



STUDENT
CONDUCT
INSTITUTE

THE STATE UNIVERSITY OF NEW YORK



The State University
of New York

Michelly Peña, M.A.
Assistant Director, SCI

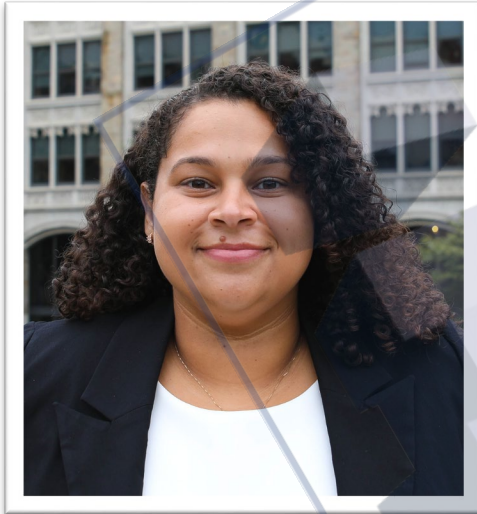
Adam Wolkoff, J.D./Ph.D.,
Assistant Director, SCI

December 2021

SCI

LIVE@ DISTANCE BASIC COMPLIANCE
TRAINING, PART 2

WELCOME TO DAY TWO



Michelly Peña, M.A.
Assistant Director, SCI
Michelly.Pena@suny.edu

- Compliance
 - Model policies, templates, consultation
- Online learning modules
 - scidigital.suny.edu
- Areas of focus
 - Title IX
 - Student Conduct Related Issues
 - Academic Misconduct
 - Assessment
 - Residential Housing

MY JOURNEY...



THE STATE



Review and legal requirements.

Sample case review and tools.

Initiation and tools.



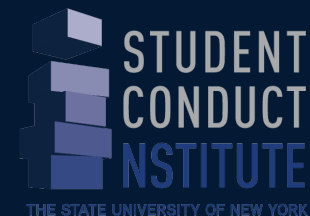
DAY 2 - OVERVIEW



Area	Considerations
Capacity	Staff, caseload, threat assessment team, care team, technology needs
Policy Updates	Website, code, promotional materials
Process	Incident report update and process related forms
Facility	Space needs, limitations, reserving space
Training	Staff, faculty, University or local police, public safety, campus security
Awareness	Presentations, flier campaigns, tabling, student leaders, Residential life staff, orientation



SELF-ASSESSMENT



Report Receiver

- Initial intake of report.

Title IX Coordinator

- Oversee Title IX Grievance Process and the investigation process. Assist in the emergency removal process.

Investigator

- Investigate a formal complaint received by the Title IX Coordinator.

Informal Resolution Facilitator

- Assist in the coordination and execution of the informal resolution process.

Student Conduct Administrator

- Oversee the adjudication process and coordination of referral, hearing and appeal review process. Assist in the emergency removal process.

Advisor

- Assist the student throughout the investigation and student conduct process.

Hearing Panel Member

- Serve as a decision-maker on the hearing panel. They may also serve in the capacity of a Hearing Chair who is the lead member of the decision-making panel.

Appeal Panel Member

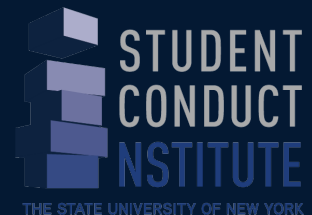
- Serve on the appeal review panel and make a determination utilizing the appropriate appeal grounds.

Resources Offices/Units

- Staff that assist with enacting supportive measures including external agencies and advocacy centers.



