

2025 Title IX Summer Summit

Investigator and Adjudicator Breakout

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*Presented by Church, Church, Hittle + Antrim
July 24, 2025*



Session Road Map

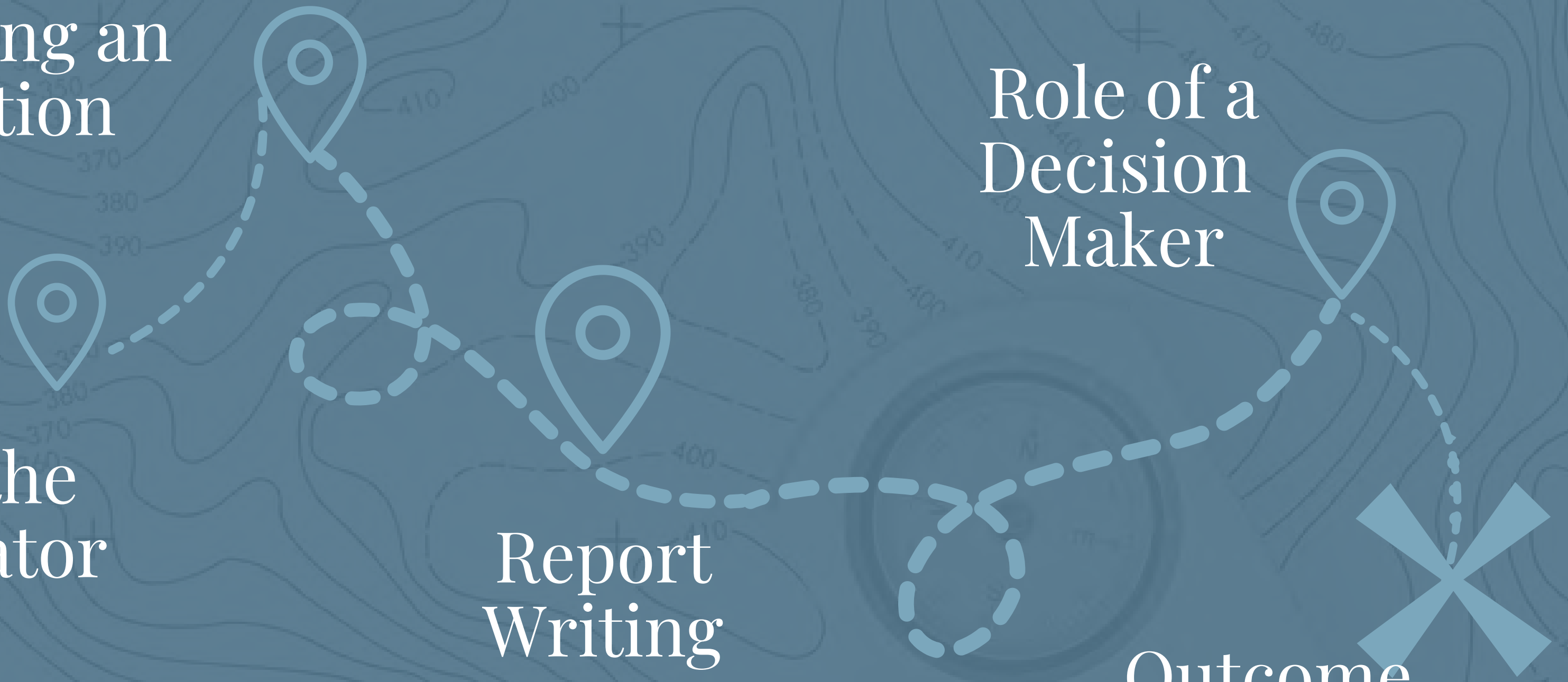
Conducting an investigation

Role of a
Decision
Maker

Role of the
Investigator

Report
Writing

Outcome
Letters



Stages of a Title IX Case



IV. INVESTIGATION

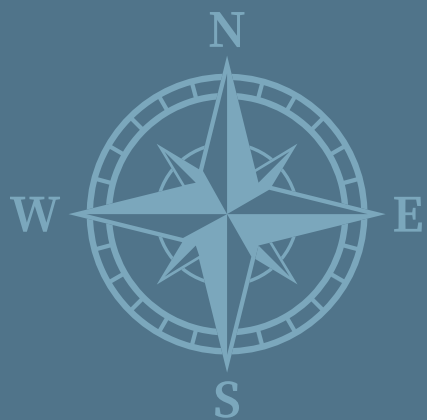
**III. SIGNED FORMAL
COMPLAINT**

II. INITIAL INTAKE

I. REPORT

