



Thank you for joining us.
The webinar will begin soon.

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Introductions



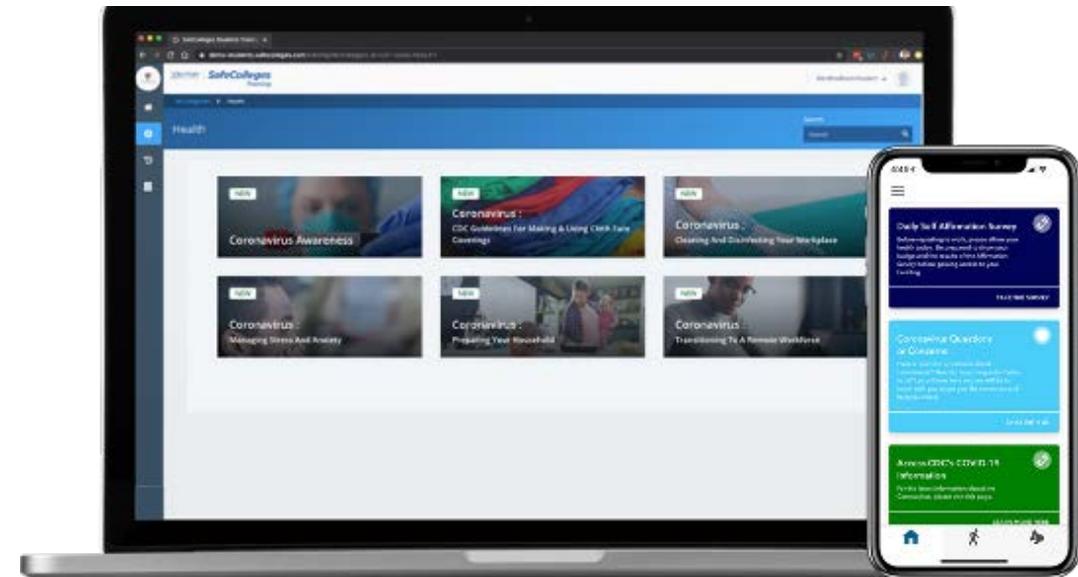
Ben Brodbeck
Marketing Manager, Higher Education



Morgane Williams
Regional Sales Director, Higher Education

Exciting Updates to Our Programs

- **COVID-19 Re-Entry Solutions** – SafeColleges.com/COVID-19
- **LiveSafe Partnership** – SafeColleges.com/LiveSafe



Before We Get Started

- All attendees are in listen-only mode. If you run into any audio issues during the webinar, please try another method of listening in, such as computer audio or calling in by phone.
- All registrants and attendees will receive a link to the recorded version of this webinar in a follow up email.
- If you have questions during the presentation, please let us know by typing your question into the panel. We will answer these during the Q&A period after the presentation.



Presenter Introduction



Alison Kiss Dougherty
*Associate Vice President of Human
Resources and Title IX Coordinator at
Widener University*

- Alison is a nationally recognized subject-matter expert in Title IX and the Clery Act. Her work has focused on training, planning, and organizational development for colleges, universities, and schools.
- She was selected to serve on the United States Department of Education's Negotiated Rule-making to assist in drafting the regulations for the Violence Against Women Act amendments to the Clery Act.
- Prior to her work at Widener, Alison served as Executive Director of the national non-profit Clery Center; Director of Drug, Alcohol, and Wellness Counseling for faculty, students, and staff at Saint Joseph's University; and Director of Outreach and Education for the Domestic Abuse Project.



