INSTITUTIONAL
COMPLIANCE SOLUTIONS

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2026 Virtual Civil Rights Investigator Training

September 2026



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About Us

OUR MISSION

To provide the best Care and Support for our clients, Community Partners, employees, contractors, collaborators, vendors, and all others who encounter our company.



GOAL

To assist schools and districts in providing a safe and healthy learning and working environment for students, faculty and staff.

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Agenda & Goals

- What are you investigating?
- Before the Meeting and Opening the Meeting
- Asking Questions
- Gathering Evidence
- Post Meeting
- Identifying and Interviewing Witnesses
- Building Your File
- Report Writing





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Realities:

- Being asked to do more with less
- Compliance is ever expanding
- Expectations of community
- Increase in reporting
- Rapid speed of this administration

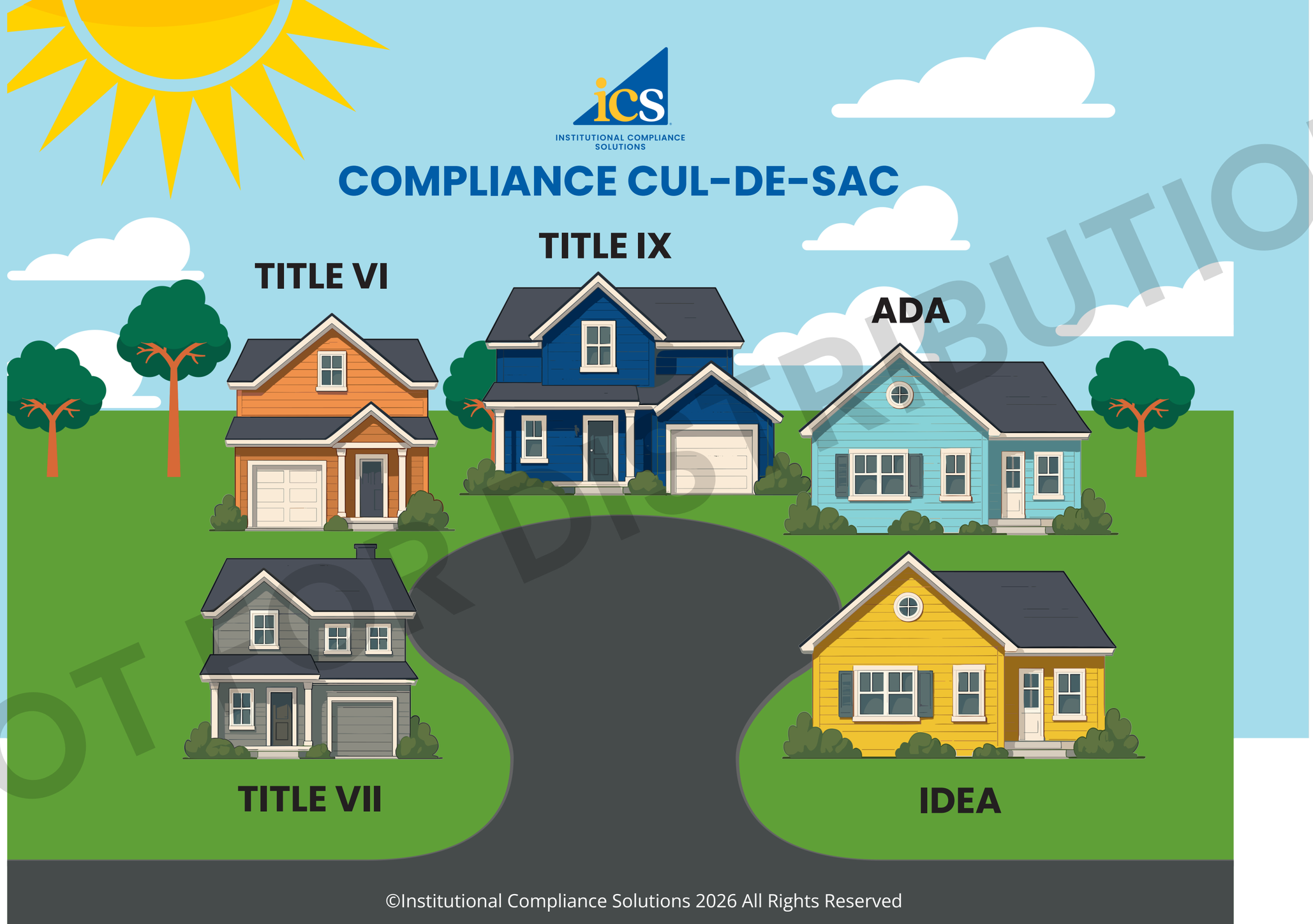


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INSTITUTIONAL COMPLIANCE SOLUTIONS

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Overview of The Laws

What Investigators Need to Prove Under Each Framework



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What is Happening?!

