

# The Labyrinth – Title IV and Title IX, Clery, VAWA, OCR Guidance & Campus SaVE Act

## Title IV (HEA '65 [HEOA '08])

Loans (FFEL, Direct, Perkins, etc.), Grants (Pell, SEOG, etc.), FWS

### Title IX – Mink Act (Ed.Am. '72)

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination...”

### Clery Act (CACSA '90)

Supports T-IX and requires disclosure of safety policy, procedure, resources and disclosure of statistics. Creates Campus Security Authorities.

### VAWA ('94)

Amends Clery and support T-IX. Provides federal definitions of sexual assault, domestic violence, dating violence and stalking.

### OCR Guidance ('01)

Guides T-IX – Requires training of authorities and designation of Responsible Employees.

### OCR Dear Colleague Letter ('11)

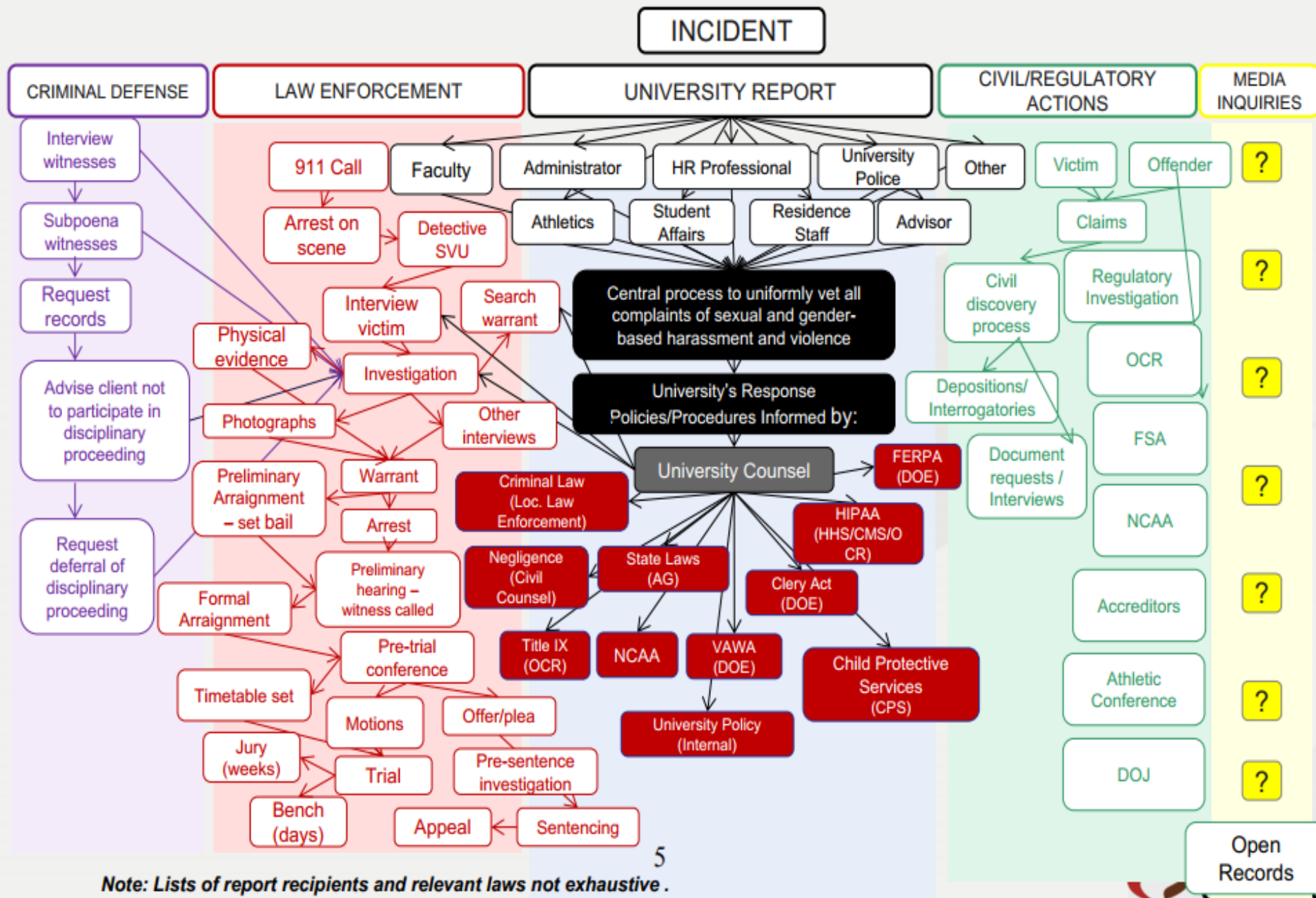
Guides T-IX - Expanded preventative education expectations and promoted use of preponderance of evidence standard.