SafeColleges

New Title IX Regulations: Nine Key Takeaways for Fall Planning

Hosted by: SafeColleges and Vector Solutions

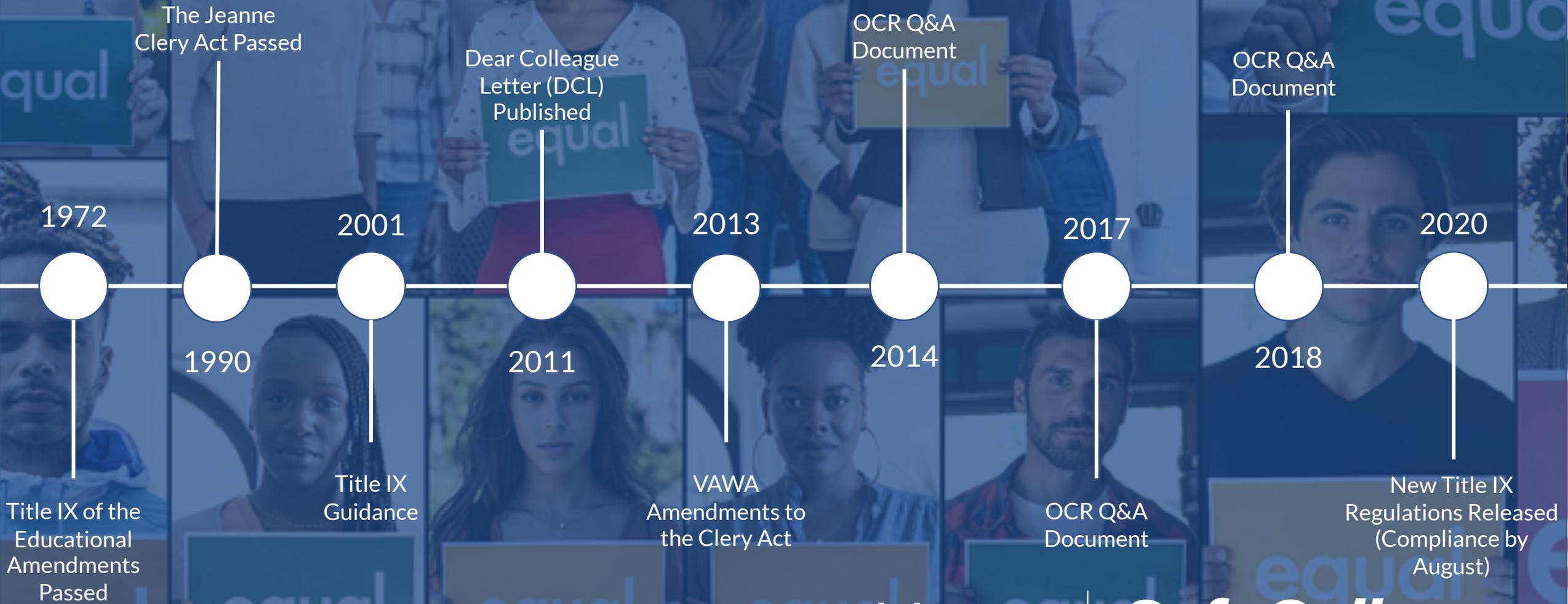


A woman with dark curly hair and glasses, wearing a yellow floral patterned shirt, is sitting at a desk. She is looking at a laptop screen and has her hand on the keyboard. A blue mug is on the desk next to the laptop. The background is slightly blurred, showing an office or study environment.