Role of an Investigator

- Conduct prompt, thorough, fair, equitable, and impartial investigation
- Make thorough search for relevant facts + evidence sufficient for adjudicators to reach a determination
- Effectively organize documents + develop comprehensive investigation file
- Prepare preliminary evidence report and final investigation report
- Provide testimony at hearing related to investigation



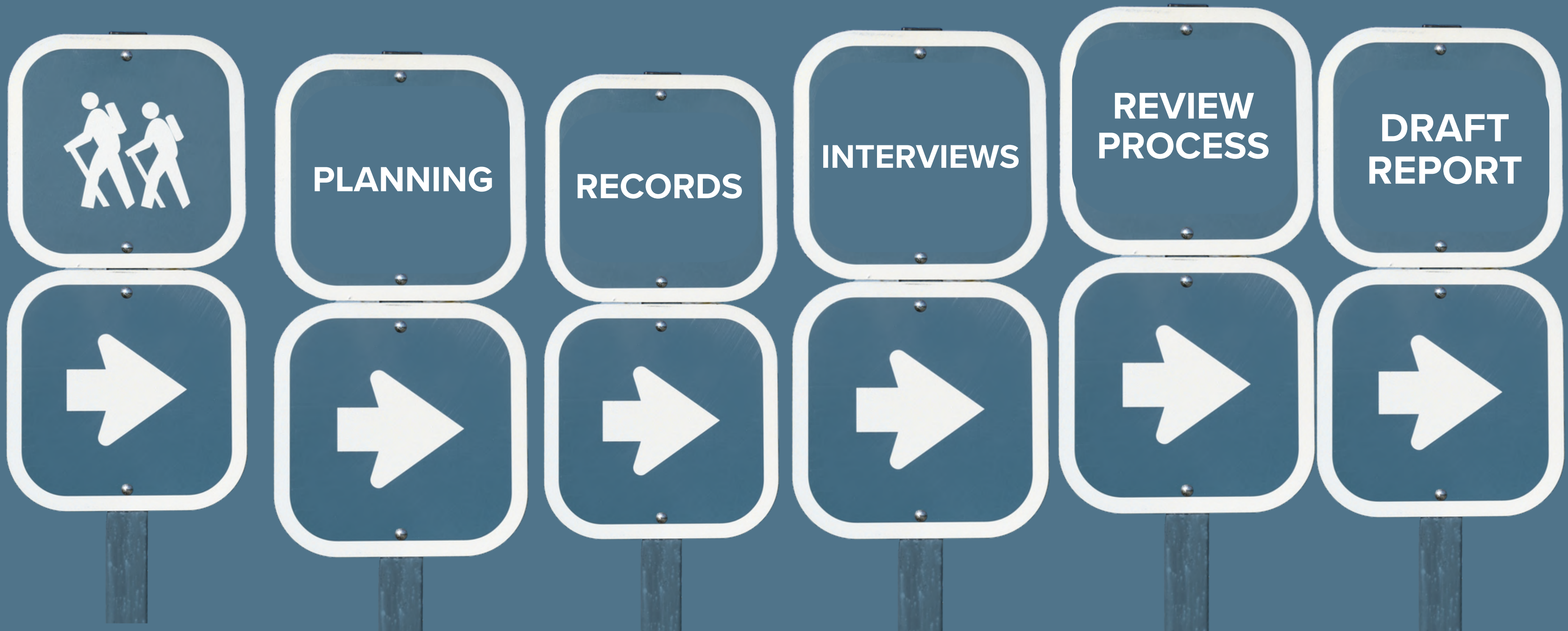
Investigate to find relevant facts, not make outcome determination.

