



# JUSTICE DELAYED, JUSTICE DENIED: CONDUCTING TIMELY INVESTIGATIONS AND HEARINGS

September 28, 2022

**DAN SCHORR, LLC**



# OUR SERVICES

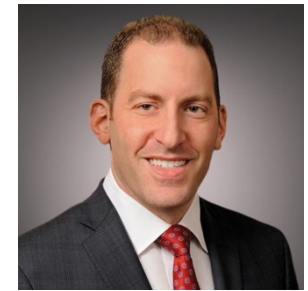
- Title IX, Civil Rights, and Misconduct Investigations
- Decision Makers and Hearing Officers
- Hearing and Process Advisors
- Trainings
- Policy and Program Reviews
- Interim Title IX Coordinator Coverage
- Expert Witness Testimony

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# DAN SCHORR

President

New York



Dan Schorr is a former criminal prosecutor and municipal inspector general with more than 20 years of legal and investigative experience. He manages a variety of complex assignments, including investigations into sexual misconduct, Civil Rights, and fraud allegations at educational institutions, corporations, and government entities. In addition to specializing in Title IX investigations, Dan assists higher education and K-12 schools by conducting policy and program reviews, training personnel on all aspects of Title IX and Civil Rights compliance, and serving in hearing officer and decision maker roles. Dan is a pre-approved Sexual Misconduct Investigator for the United Educators ProResponse Expert Services Benefit.

# ALYSSA-RAE MCGINN

Vice President, Investigations

Boston



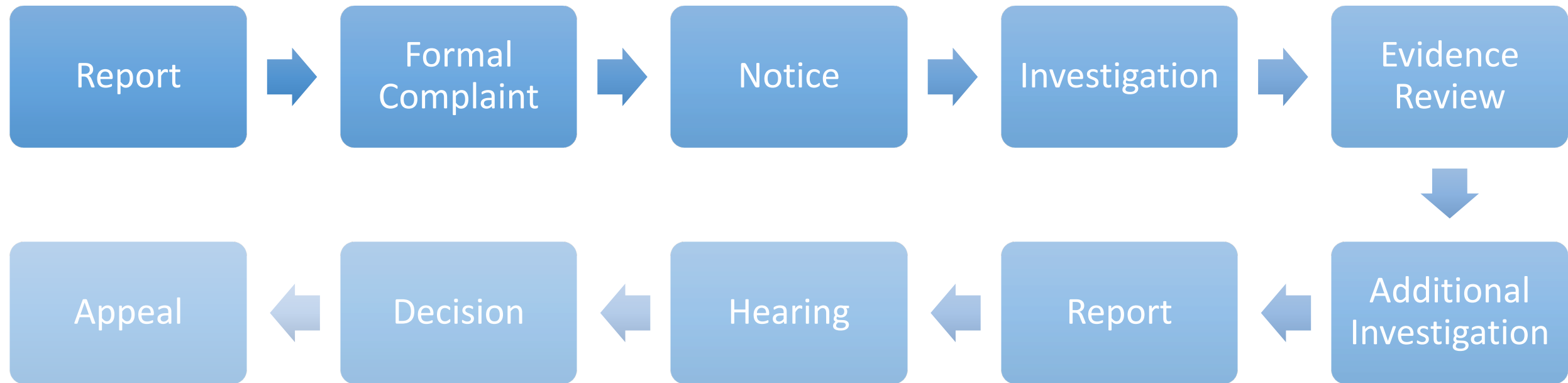
Alyssa-Rae McGinn has extensive experience leading a variety of complex investigations, with particular expertise in conducting investigations at educational institutions and corporations into allegations of sexual misconduct and identity-based harassment involving students, faculty, staff, and corporate leadership. Alyssa-Rae was previously a Senior Associate at Ankura, where she and Dan established the firm's Title IX and Civil Rights Investigations practice and grew it to assist institutions nationwide. Prior to Ankura, Alyssa-Rae was an Associate Director in Kroll's Business Investigations & Intelligence practice.