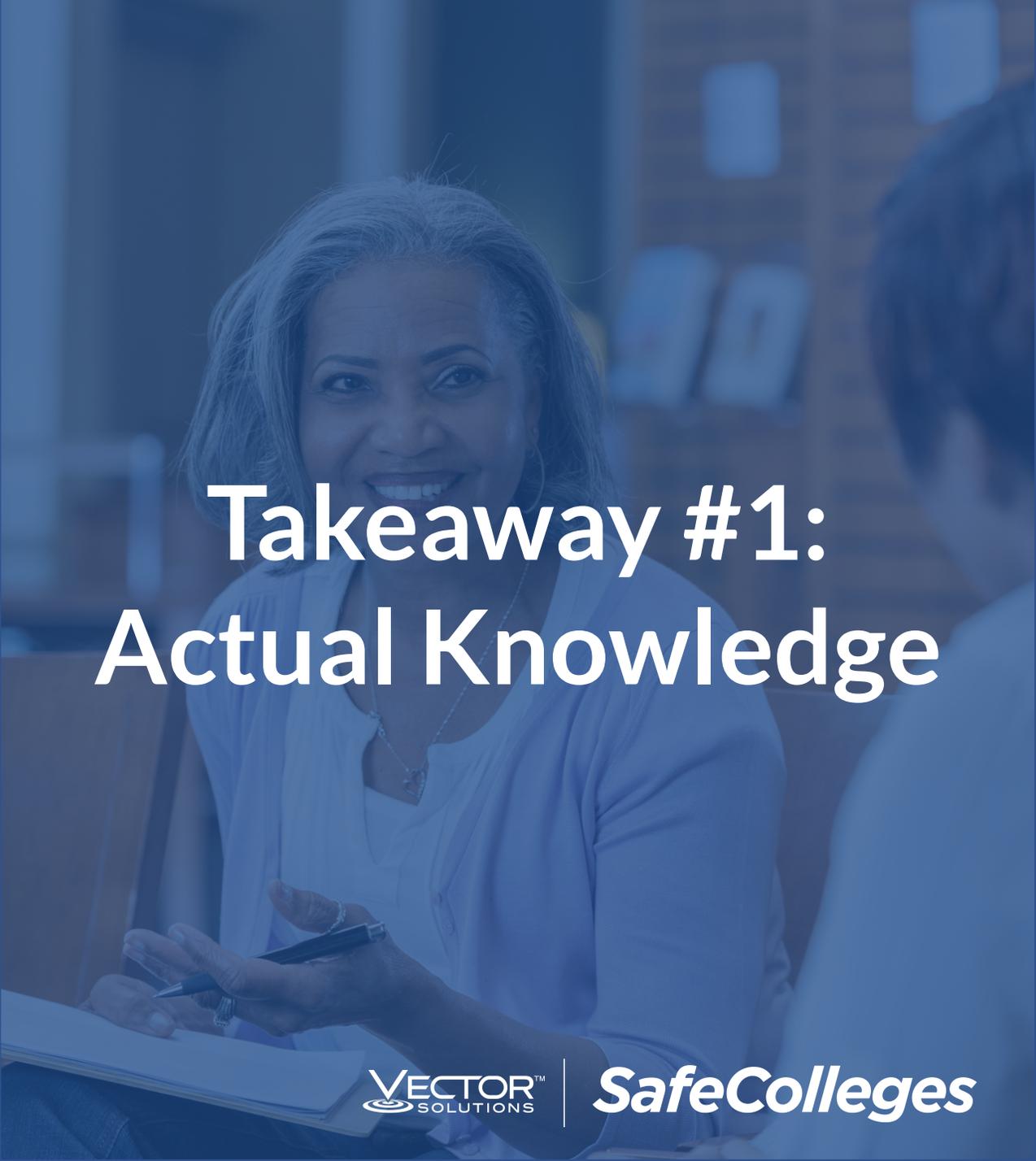
Learning Outcomes

- Highlight Nine Key Takeaways of the New Title IX Regulations
- Assist Institutions with Developing Action Plans
- Provide Team Framework and Process Strategies for Policy Revisions
- Address Implementation Planning for August
- Provide a Comprehensive and Collaborative Approach to Compliance

A Brief History of Title IX



- Notice to the Title IX Coordinator or any official of the institution who has the authority to institute corrective measures on behalf of the institution, or to any employee of an elementary or secondary school.
- Actual knowledge can come from personal observation, hearing about it from a reporting party or third-party, receiving a written or oral complaint, or by any other means.
- Direct shift from work specific to responsible employees.



Takeaway #1: Actual Knowledge

Considerations for Implementation

Topic	Current Process	Changes Needed	Departments Impacted
Option & flexibility to continue to designate responsible employees and require reporting	<i>Responsible employees- all designated except counselors</i>	<i>Planning for Fall- who is appointed</i>	<i>Faculty, Coaches, All staff</i>
Training & Setting New Procedures			
Confidential Employees			



Takeaway #2: Jurisdiction

- Regulations cite “education program or activity.”
- Any building owned or controlled by a student organization that is officially recognized by the institution.
- Applies only to sex discrimination occurring against a person in the United States in an education program or activity
 - No distinction between “on” and “off” campus
 - No distinction between in-person and on-line

