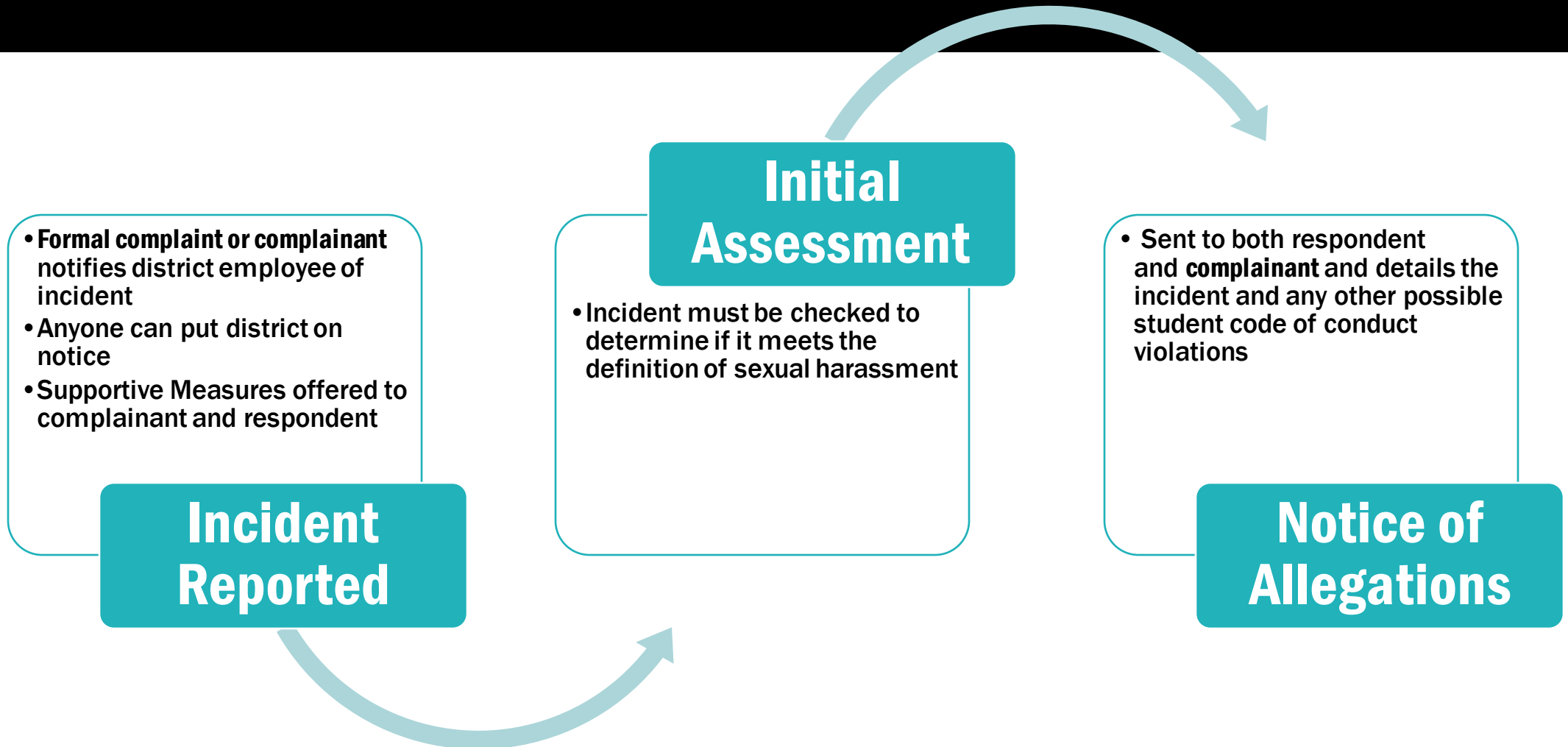


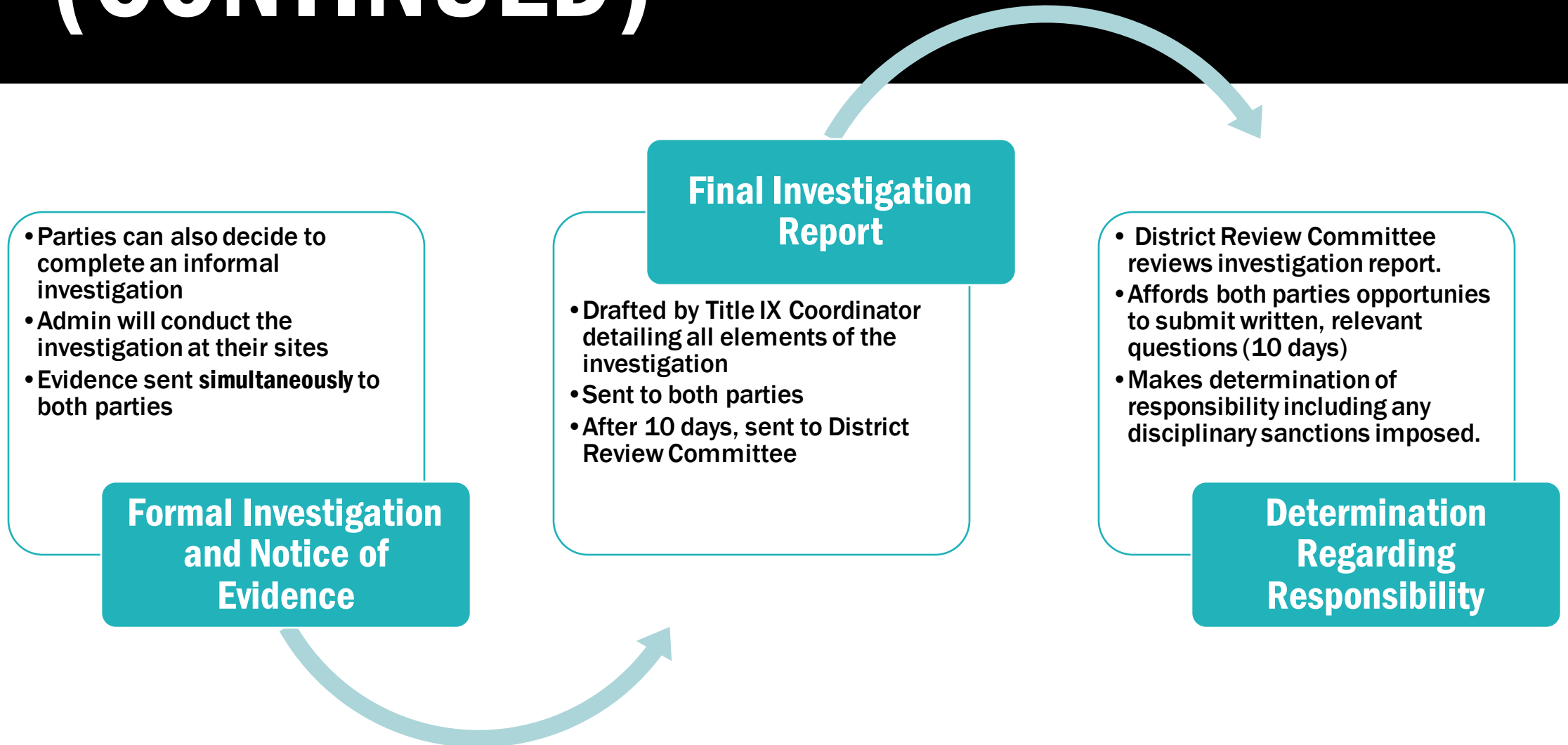
# **TITLE IX DECISION-MAKER TRAINING**

**Davis School District  
Educational Equity**

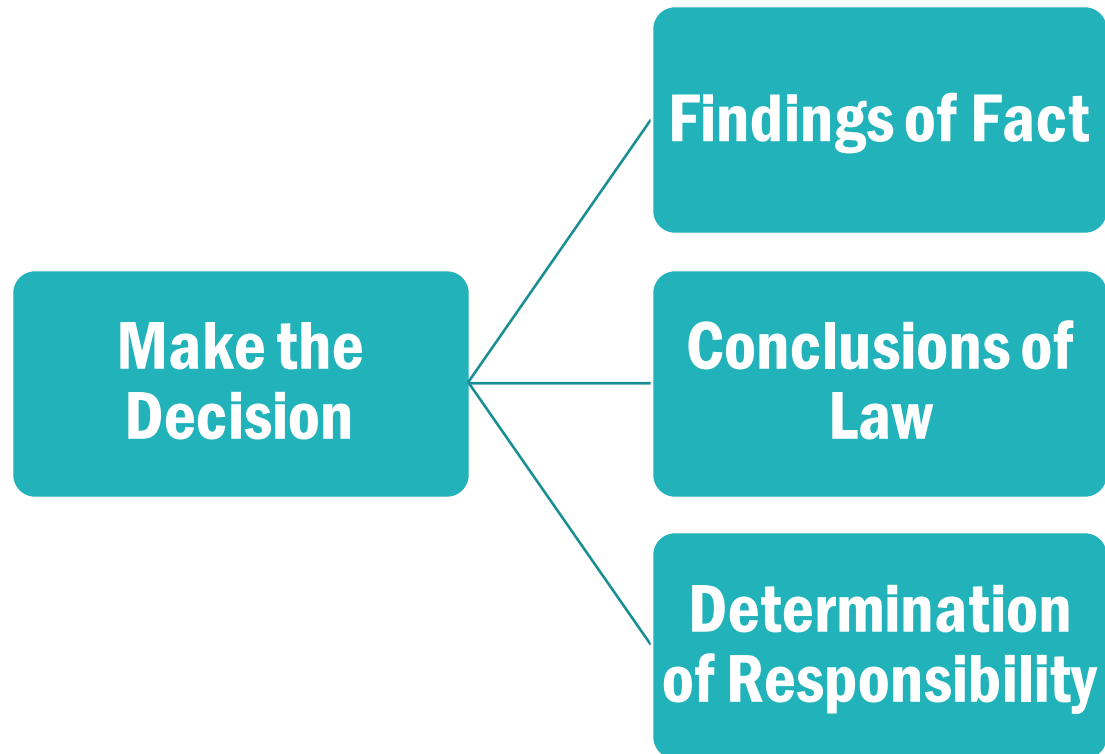
# TITLE IX GRIEVANCE PROCESS



# TITLE IX GRIEVANCE PROCESS (CONTINUED)



# THE DECISION-MAKERS RESPONSIBILITY



- **PRIMARY RESPONSIBILITY:**  
Determine whether a respondent is *RESPONSIBLE* or not for engaging in sexual harassment.
- To do this, you must determine:
  - Are the allegations raised by the complainant true?
  - If they are true, do they amount to a violation of the LEA's sexual harassment policy?

# CROSS EXAMINATION



# RELEVANCE

- **Relevance means something that has probative value (the ability of a piece of evidence to make a relevant disputed point more or less true).**
