



NEW TITLE IX REGS:  
**EMPLOYEE  
REPORTING  
OBLIGATIONS**

with **ANDREA STAGG**

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**GRAND RIVER | SOLUTIONS**

# WHERE WE WERE THEN, ARE NOW, AND ARE GOING

- 2011: responsible employees
  - Broad
  - Limited confidentiality
- 2020: officials with authority
  - Narrow
- 2024: NEW





# NPRM, IT WAS THIS:

• IS THE EMPLOYEE CONFIDENTIAL?

YES, no reporting is required.

IF NO, does the employee have the authority to institute corrective measures?

IF NO, does the employee have responsibility for administrative leadership, teaching, or advising?

IF NO, TWO OPTIONS:

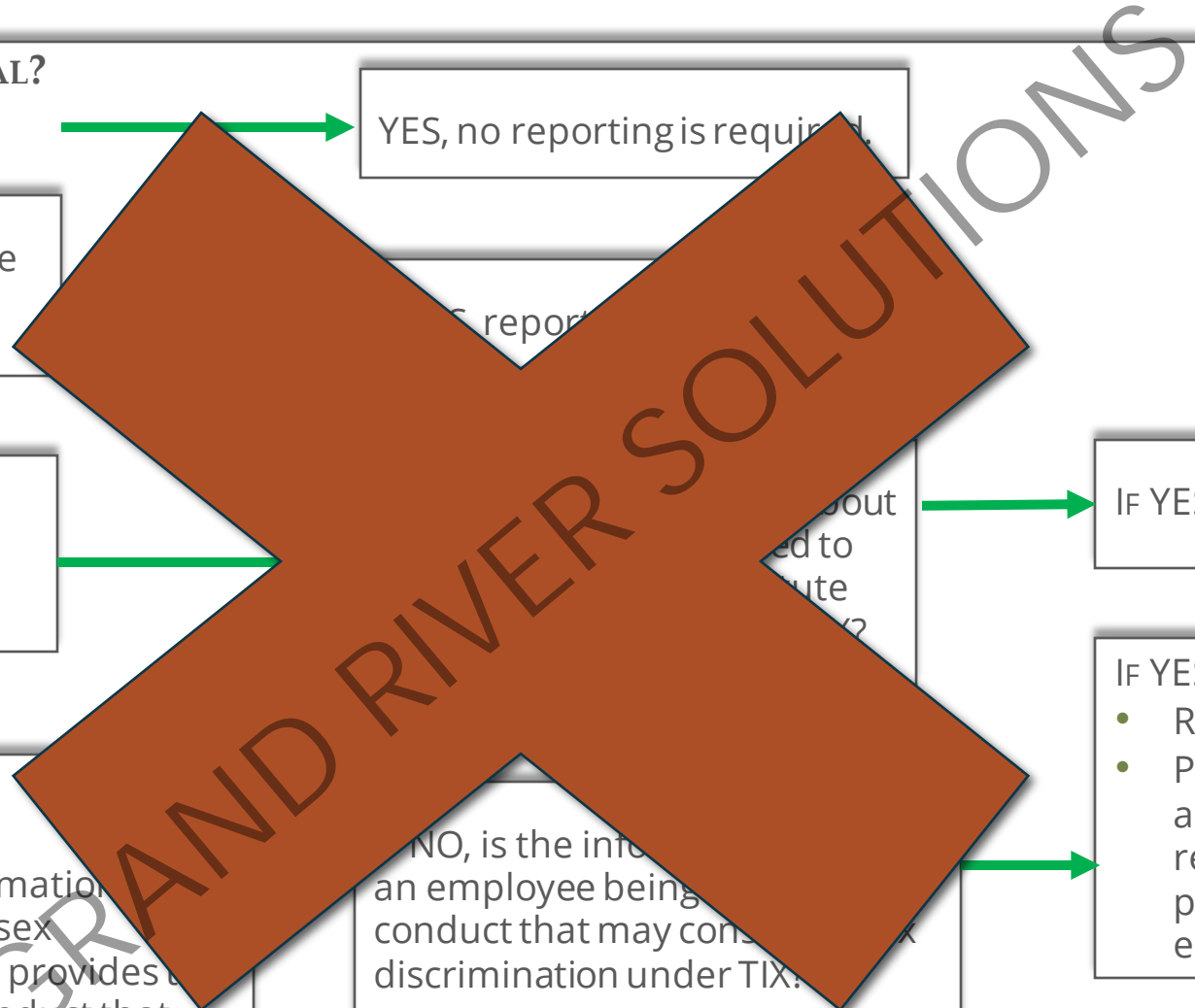
1. Report to TIX, **or**
2. Provide the TIXC's contact information and information about how to report sex discrimination to any person who provides the employee with the information about conduct that may constitute sex discrimination under TIX.

IF NO, is the information about an employee being reported about conduct that may constitute sex discrimination under TIX?

IF YES, report to TIXC.

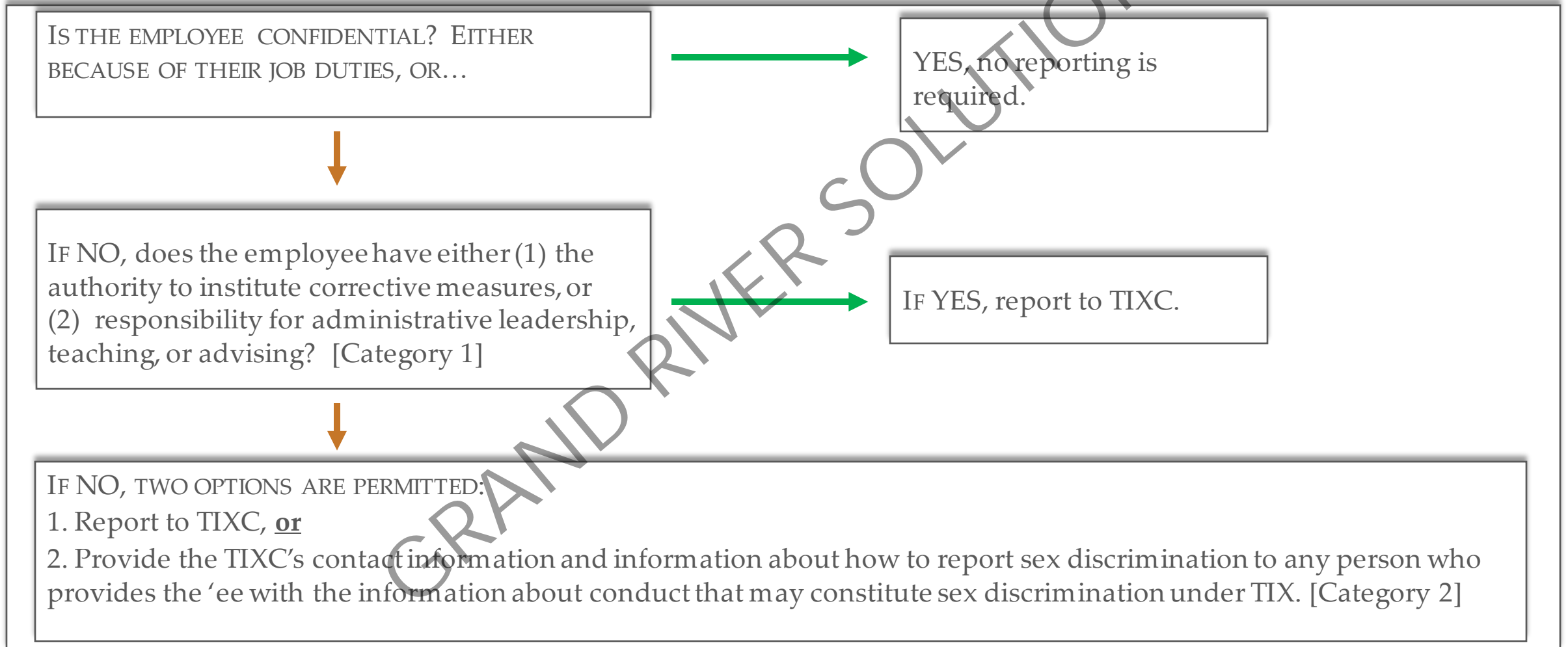
IF YES, TWO OPTIONS:

- Report to TIX, **or**
- Provide TIXC contact information and information about how to report sex discrimination to any person who provides the employee with the information



# NOW IT IS THIS: NOTIFICATION REQUIREMENTS UNDER 106.44(C)(2)

DOES AN EMPLOYEE HAVE TO TAKE ANY ACTION BECAUSE OF WHAT THEY LEARNED ABOUT CONDUCT THAT MAY CONSTITUTE SEX DISCRIMINATION UNDER TIX TO THE TIXC?  
(FOR POSTSECONDARY)



# RESPONDING AND NOTIFICATION

There are three types of confidential employees:

1. Employees whose communications are privileged or confidential under Federal or State law and
2. Employees who are designated as confidential by the institution for the purpose of providing services to persons related to sex discrimination.

[and one more . . . ]

# CONFIDENTIALITY FOR RESEARCHERS

## 3. New additional definition of confidential employees:

- Research covered by IRB on sex discrimination (institution's or another IRB)
- Confidential with respect to that study (perhaps not in other roles)
- They do not have to share the information that other confidential resources do



# RESPONDING AND NOTIFICATION

- **Confidential employees** must share:
  - That they are confidential, including when they are not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination;
  - How to contact the recipient's Title IX Coordinator and how to make a complaint of sex discrimination; and
  - That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

# RESPONDING AND NOTIFICATION

Everybody else:

- **Category 1:** must notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX or the regulations.
- **Category 2:** must either (1) notify the Title IX Coordinator, or (2) provide the contact information about the Title IX coordinator **and** state that the Title IX Coordinator will provide information about the grievance procedures, supportive measures, and how to make a complaint of sex discrimination.



# RESPONDING AND NOTIFICATION

The institution can decide not to offer discretion, and instead to simplify by picking (1) or (2) as the rule for their institution.

- **Category 2:** must either
- (1) notify the Title IX Coordinator, or
- (2) provide the contact information about the Title IX coordinator **and** state that the Title IX Coordinator will provide information about the grievance procedures, supportive measures, and how to make a complaint of sex discrimination.

# NOTICE AND REQUIRED RESPONSE

§ 106.40

When a student\* informs any employee of the student's pregnancy or related conditions...the employee promptly:

- (1) provides the Title IX Coordinator's contact information and
- (2) informs that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access....



# UPDATED TRAINING REQUIREMENTS

- All employees – not merely offered.
- Reporting obligations; notice obligations (pregnancy)
- Additional topics for those implementing grievance procedures, specific to their roles.
- No required training for students (who aren't also employees); but VAWA!



# HELPFUL LINKS

- The Federal Register notes that the Final Rule is scheduled to be officially published on 4/29/2024.
  - <https://www.federalregister.gov/public-inspection/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>
- Example Messages
  - <https://www.k-state.edu/today/announcement/?id=96607>
  - <https://www.uc.edu/about/equity-inclusion/Regulations-2024.html>
  - <https://oie.jhu.edu/oie-announcements/release-of-final-title-ix-regulations-april-19-2024/>
  - <https://msu.edu/issues-statements/2024-04-19-university-statement-on-federal-title-ix-regulations>
- The Department has not provided a firm update on the date that the separate TIX Athletics Regulations will be released, but media have reported that this Regulation may not come out until after the next federal election (this may or may not be accurate).
  - <https://www.washingtonpost.com/education/2024/03/28/title-ix-trans-athletes-biden/>
- River Connect article on the Violence Prevention (mostly student facing) elements of VAWA
  - <https://riverconnect.app/news/623643>



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