Considerations for Implementation

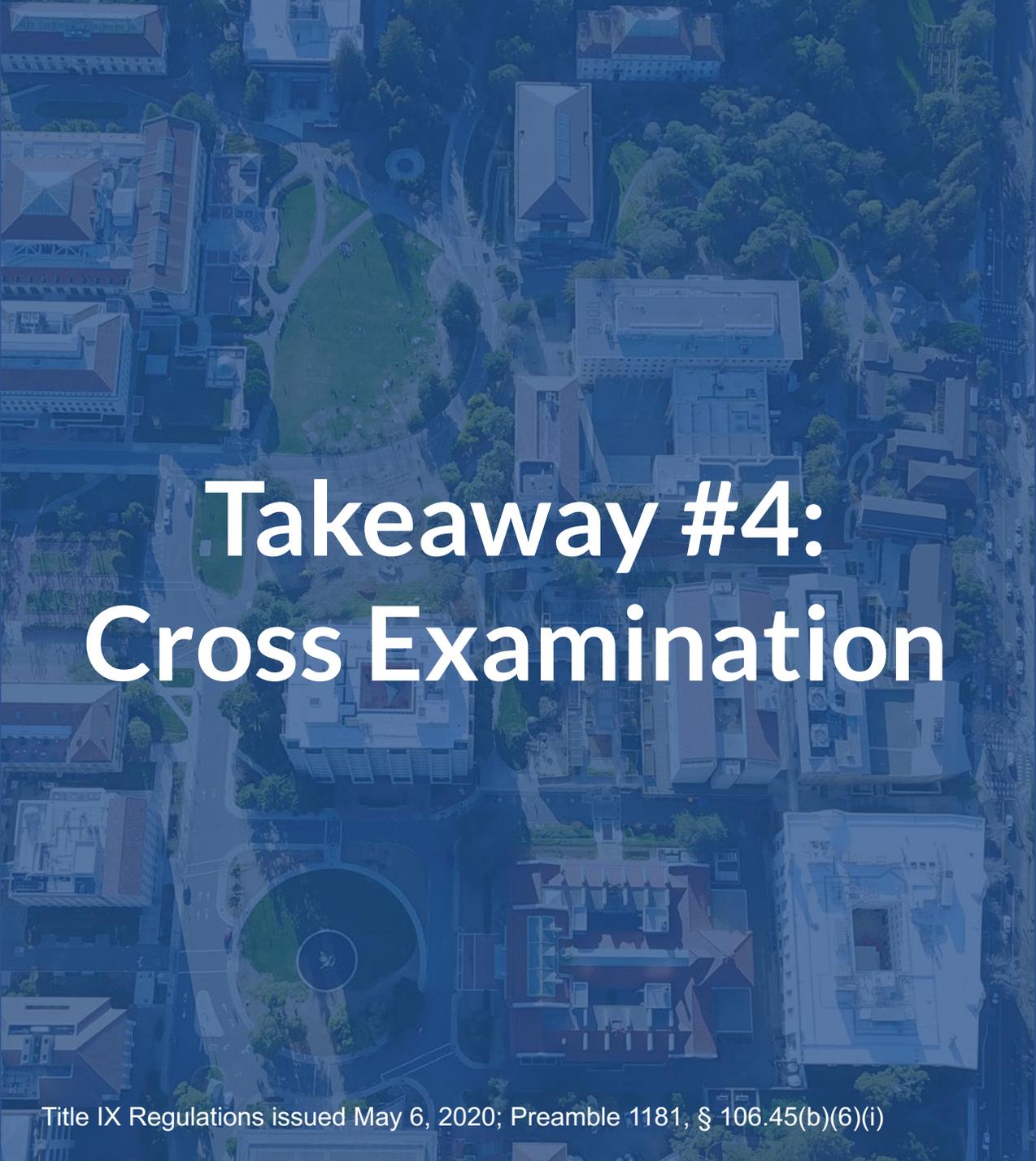
Topic	Current Process	Changes Needed	Departments Impacted
Determination of locations, events, or circumstances over which the institution exercised substantial control over responding party & context			
Addressing conduct that falls outside of Title IX			

- For institutions of higher education, the grievance process must provide for a live hearing.
- At the request of either party, the institution must provide for the live hearing to occur with parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party of the witnesses answering questions.

