



Online Course

Title IX Coordinator Training

Module 3: Receiving a Report

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Submodules

What's a report? What's our obligation with respect to reports?

How should I reach out to a potential complainant? What should I cover in an intake meeting?

What are supportive measures?

When should the Title IX Coordinator initiate a complaint?



Submodule 1

**What's a report? What's our
obligation with respect to
reports?**

What constitutes a report?

- Notice to the institution of alleged sex discrimination in its education program or activities
 - Can be oral or in writing
 - Notice triggers a response from the institution (via the Title IX Coordinator)

Alleged by whom?

Notice to whom?

Alleged by whom?



Student



Employee



Visitor?



Stranger?

Any other person who was participating or attempting to participate in the P&A at the time of the conduct.

2020 Regs v. 2024 Regs

- *Actual knowledge* no longer is the sole factor triggering notice and a school's response obligation.
- Instead, all employees – even confidential employees – must do something when they become aware of conduct that may constitute sex discrimination.
- Much broader than officials with authority to institute corrective measures under the current regulations.

Employee Notification Requirements (under 2024 Final Rule)

Notify Title IX Coordinator

- Any employee with authority to institute corrective measure on behalf of recipient
- Any employee with responsibility for administrative leadership, teaching, or advising

Notify Title IX Coordinator or Provide Reporting Information

- All other employees who are not confidential employees

*Do not apply to an employee/student who has personally been subject to possible sexual discrimination.

Notification Requirements

Confidential Employee means:

1. An employee whose communications are privileged or confidential under state/federal law.
2. An employee designated as confidential by the school.
3. Researchers who are conducting IRB approved human research on sex discrimination- only applies to information while conducting research.

*For 1 and 2, the employee's confidential status is limited to information received about sex discrimination in connection with providing those services.

Notification Requirements

Confidential Employees must explain to person disclosing the conduct that may be sex discrimination:

- They are confidential employees and not required to notify TIX Coordinator;
- How to contact TIX Coordinator and how to make a complaint; and
- That the TIX Coordinator may be able to offer and coordinate supportive measures.

Notification to Certain Categories of Employees Triggers Response Obligations

Employees with authority to institute corrective measures



Administrative leadership, teaching, or advising

All other employees



Notification That Does Not Trigger a Response Obligation

- Confidential Employees
 - Employees subject to applicable Federal or State law privilege;
 - Employees recipient has designated as confidential; or
 - Employees who conduct IRB-approved research.
- Public Awareness Events
 - Held on campus or through an on-line platform sponsored by institution;
 - Notification requirements still apply to employees, but the Title IX Coordinator's obligations would not apply