ROLES IN THE PROCESS*





The State University of New York

SPARC

Sexual & Interpersonal Violence Prevention and Response Course

SPARC ONLINE TRAINING

Home

About

FAQs

Contributors

SPARC 1.0/2.0 & TRAC

Request SPARC

SPARC Go+ for SCI Members

SPARC Go

<https://system.suny.edu/sparc/>

<https://system.suny.edu/rapid/>

Register for RAPID Online Training

Please note that for technical reasons completing this form requires a Google Account. If you do not have an account, learn about how to create one here:

- [Creating a Google Account](#)
- [Creating a Google Account using your work email](#)

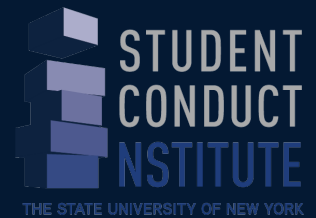


The State University of New York is pleased to announce RAPID (Responsible Authority Proficiency in Incident Disclosure) Training. RAPID is a free, customizable and high quality training designed for colleges and universities to quickly, efficiently, and accurately train responsible authorities under the Clery Act, Title IX, and campus policy.

RAPID will be available for any institution across the country to download, customize, and use starting January 1, 2021. And best of all, thanks to the support and partnership from Ramapo College and members of the team at SUNY, we can offer the system to any college or university at no cost.

Further, for SUNY Student Conduct Institute members, once the resource is completed and released, our staff will work with our member institutions to customize the RAPID training on their behalf. SCI members will be contacted with the opportunity to have a onetime initial customization at no cost in the order that they joined the date of institutional membership).

SAMPLE CASE REVIEW



Incident Report: Sample Case Document

Date/Time of Incident: March 15, 2021 at ~ 2:00a.m.

Date/Time of Report: March 15, 2021 at ~ 10a.m.

Location(s) of Incident: Smith Hall on campus

Parties Involved

Complainant: Sidney Jones

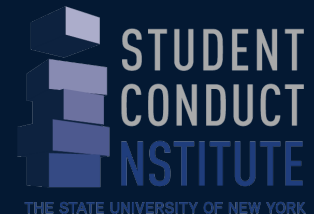
Accused: Jaime Carter

Witness: Ebba Kallax & Elan Kersvan

Issue: The RA reports that the Complainant says the Accused put their hand under her shirt and then moved their hand to her vagina without the Complainant's consent.



SAMPLE CASE: IS IT TITLE IX?



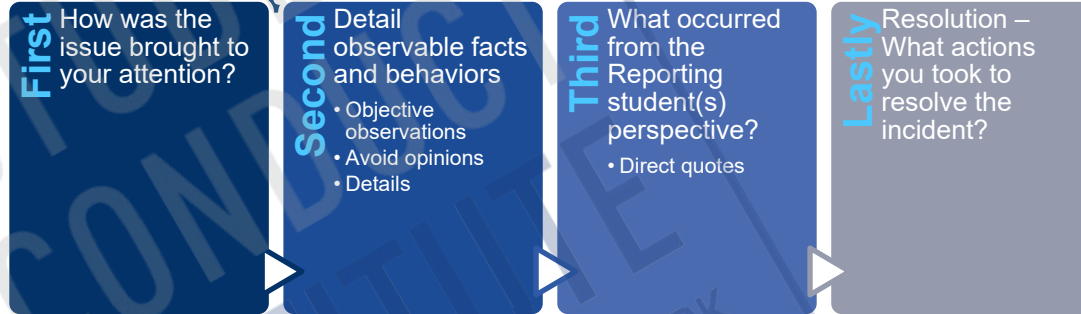
Highlights

- Knowledgeable staff
- Detailed reports - including *observable facts and behaviors*
- Steps taken are articulated throughout the report

Areas of Growth

- Mandatory reporter / confidentiality disclosure order
- Number of disclosures

Incident Report Structure



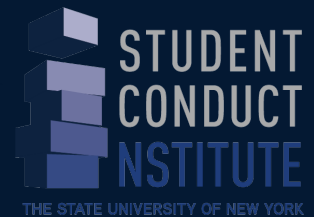
Option #1: Text Voting



Option #2: Web Voting



RESPONDING WITH POLL EVERYWHERE



Have you worked on a case similar to the sample case?