2025/ 2026

Executive Orders



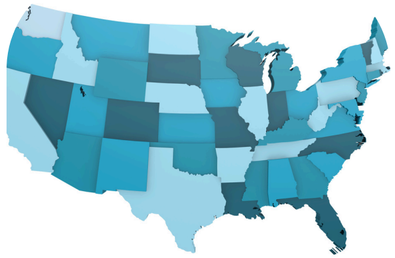
Litigation



Supreme Court



State Laws

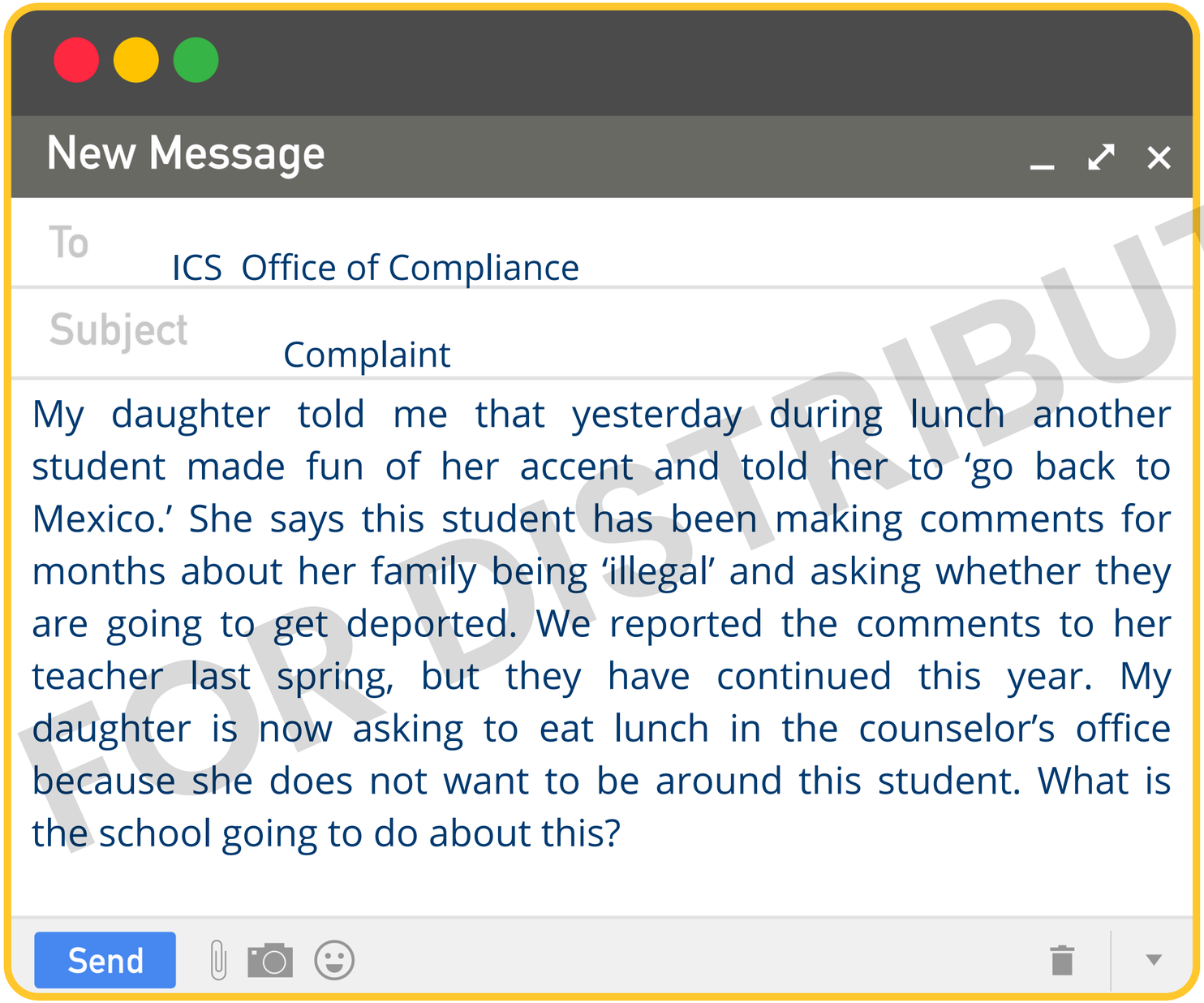


Administrative Actions



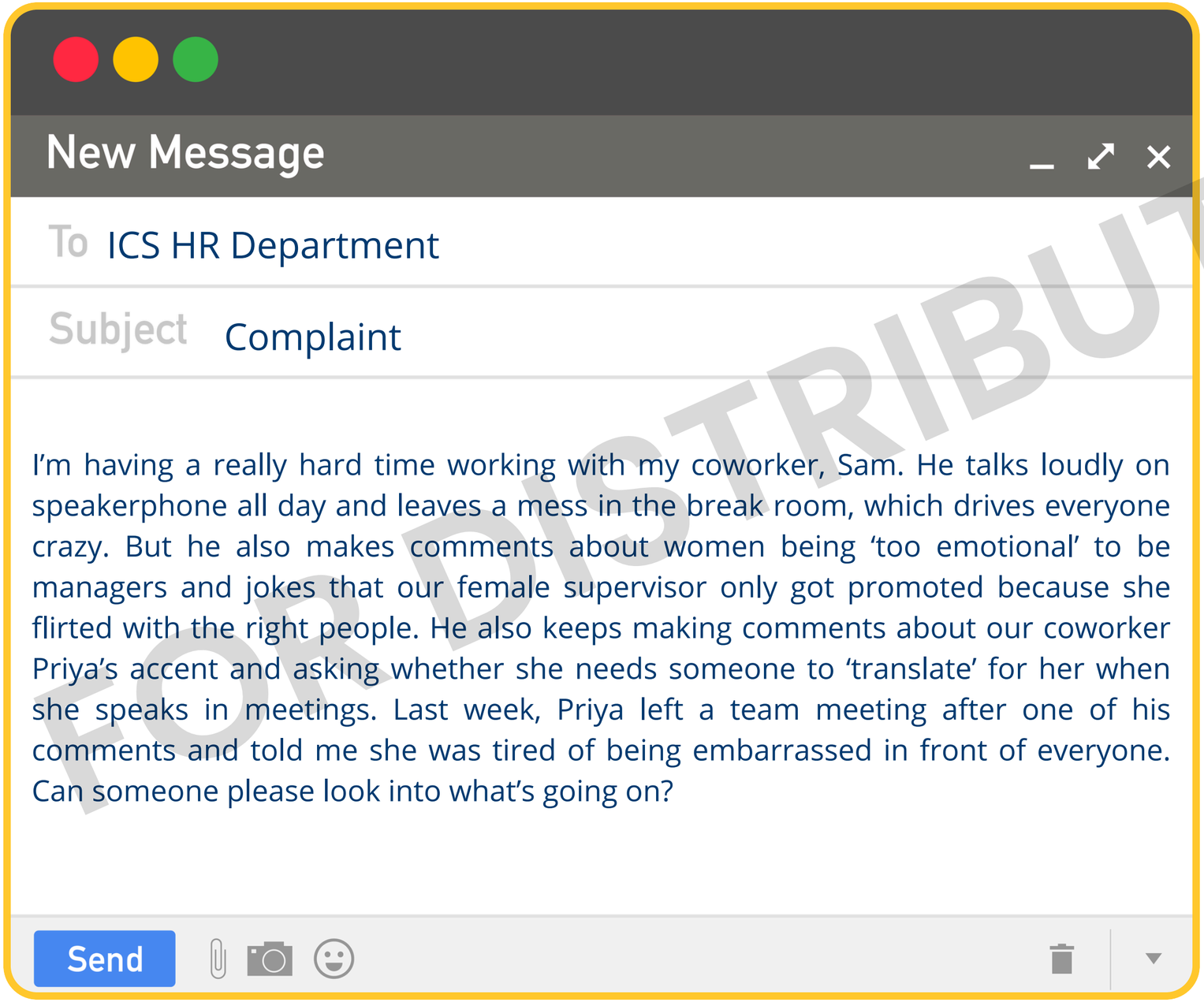
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Understanding Discrimination Under Title VI

Title VI of the 1964 Civil Rights Act says,

"No person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

42 U.S.C.§2000d

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ACCESS



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What Activities are Protected Under Title VI?

Programs and activities that receive education funds must operate in a non-discriminatory manner which include:

- Admissions
- Recruitment
- Financial Aid
- Academic Programs
- Counseling and Guidance
- Vocational Education
- Student Treatment and Services

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Protected Activities Continued...

- Discipline
- Student Services
- Grading
- Recreation
- Extracurricular
- Athletics
- Housing

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Discriminatory Treatment

Harassment Hostile Environment

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Harassment creates a hostile environment when the conduct is objectively offensive and sufficiently severe or pervasive so as to interfere with or limit an individual's ability to participate in or benefit from a recipient's program.



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TITLE VI CASES



OCR determines conduct to create a hostile environment if:

(1) harassment based on race, color, or national origin existed;

(2) the recipient had actual or constructive notice of the harassment; and

(3) the recipient failed to respond adequately to redress the hostile environment.

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Aiken County Public Schools (K-12) - English learner access

- DOJ's September 2024 EEOA settlement addressed inadequate language instruction for hundreds of English learners, barriers in core subjects, insufficiently qualified or trained staff, and inadequate interpretation/translation for families.
- The agreement required qualified language-instruction personnel, support for core-content teachers, parent language access, and a community advisory structure.
- This matter proceeded under the EEOA, illustrating that a coordinator should issue-spot overlapping authorities rather than force every national-origin concern into Title VI alone.

Investigator takeaway: When the complaint involves multilingual learners, do not limit the investigation to whether someone made a biased comment. Instead, ask: Was the student denied or limited access? What criteria were used to make the decision? Were language needs considered appropriately? How were similarly situated students treated? Were interpretation or translation services available when needed? Did the concern reflect an individual decision, or was it broader?

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Brown University Resolution Agreement

REGARDING ANTISEMITISM

Facts: The investigation found that the university received around 75 reports of alleged antisemitic, anti-Palestinian, and anti-Muslim harassment against students from October 2023 through late March 2026, including allegations of students pointing at a Jewish classmate's Star of David jewelry and yelling an ethnicity-based insult, a student berating a Palestinian-American roommate about their identity, and students blocking a Jewish classmate from attending a pro-Palestinian rally.

Outcome: OCR concluded that the university did not comply with Title VI by failing to properly investigate whether these and other reported incidents created a hostile environment for students, faculty, or staff under Title VI.

OCR cited to similar agreements reached with Park City, Utah School District and University of Michigan, which included deficiencies in:

- Record keeping requirements.
- Failing to take timely steps to prevent and address race-based concerns.
- The multiple reports received constituted repeated actual notice of harassment.

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Terms of Brown University and University of Michigan OCR Resolution Agreements:

- Revising policies and procedures to ensure all offices comply with Title VI;
- Notifying all students, employees, and parents about Title VI prohibitions and protections against discrimination and how to report harassment;
- Conducting annual training on nondiscrimination and harassment for all students and employees;
- Consistently maintaining records related to complaints or reports of discrimination under Title VI;
- Conducting a review of their responses to complaints and taking remedial actions when required;
- Conducting climate surveys focused on Title VI discrimination for all students and employees; and
- Analyzing and creating action plans in response to climate surveys focused on Title VI discrimination.

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OCR has developed a Shared Ancestry or Ethnic Characteristics website,

which can be found here:

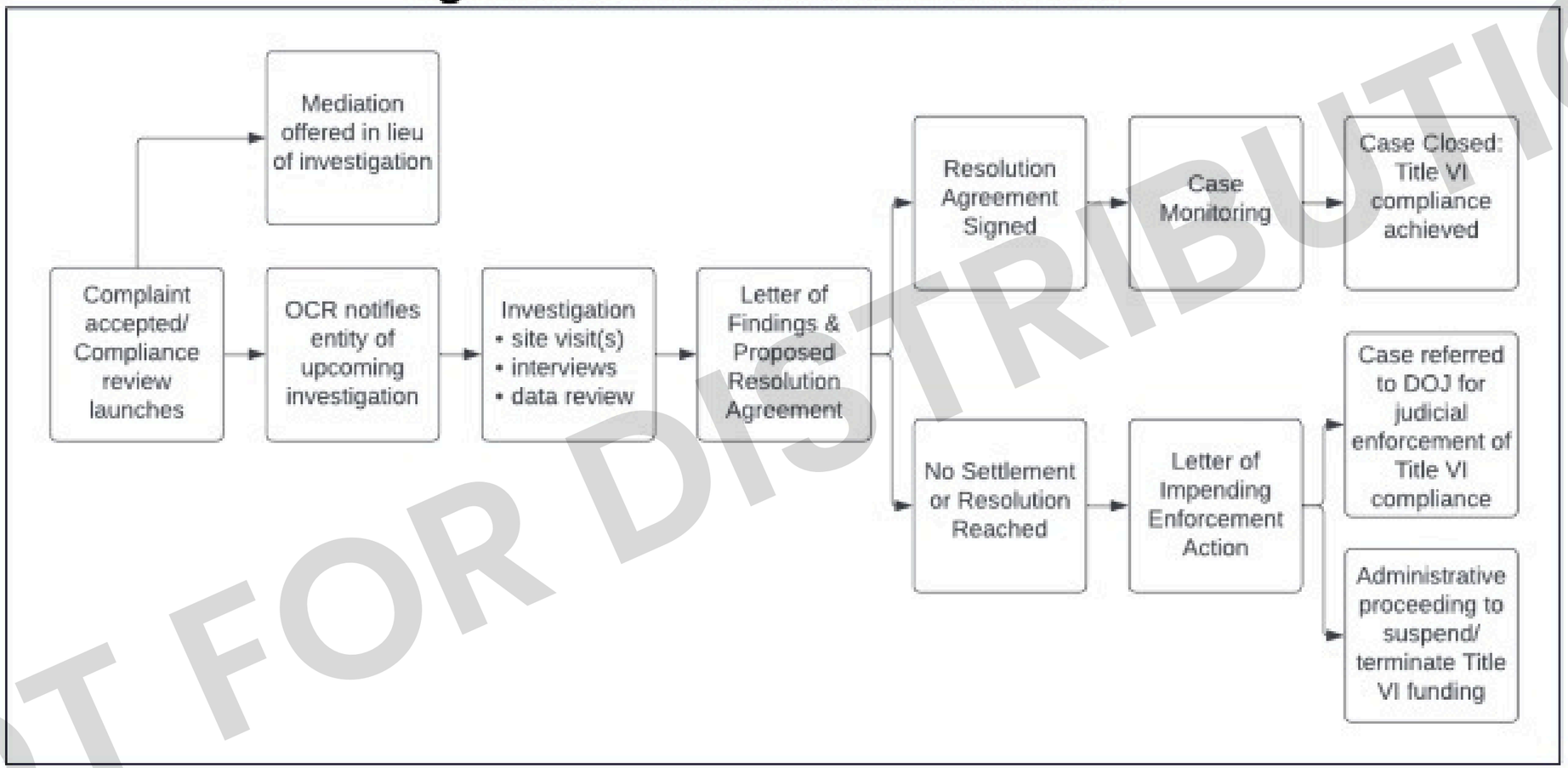


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Figure 1 is a flowchart illustrating the entire OCR enforcement process.

Figure 1. OCR Title VI Enforcement Process



Note: The entity under investigation may request to settle the matter by entering into a Resolution Agreement at any time prior to the conclusion of the investigation.

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HYPO



Jordan, a Black tenth-grade student, reports that several classmates have been making race-based jokes about him for the past few weeks. Students have called him racial slurs, made comments about his hair, and posted a meme in a group chat depicting Jordan with a racist stereotype. Most of the group-chat activity occurred off campus, but students have continued referencing the posts at school.

Jordan tells his teacher that the comments are "getting old" and asks to be moved away from two of the students in class. The teacher tells Jordan that the students are probably trying to be funny and that he should "just ignore them." A week later, Jordan's parent contacts the principal and reports that Jordan no longer wants to attend school because of the harassment.

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Understanding Title VII

Enforced by EEOC

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Title VII Prohibits Employment Discrimination based on:



- Gender Identity
- Mental or Physical Disability
- Sexual Orientation
- Pregnancy
- Sex
- Race
- Immigration Status
- Age
- Color
- Religion
- Veteran Status
- National Origin

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Who is covered by Title VII of the Civil Rights Act?

- **Private & public sector employers w/15 or more workers**
- **State and local governmental agencies**
- **Employment agencies**
- **Apprenticeship programs**

Not Covered: Federal employees or independent contractors. However, federal employees are protected against discrimination by other federal anti-discrimination laws.

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What Individuals are Protected from Discrimination Under Title VII?