Qualifications of an Investigator

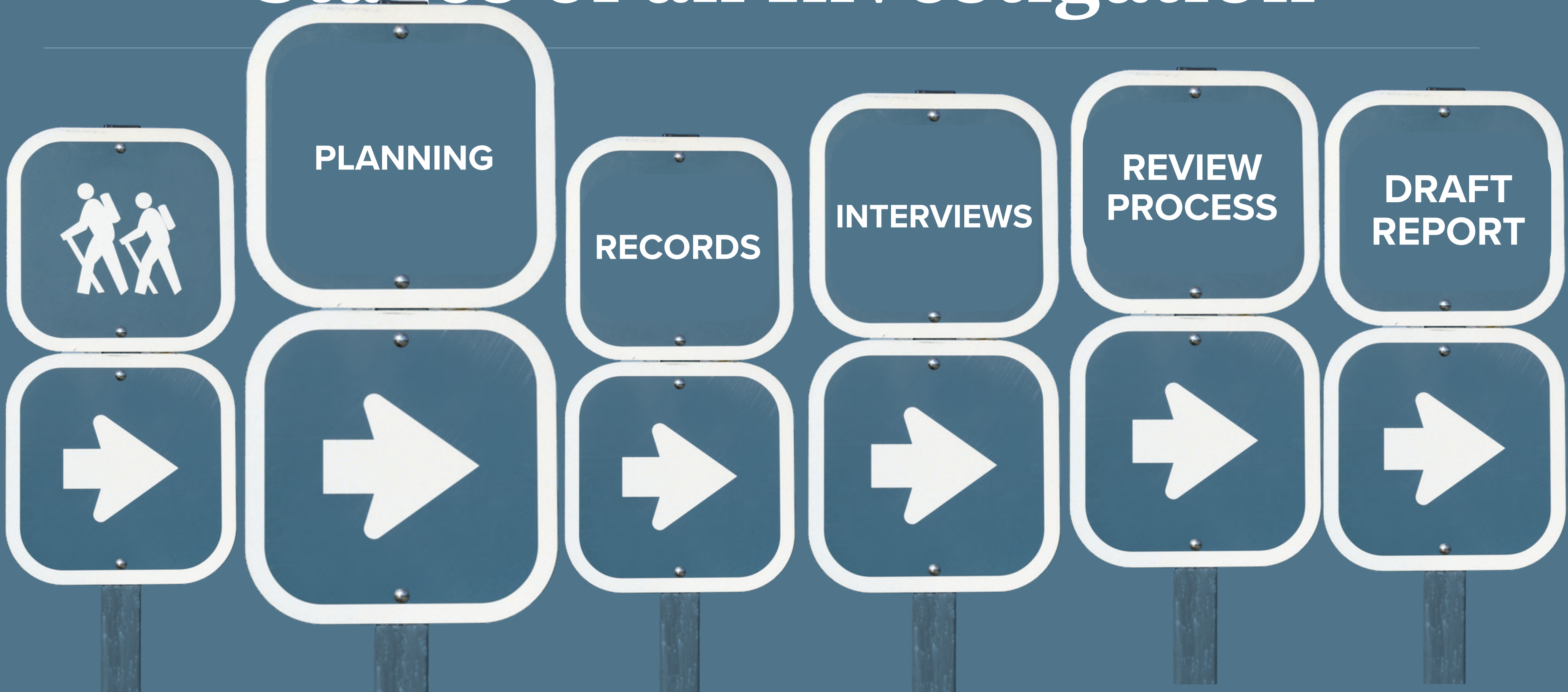
- Internal or external to institution
- Appropriately and regularly trained
- Not adjudicator
- Respectful of privacy
- Of appropriate temperament
- Able to engender trust
- Capable of balancing sensitivity and directness
- Free from bias and conflict of interest