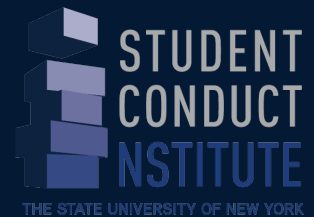


Would you know how to approach the case, in your role, if it were to appear on your campus?



Tools & Resources to Support Your Process

- Title IX Grievance Process Decision Tree*
- Case Rationale Map*
- Advisor Resource Guide
- Flipbook*
- Intake Form
- Notice of Allegations*



Title IX Final Rule Toolkit

NEW: Restorative Justice Implementation Resources

SCI is proud to partner with Janelle A. Brooks, Assistant Dean, Student Conduct and Community Standards, Buffalo State University, to develop a resource guide for implementing a campus restorative justice program. Along with reviewing her restorative justice module, users can adapt the following sample documents to implement the policy.

Timeline

Download

Program Flyer

Download

Informational Packet

Download

Participant Informational Packet

Download

Program Survey

Download

Referral Form

Download

Confidentiality Agreement

Download

Resolution Agreement

Download

Evaluation

Download

Search

Foundational Principles

Title IX and the Courts

Reporting Process

Supportive Measures

Investigation

Pre-hearing Procedures

Hearing Procedures

Decisions and Appeal

Implementation

WHERE IS THE TOOLKIT? [HTTPS://SCIDIGITAL.SUNY.EDU](https://scidigital.suny.edu)

Model Title IX Policies

- Model Title IX Policy
- Model Information Resolution Policy

Training Guides for Officials and Advisors

- Training Checklist
- Conflicts of Interest and Bias Checklist
- Advisor Resource Guide

Intake and Supportive Measures

- Decision Tree
- Case Rationale Map for Title IX Coordinators
- Model Title IX Intake Form
- Model No Conduct Order
- Model Emergency Removal Order

Charges and Investigation

- Notice of Allegations Template
- Notice of Removal to Conduct Process Template
- Notice of Investigatory Interview (Respondent & Complainant)
- Investigative Report Template
- Model Agreement Regarding Evidence Disclosure
- File Sharing Platform Options and Pricing Guide
- SCI Tech Guide

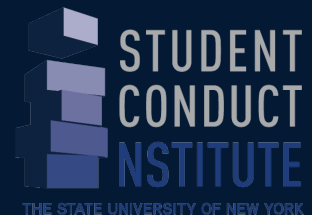
Hearing

- Model Script for Title IX Hearings
- Model Decorum Policy
- Guide for Determining Relevance
- Virtual Hearing Options Comparison Chart
- Determination Regarding Responsibility Template

Posted Training Materials and More!



TITLE IX COMPLIANCE TOOL KIT





Is This a Title IX Grievance Process Case?*

Report made to Title IX Coordinator

Is the complainant currently participating in or attempting to participate in your programs (i.e. an employee, student, applicant, etc.?)