Takeaway #3: Live Hearing

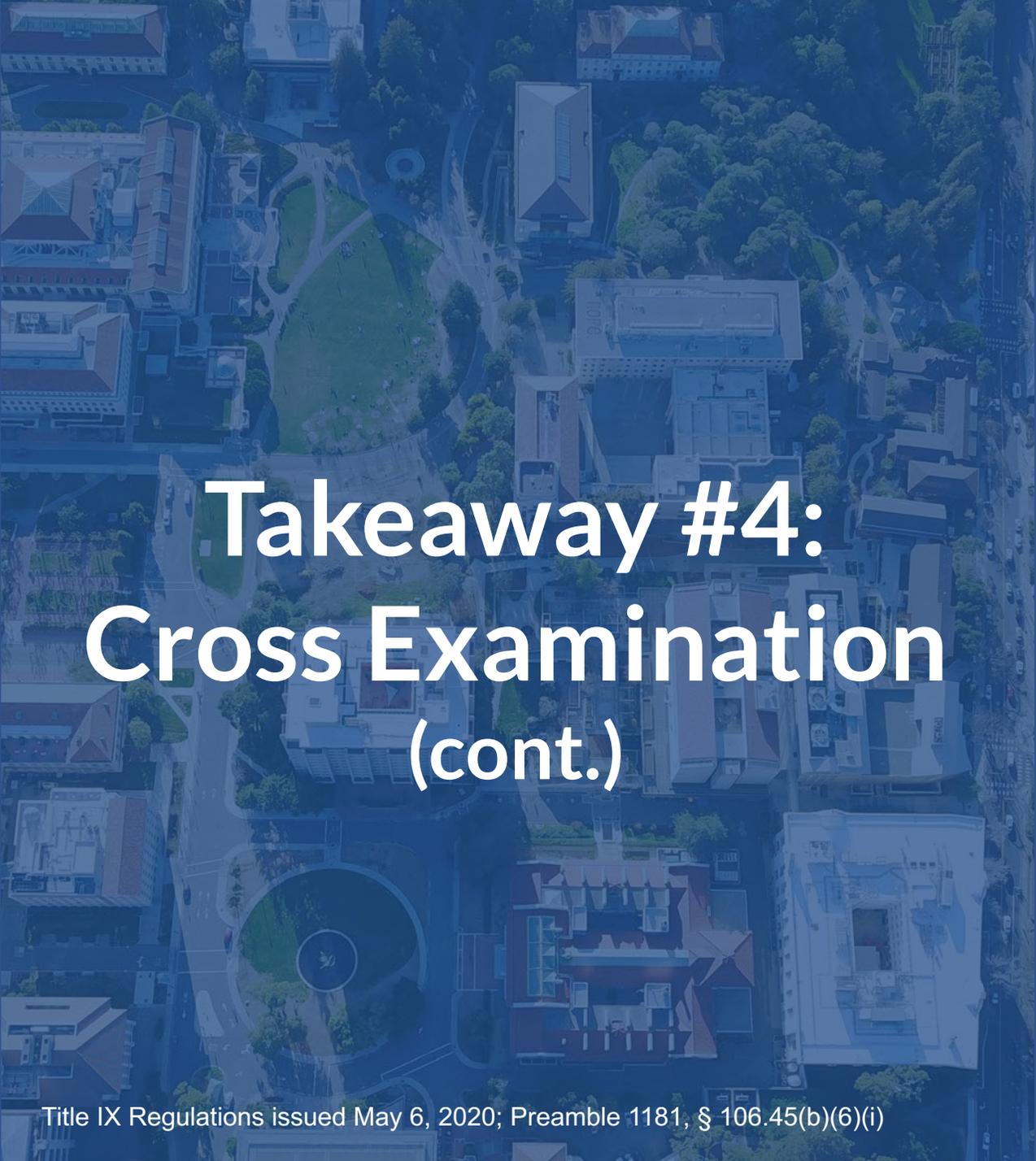
Considerations for Implementation

Topic	Current Process	Changes Needed	Departments Impacted
Live hearings with all parties present			
Separate rooms with technology			
Transcript or recording			
Rape shield protections for complainants			



Takeaway #4: Cross Examination

- Probing the credibility and reliability of statements asserted by witnesses contained in such evidence requires the parties to have the opportunity to cross-examine the witnesses making the statements.



Takeaway #4: Cross Examination (cont.)

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

- If a party does not have an advisor present at the live hearing, the recipient must provide without fee or charge to that party, an advisor of the recipient's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.
- The party's advisor may appear and conduct cross examination even when the party whom they are advising does not appear.