Applicants

Former Employees

Employees

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Title VII Cases:



Kluge v. Brownsburg - Brownsburg School had a policy that students could go by their preferred names and pronouns. Kluge said his religious beliefs would not allow him to do this, so he referred to students by their last names. He said he was eventually pushed out of his job and filed a Title VII religious discrimination claim, failure to accommodate. Previously, Courts used a “more than de minimus” standard.

Now, it must be a substantial hardship (measurable and documented), so the jury gets to decide.

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HYPO



Sam, a university professor, sent an email to his department chair complaining that students have been repeatedly questioning him about the Israeli flag displayed in his office. Several students have also been vocal in expressing support for Palestinians and criticizing Israel. Sam tells the department chair that he feels the students' conduct has become disrespectful and that the ongoing interactions are causing him significant stress. He states that he is considering resigning because of the situation.

The department chair tells Sam that, as the professor, he has authority to manage his interactions with students and should address the situation as he sees fit.

Should this be investigated?

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Understanding Free Speech & Academic Freedom



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FREE SPEECH OR HARASSMENT

- the need for clear policies that distinguish between protected speech and harassment.
- context and impact of provocative speech.
- protected speech can create a hostile environment if it targets individuals based on race, ethnicity, or national origin.



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The fact that harassment may involve conduct that includes speech in a public setting or speech that is also motivated by political or religious beliefs does not relieve a school of its obligation to respond under Title VI - if the harassment creates a hostile environment in school for a student or students.



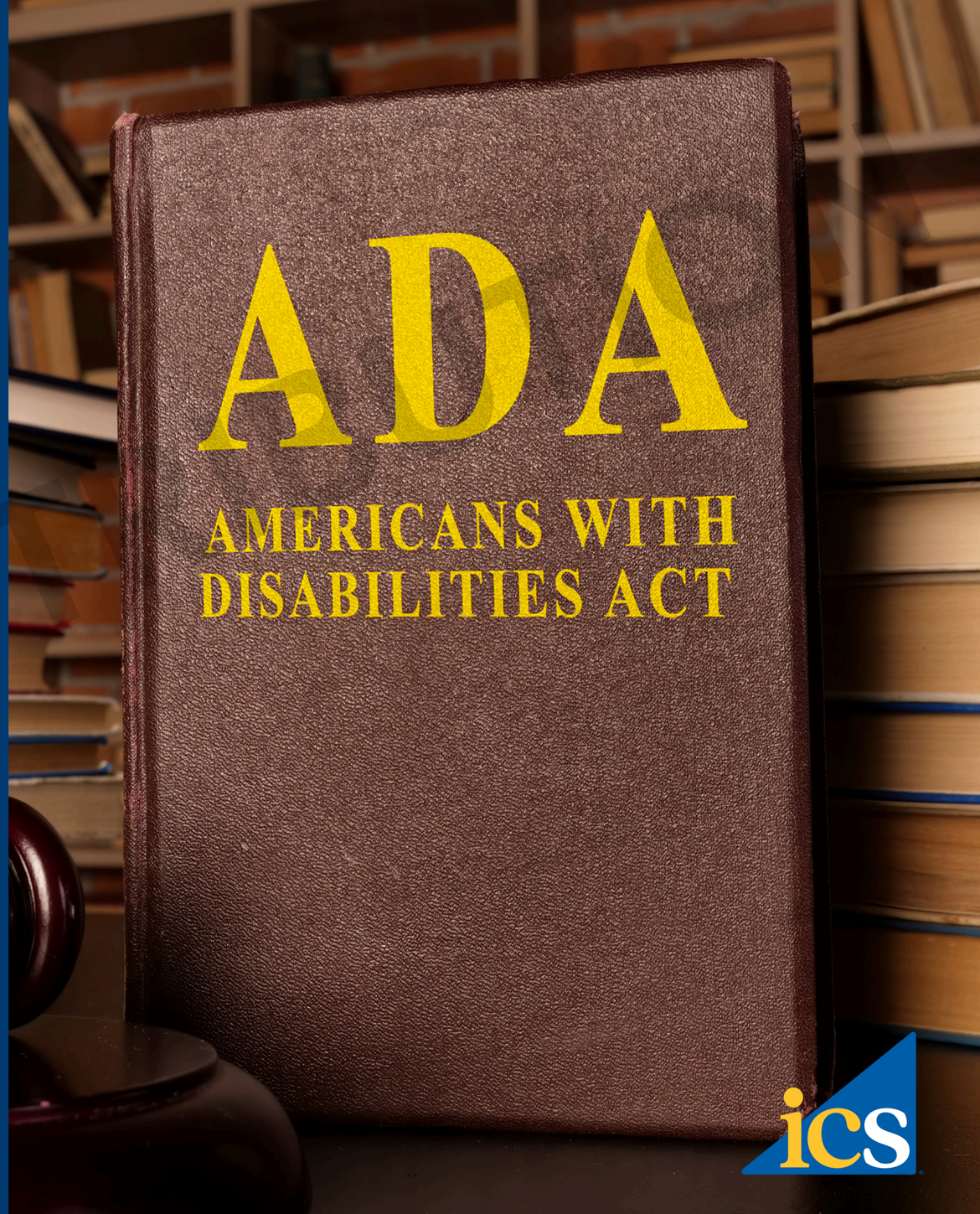
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Americans with Disabilities Act

Enforced by the Department of Justice

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The Americans with Disabilities Act (ADA) of 1990 prohibits discrimination solely on the basis of disability in employment, public services, and accommodations. The person must otherwise be qualified for the program, service or job.

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Discrimination Based on Disability

Section 504

Section 504 of the Rehabilitation Act of 1973 prohibits any school district receiving federal financial assistance from discriminating against disabled children.

Requires Free Appropriate Public Education

Title II

Title II of the Americans with Disabilities Act of 1990 expands these protections and prohibits all school districts, whether they receive federal funding or not, from discriminating against disabled children.

Accommodations

The ADA requires the provision of reasonable effective accommodations for eligible faculty, staff, students, and visitors across an institution's programs, activities, and services.

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The ADA defines a person with a disability as a person who has a physical or mental impairment that substantially limits one or more major life activity:

- **Walking**
- **Speaking**
- **Talking**
- **Breathing**
- **Thinking**
- **Hearing**

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Accommodations

One aim of the ADA was to make educational institutions more accessible.
This aim covers “reasonable accommodations” such as the following:

- Modification of schedules
- Allowing employees to receive written instructions
- Modification of breaks/shifts
- Extra time allotted for breaks/lunch
- Interpreters
- Specialized computer equipment
- Lighting changes
- Extra monitors

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INTERACTIVE PROCESS UNDER ADA

REPORT OF A DISABILITY THAT IMPACTS ABILITY TO PERFORM JOB OR LIMITS ACCESS TO EDUCATION

MEETING WITH HR OR ACCESSIBILITY OFFICE TO CONDUCT INITIAL ASSESSMENT

IS REQUEST REASONABLE?

NEED FOR BRAINSTORMING ALTERNATIVE ACCOMMODATIONS

IMPLEMENT ACCOMMODATION, IF REASONABLE

CONTINUE INTERACTIVE PROCESS UNTIL EXHAUSTED OPTIONS

DOCUMENT!! DOCUMENT!! DOCUMENT!!

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Recent Case Under the ADA:

Yarmey v. University of Pennsylvania

- A student in a post-baccalaureate pre-health program alleged violations of ADA Title III and Section 504 after health problems affected his coursework and incomplete grades became failures.

The court affirmed judgment for the university:

- Penn provided extensions, extended testing time, counseling, individualized guidance, and nonstandard grade treatment.
- Denial of some requested accommodations did not establish denial of meaningful access or full and equal enjoyment.

Coordinator takeaway: Schools need not approve every requested accommodation. The record should show an individualized assessment, accommodations actually provided, reasons for denying particular requests, continuing communication, and whether the student retained meaningful program access.

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Understanding Title IX

Enforced by Office for Civil Rights



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Understanding Discrimination Under Title IX

"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."

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2020 SEXUAL HARASSMENT

Conduct on the basis of sex that satisfies one or more of the following

- An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive AND objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
- "Sexual Assault," "Dating Violence," "Domestic Violence" or "Stalking" as defined in the Clery Act.



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Quid Pro Quo



1. An employee of the school
2. Conditioning the provision of an aid, benefit, or service of the recipient
3. On an individual's participation in unwelcome sexual conduct

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Hostile Environment Harassment



Unwelcome conduct determined by a reasonable person to be so severe, pervasive AND objectively offensive that it effectively denies a person equal access to the recipient's education program or activity

1. Severe - can be non verbal through sexual assault (touching/fondling)
2. Pervasive - how often and how widespread
3. Objectively Offensive - behavior that would be offensive to a reasonable person under the circumstances

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Specific Offenses



1. Sexual Assault
    a. Rape
    b. Fondling/Criminal Sexual Contact
    c. Incest
    d. Statutory Rape
2. Dating Violence
3. Domestic Violence
4. Stalking

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Jurisdiction 2020
Education Program or Activity



Locations, events, or circumstances (operations) over which the school or district exercised **substantial control** over both the **respondent** AND the **context in which the sexual harassment occurs.**



Includes online sexual harassment but it must be analyzed to determine if it occurs in education program or activity.



Does not create or apply a geographic test, does not draw a line between "off campus/property" and "on campus/property," & does not create a distinction between sexual harassment occurring in person vs online.

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2020



TITLE IX SEXUAL HARASSMENT



EDUCATION PROGRAM/ ACTIVITY



TITLE IX FORMAL GRIEVANCE PROCESS

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HYPO



Mr. Jones is a high school band director. Jolie is a 9th grade clarinet player who started hanging out with her friends and Mr. Jones in the band room before and after school every day. One day, Mr. Jones asked Jolie for her number and started texting with her every day. He asked her to add him on SnapChat and when she didn't, he instructed her to stay after class one day and confronted her about it. When she told him she must not have seen it, he told her to add him right then and watched to be sure she did so. Soon, Mr. Jones started showing up in the cafeteria during Jolie's lunch period.

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Pregnancy and Accommodations



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PUMP ACT and PWFA

The PUMP Act expanded workplace protections for lactating employees under the Fair Labor Standards Act (FLSA).

- Requires employers to provide reasonable break time for employees to express breast milk for up to one year after childbirth.
- Employers must provide a private space, other than a bathroom, that is shielded from view and free from intrusion.

The Pregnant Workers Fairness Act requires employers to provide reasonable accommodations for employees affected by pregnancy, childbirth, or related medical conditions, unless doing so would cause undue hardship.

- Applies to employees and applicants, including faculty, staff, and student employees.
- Requires an interactive process similar to the ADA (e.g., modified duties, flexible schedules, temporary reassignment, additional breaks).
- Prohibits forcing employees to take leave if a reasonable accommodation would allow them to continue working.
- Prohibits retaliation for requesting or using pregnancy-related accommodations.
- Common in higher education contexts involving teaching schedules, lab work, clinical placements, and physical job requirements.