Stages of an Investigation



Stages of an Investigation



Planning an Investigation

- Review Notice of Allegations and other information provided by Title IX Coordinator
- Review applicable policies
- Understand the elements of the alleged policy violation, and definitions such as consent if at issue
- Create communication log and evidence log
- Create an investigation plan



Investigation Plan:

Records

- Text messages and E-mails
- Social Media
- Video Recordings/Surveillance footage
- Medical Records
- Police Reports
- Photographs

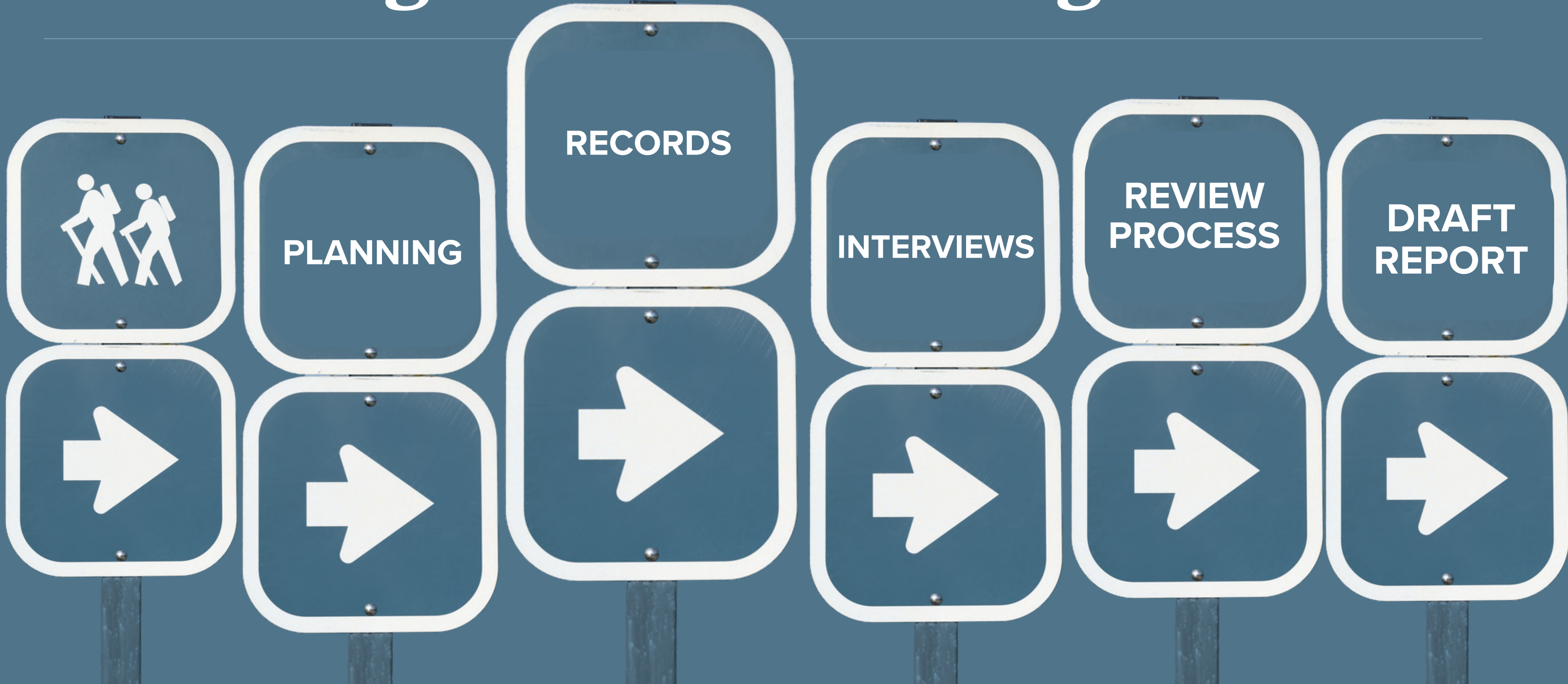


Investigation Log

- **Table or Maxient Entries**
- **What to Record**
 - **Attempts to contact witnesses**
 - **Responses and non-responses**
- **When?**



Stages of an Investigation



Records

What records do I need? Who is the custodian?