### Campus SaVE Act ('13)

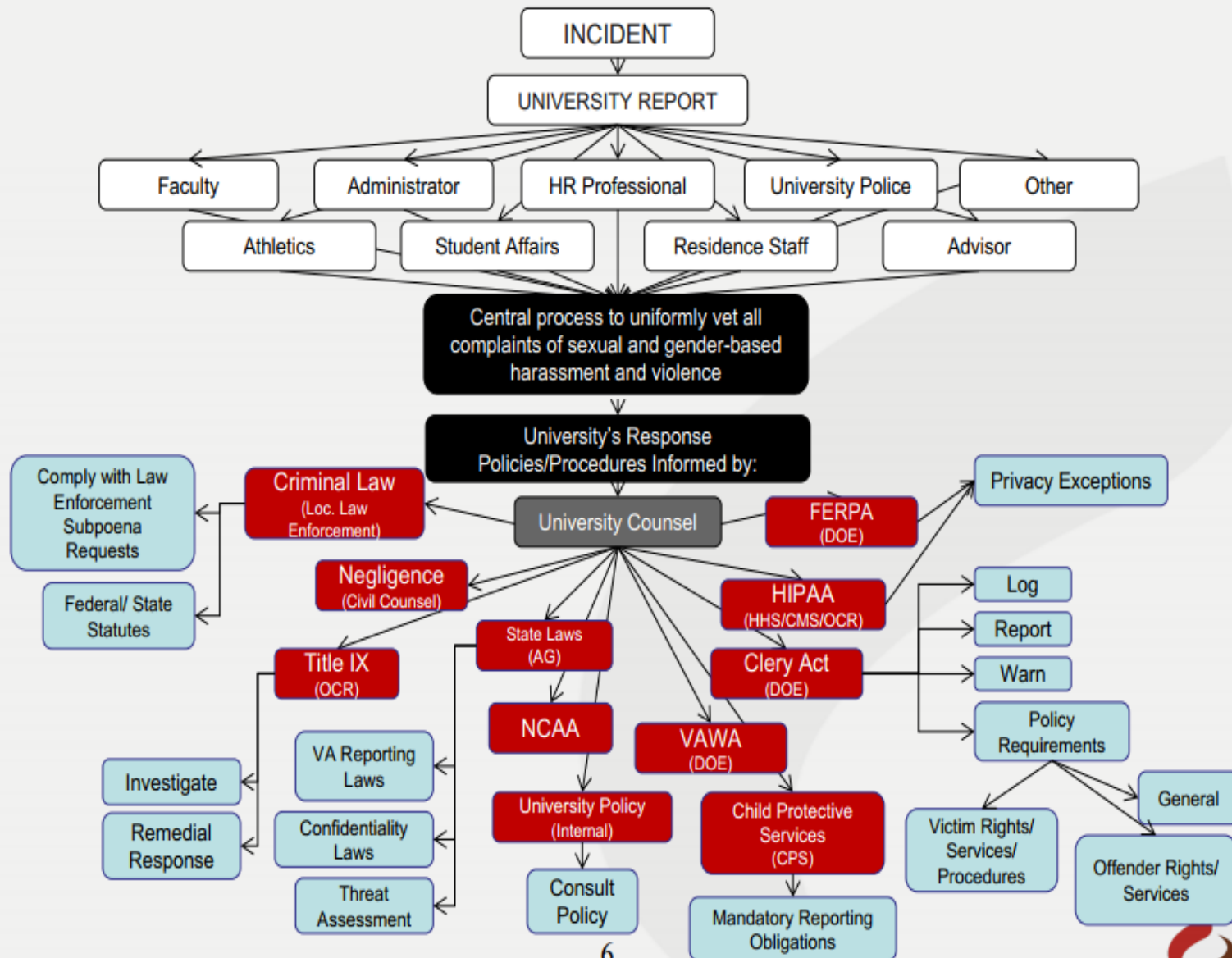
Reauthorized and amended VAWA (which amends Clery) to require primary prevention and education programs, mandated schools state standard of evidence and procedures (including sanction possibilities).