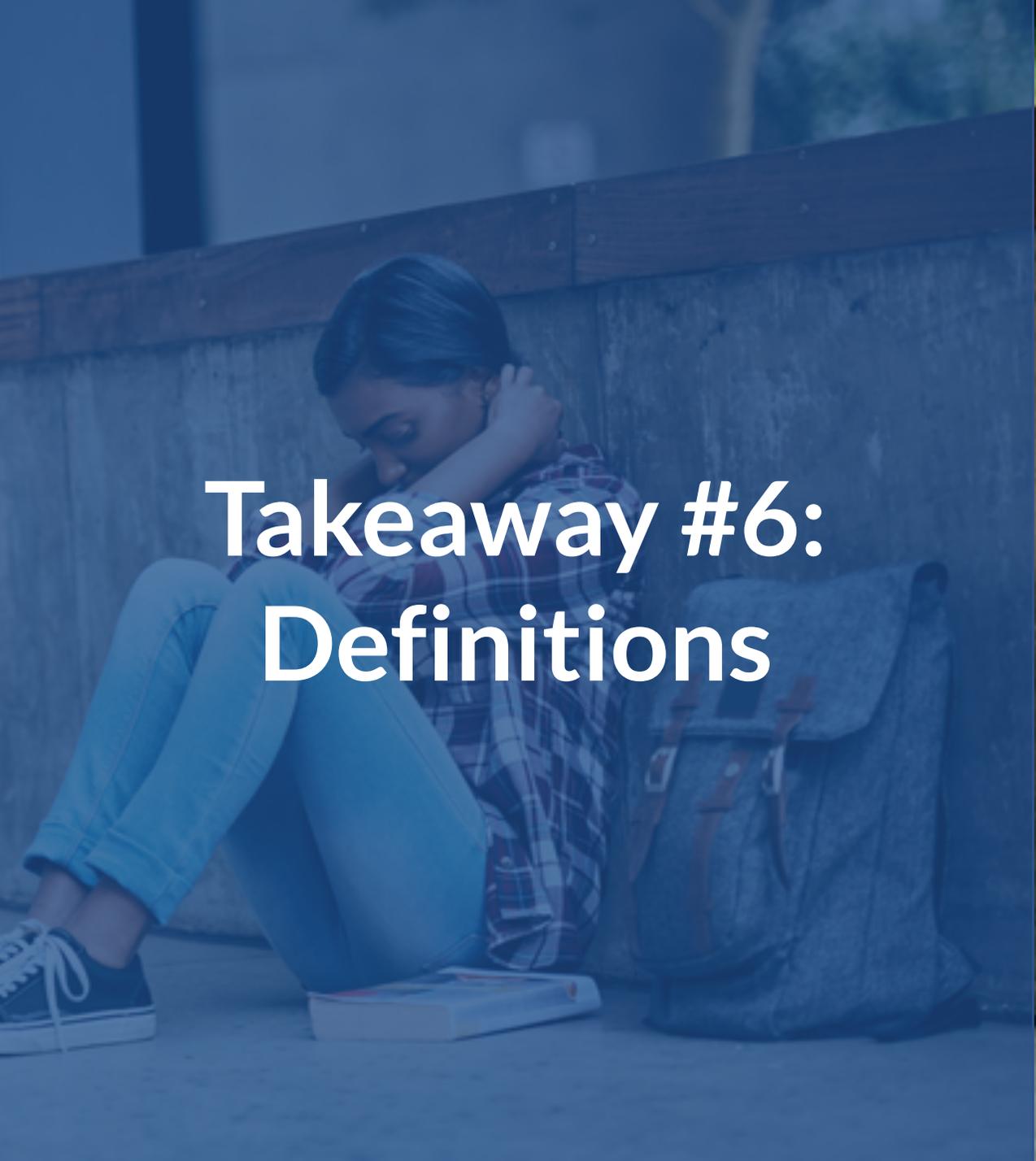
Takeaway #5: Advisor

- Where one party does not appear and that party's advisor of choice does not appear, a recipient provided advisor must still cross-examine the other, appearing party "on behalf of" the non-appearing party, resulting in consideration of the appearing party's statements but not the non-appearing party's statements (without any inference being drawn based on the nonappearance).

Takeaway #5: Advisor (cont.)