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Pregnancy Discrimination

PREGNANCY + RELATED CONDITIONS

- Title IX prohibits students and employees from discrimination based on:
  - Pregnancy
  - False Pregnancy
  - Childbirth
  - Termination of Pregnancy
  - OR recovery therefrom

REMEMBER

- Must be treated the same as any other temporary disability
- Must be reinstated to the status held when individual began their leave



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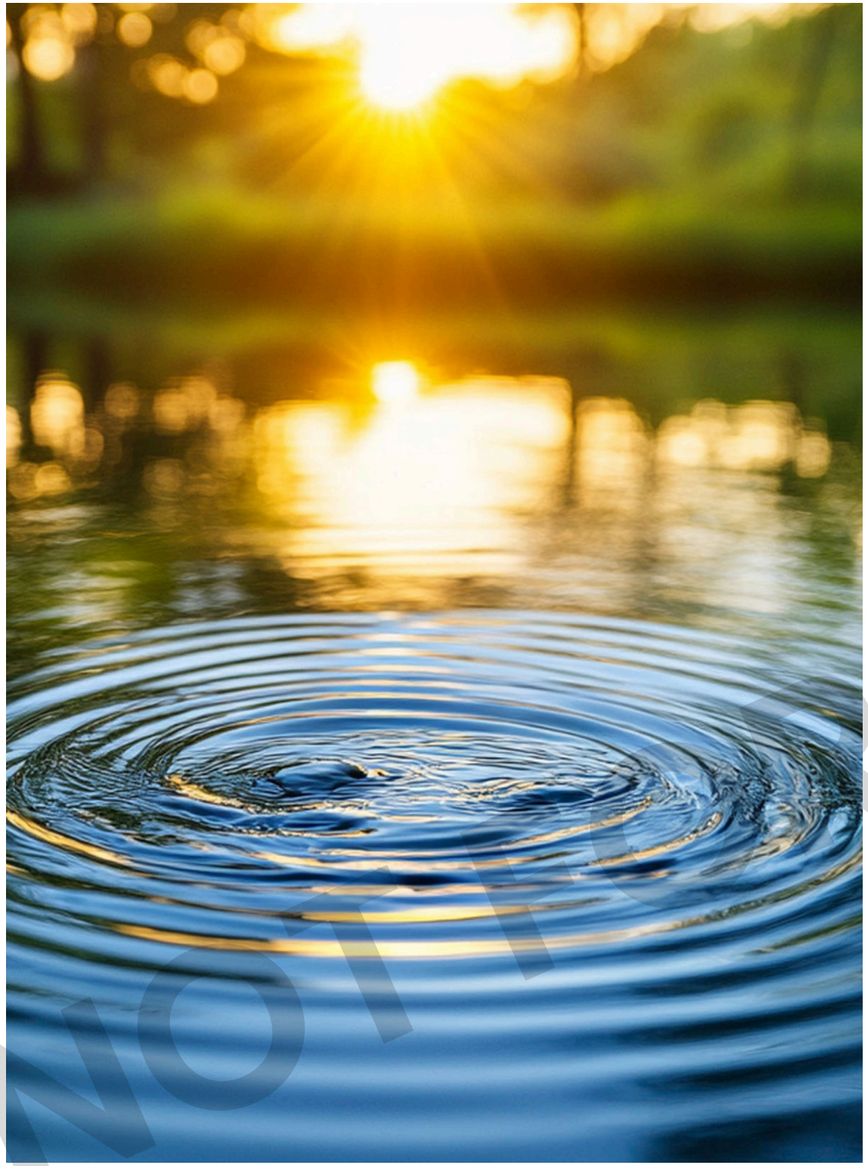
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CONDUCTING INVESTIGATIONS AND THE CHALLENGES



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Compliance + Compassion

People who feel dismissed:

- **Escalate**
- **Lawyer up**
- **Go public**

Compassion does not weaken compliance - it strengthens credibility, cooperation, and outcomes.

- **Impact > Intent**

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What is the hardest part about investigating?

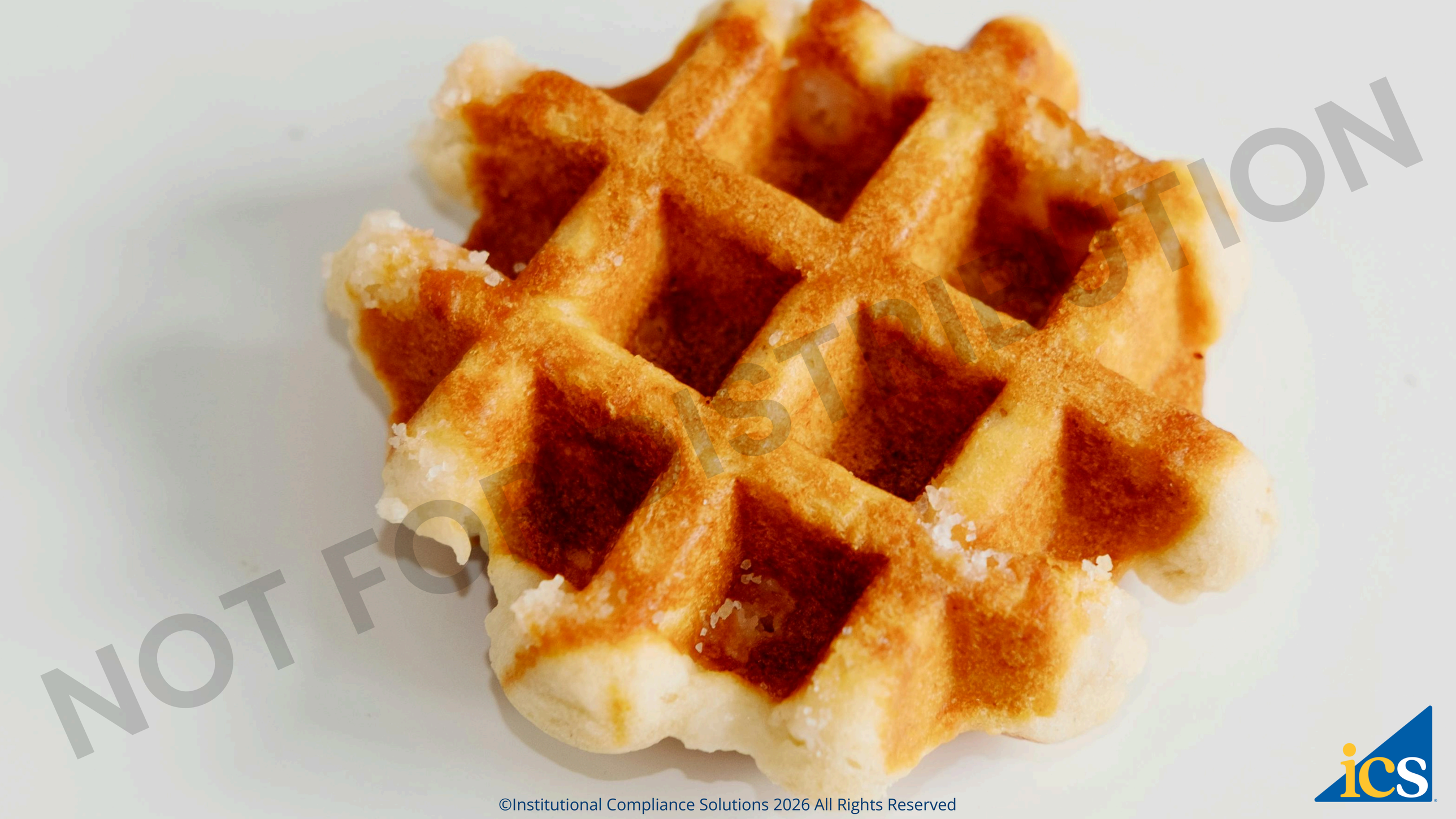
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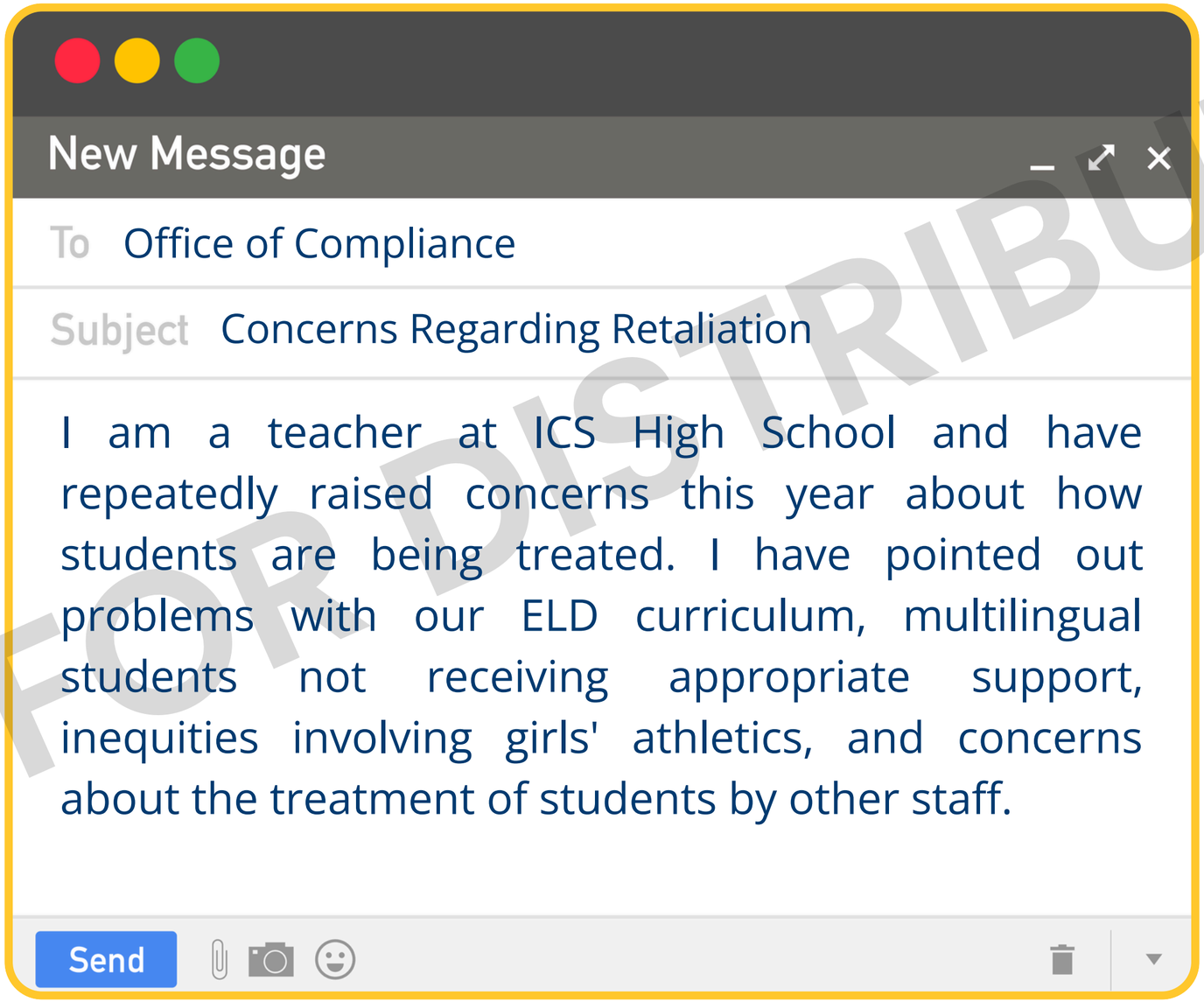
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The “Spaghetti” – What Lands in Your Inbox