Yes

No

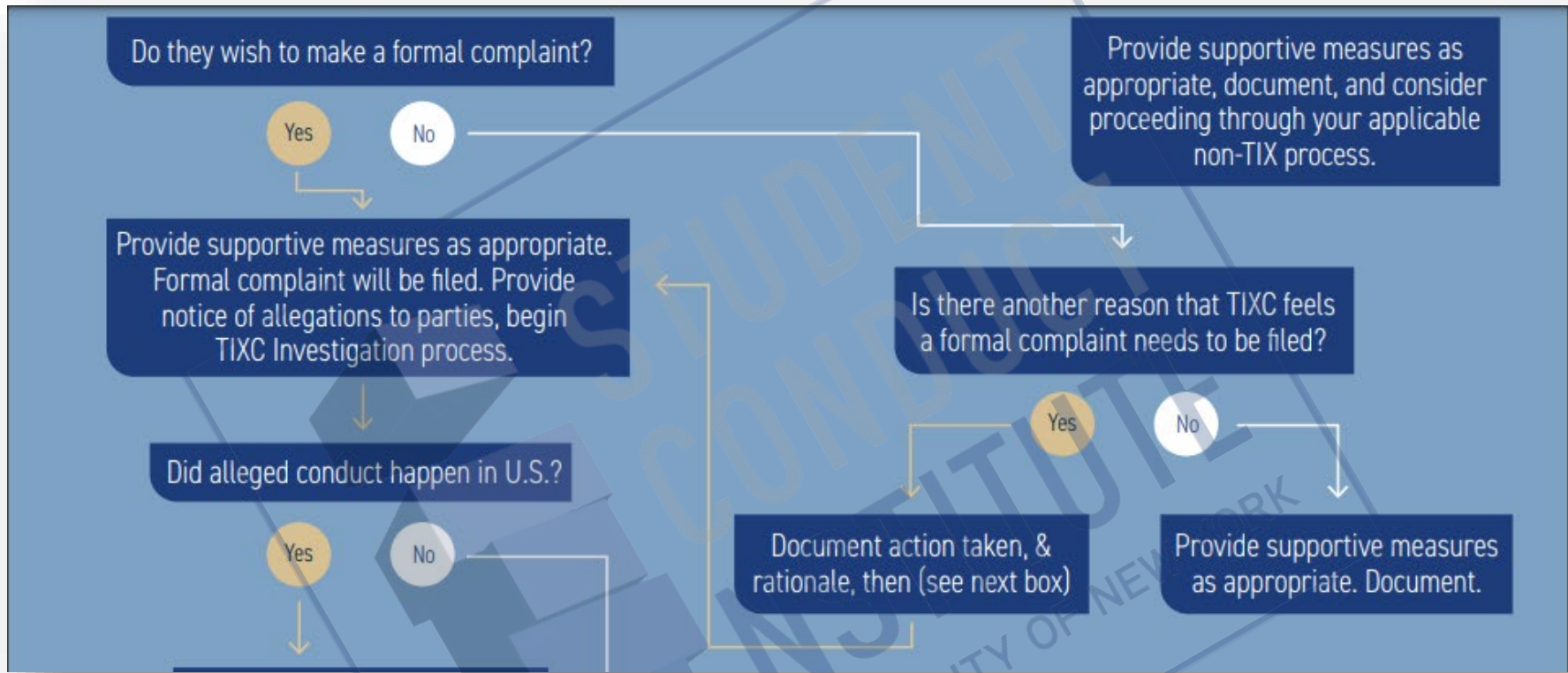
Do they wish to make a formal complaint?

Yes

No

Provide supportive measures as appropriate, document, and consider proceeding through your applicable non-TIX process.

DECISION TREE



DECISION TREE

Did alleged conduct happen in U.S.?

Yes

No

Did it happen on campus, or otherwise in your education program or activity?

Yes

No

Would the alleged conduct constitute (1) quid pro quo harassment by an employee, (2) severe, persistent and objectively offensive sexual harassment, or (3) sexual assault, domestic violence, dating violence, or stalking?

Yes

No

Proceed through TIXC investigation process, documenting each step.

Document action taken, & rationale, then (see next box)

Provide supportive measures as appropriate. Document.

Dismiss complaint for TIX process, consider proceeding through any applicable non-TIX process. Notify parties, continue to provide supportive measures as appropriate, and document actions taken.
Note This may be appealed by parties!

If at any point during the investigatory process, (1) complainant notifies in writing desire to withdraw complaint or any allegations, (2) respondent no longer enrolled/employed, (3) circumstances prevent gathering sufficient evidence, complaint *may* be dismissed.
Note This may be appealed by parties!

If multiple formal complaints arise out of same facts or circumstances, you *may* consolidate complaint & investigation.