Title IX Coordinator Response Obligations: 2020 Regs

106.44(a) - Recipient's Response to Sexual Harassment

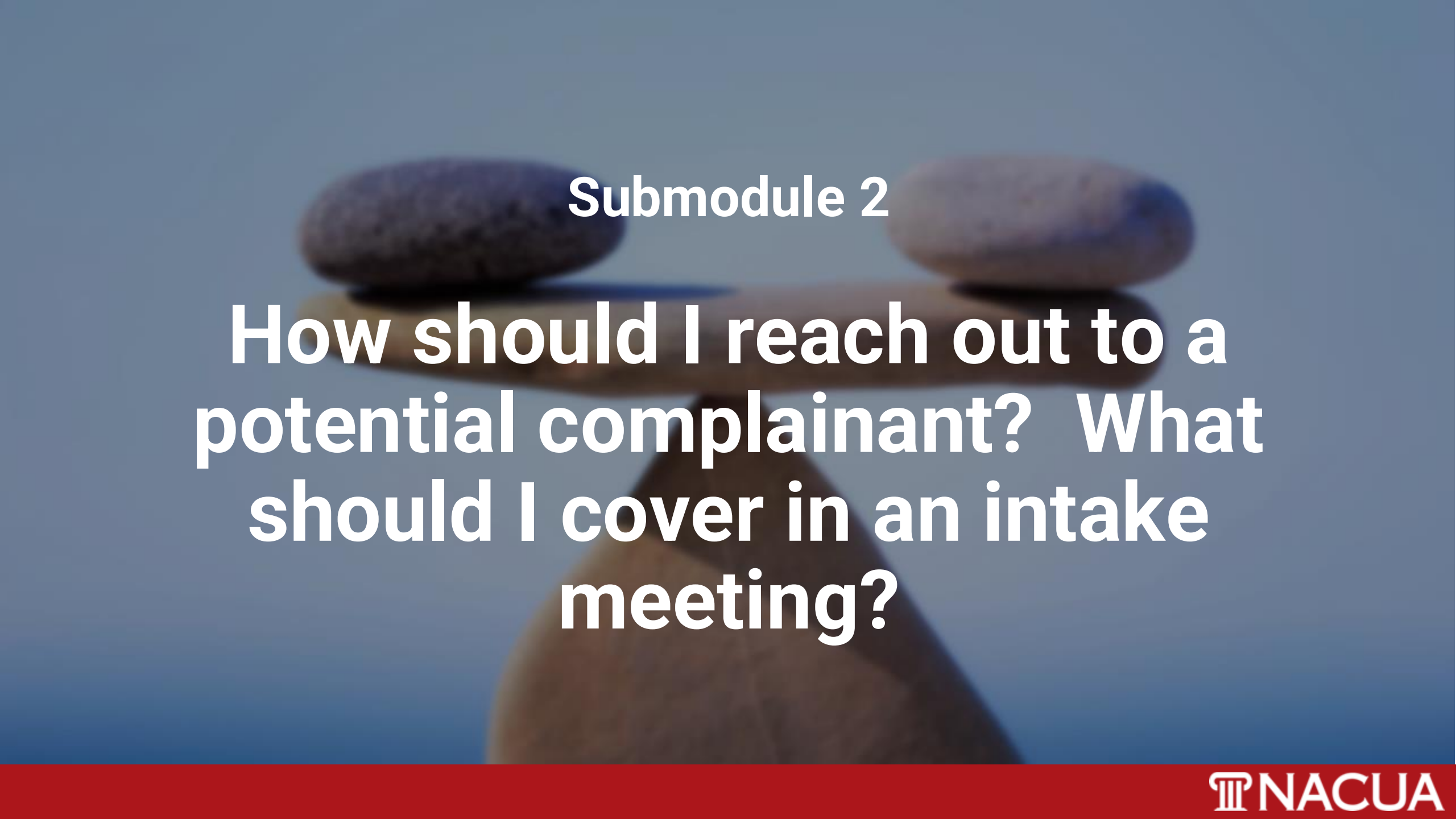
- Treat complainant and respondent equitably by offering supportive measures
- Explain to the complainant the process for filing a complaint



