



DECISION MAKERS: Procedural Requirements and Best Practices

July 27, 2023

DAN SCHORR, LLC

OUR SERVICES

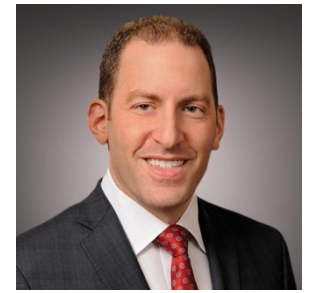
- Title IX, Civil Rights, and Misconduct Investigations
- Decision Makers and Hearing Officers
- Hearing and Process Advisors
- Trainings
- Policy and Program Reviews
- Interim Title IX Coordinator Coverage
- Expert Witness Testimony

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DAN SCHORR

President

New York



Dan Schorr is a former criminal prosecutor and municipal inspector general with more than 20 years of legal and investigative experience. He manages a variety of complex assignments, including investigations into sexual misconduct, Civil Rights, and fraud allegations at educational institutions, corporations, and government entities. In addition to specializing in Title IX investigations, Dan assists higher education and K-12 schools by conducting policy and program reviews, training personnel on all aspects of Title IX and Civil Rights compliance, and serving in hearing officer and decision maker roles. Dan is a pre-approved Sexual Misconduct Investigator for the United Educators ProResponse Expert Services Benefit.

ALYSSA-RAE MCGINN

Vice President

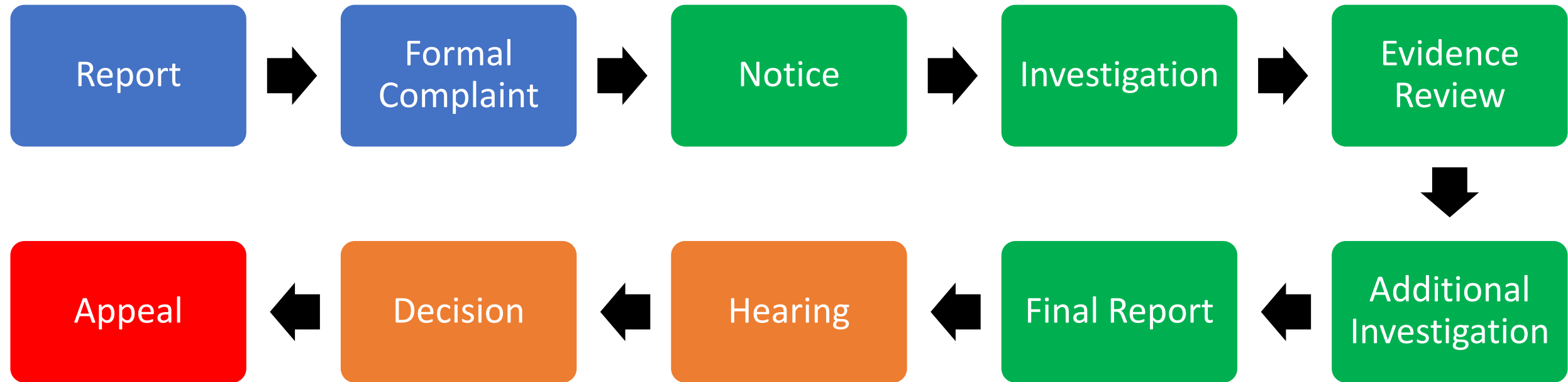
Boston



Alyssa-Rae McGinn has extensive experience leading a variety of complex investigations, with particular expertise in conducting investigations at educational institutions and corporations into allegations of sexual misconduct and identity-based harassment involving students, faculty, staff, and corporate leadership. Alyssa-Rae has also served as a decision maker and hearing chair for matters brought under the 2020 Title IX regulations and as an interim Title IX Coordinator to support and supplement the Title IX function at schools.

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THE TITLE IX PROCESS



REQUIREMENTS FOR HEARINGS

- Live hearing
- Independent decision-maker
- Parties guaranteed advisors
- Advisors have opportunity to cross-examine other parties and witnesses
- Respondent can observe cross-examination of Complainant
- Parties may be in separate locations
- Must be recorded – written, audio, or audiovisual

STEP ONE: FAMILIARIZING WITH THE CASE

- Read investigative report and review all evidence
- Ensure you are aware of procedures that preceded hearing
- Familiarize yourself with relevant policies and procedures
- Coordinate with other panel members to ensure understanding of expectations
- Identify and address any potential conflicts of interest
- Determine whether there are any reasons why the investigation needs to be re-opened
- Draft your questions
- Draft/adapt your script
- Understand which parties and witnesses may appear at the hearing

STEP TWO: PRE-HEARING MEETINGS

- Hold pre-hearing meetings with advisors and parties in order to:
 - Set ground rules and expectations
 - Alleviate fear of the hearing
 - Meet and establish rapport with parties and advisors
- Content:
 - Roles of the hearing officer, parties, advisors, and support people
 - Hearing schedule
 - Rules of Decorum and other expectations
 - Hearing procedures
 - Relevance and admissibility in questioning
 - Technology
 - Accommodations
- Clearly document the content and proceedings of the pre-hearing meetings in writing and distribute to all parties

STEP THREE: HEARING

- Your introduction: procedural information, allegations, ensure confidentiality, review technology
- Questioning parties and witnesses:
 - When questioning, be transparent, kind, comfortable, and flexible
 - Set the same tone for advisors conducting questioning
 - Exclude irrelevant and inadmissible questions and explain rationales
- The purpose of the hearing is not to conduct a trial but to gain as full and fair an account as possible in order to determine responsibility
- Deal with disruptive behavior through warnings, breaks, and removal if needed

STEP FOUR: DECISION

- Analyze relevant evidence, credibility, and policy standards
- Panel deliberations should be private and give each panelist an equal opportunity to voice opinions
- Consult with administrators on sanctioning
- Draft written determination:
 - Explain rationale for determination and sanctions in full
 - Use clear, plain language
 - Be thorough and address all elements of all allegations
 - Address evidence that undermines your decision
 - Include procedural history, policies and allegations, any issues during the hearing phase, and appeal information
- Title IX Coordinator issues decision to parties

THE TITLE IX AND CIVIL RIGHTS

PODCAST



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"Final Table is a compelling, timely, and fast-paced story of a sexual assault survivor's fight to regain control of her life in the face of fear, self-doubt, international intrigue, and looming retribution. Former sex crimes prosecutor Dan Schorr's nuanced and layered debut novel smashes stereotypes and cliches with a strikingly original and memorable narrative."

- **SUNNY HOSTIN**,
Emmy-Winning Co-Host of *The View* and best-selling author of *I Am These Truths* and *Summer on the Bluffs*



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