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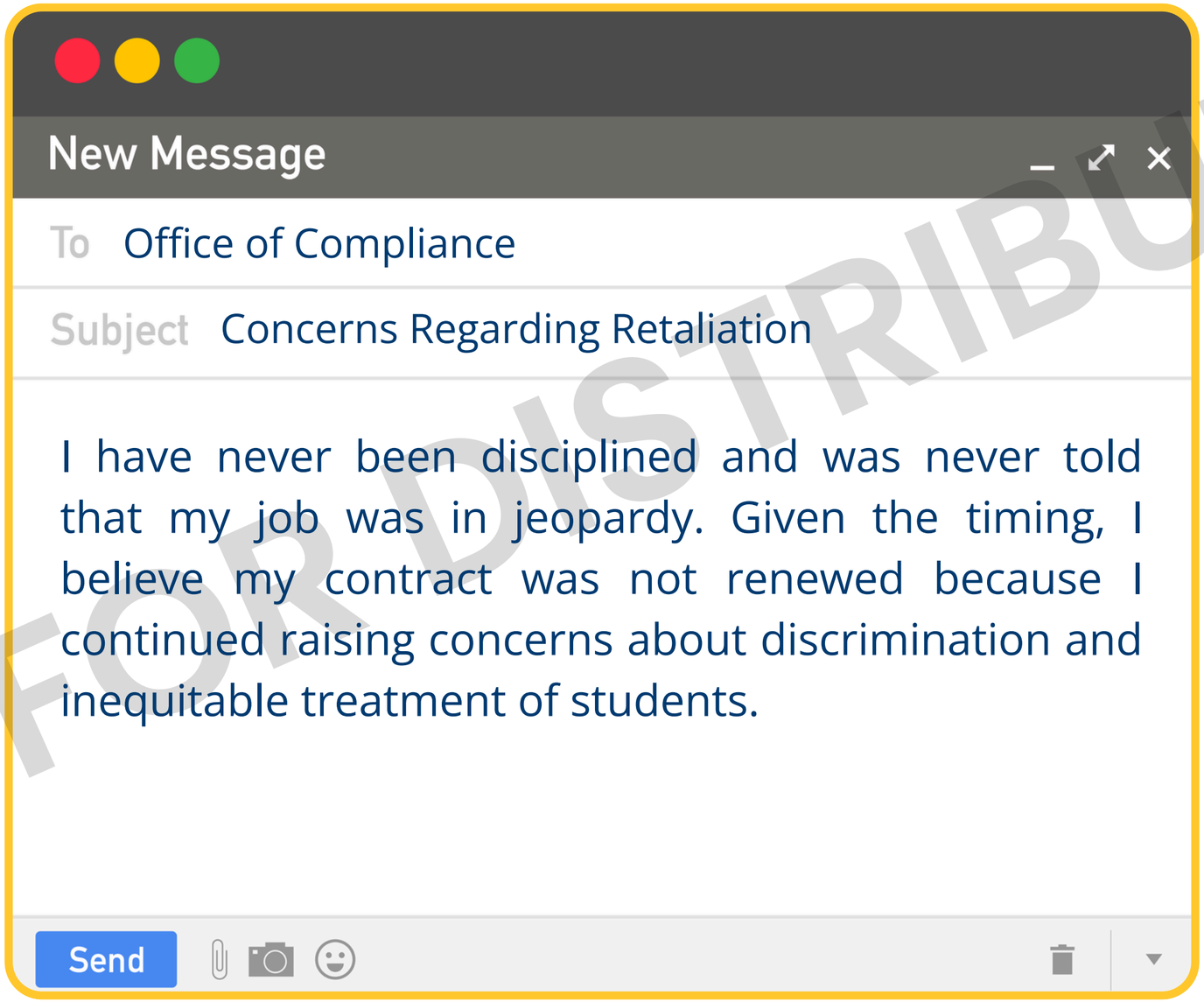
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The “Spaghetti” – What Lands in Your Inbox



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Then the Spaghetti Grew…

Initial Notice:

- Retaliation: Non-renewal allegedly resulted from reports of discriminatory treatment of students

During Interviews/Follow-up:

The employee provided additional context about her own treatment, including:

- The principal talked over her and communicated in a way she perceived as intimidating
- Her concerns were allegedly dismissed or minimized
- She believed male employees were treated with greater respect
- She connected some interactions to her neurodivergence
- She said requests for support were not meaningfully addressed
- She believed difficulties processing the curriculum were used against her
- She felt discouraged from seeking accommodations
- She believed her perceived youth also affected how seriously she was treated

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So, We Amended the Notice

and then…

Another issue emerged:

- After non-renewal, she applied for other positions and was not selected
- She initially believed the principal was preventing her from obtaining another position

SO THEN…A second amended notice was sent, which included allegations of retaliatory interference with future employment

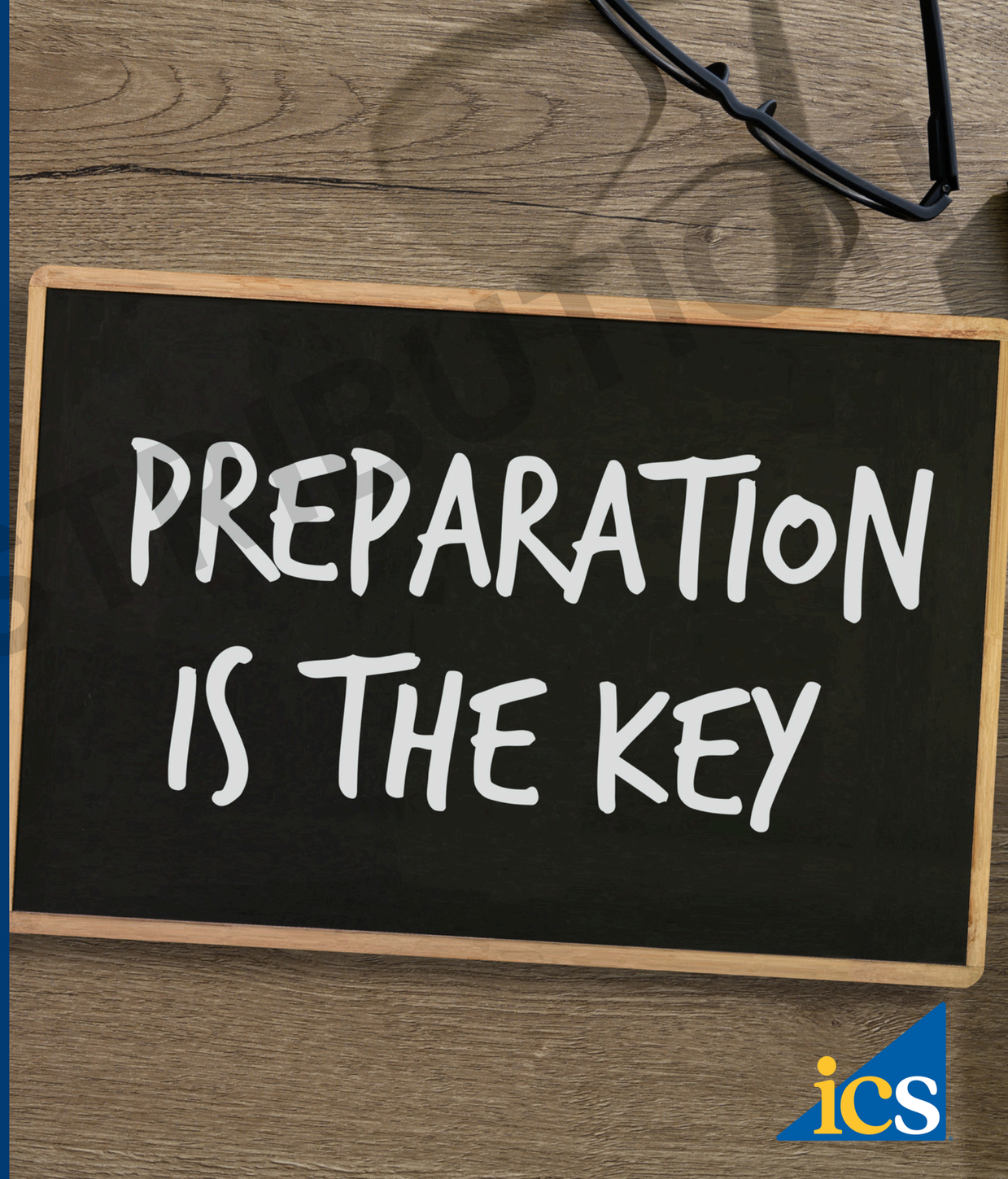
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Part 1:

Before You Start...

The importance of preparation



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What are you investigating?

- Title IX
- Title VI
- Title VII
- Code of Conduct
- Other?

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Internal Handbooks and Expectations



Student Handbook/ Code of Conduct



Faculty Handbook/ Code of Conduct

- **Union Agreement?**



Staff & Employee Handbook/ Code of Conduct

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What information do you have?

Is there anything you need before you meet with parties and/or witnesses?

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Developing a Plan

1. Order of interviews (be prepared to pivot)
2. Communicating with parties and witnesses
3. The role of advisors or support person
4. Outline of questions (to be edited as information develops)
5. Evidence to be collected prior to meetings (video)

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Define the Allegations Before Gathering Evidence

For each allegation, identify:

1. The specific act, decision, statement, or omission
2. The responsible person or institutional office
3. The protected characteristic involved
4. The applicable policy or civil-rights law
5. The relevant timeframe and location
6. The adverse action or denial of access
7. The elements that must be proven

Avoid: Investigating a broad complaint of "discrimination" without defining the precise allegations



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Part 2:

Opening the Meeting...

The importance of transparency



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You Only Get ONE First Impression

Before they “walk in” either in person or virtually,
CHECK YOURSELF

- Start with a clean slate.
- Refresh your mind with names and dates.
- Check your biases and your face!
- Prepare the room.

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FIGHT, FLIGHT, FREEZE, OR FAWN OR ALL FOUR…

OR SOMETHING COMPLETELY DIFFERENT…









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REMINDER: BODY LANGUAGE & FACIAL EXPRESSIONS

- **Virtually and in person**

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Check Your Biases

? Where are your potential biases in the case?