- **Attempt to receive actual record from the person who created it**
- **Consider contacting IT**
- **Timing is important**



Stages of an Investigation



Scheduling Interviews + Advisor Participation

- Request interviews – usually via email – provide sufficient notice for party to prepare, include dates and times
- Once confirmed, send email with date, time, location, and what they should bring to interview
- Since advisors may accompany parties, confirm advisor participation + inform of advisor's role (supportive, cannot answer for party, non-disruptive, potted plant)
- Consider procedure meeting with advisor prior to interview to discuss policy + expectations

Before the Interview

Set up or locate an appropriate space.

- Ensure a neutral, quiet, private setting
- Warm, inviting, calm
- Soft seating, blankets, pillows, rug, indirect lighting
- Tissues, water, fidget devices
- Noise cancellation



Preparing for the Interview:

Notes

- Who will interview?
- How will notes be taken?
- Will there be a recording?



Preparing for the Interview:

Interview Outline

- What information might this person have related to the elements of the allegations?
- Who has mentioned this person in their interview?
- What information could this person corroborate with a firsthand account?

Preparing for the Interview:

Opening Script

Examples of items to include in the opening script:

- Introductions and explanation of investigator's role
- Indicate date, time, place
- Have everyone in attendance introduce themselves
- Acknowledgment of recording, if applicable
- If virtual, confirm private location
- Relevant policy/amnesty policy/no retaliation
- Acknowledge potential difficulty of interview
- Invite questions regarding interview or process



Preparing for the Interview:

Closing Script

Examples of items to include in the closing script:

- List of evidence they've said they would provide; ask if any additional exists
- Witnesses they want you to interview + any others who might have information
- “Were there any questions you thought I would ask, but didn’t?”
- “Is there anything else you think I should know about what happened?”
- Reminder to reach out if they think of additional information later
- Ask if they have questions for you
- Explain next steps and thank them for participating



Starting the Interview

- **Goals:** learn the facts, gather evidence, establish a timeline, understand each party's perception of what happened
- **Understand this is an interview/relaxed conversation, not an interrogation**
- **Remember:**
 - **No obligation to participate**
 - **Discomfort and emotions may be extreme**

Starting the Interview

- Introduce yourself; thank them for meeting with you
- Explain the purpose of the meeting:
- Explain their rights
- Share available resources
- Provide options for proceeding
- Ask permission to record
- Explain terms you will use such as Complainant, Respondent, and policy violation
- Set expectations for privacy vs. confidentiality



Building Rapport

- Acknowledge how awkward, uncomfortable, and even painful this meeting may feel.
- Ask some easy, unrelated, introductory questions to allow them to begin to speak on topics that do not feel threatening (e.g., hometown, major, etc.).
- Remain neutral.



Conducting Effective Interviews

- Active listening skills - pay attention - not distracted / make eye contact / nodding / body language / not thinking of question while listening
- Mirror language used by the person you are interviewing, but find out what it means.

Example: You mentioned you and x “fooled around”, what does it mean to “fool around”?

Once you know what is meant, then you can use it.

Conducting Effective Interviews

- Clarify ambiguous language such as “had a few drinks,” “drunk,” “was acting strange,” “sex”
- Use medical/anatomical terms for clarification
- Let them tell their account of what happened first, without interrupting, then follow up with open ended questions, paraphrasing, and funneling
- Acknowledge hesitation or awkwardness as normal
- Ask to send evidence such as text messages during the interview; follow up with email

Interview Questions

What do you remember about that date?