Title IX Coordinator Response Obligations: 2024 Regs

106.44(f) - Notice Requirements for a TIXC

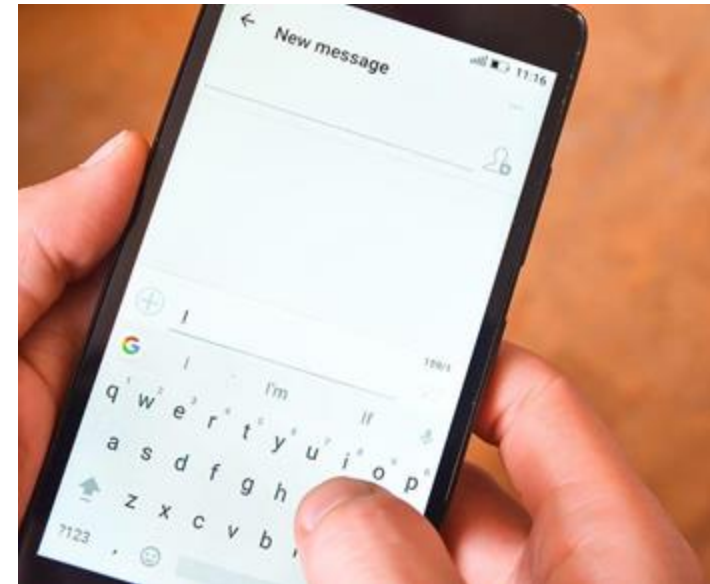
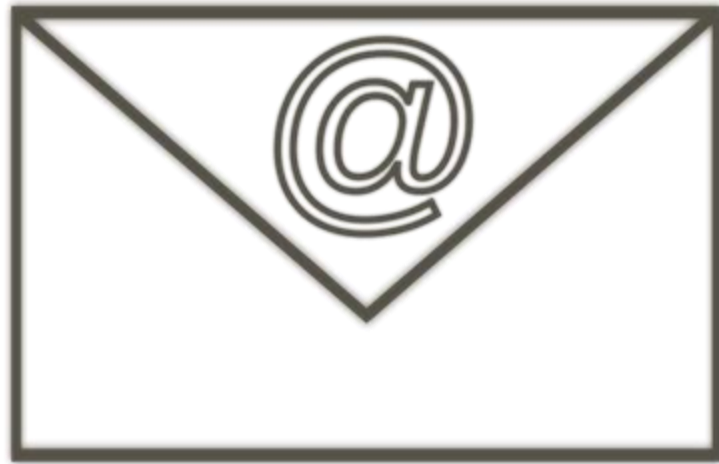
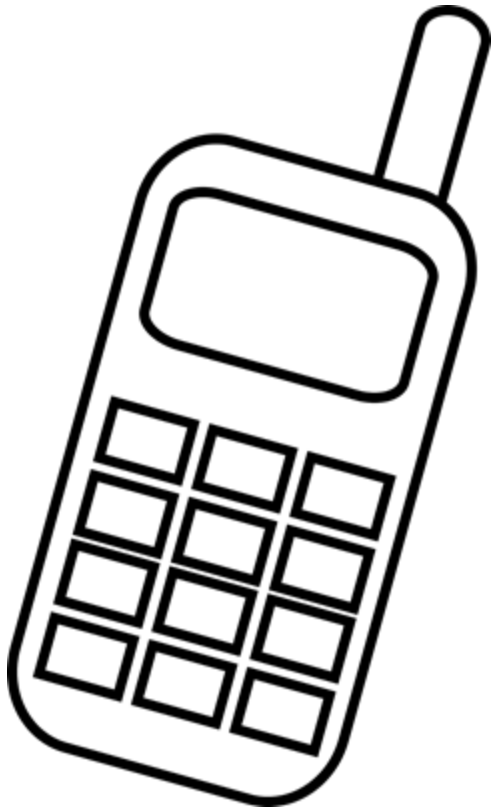
- Treat complainant and respondent equitably
- Notify complainant of grievance procedures
- If complaint made, notify respondent of grievance procedures
- **Offer/coordinate supportive measures**
- If complaint made, initiate grievance or IR procedures
- If no complaint made, determine whether to initiate a complaint
- Take other “appropriate prompt and effective” action to ensure that sex discrimination does not occur or recur (including remedies for the complainant)
- * If TIXC reasonably determines that the alleged conduct could not constitute sex discrimination under TIX, then these requirements do not apply



Submodule 2

How should I reach out to a potential complainant? What should I cover in an intake meeting?

Initial Outreach: Mode



Initial Outreach: Information to be Conveyed

- Who you are and your role
 - Why you are reaching out
 - What you want to discuss
-
- Link to website with information about resources?
 - Will there be another outreach?
 - Alternative places to seek support/resources?
 - Subject line?

Initial Outreach: Information to be Conveyed

- Who you are and your role

“My name is Bindu and I am the Title IX Coordinator here at the College. I am here to assist community members who may have been affected by [sexual harassment, sexual misconduct, interpersonal violence].”

- Why you are reaching out

“I received information from your [RA/faculty member] that you may have experienced [broad description of conduct].”

- What you want to discuss

“If you are interested, I welcome an opportunity to meet with you to discuss resources and reporting options to ensure that the College is a place where you feel supported.”

What if you get no response?

Situations with limited information

- Consider a follow-up outreach [2 weeks?] later
- Review existing information to determine if action is necessary even without a complaint (education? campus message?)
- Clery report?

Situations leading to a TIXC-initiated complaint

- Follow-up with would-be complainant to explain the process being initiated and offer an opportunity to participate and/or meet with you to discuss their concerns
- Clery report?