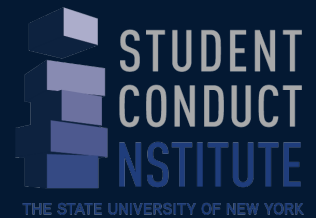
**This Decision Tree is intended to capture the most foreseeable routes that a matter may take, but it cannot cover every circumstance that may arise. Please consult with your campus counsel for specific circumstances and questions.*

The State University of New York

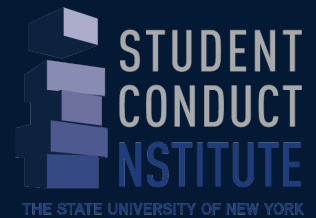
DECISION TREE: IS IT TITLE IX?



CASE PROCESS DECONSTRUCTED



INCIDENT REPORTED OVERVIEW



2001 Revised Sexual Harassment Guidance

"Responsible employee" framework:

- Duty to act based on report to individual with the express authority to act, or
- "an individual who a student could reasonably believe has this authority or responsibility."

Title IX Final Rule

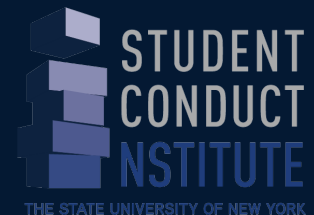
"Actual notice" is only received when person brings notifies TIXC or "official with authority" to institute corrective measures.

Responsible employee framework not mandated, but allowed.

Institution may designate employees as confidential.



WHEN REQUIREMENTS KICK IN:
THEN AND NOW



The college will protect privacy to the extent possible under the law

The Coordinator has to balance confidentiality with:

- Communications necessary to fulfill legal duties
- The safety of other members of the college community.

Action Items

- ✓ Designating responsible and confidential employees
- ✓ Included in your policy
- ✓ List of responsible and confidential employees
- ✓ Disclosure of status to students
- ✓ FERPA
- ✓ Training