? Can you overcome any biases that exist?

? Is your mind in a neutral position?

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Types of Bias



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INTRODUCTION

- Who are you?
- What is your responsibility?
- What policy/policies & procedures are you using?
- Something to connect you with the party or witness

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GET TO KNOW THE PARTY/WITNESS

- What name do they prefer?
- Find a similarity
- What is their position? (year in school, employment role, etc.)
- Something to discuss?

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Part 3:

Asking Questions

The importance of gaining clarity



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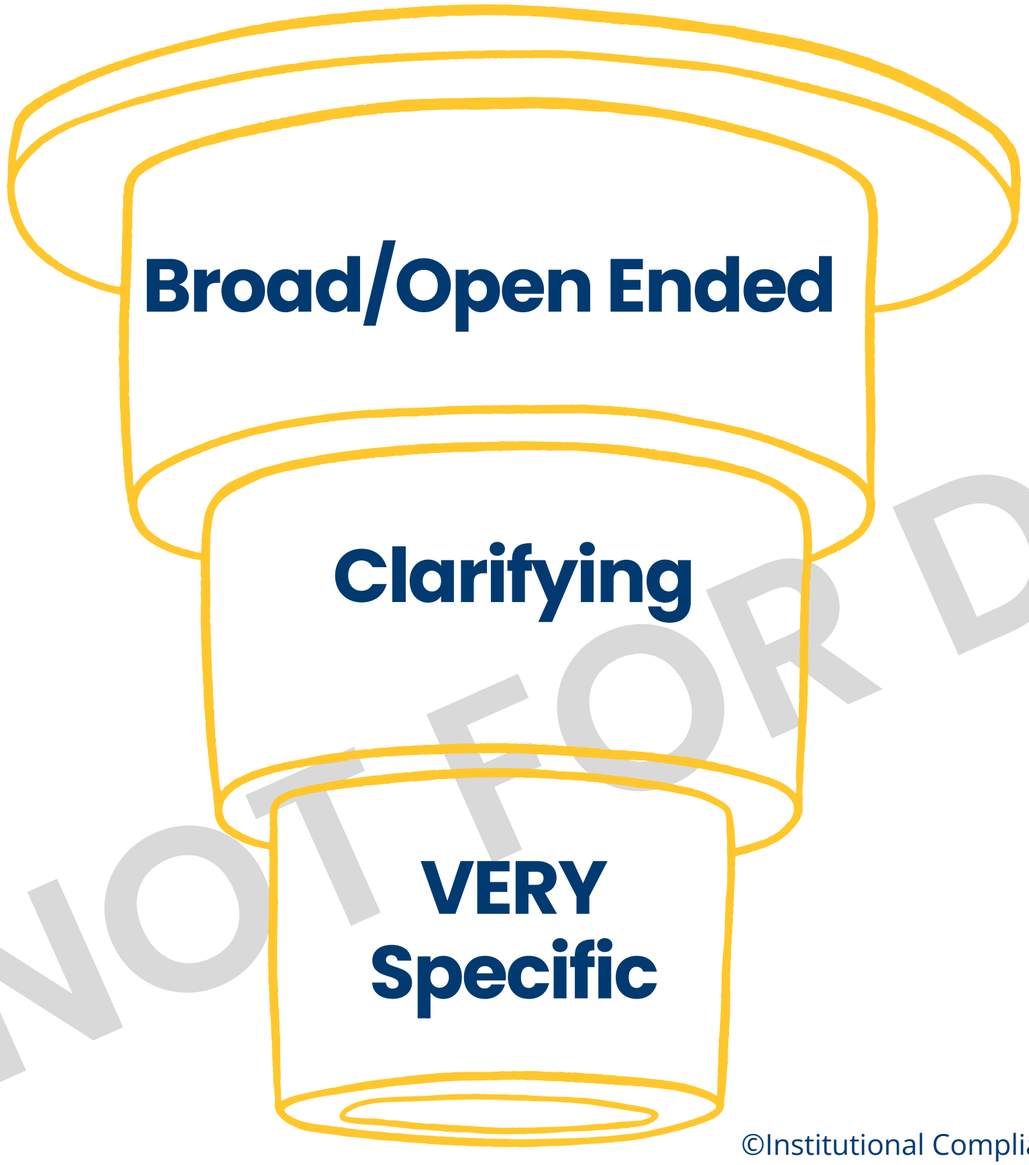
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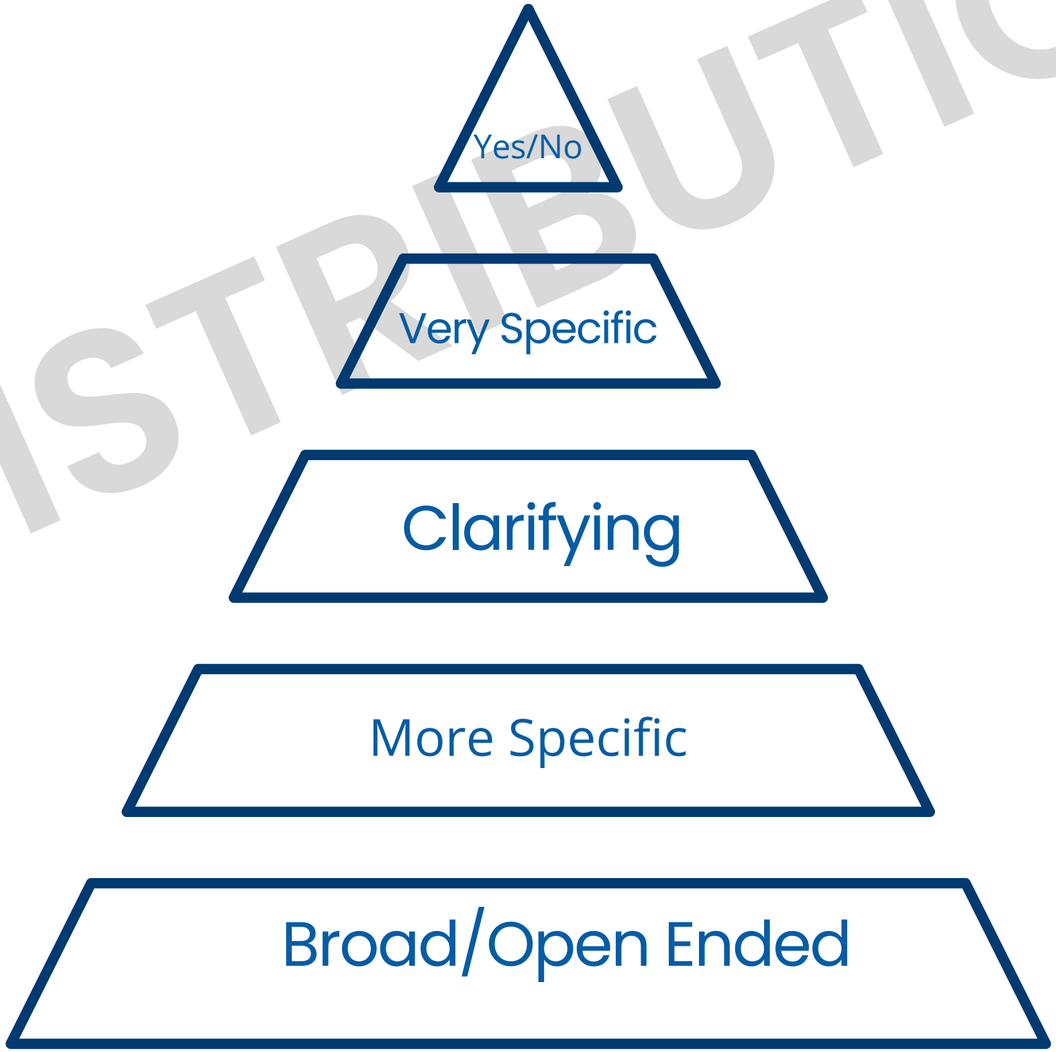


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Funnel Method v. Pyramid Method





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Questions in a discrimination case should seek to:

- Explain the reported conduct
- Establish protected-class nexus
- Address causation

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Civil Rights Questions to Ask

- Was the conduct connected to a protected characteristic?
- Was someone treated differently from a similarly situated person?
- Was equal access to employment or education affected?
- What did the institution know, and how did it respond?
- Is there evidence of discriminatory intent, harassment, or retaliation (except in disability rights matters)?

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The Formula for Questioning

Kindness + **Transparency** + **Patience**

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Let's Go Back to Our "Spaghetti" Fact Pattern

Questions for Complainant:

- Start with the story: What happened in the order you experienced it? What do you believe motivated those actions?
- Clarify the alleged protected activity.
- Non-renewal/retaliation: Why do you believe your reports were connected to the non-renewal?
- Sex Discrimination: Specific examples; compare to male employees. What made you believe this was related to sex?
- Disability/Neurodivergence: What did the principal know about your disability? What did you request? What was the response?
- Age discrimination: Specific examples; compare to older employees. What made you believe this treatment was related to age?
- Interference with Future Employment: Which positions did you apply for? Who do you believe interfered with your potential employment opportunities? What informs that belief?

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Questions for Respondent:

- Start with an open response: What is your understanding of the allegations? Describe working relationship with Complainant. What concerns did she raise? How did you respond?
- Student advocacy (alleged protected activity): How were concerns handled? Did you ever become frustrated with the frequency or nature of her reports? Did her decision to use outside reporting channels affect your view of her? Did her advocacy play any role in the decision to non-renew?
- Non-renewal: What factors were considered? Ask the why without asking why.
- Communication/Sex discrimination: Point out what Complainant said and provide opportunity for response.
- Disability: When did you first learn of Complainant's disability? What did she request related to her disability? What was your response?
- Age: Did her age or perceived youth influence how you interacted with her? Were younger and older employees treated differently in similar situations?
- Future employment: Have you been contacted as a reference for Complainant? What was your response?

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When a party gives you spaghetti, do not immediately force it into the waffle.

First, understand the story, then ask the questions & determine which “square(s)” the fact belongs in.



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Challenging Witnesses / Parties

The "Hulk"





The Rabbit Chaser

The "Turtle"





The Big Reveal



The Reluctant Participant

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Note-Taking

- Detailed, but not so much that it slows down the interview
- Decide what is most important
- Extra person in the room?
  - Give notice and explain their role as note-taker
- Note taker vs. dual investigator
- Use quotations if possible
- Ask for a pause or clarification if necessary

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Part 4:

Gathering Evidence...

The importance of curiosity



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Establish the Protected-Class Connection

- Statements referencing a protected characteristic
- Different treatment of comparable individuals
- Stereotypes or coded language
- Patterns involving members of the same group
- Departures from normal procedures
- Shifting or inconsistent explanations
- The timing of the decision or conduct



Key question: *Would the same thing have happened if the person did not possess the protected characteristic?*

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Types of Evidence

- Comparator Witnesses
- Performance Reviews
- Personnel File
- Zoom Recordings
- Portals for grades



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Who is Actually a Comparator?