- **Directly Related Evidence: evidence connected to the complaint but is not inculpatory or exculpatory, and/or which is explicitly excluded by the regulations.**

# RELEVANCE (CONTINUED)

- Evidence of the complainant's prior sexual behavior is explicitly and categorically not relevant except:
  - When it is offered to prove that someone other than the respondent committed the alleged conduct
  - When it concerns specific incidents of the complainant's sexual behavior with respect to the respondent and is offered to prove consent.

# EXAMPLES OF POTENTIALLY RELEVANT QUESTIONS

**From Respondent  
to Complainant**

- **How many times have you been disciplined for lying?**

**From Complainant  
to Respondent**

- **Weren't you suspended three times this year for grabbing girls on the butt?**



# EXAMPLES OF IRRELEVANT QUESTIONS

## From Respondent to Complainant

- How many sexual partners have you had?
- Isn't it true that you have a reputation for being the school slut?
- What color shirt were you wearing?

## From Complainant to Respondent

- How many times have you been disciplined for smoking?
- Where do you live?

# ASSESSING CREDIBILITY

## Corroboration

- Aligned testimony and physical evidence

## Inherent Plausibility

- "Does this make sense?"
- Beware of bias

## Motive to Falsify

- Do they have a reason to lie?

## Past Record

- Is there a history of similar behaviors?

