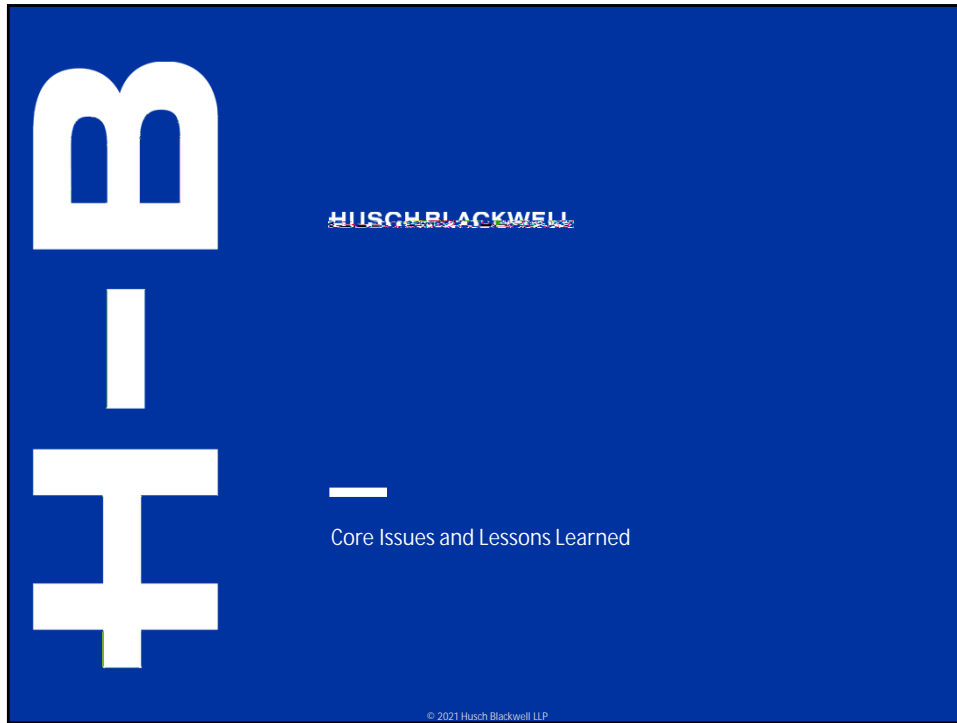
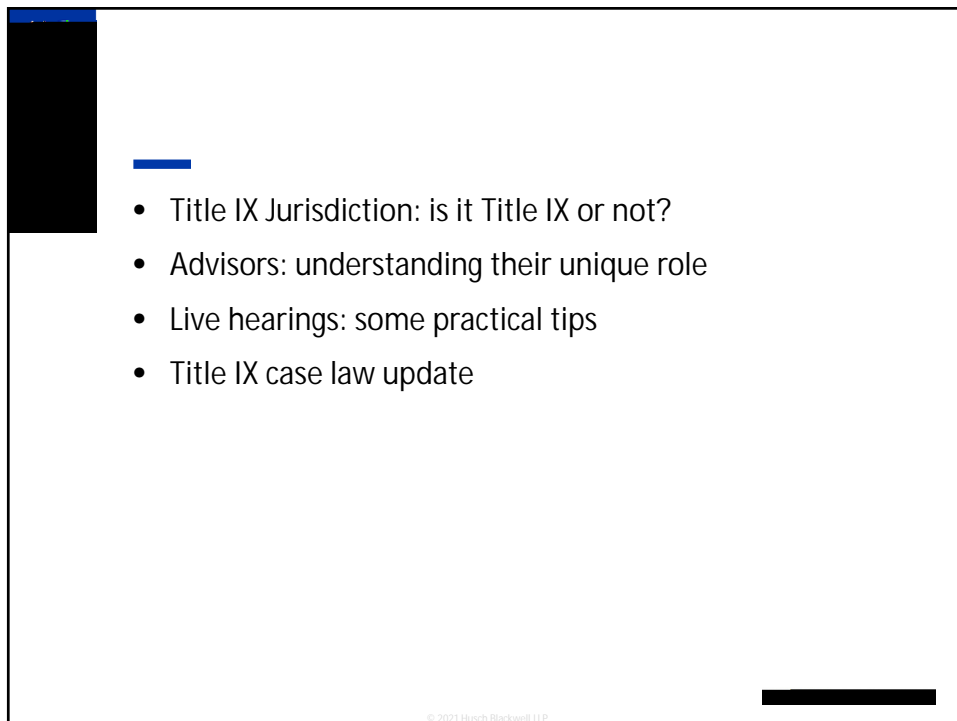