A comparator is someone sufficiently similar for the particular decision or conduct being investigated.

Ask:

- Same decision-maker or supervisor?
- Same job functions?
- Same type of conduct or alleged misconduct?
- Same qualifications or eligibility criteria?
- Same opportunity, program, course, or employment action?
- Are there differences that could legitimately explain the different outcome?



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If someone says “They treated ___ differently than they treated me”

Ask:

- What was different?
- What factors contribute to you believing this person is comparable?
- How do you know how the other person was treated?
- What evidence can test the comparison (records, rubrics, data, etc.)?
- What differences matter?

NOTE: A different outcome does not necessarily amount to discriminatory treatment. The investigation must explore whether similarly situated people were treated differently without a legitimate explanation for the distinction.

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What if the Party Does Not Identify a Comparator?

Do not stop at “Who was treated differently than you?”

- A party may not know
- The investigator may need to identify potential comparators through the record

The party identifies the concern. The investigator develops the evidence needed to test it.

However, do not search endlessly for a comparator just to prove or disprove discrimination. Ask, “Is comparator evidence reasonably available and materially useful to this allegation?”

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Comparator Pitfalls

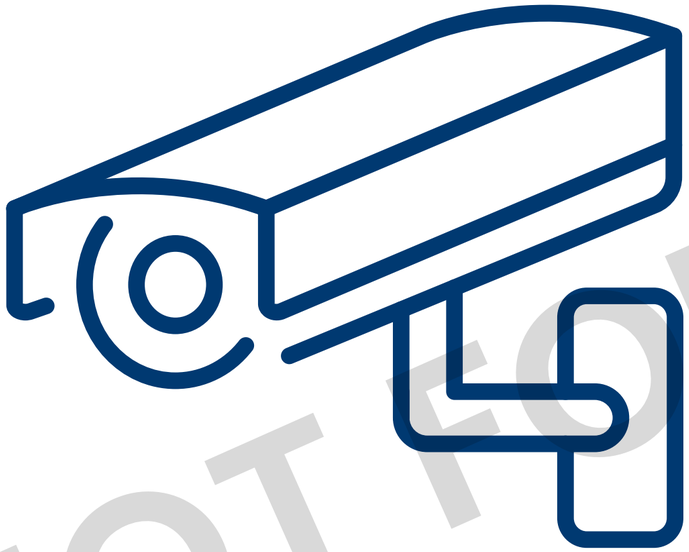
- Treating anyone outside the protected class as a valid comparator
- Comparing people with different reporting structures
- Ignoring differences in qualifications, conduct, or history
- Relying only on what the complainant has heard about another person's treatment
- Looking at only one comparator when broader data exists
- Assuming the absence of a perfect comparator means discrimination cannot be proven

Comparators are evidence, not a requirement in every case

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VIDEO QUESTIONS



- Do you have access?
- Who else has access?
- How long is it stored?
- Do you know how to save it?
- Does someone make sure all cameras are working regularly?

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Social Media

Facebook

Snapchat

Discord

Instagram

X- formerly known as Twitter

TikTok

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Burden

The burden on you to **ASK** for information. The burden is **NOT** on the party or witness to “offer it.”



- Do you have any voicemail or texts?
- Was anything shared on social?
- Did you email about this?
- Is there any geo-tracking?

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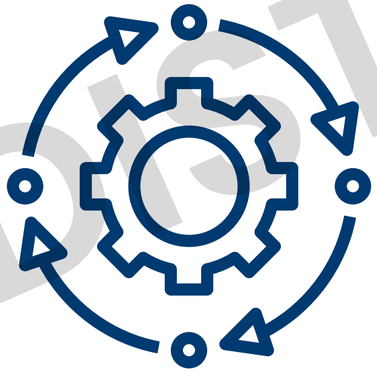
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Independent Investigative Actions -- Did the investigator...

Think outside the box 

 Make the phone call

Find the witness 



 Visit the location

Google the term 

 Take the photo

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Part 5:

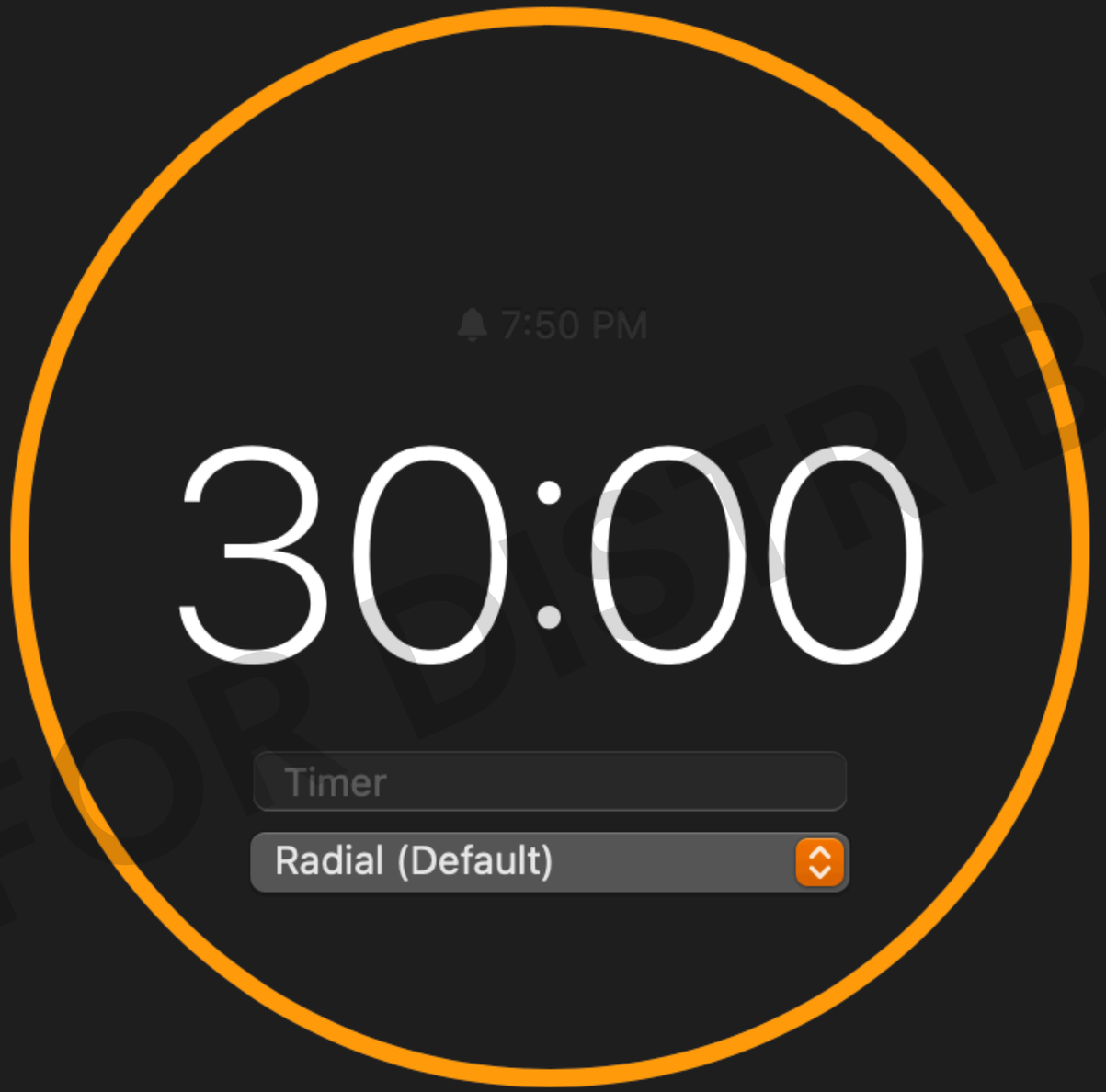
After the Meeting...

The importance of follow up



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DOCUMENTATION

- Clean up notes
- Save notes
- Save evidence collected
- Create to do list
  - Witnesses to connect with
  - Evidence to collect
  - Follow up meetings to schedule

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ASSESS SUPPORT NEEDS

- How was the party?
- Do they need additional support?
- Counseling? EAP?
- Academic support?
- No contact directives?
- Concerns about retaliation?

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Email Follow Up

Thank you



Any response or information needed from party

What was discussed



Opportunity to clarify

Next steps



Reminder about supportive measures

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SUSTAINABILITY PLANNING

If you were unable to continue with the investigation starting tomorrow, would the person picking up the file know what had been done and what is left to do?

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Part 6:

Identifying & Interviewing Witnesses...

The importance of understanding relationships



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Who are the witnesses and who identified them?

- Witnesses identified by the Complainant
- Witnesses identified by the Respondent
- Witnesses identified by you
- Witnesses identified by other witnesses

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MOST IMPORTANT QUESTIONS

- How do witnesses know the Complainant?
- How do Witnesses know the Respondent?
- How do witnesses know the other witnesses?

How long?

In what capacity?

Describe your relationship with them

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Part 7:

Building Your File...