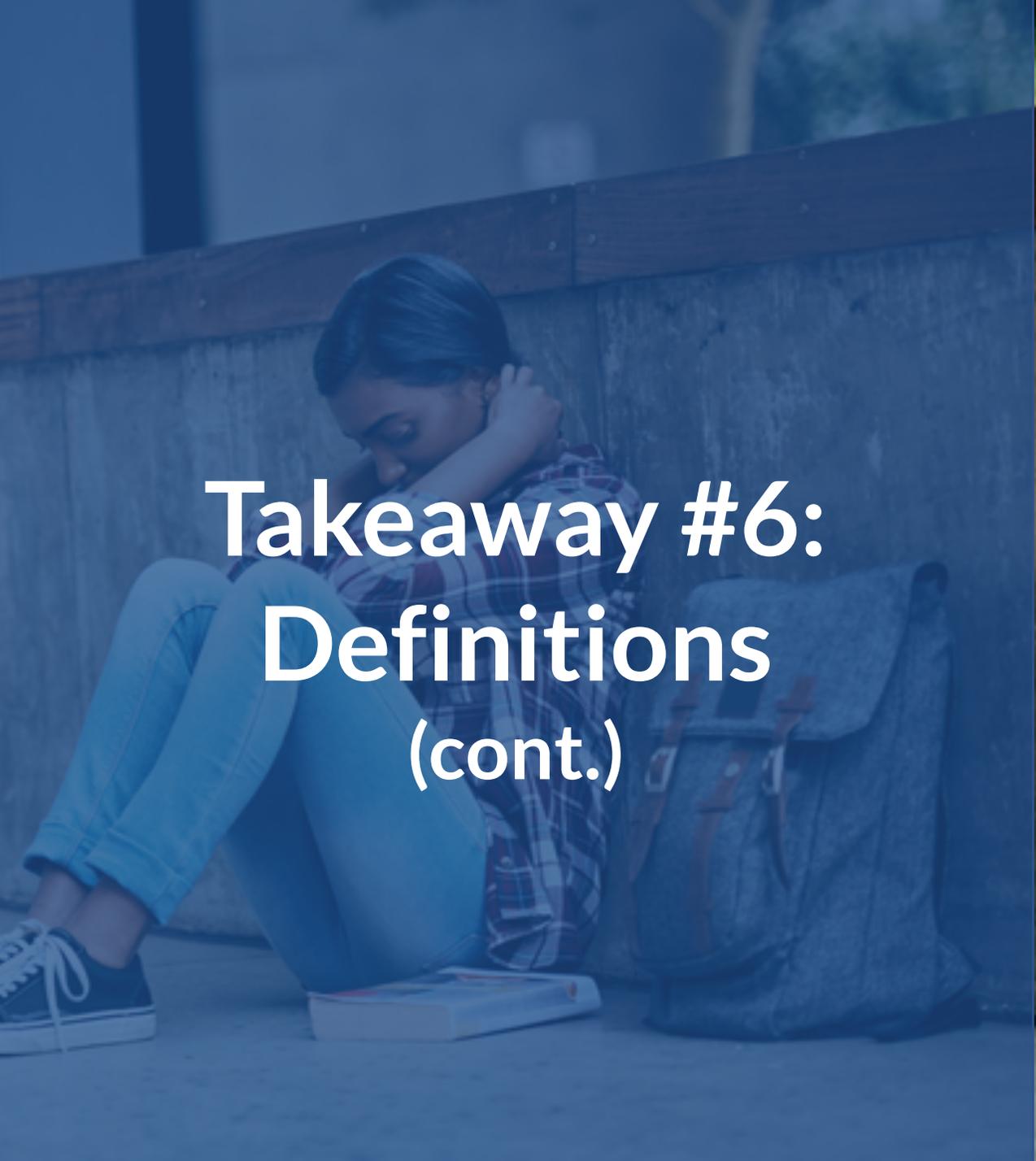
Considerations for Implementation

Topic	Current Process	Changes Needed	Departments Impacted
Role of Advisor			
Institution-appointed Advisor			
Training for Advisor			



Takeaway #6: Definitions

- A school employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct (often called quid pro quo harassment);
- Consistent with U.S. Supreme Court precedent, unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or



Takeaway #6: Definitions (cont.)

- Sexual assault, as the Clery Act defines that crime in 34 CFR 668.46(a), or dating violence, domestic violence, and stalking defined through the VAWA amendments to the Clery Act.