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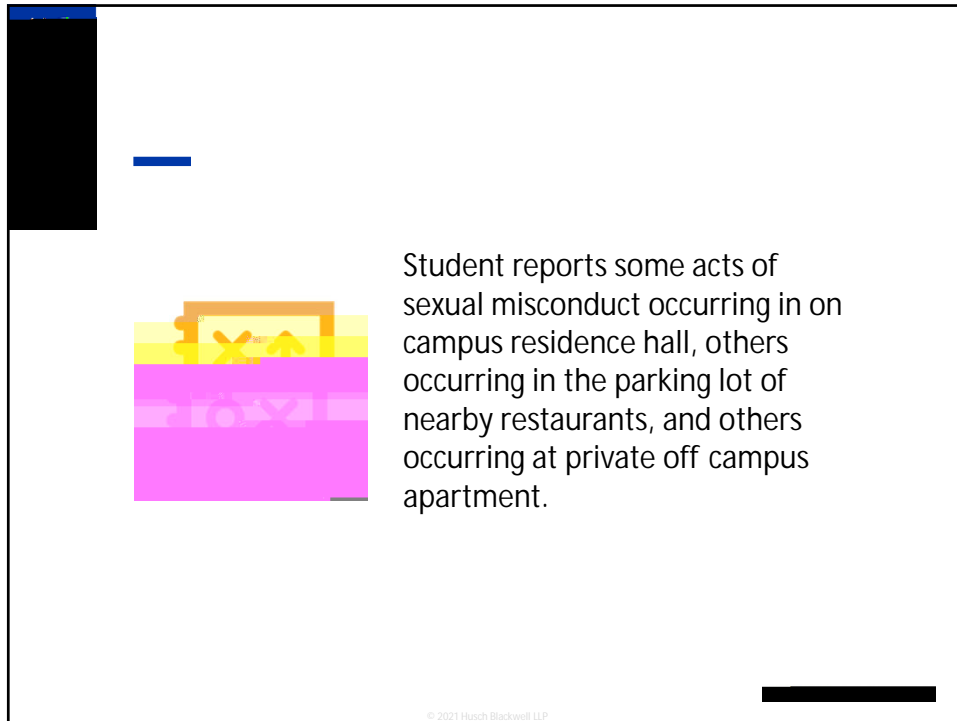
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Student reports some acts of sexual misconduct occurring in on campus residence hall, others occurring in the parking lot of nearby restaurants, and others occurring at private off campus apartment.

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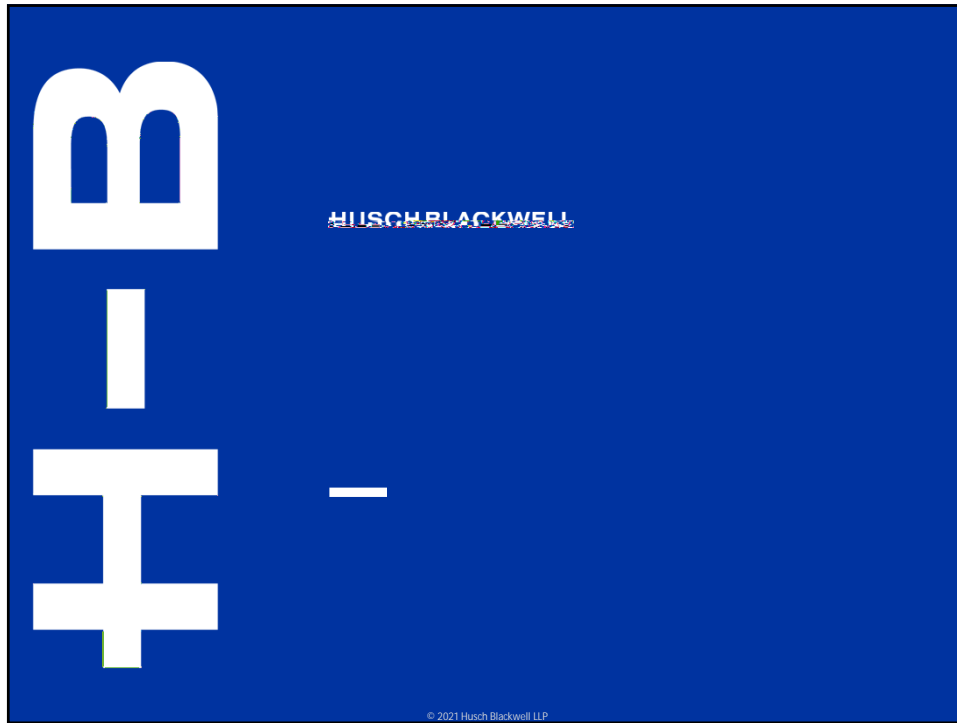
Conduct on the basis of sex that is:



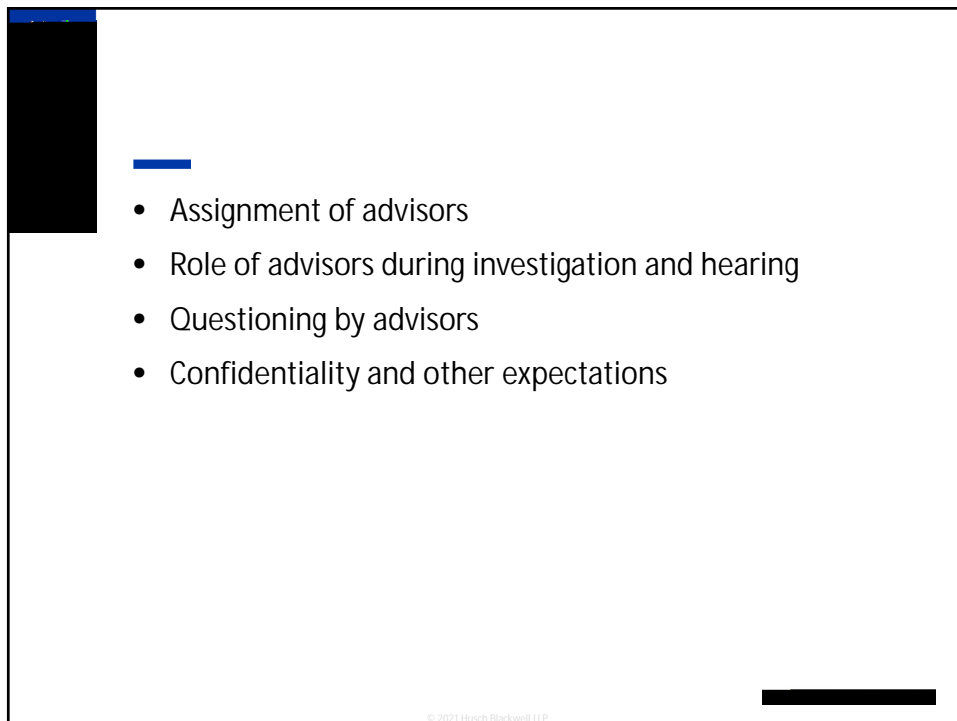
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- Yes
- The parties have the right to be accompanied by an advisor of their choice during the investigation and hearing
- The institution must provide the party an advisor for purposes of conducting

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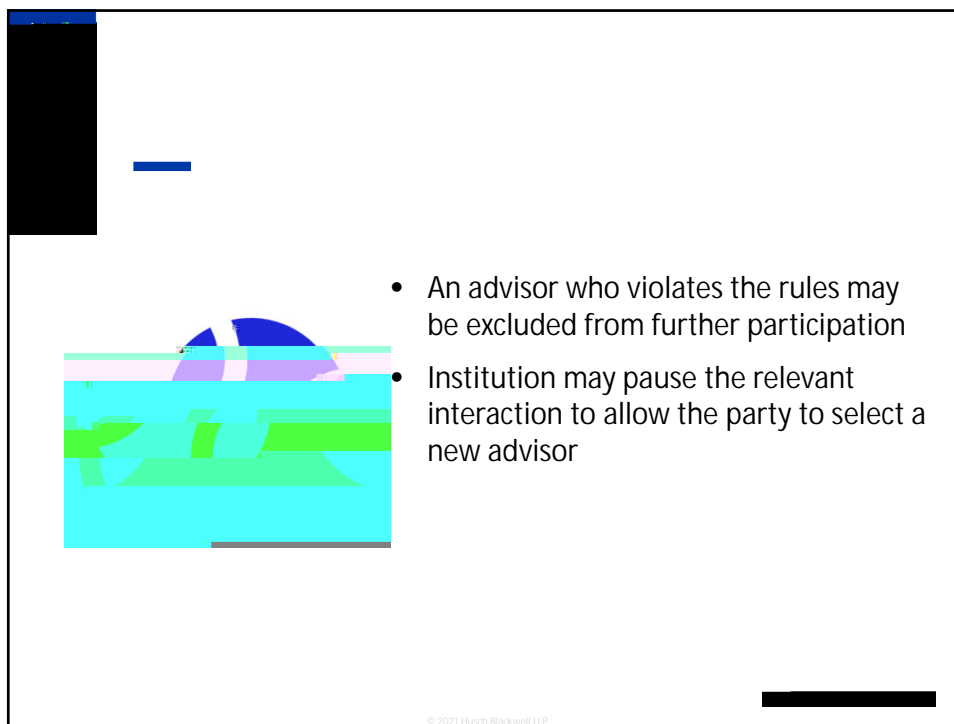
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Provide personal support to the party

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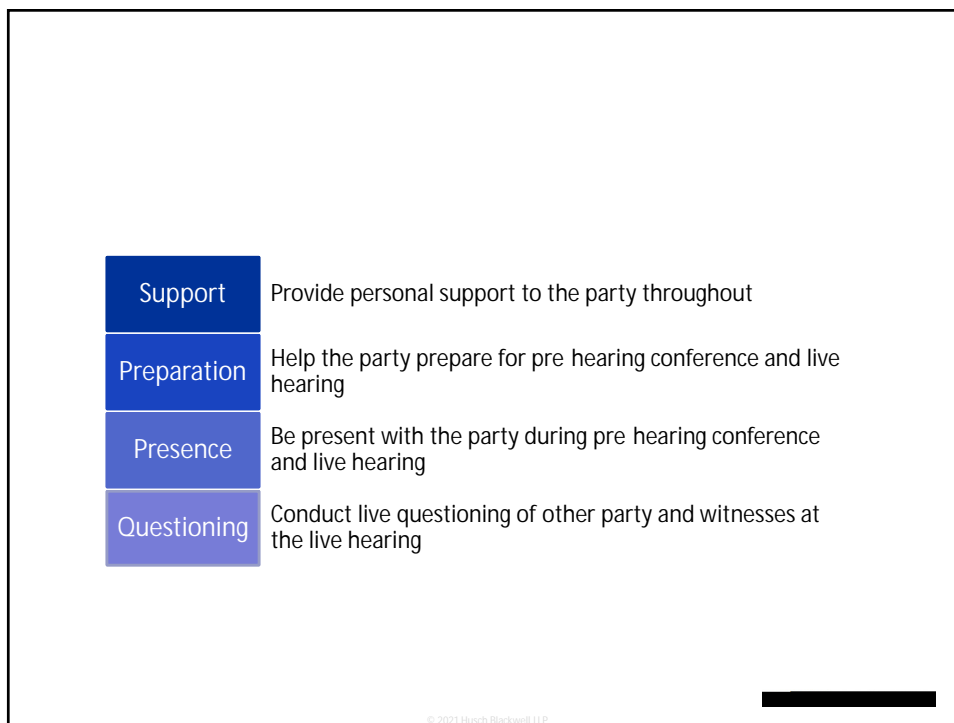
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- An advisor who violates the rules may be excluded from further participation
- Institution may pause the relevant interaction to allow the party to select a new advisor



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Support	Provide personal support to the party throughout
Preparation	Help the party prepare for pre hearing conference and live hearing
Presence	Be present with the party during pre hearing conference and live hearing
Questioning	Conduct live questioning of other party and witnesses at the live hearing




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- Yes
- All parties (including advisors) must:
 - f* Act professionally
 - f* Maintain decorum
 - f* Not disrupt proceedings



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- A proceeding held by the hearing officer or panel, either in person or virtually where:
 - f* Parties are present with their advisors at the same time
 - f* Parties and witnesses testify with contemporaneous participation (i.e., no “pre recording”)
 - f* Parties’ advisors ask live questions of the other party and witnesses
 - f* If virtual hearing, make sure everyone has adequate internet connection and leaves cameras on

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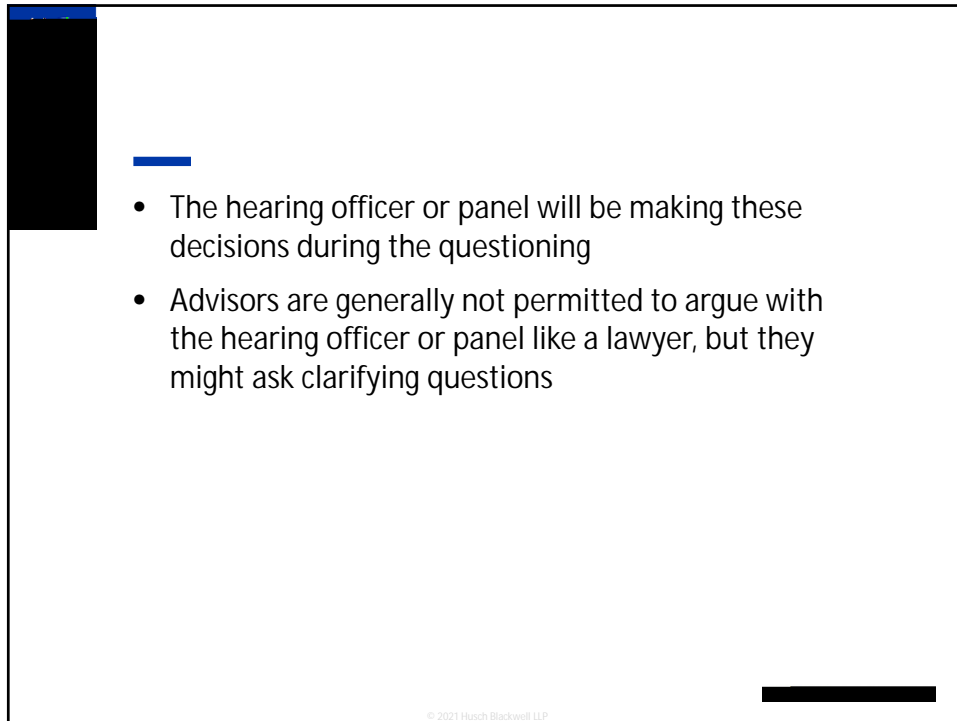
- The hearing officer or panel
- Other necessary institutional personnel or institutional advisors (i.e., attorneys)
- The parties and each party’s advisor
- Witnesses as they are called to testify (consider confirming in advance which witnesses each party

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- The hearing officer or panel will be making these decisions during the questioning
- Advisors are generally not permitted to argue with the hearing officer or panel like a lawyer, but they might ask clarifying questions

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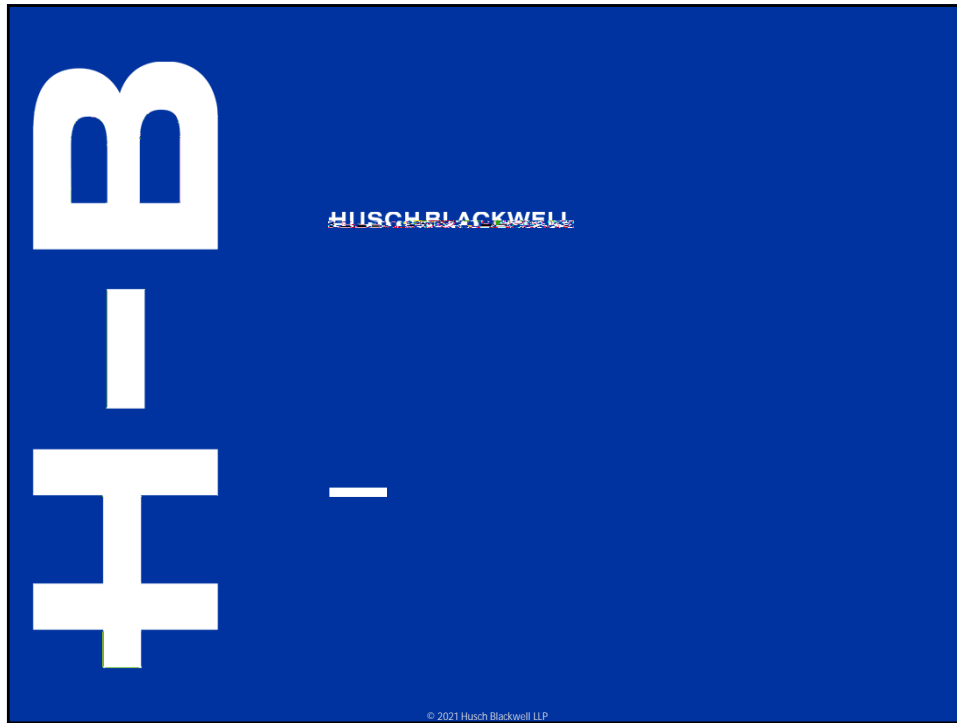