The importance of organization



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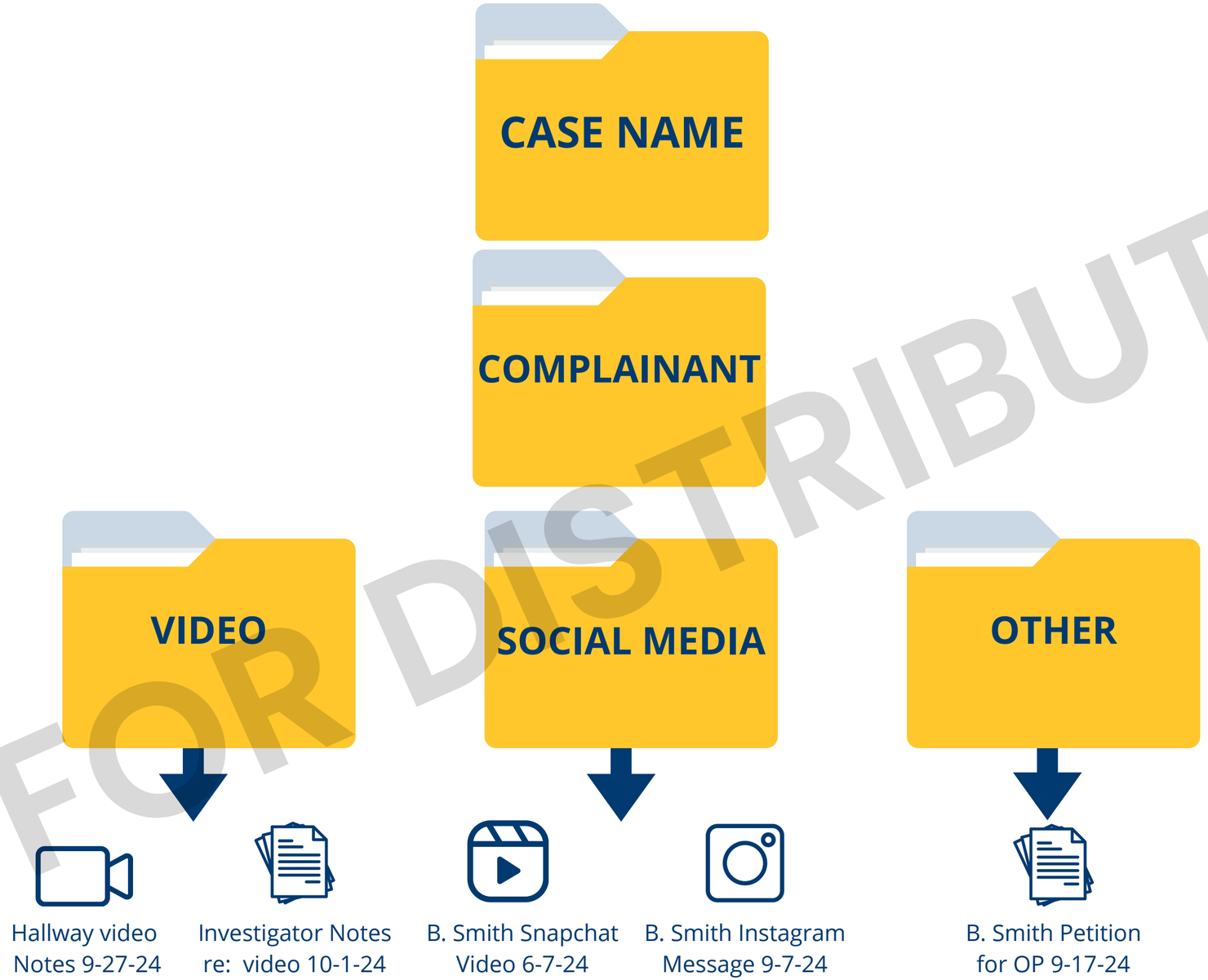
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CREATE A FILE



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INCLUDE YOUR WHY!

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Part 8:

Report Writing…

Compiling, considering, and weighing the evidence



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Organization



Easy to Follow, Clear, Concise

Can the reader follow the report and understand who reported/said what?



Roadmap for the Decision-Maker

This report will guide the Decision-Maker, help them ask questions, and provide a roadmap for their process



Includes the Basics

Assume the reader knows NOTHING



Reviewed by Colleague

Trusted counterpart



Consistent but Not Identical

There is room for a little flexibility

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LANGUAGE MATTERS

- Notice
- Determination
- Respondent
- Complainant
- Preponderance
- Formal Complaint
- Responsible
- Decision-maker



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Who is your audience?



Judge



Family

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The ART of Summarizing

- What is important?
- What is relevant?
- What is outside the scope?
- What needs to be quoted?

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Organization is Key

- By party/witness?
- By time/chronological?
- By event?

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Let's Revisit our "Spaghetti" Fact Pattern

How should that report be organized?

What we don't want:

Complainant
→ everything she said
Respondent
→ everything he said
Witness 1
→ everything she said
Witness 2
→ everything he said

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The Report Must Connect Evidence to Each Element

A strong report should:

- State each allegation separately
- Identify the applicable standard
- Distinguish disputed and undisputed facts
- Address credibility and conflicting evidence
- Analyze comparators and protected-class evidence
- Evaluate the institution's notice and response
- Consider plausible nondiscriminatory explanations
- Apply the burden of proof consistently
- Explain why the evidence does—or does not—establish each element

The conclusion should follow from the analysis —not appear for the first time at the end

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Instead, Organize the “Spaghetti” Based Upon Each Issue Raised

Issue: Non-renewal / Retaliation

Complainant:

- Raised protected concerns
- March 20 meeting
- Non-renewed approximately one week later
- No prior discipline
- Believed timing demonstrated retaliation

Respondent:

- Denied retaliation
- Identified instructional-fit explanation
- Said supervising administrator recommended non-renewal

Supervising Administrator:

- Confirmed she recommended non-renewal
- Identified instructional/coaching concerns
- Produced contemporaneous HR documentation regarding timing

Other Witnesses:

- Corroborated protected advocacy
- Some questioned timing
- Lacked firsthand knowledge of decision-making

NOTE: The reader should not have to conduct the investigation again. Put the competing evidence next to each other.

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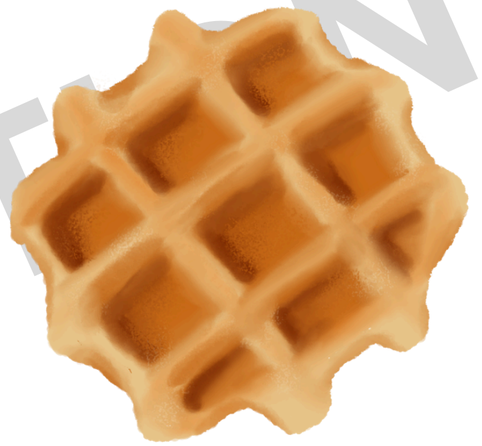
Spaghetti comes in as:

- Facts
- Feelings
- Conclusions
- Suspicions
- Protected classes
- Workplace history
- New information
- Changing theories

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The Investigator Creates The Waffle By:

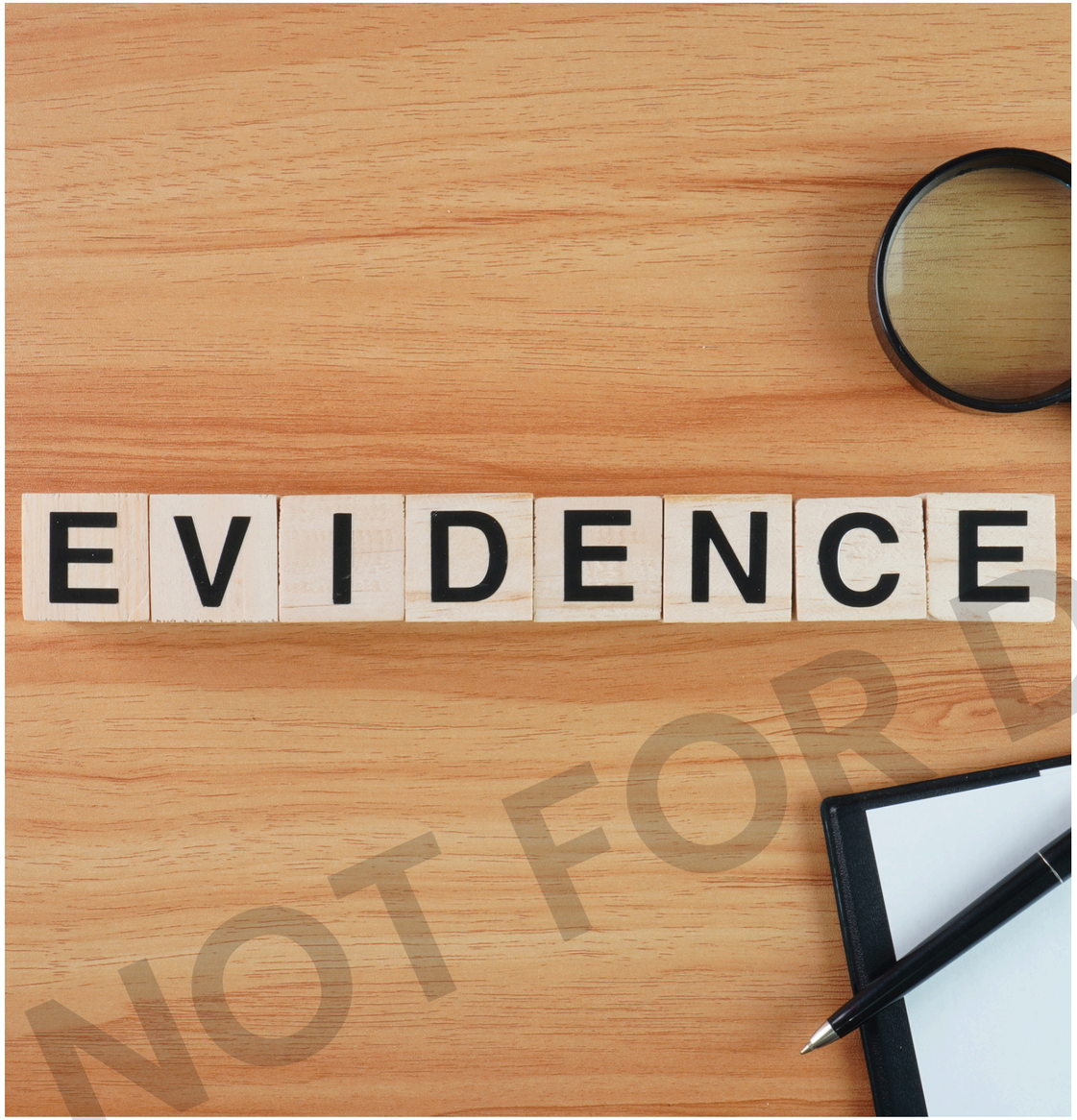


- Defining each allegation
- Updating scope when necessary
- Separating allegations from supporting facts
- Organizing evidence by issue - not by witness
- Distinguishing firsthand evidence from speculation
- Comparing contemporaneous documents against later recollections
- Considering evidence both for and against the allegation
- Applying the standard of proof separately to each allegation

Our job is not to make the spaghetti disappear.
Our job is to organize it well enough that someone else can understand how we reached each finding.

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Now Weigh It — Don't Just Summarize It

- Evidence supporting the allegation
- Evidence weighing against the allegation

Which evidence tells us what people perceived?
Which evidence tells us why the decision was made?

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Important Report Elements

- Protected class information for parties and witnesses
- Relationships of parties and witnesses
- Correct terms according to policy
- Procedural information and relevant timelines
- Jurisdictional assessment if needed
- Standard of proof properly explained
- Clear analysis based on established facts
- Recommendations (when appropriate)

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OTHER REPORT MUST HAVES

- Page numbers
- Footnotes?
- Timeline(s)
    - Investigation
    - Events
- Appendix/Attachments WITH PAGE NUMBERS
    - Table of Contents for appendix/attachments



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Part 9:

Delivery of the Report...

The importance of support



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The delivery of the report can be traumatic

- Witnesses may say things that are surprising to the parties
- Changing the trajectory of individual's lives



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WRAP AROUND SUPPORT



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Considerations

- **WHAT IS THE BEST WAY TO DELIVER THE REPORT**
- **ARE THERE SUPPORT RESOURCES IMMEDIATELY AVAILABLE**
- **DO YOU NEED TO PROVIDE A HEADS UP THAT IT IS COMING**
- **NEXT STEPS**
- **APPEAL OPTIONS**

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HELP US HELP YOU

Please fill out the survey.

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THANK YOU

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