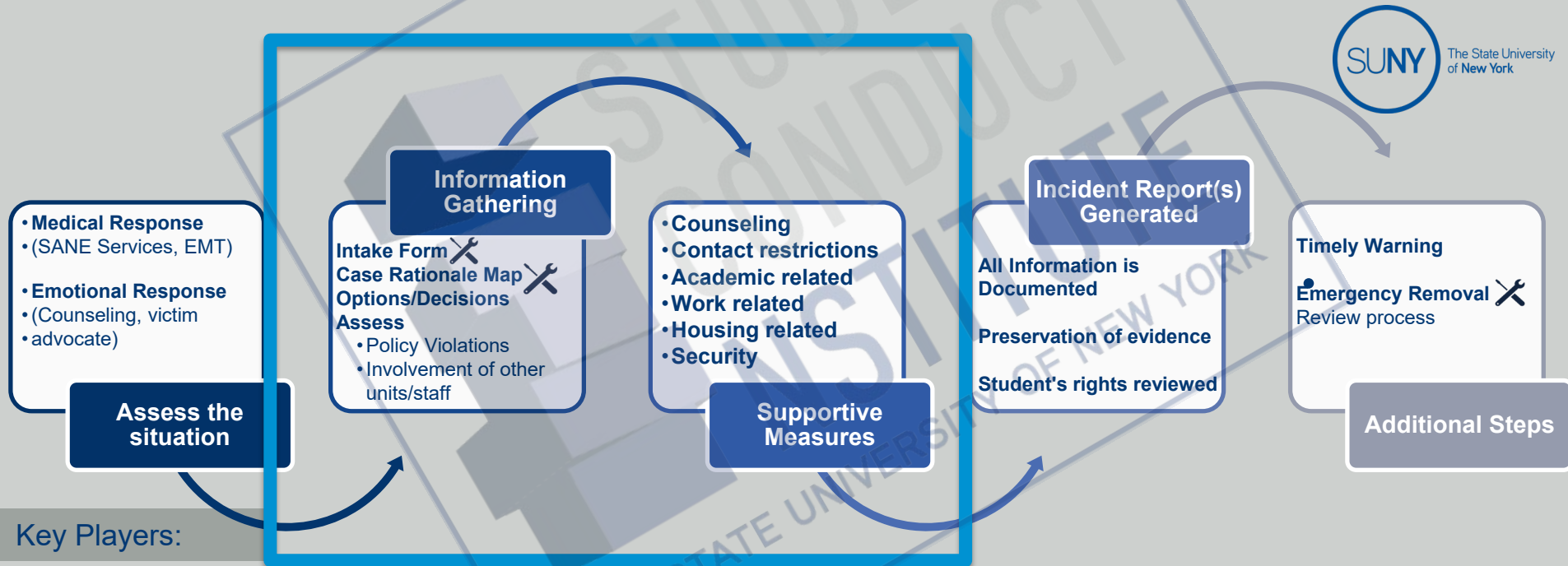


AVAILABLE CONFIDENTIALITY



CASE PROCESS DECONSTRUCTED

1. INCIDENT REPORTED



Key Players:



TIXC



Conduct Staff



UPD



Hall Staff



Hearing Board



Appeals Board



Registrar

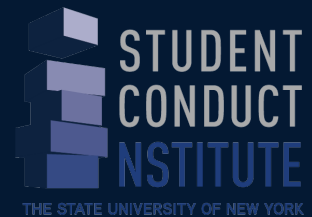
- Incident information
- Type of alleged harassment
- Critical incident response
- Office visit follow-up/delayed report
- Supportive measures
- Student rights information review



TITLE IX: INTAKE FORM



**CODE WORD
ONE: SCARLETT**



TITLE IX TOOLKIT

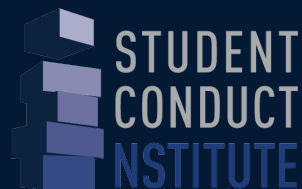
Student Conduct Institute Case Rationale Map for Title IX Coordinators