**Do you remember if you
were with anyone?**

Were you with Janice?

Interview Questions

I heard you say ____.
Did I understand
that correctly?

Tell me about
_____.

Help me understand
what you meant
when you said _____.

What else can
you tell me
about that?





What if a party or witness provides false information during the investigation?

Conducting Effective Interviews

Do not:

- Ask compound, multiple choice, or leading questions
- Ask irrelevant questions out of curiosity
- Ask accusatory questions – “victim blaming” – “Why did you stay after? Why did not report the incident sooner? Why were you wearing that?”
- Say “I am sorry this happened to you. That’s too bad.” Instead, I understand this is difficult for you to talk about.
- Treat parties differently – use same techniques for both parties



Trauma-Informed Interviews

How does trauma affect interviews?

- Lack of accurate, detailed memory
- Inability to recall in linear or chronological memory; jumping around in retelling
- Inconsistencies across multiple accounts of incident(s)

How should this affect your view of Complainant or the validity of their complaint?

- Responses to trauma vary widely.
- Signs of trauma do not prove misconduct occurred.
- Lack of trauma does not indicate misconduct did not occur.

Trauma-Informed Interviews

Ask:

“What are you able to tell me?”

Relieves some pressure.

Ask sensory questions:

“What did you see, hear, smell...”

Explain reasoning behind difficult questions.

Addressing Inconsistencies

- Don't be accusatory; remain neutral
- Be explicit and direct; cite source of inconsistency
- “You said X but you previously said Y. Can you help me understand? Those seem like different responses.”





What if the advisor
answers questions?

After the interview



- Finalize interview notes
- *Update investigation plan*
- Follow up with document requests
- Refer to policy for appropriate next step



What do I do if a witness later asks for an update on the matter?

Concluding the Investigation

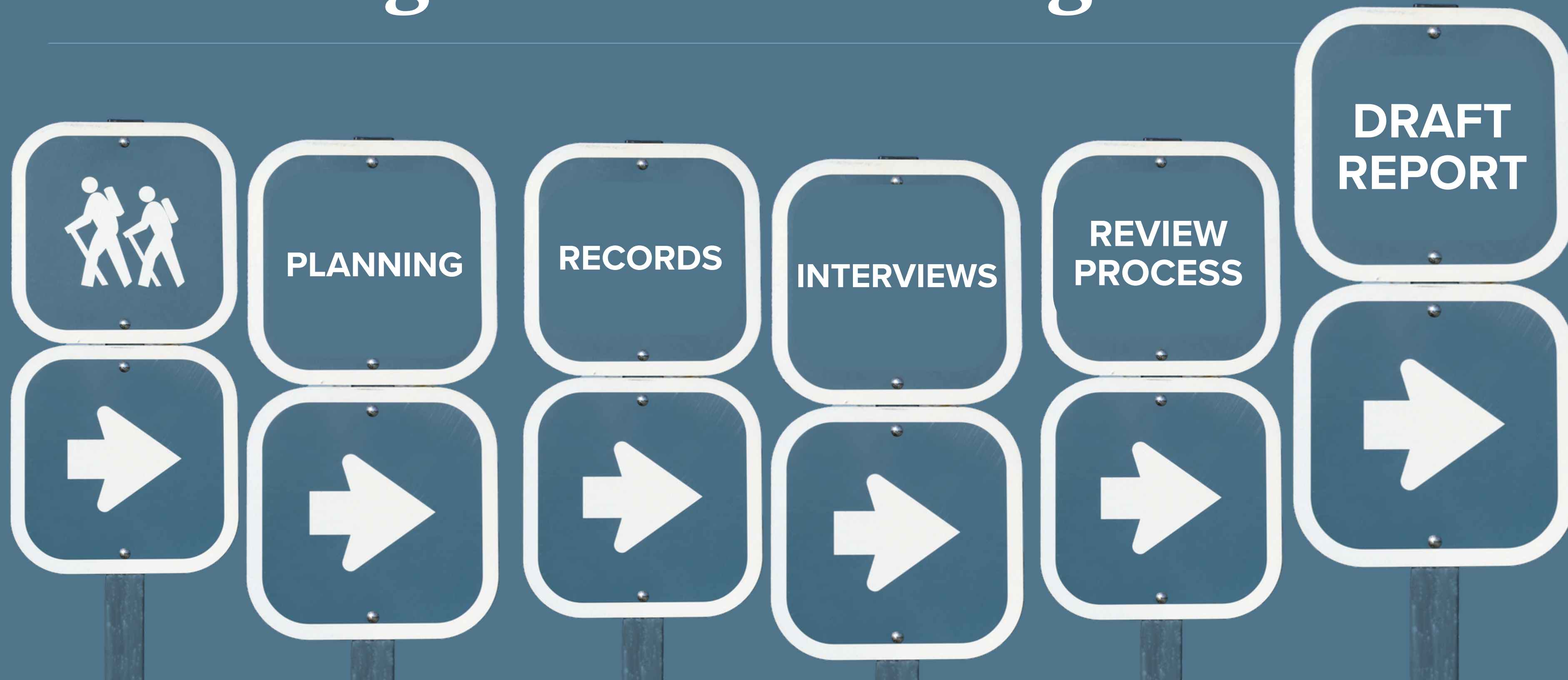
- Is there more relevant information needed to make a determination regarding any of the allegations?
- Is there sufficient information to make credibility determinations?
- Did I interview everyone suggested by the parties?
- Have the parties had the opportunity to respond to all records and allegations?