Initial Meeting

Guidance from the 2024 Regs

- Notify complainant of grievance procedures
- Offer/coordinate supportive measures
- If complaint made, initiate grievance or IR procedures
- If no complaint made, determine whether to initiate a complaint
- Take other “appropriate prompt and effective” action to ensure that sex discrimination does not occur or recur (including remedies for the complainant)



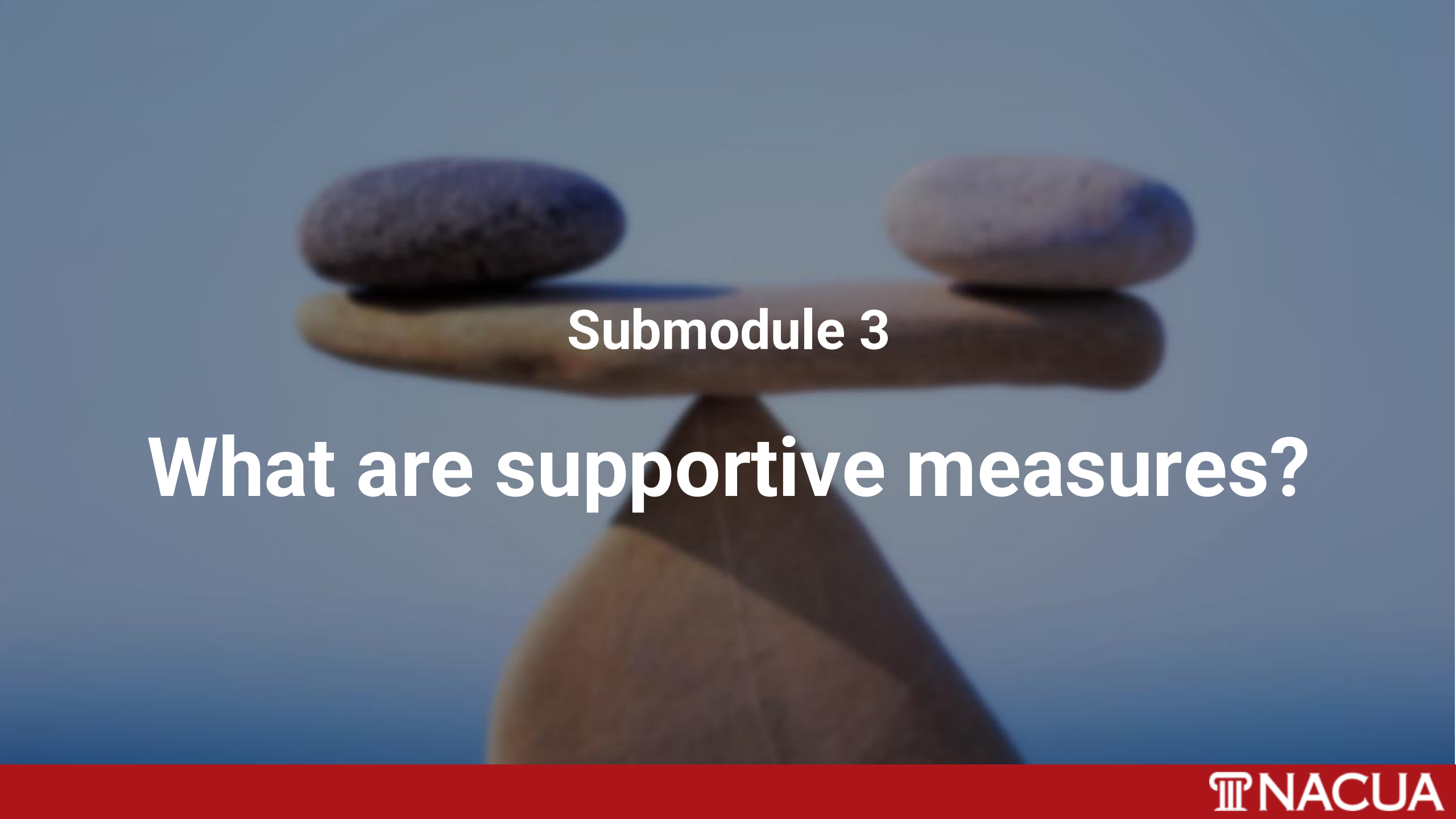
Initial Meeting

- initial meeting ≠ investigative interview
- support person is welcome
- assure individual that resources/supportive measures are available even without a complaint
- assess safety
- students: academic or extracurricular concerns?
- employees: schedule or work location concerns?
- discuss supportive measures
- discuss logistics of following up
- document/notes of meeting