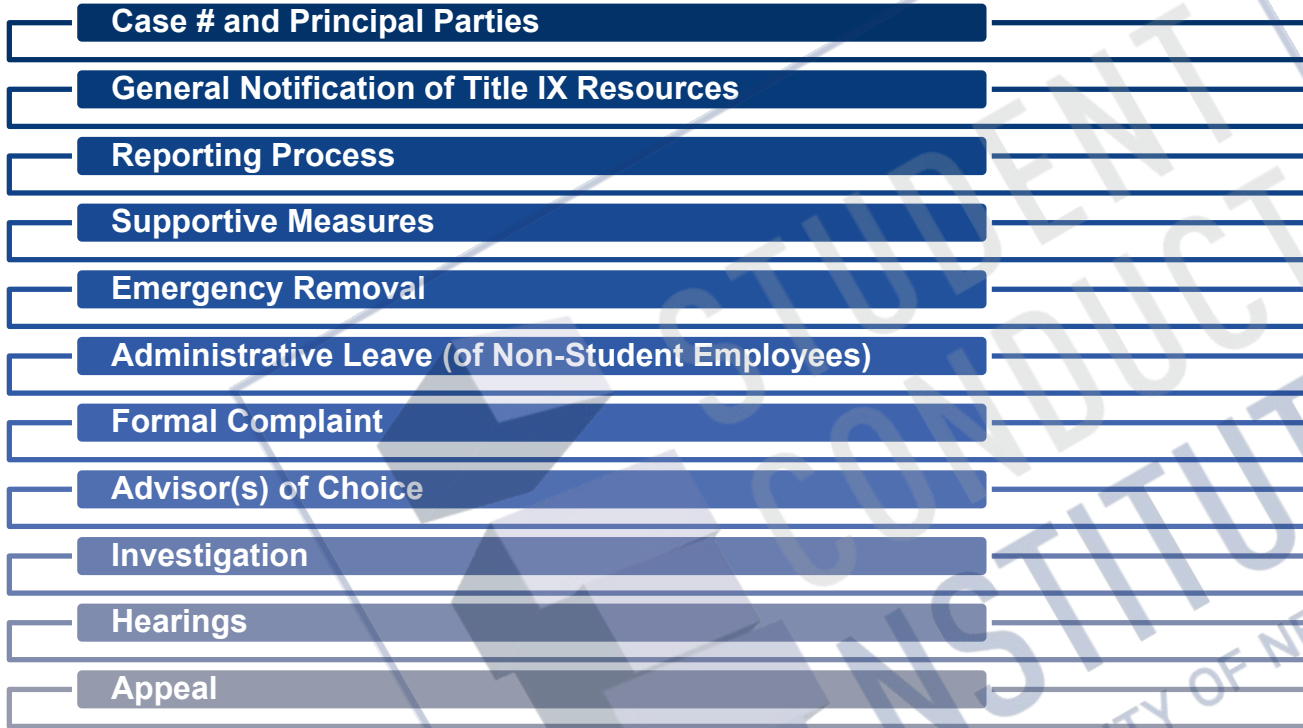
Supportive Measures	
<input type="checkbox"/>	The Title IX Coordinator (or designee) did not offer supportive services. Reason:
	<input type="checkbox"/> The reported violation did not meet the definitions under Department of Education Regulations, even if proven (e.g. the complaint was for an insult based on liking a sports team, or something else clearly is not covered by Title IX).
	<input type="checkbox"/> Anonymous report where Complainant could not be identified
	<input type="checkbox"/> Complainant did not respond to electronic mail, phone, or postal mail messages <i>(attach copy of messages)</i>
	<input type="checkbox"/> Complainant could be identified but no contact information was available for them
	<input type="checkbox"/> Other: Click or tap here to enter text.
	If one of the above is selected, please provide further details: Click or tap here to enter text.
<input type="checkbox"/>	The Title IX Coordinator (or designee) offered supportive services to the Complainant but they were DECLINED .
	<input type="checkbox"/> Declined in writing <i>(attach copy of message)</i>
	<input type="checkbox"/> Declined orally Date: Click or tap to enter a date. Method: Click or tap here to enter text.
	Notes: Click or tap here to enter text.

<input type="checkbox"/>	The Title IX Coordinator (or designee) was able to arrange for supportive measures for Complainant. The measures arranged for include:
	<input type="checkbox"/> change of housing
	<input type="checkbox"/> change of classroom
	<input type="checkbox"/> change of schedule
	<input type="checkbox"/> change of work task, location, or hours
	<input type="checkbox"/> counseling (indicate whether on- or off-campus)
	<input type="checkbox"/> medical services (indicate whether on- or off-campus)
	<input type="checkbox"/> sexual assault forensic exam
	<input type="checkbox"/> mutual no contact order
	<input type="checkbox"/> one-way no contact order
	<input type="checkbox"/> security escort
	<input type="checkbox"/> other security changes or arrangements: Click or tap here to enter text.
	<input type="checkbox"/> other: Click or tap here to enter text.

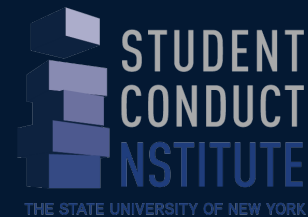
CODE WORD

ONE: SCARLETT





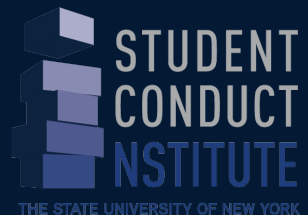
WHAT'S A CASE RATIONALE MAP?