Considerations for Implementation

Topic	Current Process	Changes Needed	Departments Impacted
Definitions			
Education			

Takeaway #7: Training

- Decision-makers must receive training on:
 - Any technology used in a live hearing.
 - Issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.
- Investigators must receive training on:
 - Issues of relevance to create an investigative report that fairly summarizes the evidence.

Takeaway #7: Training

- Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process on:
 - The definition of sexual harassment and how to apply definitions with respect to consent (or absence/negotiation of) consistently, impartially, and in accordance with § 106.45.
 - The scope of the institution's education program or activity.
 - Conducting an investigation and grievance process including hearings, appeals, and informal resolution.
 - Issues if relevance of questions and evidence.
 - Issues of relevance to create an investigative report that fairly summarizes relevant evidence.
 - Serving impartially, by avoiding prejudice of the facts at issue, conflicts of interest, and bias.
 - Technology used at live hearings.

Considerations for Implementation

Topic	Current Process	Changes Needed	Departments Impacted
Title IX Coordinator Training			
Investigator Training			
Decision Maker Training			
Training Materials			

- Choose either preponderance of the evidence standard or clear and convincing standard and apply uniformly for all formal complaints of sexual harassment against students and employees, including faculty.
- In the postsecondary context, only statements that have been tested for credibility will be considered by the decision-maker in reaching a determination regarding responsibility.

Takeaway #8: Standard of Proof & Evidence

- The prohibition on reliance on “statements” applies not only to statements made during the hearing, but also to any statement of the party or witness who does not submit to cross-examination.

Takeaway #8: Standard of Proof & Evidence (cont.)

Considerations for Implementation

Topic	Current Process	Changes Needed	Departments Impacted
Select Evidentiary Standard			
Education around Evidence			

- Who is on the Title IX Team?
- How are you educating campus leadership?
- What is the role of the Deputy Title IX Coordinator?
- Are there other institutions to partner with?



Takeaway #9: Rethinking the Team

Nine Key Takeaways

1

Actual Knowledge

2

Jurisdiction

3

Live Hearing

4

Cross Examination

5

Advisor

6

Definitions

7

Training

8

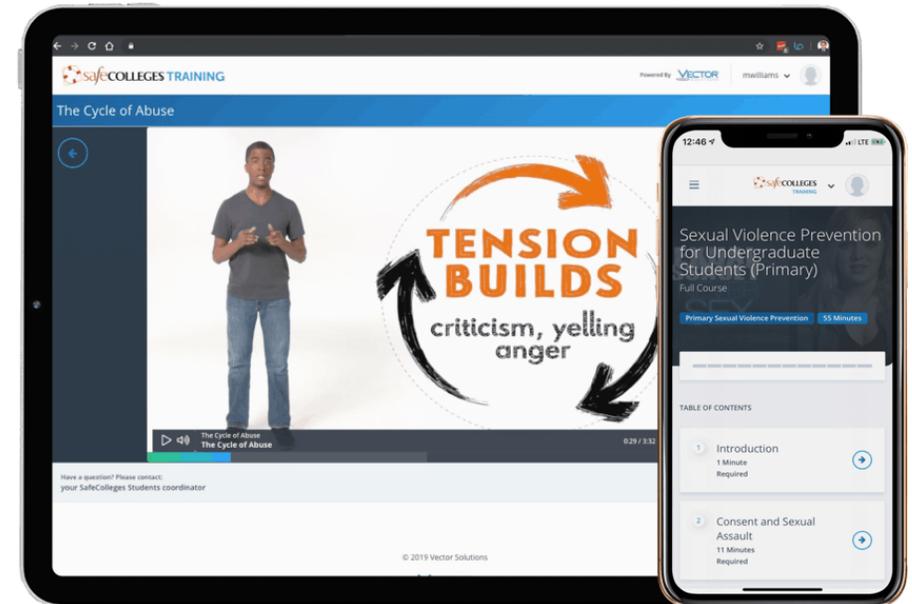
Standard of Proof & Evidence

9

Rethinking the Team

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Learn More: <https://www.safecolleges.com/title-ix-expert-author-team/>





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Q&A Discussion

Note: If your question doesn't get answered during the allotted time, we will follow up by email.

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Thank You!