Stages of an Investigation



Stages of an Investigation



Drafting the Investigation Report

- The investigator may redact information that is not directly related to the allegation or that is privileged.
- Do not make findings or recommendations; that is the role of the adjudicators.



Distribution of Report

- Once the draft report is completed, it must be shared with the parties and their advisors.
- They will have at least 10 days to review the draft report and provide a written response.

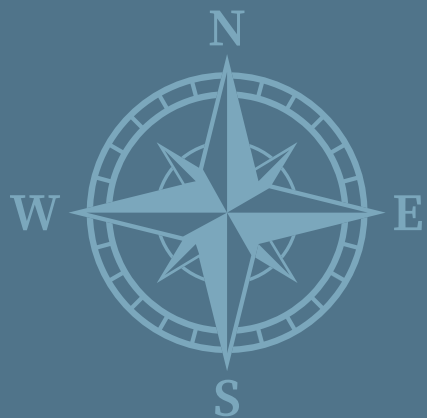
Updating, Finalizing + Submitting

- Investigator reviews comments from parties and decides if changes to the report, a response, and/or additional investigation is required
- Investigator updates report with any changes and/or additional evidence and finalizes the report - include responses to any comments from parties if applicable
- Final report is provided to parties for their review at least 10 days before the scheduled hearing

Role of the Decision Maker

The decision maker applies the standard of evidence to the relevant facts to make determinations regarding the allegations.

- Rely on undisputed facts
- Make credibility determinations for disputed facts



Cannot be the Title IX Coordinator

Role of the Decision Maker

Assessing Credibility

- Plausibility
- Internal contradictions
- Motive
- Patterns of behavior
- Corroborating information



What to Include in a Determination Report

1. Identification of the parties and jurisdictional elements
2. Identification of the allegations potentially constituting policy violation
3. Precise policy language defining elements of alleged violations
4. Description of procedural steps taken including all witnesses interviewed
5. Findings of fact supporting the determination
6. *Conclusions regarding the application of the policy to the facts*
7. *Determination for each allegation and the rationale for the finding;*
8. *Any disciplinary sanctions imposed including aggravating + mitigating circumstances warranting the sanctions imposed;*
9. *Procedures and permissible grounds for either party to appeal.*

Thank you!



Questions?

Feel free to reach out!



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