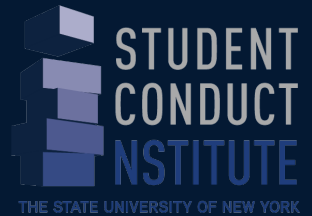
Type	Considerations
Safety	Security escort, reasonable safety accommodations
Health	Medical and mental health related resources
Housing	Location of incident, safety of the student(s) involved, room lock change, designated emergency space
Contact restrictions	One-way or Mutual No contact order ✂
Academic	Course accommodations, course changes, Professor notifications, leave of absence, withdrawal assistance
Work	On/Off Campus employment – restrictions may be necessary to avoid contact
Facility based	Gym, library, dining, University events, etc...
Recreational	Student group, athletic team, internship program



TITLE IX: SUPPORTIVE MEASURES

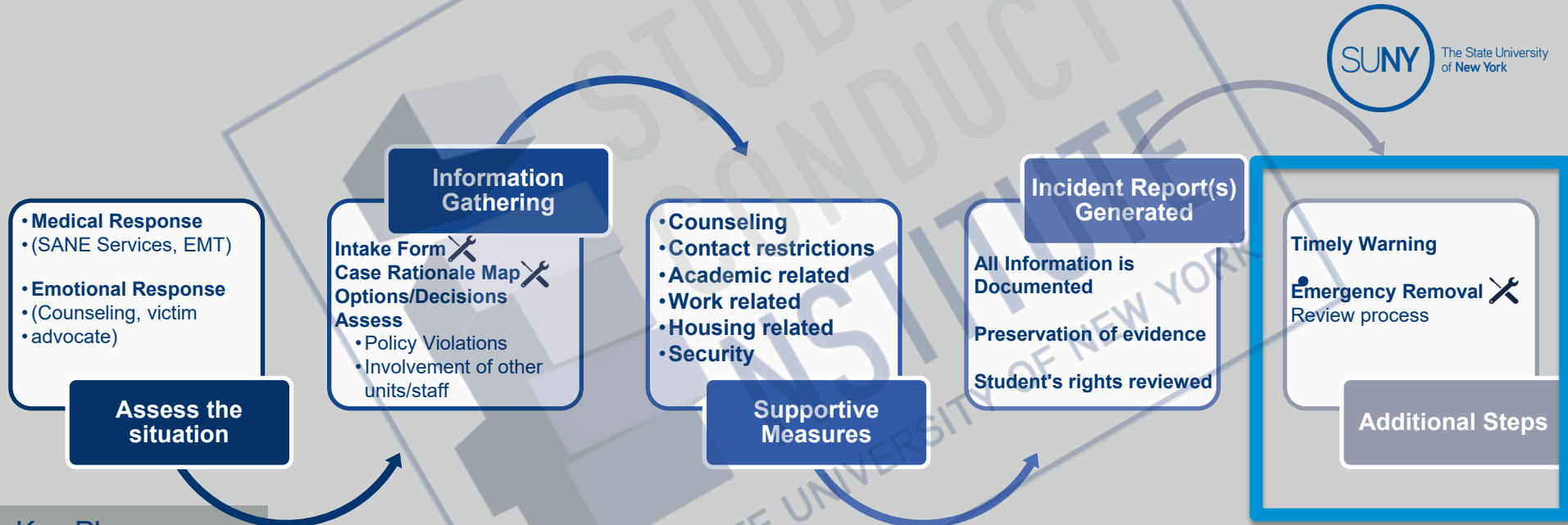


BREAK



CASE PROCESS DECONSTRUCTED

1. INCIDENT REPORTED



Key Players:

- TIXC
- Conduct Staff
- UPD
- Hall Staff
- Hearing Board
- Appeals Board
- Registrar

- **CAUTION:** Interim suspensions are prohibited for Title IX student-respondents
 - Department of Education considers them disciplinary sanctions
- Emergency Removal may be used where
 - