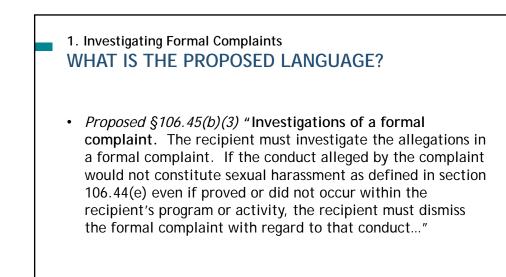




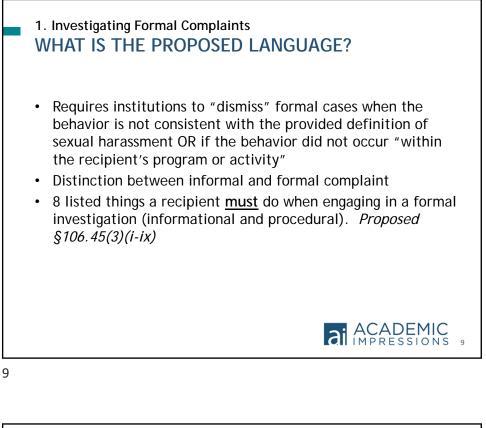
1. Investigating Formal Complaints WHAT IS THE LAW CURRENTLY?

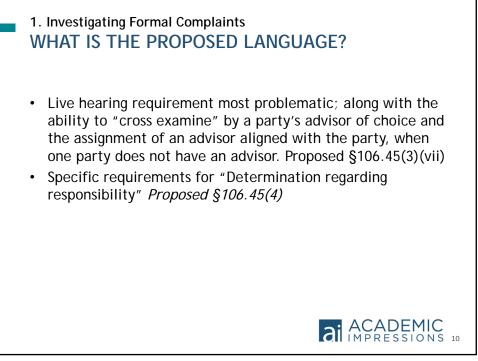
- a. §106.8 states in part, "Each recipient shall ... coordinate its efforts to comply ... including any investigation of any complaint communicated..."
- Current regs lack specificity so institutions created investigative processes they felt were sufficient; many were not
- c. Institutions have since erred on the side of caution and tended to investigate every single complaint (case backlog)
- d. Many institutions also investigate "off campus related activity" (potential effect on an individuals' access to an education); even cases that occur in programs in another country











1. Investigating Formal Complaints HOW CAN YOU PREPARE FOR THE POSSIBLE CHANGES?

- Do not make any sudden moves. These are still only "proposed regs;" there may be some changes ahead.
- Review your current process. Make a checklist of things you currently do and things you do not do. Are there some "quick fixes" that do not materially alter your processes you could change now?
- Do you know what the process is and how long it is going to take for you to make changes to your process?
- Begin campus discussions now.

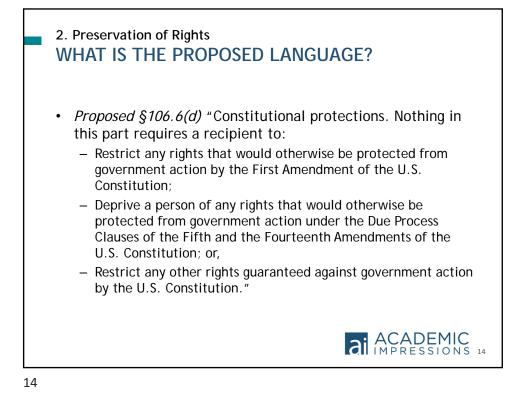


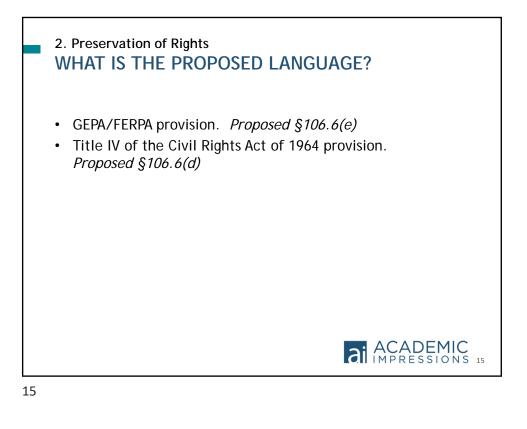


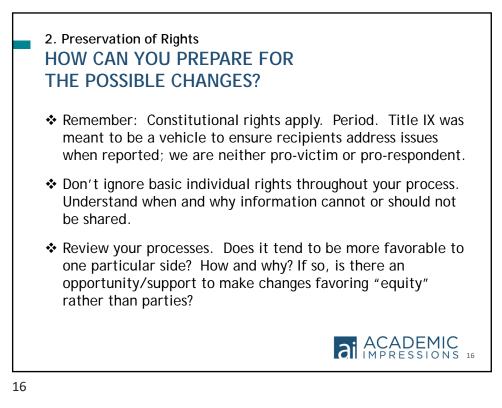
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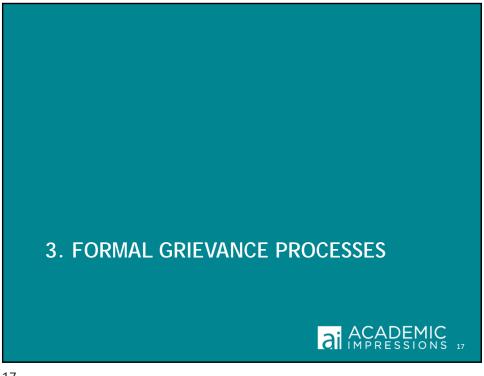
2. Preservation of Rights WHAT IS THE LAW CURRENTLY?

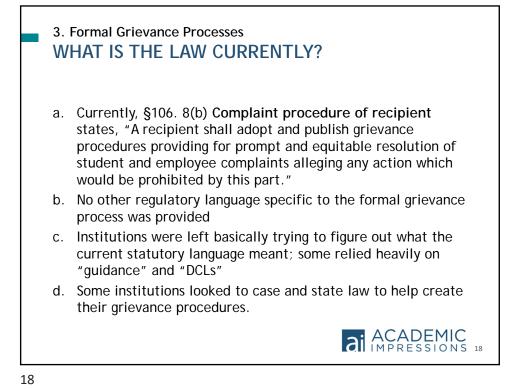
- a. Currently, §106.6 specifically mentions the following subsections:
 106.6(a) Effect of other Federal provisions
 106.6(b) Effect of state or local law or other requirements
 106.6(c) Effect of rules or regulations of private organizations
- b. Equal protection clause applies (14th amendment)
- c. No other constitutional based protections or rights are mentioned
- d. Some institutions' processes appeared to have favored victims over respondents (i.e., provided inadequate notifications, predetermined outcomes before considering information provided by the Respondents, failed to consider exculpatory information when found and assigned credibility (or lack thereof) based on the status of the witness)
- e. No mention of FERPA, Due Process, First Amendment

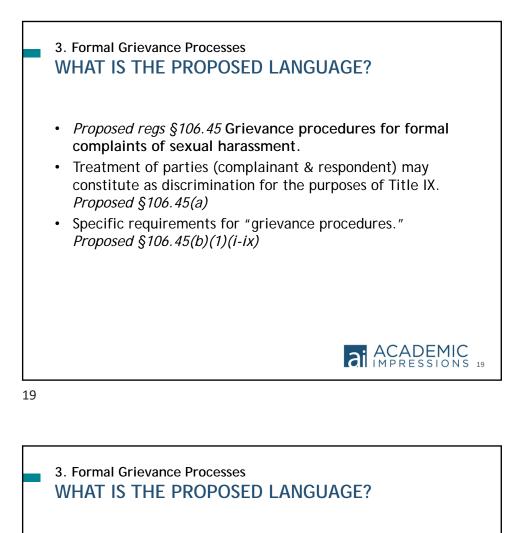






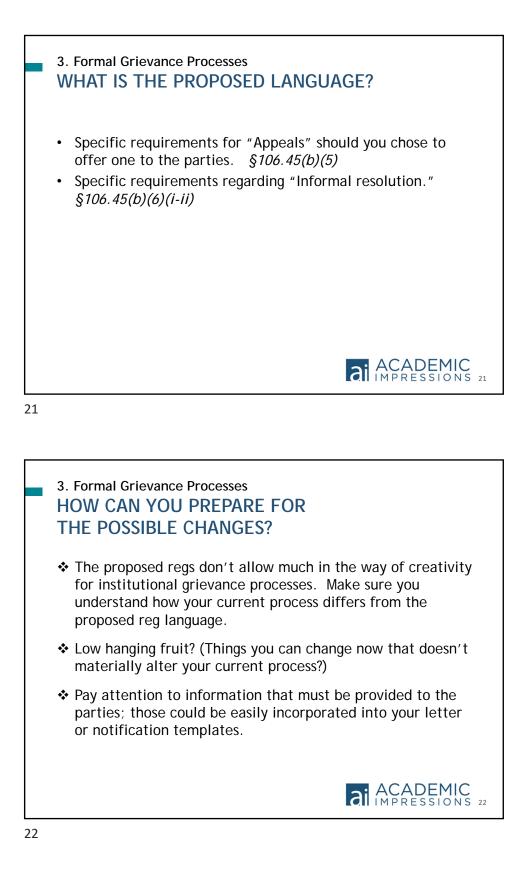


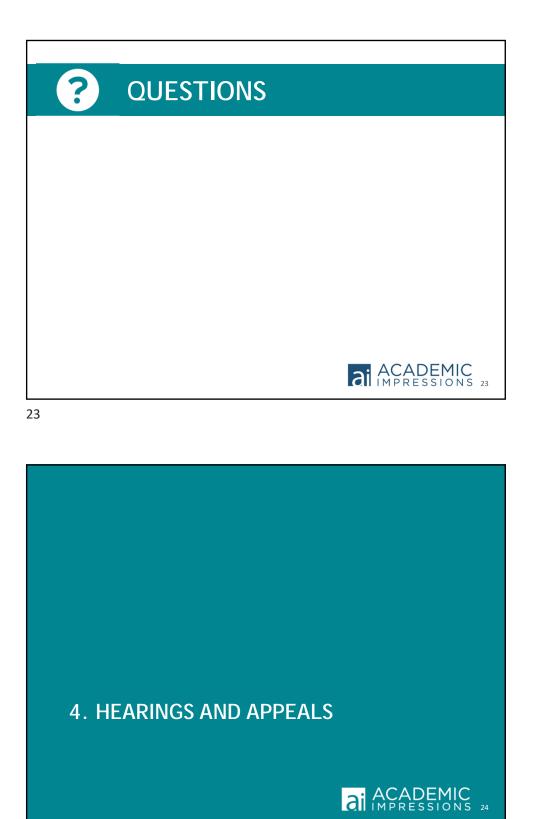


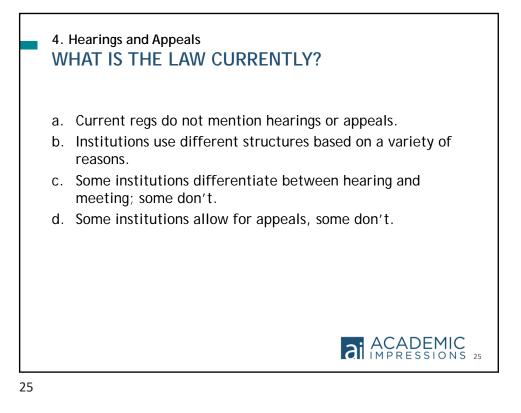


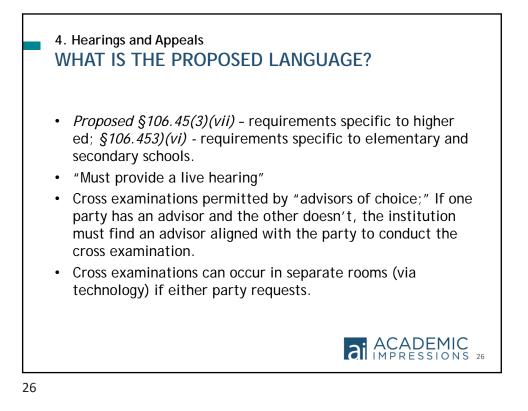
- Specific requirements for "Notice of allegations." Proposed §106.45(b)(2)
- (As mentioned previously) Specific requirements for "investigations" Proposed §106.45(b)(3)(i-ix)
- Specific requirements for "Determination regarding responsibility" §106.45(b)(4)(i-iii)

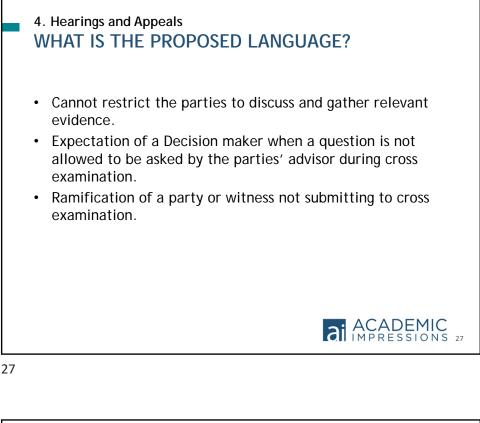


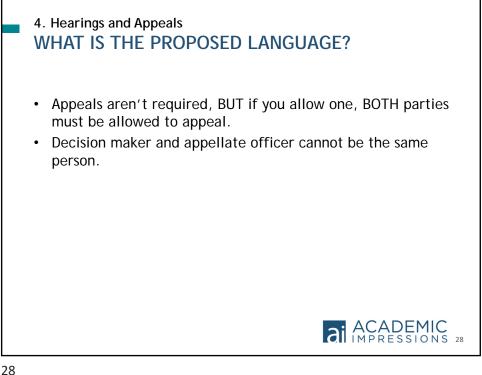












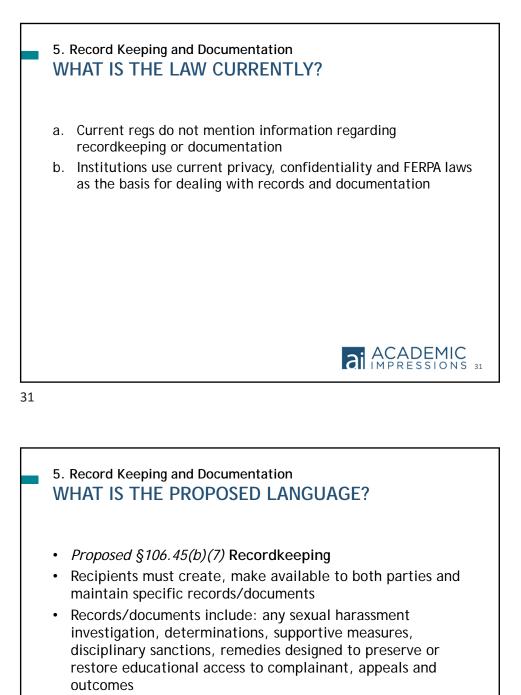
4. Hearings and Appeals HOW CAN YOU PREPARE FOR THE POSSIBLE CHANGES?

- Is your campus prepared for any "live hearing" requirements? What are some of the barriers to having live hearings on your campus?
- Is your campus capable of appropriately dealing with an external advisor (or attorney) during a "cross examination?" What are some of the anticipated issues?
- Does the institution have personnel who can serve as trained advisors? Decision-makers or advisors?
- Begin campus wide discussion now to gauge the ability of the campus to comply with the new regs should they be adopted as written.



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 Includes materials to train coordinators, investigators and decision makers on sexual harassment issues



5. Record Keeping and Documentation HOW CAN YOU PREPARE FOR THE POSSIBLE CHANGES?

- Does your institution take the position that "less documents" are better? You may want to think about what the changes to the regs may mean for you.
- Does your institution memorialize all information regarding a case, or do you just "summarize" key pieces?
- Along with materials relating to the training of your relevant Title IX team members, do you also keep information required under other federal regs? (VAWA/Campus SaVE Act, FERPA, Clery, etc.). This may be an opportunity to assemble and store all related campus-wide training and programming information, rather than siloed information.

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