**OCR Opinion Letters** - Pregnancy, LGBTQ+, Respondent Due Process

# The Legal Context

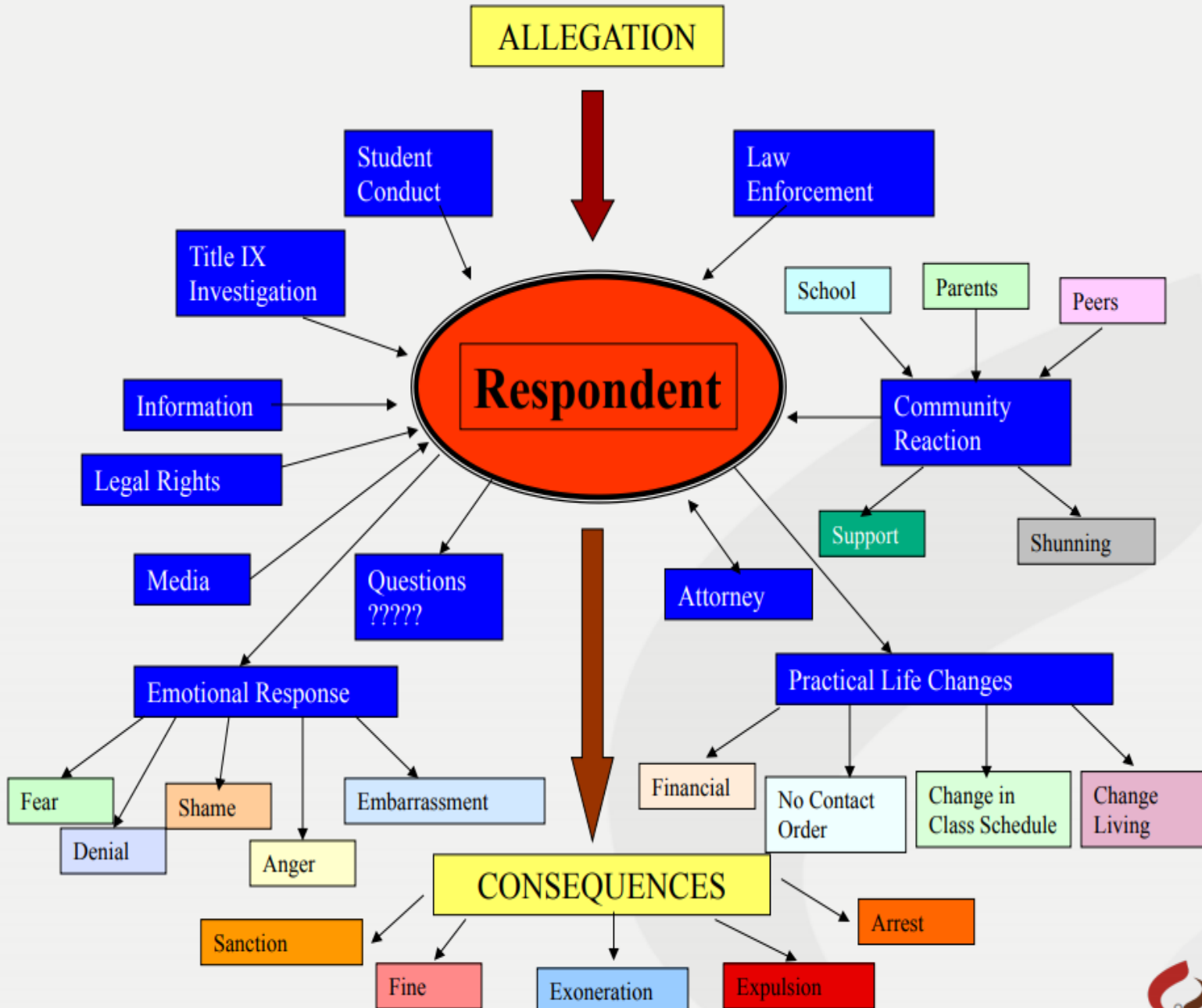


# Understanding Incident Response: Complex Laws Require Thoughtful Coordination and Centralized Response



Note: Lists of report recipients and relevant laws not exhaustive.



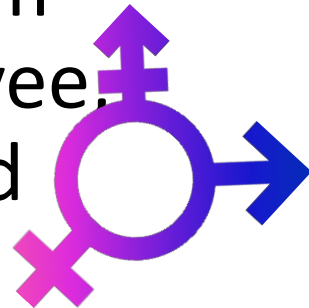


# Sexual Misconduct – Harassment & Violence

- Why is this an issue?
- What is the law?
- When is it our/your responsibility?
- What do you need to know/do?
- How do you find out more or become further involved?

# So what... is the law? - Title IX

- Provides that “**no person** in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to **discrimination** under any education program or activity receiving Federal financial assistance.”
- Protects all **students** and **employees** from sexual harassment by any school employee, another student or a non-employee third party



# So when... is it my responsibility? - Responsible Employee

“A ‘responsible employee’ is a College employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, **or who a student could reasonably believe has this authority or duty.**”

*\*Reporting and Confidentiality Disclosing Sexual Violence (April 2014), pg. 3, <https://www.notalone.gov/assets/reporting-confidentiality-policy.pdf>*

# So when... is it my responsibility? -

## Campus Security Authority

*CFR 668.46(a) Campus security authority...*(4) An official of an institution who has **significant responsibility for student and campus activities**, including, **but not limited to**, student housing, student discipline, and campus judicial proceedings. If such an official is a pastoral or professional counselor as defined below, the official is not considered a campus security authority when acting as a pastoral or professional counselor.

\* Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)