Follow-up after Initial Meeting

- Follow-up email summarizing options provided
 - Discuss a rough timeline for deciding on next steps
- Are check-ins necessary/wanted?
- Assess whether new information changes TIXC-initiated complaint analysis
- Assess whether other measures are necessary to “ensure sex discrimination does not occur or recur”
- Clery report?
- Implement supportive measures



Submodule 3

What are supportive measures?

Definitions

2020 Regulations: § 106.30

Supportive measures means nondisciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity **without unreasonably burdening the other party**, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment.

2024 Regulations: § 106.2

Supportive measures means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- (1) Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or
- (2) Provide support during the recipient's grievance procedures under § 106.45, and if applicable § 106.46, or during the informal resolution process under § 106.44(k).

“Unreasonably Burden”

§ 106.44(g)(2)

“Supportive measures must not unreasonably burden either party...”

But the Preamble clarifies this language, *supportive measures can now burden both complainants and respondents, but neither party can be unreasonably burdened*

- The fact that a measure is burdensome does not determine whether it is a supportive measure or a disciplinary measure.
- The Department expects schools to engage in a fact-specific inquiry to determine whether supportive measures constitute a reasonable burden on parties.

So, can we impose involuntary changes in class, work, housing, or extracurricular activities?

Emergency Removal ≠ Supportive Measure



Examples of Supportive Measures

- Counseling services
- Academic accommodations
- Schedule modifications
- Campus escort services
- Contact restrictions
- Changes in working conditions
- Changes in housing
- Leaves of absence
- Increased security and monitoring of campus areas
- Training and education programs related to sex-based harassment
- Other similar measures

Potentially Sticky Issues

Privacy around supportive measures

The recipient will maintain as confidential any supportive measures provided to a complainant or respondent, to the extent possible.