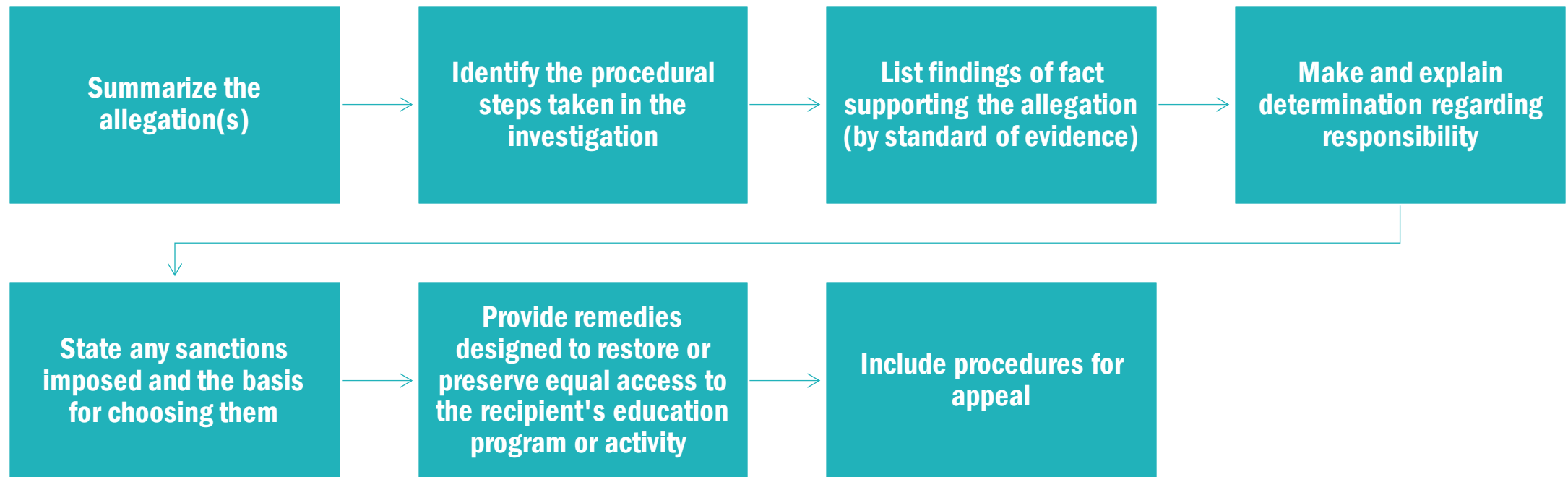
## Demeanor

- Do they seem to be lying or telling the truth?

Enforcement  
Guidance on  
Vicarious Employer  
Liability for  
Unlawful  
Harassment by  
Supervisors

EEOC (1999)

# FINAL DETERMINATION COMPONENTS



# DRAFTING THE RATIONALE FOR DETERMINATION AND SANCTIONS

- Appoint a writer from the panel to draft the rationale.
- All members of the Decision-Making Committee should review and sign off on the final version of the report.
- The rationale can/should be *reviewed* by the Title IX Coordinator or legal counsel prior to issuance.

# DRAFTING THE RATIONALE FOR DETERMINATION AND SANCTIONS

- Don't issue dissents or indicate what the vote was.
- Commonly 1-15 pages in length, depending on complexity.
- Write in active voice.
- If more than one respondent, write a separate rationale for each one.
- Don't just cut and paste the rationale from the investigation report (biased).
- Include a rationale for each policy violation.
- Decision Making Committee must arrive at the rationale independently and impartially.

# TIPS FOR BIAS-FREE WRITING

1. Know your own biases
2. Focus on what's relevant
3. Recognize and acknowledge differences
4. Avoid Labels: Describe identities and group connections as the individuals have described them
5. Use nouns, objectives, and adjectives properly: Avoid using language that refers to people in objectifying ways
6. Specificity is preferred over generalization
  - Example: Avoid using “students of color” generally when you are really referring to a specific racial group

# KEEP YOUR AUDIENCE IN MIND

**Title IX  
Coordinator or  
legal counsel**

**The parties  
(and their  
advisors)**

**Parents/  
guardians**

**Office of Civil  
Rights**

**Reporters**

**Judges/ Juries**

**The public**