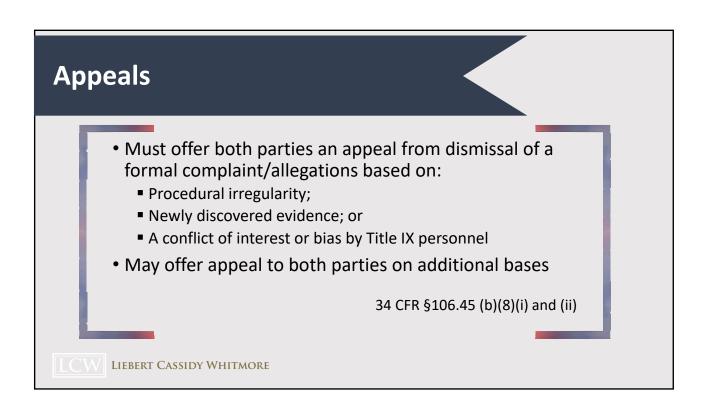
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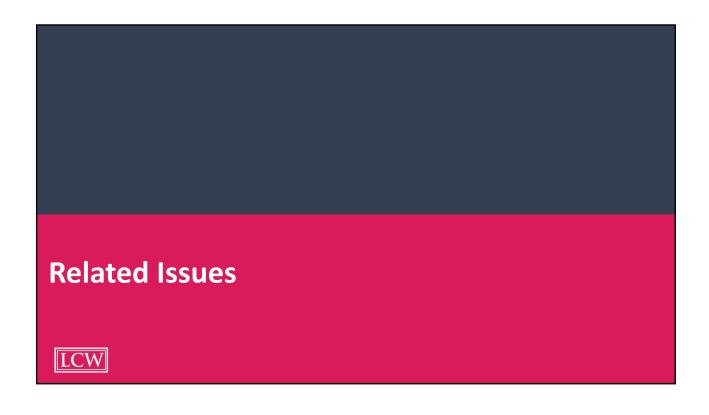


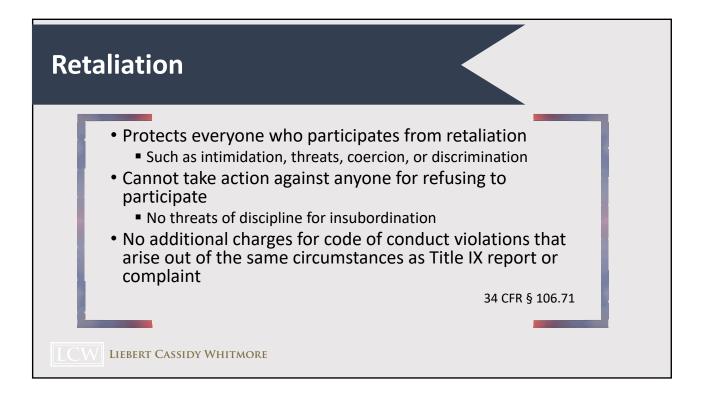
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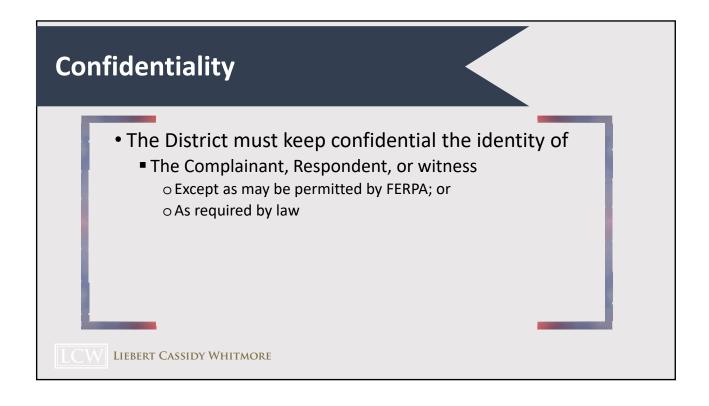


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