# So when... is it my responsibility? - Notice

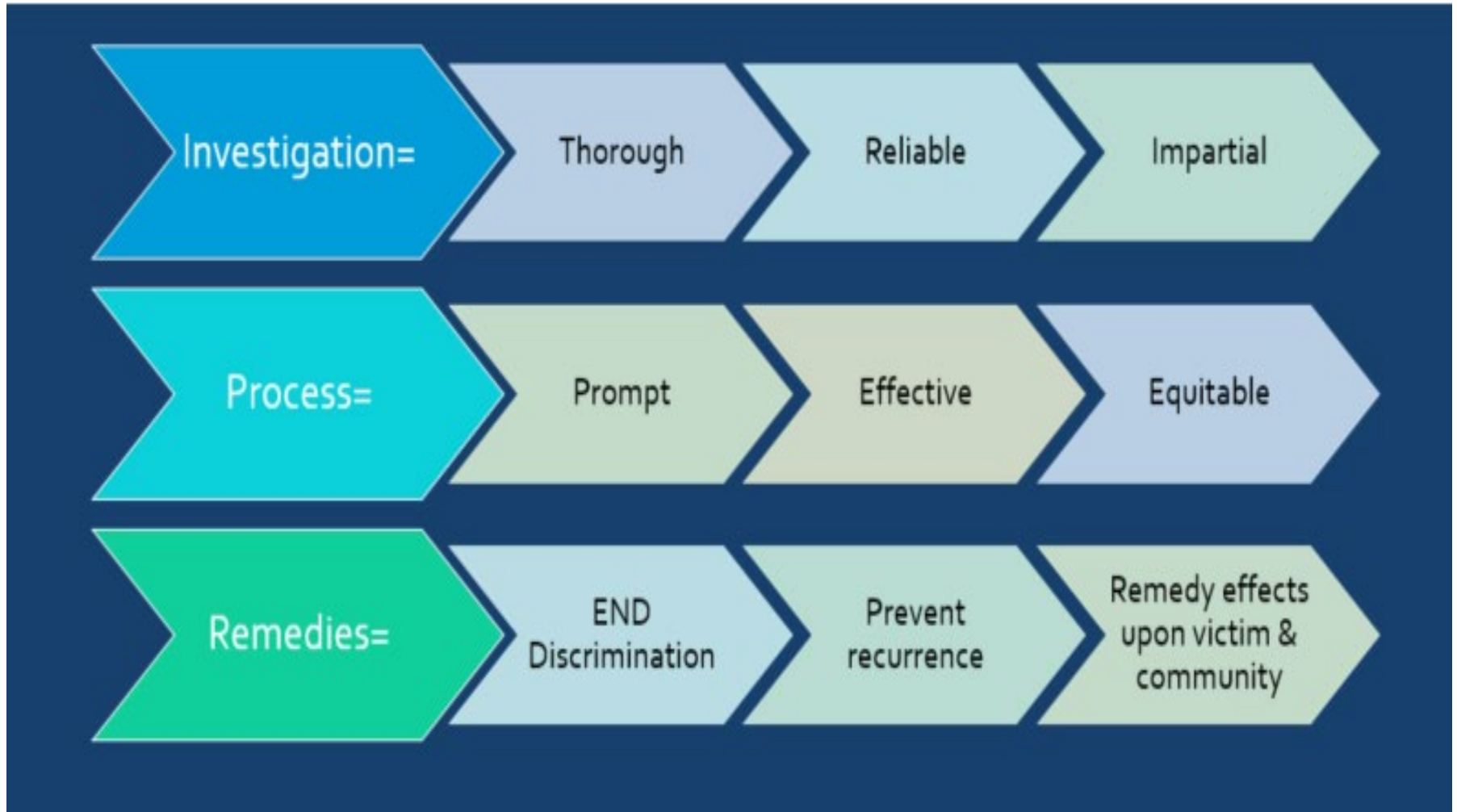
- “A school has notice of harassment if a reasonable employee knew, or in the exercise of reasonable care should have known, about the harassment.”
- “If a school *knows* or *reasonably should know* about... harassment...the school (must) take immediate action to:
  - eliminate the harassment,
  - prevent its recurrence, and
  - address its effects.”

# So what ... am I to DO!? -Reporting

“A responsible employee must report to the Title IX coordinator all relevant details about the alleged sexual violence shared by the victim and that the College will need to determine what happened...including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.”

*\*Reporting and Confidentiality Disclosing Sexual Violence (April 2014), pg. 3, <https://www.notalone.gov/assets/reporting-confidentiality-policy.pdf>*

# So What About... Investigation, Process & Remedies



# So What About... Remedies – Individual?

- Complainant-based
  - Provision of counseling and medical services
  - Academic support services
  - Living situation adjustments
  - Academic Course adjustments/no penalty withdrawals etc.

# So How Can I Help?

Spread the word ...

Recruit change agents...

Supportive pro-active interventions and responsive measures...

# **So What About...**

## **the Title IX Coordination Team?**

- David McMahan, Title IX Coordinator
- Candace Timmerman, Director of Human Resources
- Linda Anderson, Assistant Director of Athletics
- Jason Mrsny, Campus Security Manager
- Lin Brummels, Director of Counseling
- Christin Dalaviras, Director of Student Activities
- Quinneke Lee, Director of Residence Life
- Nancy Travnicek, Director of Learning Center
- Jeff Carstens, VP/Dean of Students
- Taylor Sinclair, System Director for Title IX