- Yes
- If an advisor is an institutional employee, the advisor must abide by the same confidentiality rules as the institution itself, including FERPA
- Advisors should maintain the _____ itself,



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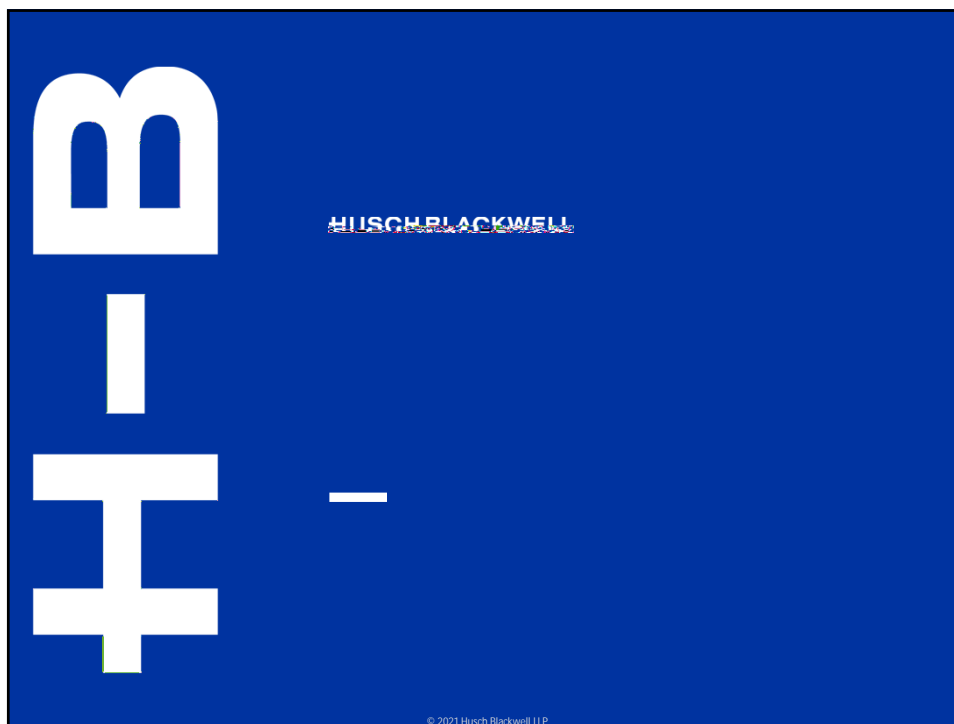
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- Review and confirm Title IX jurisdiction before conducting hearing
- Remain open to informal resolution
- Make good use of one or more pre hearing conferences – confirm **witness attendance**, access to evidence, discuss attendance and sequencing, answer questions, address concerns, etc.
- Virtual hearings: internet connection, how evidence will be accessed, keep cameras on, maintain role of advisor as “silent advisor”
- Ensure the hearing officer or panel has been trained and is

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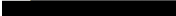
- Applied ~~Bostock~~ to Title IX
- ~~Bostock~~ determined that Title VII prohibits discrimination because of sexual orientation or gender identity
- Discrimination based on sex includes discrimination based on gender identity
- Determined that policy restricting restroom use to restroom corresponding with sex at birth violated Title IX

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- Reversed dismissal of Title IX claim brought by male respondent
- Rejected often used framework set forth by 2nd Circuit in *Yusuf v. Vassar College* that used erroneous outcome and selective enforcement categories
- Issue is whether the alleged facts, if true, support a plausible inference of gender bias/discrimination based on sex
- Extended live hearing requirement with cross examination to all private institutions in the 3rd Circuit




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- Institutions can be liable for “pre assault” deliberate indifference claims
- Based on theory that Title IX policies are inadequate, create heightened risk of sexual misconduct, and lead a complainant to be sexually harassed or assaulted
- Relied on 2014 California State Auditor report that said from 2009 2013 the university did not notify or regularly update parties, complete investigations in timely fashion, or provide proper training



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