Mutual or Non-mutual Contact Restrictions

2024 Final Rule allows for “restriction on contact applied to one or more parties.”



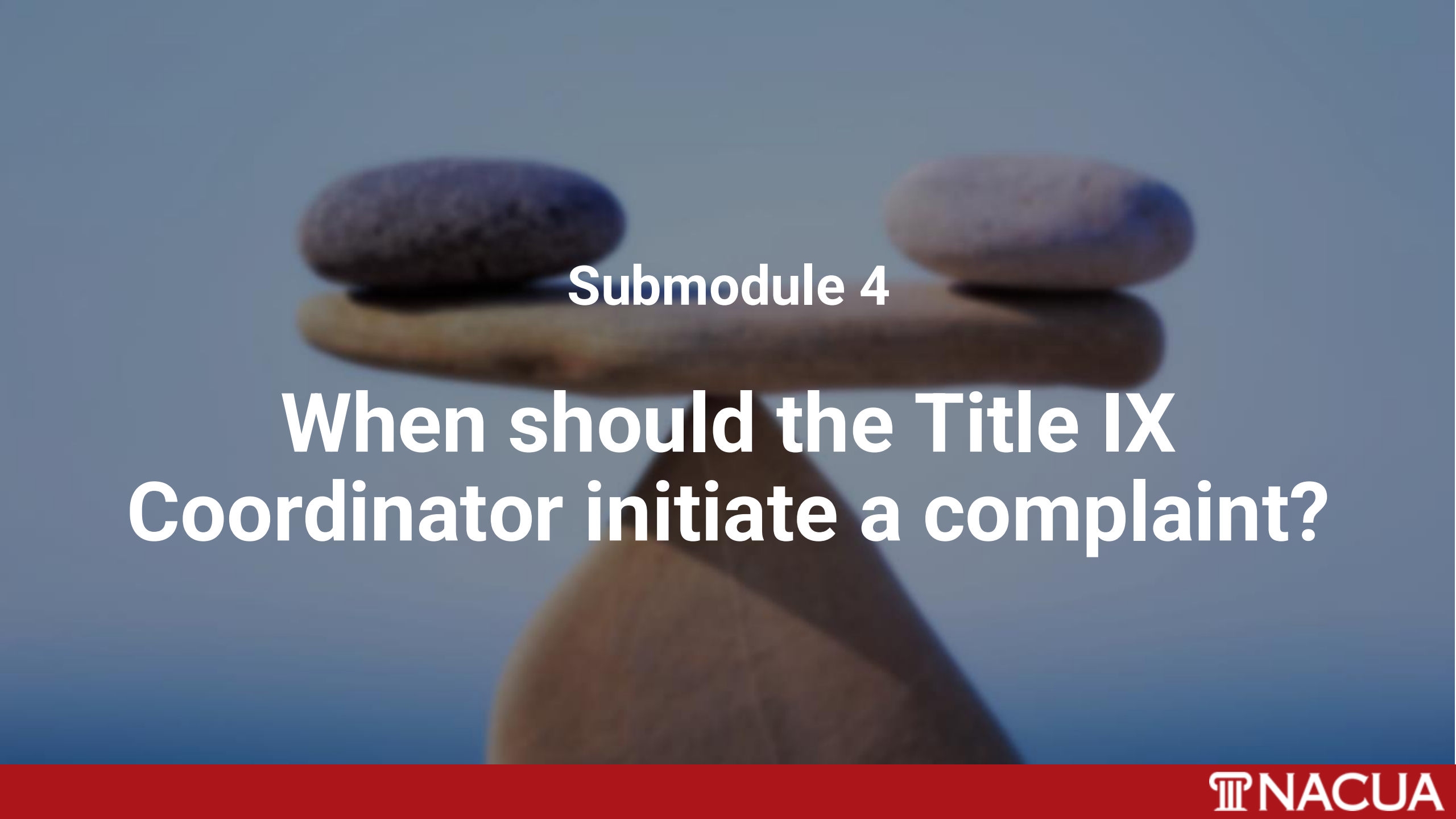
Factors to Consider re: Contact Restrictions

- Needs expressed by the complainant or respondent
- Ages of the parties involved
- The nature of the allegations and their continued effect on the complainant or the respondent
- Whether the parties continue to act directly in the school's education program or activity
- Whether steps have been taken to mitigate the harm from the parties' interactions, such as implementation of a protective order

Challenging Supportive Measures (under 2024 Final Rule §106.44(g)(4))

Schools must provide the parties with an opportunity to challenge the supportive measures that are applicable to them

- Decisionmaker cannot be the same person who implemented the measures;
- The parties can seek modification or reversal of the school's decision to provide, deny, modify, or terminate supportive measures; and
- If the circumstances that impact a party change materially after the appeal, the school must provide another opportunity to challenge



Submodule 4

When should the Title IX Coordinator initiate a complaint?

Initiating the Grievance Process

2020 Regulations

- Formal Complaint – Signed, written, formal request



2024 Regulations

- Complaint – Oral or written request; Objectively understood to request investigation/adjudication; No magic words



The Title IX Coordinator may initiate a complaint only after determining that the alleged conduct “presents an imminent and serious threat to the health or safety of a complainant or other person, or that conduct as alleged prevents the recipient from ensuring equal access based on sex to its education program or activity.”

§ 106.44(f)(1)(v)(B)

TIXC-initiated Complaint

The Title IX Coordinator must consider, at a minimum, the following factors:

- Complainant's request not to proceed
- Complainant's reasonable safety concerns
- Risk that additional sex discrimination occurs
- Severity of alleged sex discrimination
- Age and relationship of parties
- Scope of alleged sex discrimination
- Availability of evidence
- Whether school could end sex discrimination within its grievance procedures

Practical Tip:

Keep these factors in mind during your report assessment and your initial meeting with the potential complainant.

TIXC-initiated Complaint

If the Title IX Coordinator initiates a complaint, the TIXC does not “stand in” for the complainant.

- The rights or obligations of “the parties” with respect to the grievance procedures do not apply to the Title IX Coordinator.

TIXC must notify the complainant before initiating complaint contrary to their wishes and appropriately address reasonable safety concerns.



Thank you!

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