## DAN SCHORR, LLC

# PROMPTNESS IN THE 2020 REGULATIONS

- *Adoption of Grievance Procedures*: "grievance procedures that provide for the **prompt** and equitable resolution of...complaints." (§ 106.8(c))
- *General Response to Sexual Harassment*: "**must respond promptly** in a manner that is not deliberately indifferent" (§ 106.44(a))
- *Basic Requirements*: "**reasonably prompt time frames** for conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the recipient offers informal resolution processes, and a process that allows for the **temporary delay** of the grievance process or the limited extension of time frames for **good cause...**" (§ 106.45 (b)(1)(v))

# THE TITLE IX PROCESS



# ROADBLOCK: FILING THE FORMAL COMPLAINT

- The Delay: Complainants may be reluctant to write, sign, and file a formal complaint.
- What You Can Do:
  - Understand and address the specific reasons a complainant may be reluctant
  - Listen with compassion and empathy
  - Work with the complainant to write the narrative and fill out the complaint form
  - Clearly explain the purpose of the formal complaint
  - Be transparent about the importance of timeliness
  - Connect the complainant to support during the complaint process

# ROADBLOCK: IDENTIFYING RESOURCES

- The Delay: Identifying and engaging the right investigators, advisors, hearing officers, and appeals officers can take time, and even then, resources may have limited availability.
- What You Can Do:
  - Interview and develop a pool of resources before you receive a complaint or before you need them
  - Set realistic expectations with resources at the point of engagement and ensure bandwidth
  - Train internal resources who can serve in these roles
  - Ask parties if they want assigned advisors early in the process

# ROADBLOCK: ENGAGING WITNESSES

- The Delay: Witnesses may be unresponsive or have limited availability for interviews.
- What You Can Do:
  - Ensure the first contact with witnesses is inviting and unintimidating, and offers generous availability
  - Title IX Coordinator and investigators should work together to engage witnesses
  - Utilize multiple forms of contact (email, text, call) as appropriate
  - Ask parties or witnesses to encourage their friends to respond



# ROADBLOCK: RE-ENGAGING PARTIES

- The Delay: Parties must be re-engaged at multiple points in the process, including at the time of notice, first interviews, evidence requests, evidence review and response, report review and response, and hearing preparation.
- What You Can Do:
  - Be transparent with parties from the beginning about how involved they will be asked to be
  - Inform parties that their participation at every stage is voluntary, but explain the importance of their continued participation
  - Connect with parties in advance of touchpoints for a “heads up”
  - Stay connected with parties throughout the process to provide updates and support
  - Set reasonable, written deadlines for parties to respond to requests for re-interviews and document requests

# ROADBLOCK: REQUESTED DELAYS

- The Delay: Parties and/or their advisors may request delays, such as asking to schedule interviews after school breaks.
- What You Can Do:
  - Establish policies regarding requests for delays in advance, including what requests are reasonable or unreasonable
  - Be transparent with parties about what kinds of requests for delays they can make at the beginning of the process
  - Be clear and consistent with parties when turning down requests for delays, and make sure this occurs through written communication
  - Notify both parties about reasonable delays immediately

# ROADBLOCK: SCHEDULING THE HEARING

- The Delay: The hearing requires attendance of numerous people. Aligning schedules can be difficult.
- What You Can Do:
  - Ensure you have clear policies in place for who needs to be at the hearing, how accommodating you will be of limited availability, and what happens if someone cannot be at the hearing
  - Begin collecting availability long before it is time to schedule
  - Notify witnesses to hold the hearing date as soon as it is scheduled
  - Schedule a generous amount of time for the hearing

# THE TITLE IX AND CIVIL RIGHTS

PODCAST



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*"Final Table is a compelling, timely, and fast-paced story of a sexual assault survivor's fight to regain control of her life in the face of fear, self-doubt, international intrigue, and looming retribution. Former sex crimes prosecutor Dan Schorr's nuanced and layered debut novel smashes stereotypes and clichés with a strikingly original and memorable narrative."*

- **SUNNY HOSTIN**,  
Emmy-Winning Co-Host of *The View* and best-selling author of *I Am These Truths* and *Summer on the Bluffs*





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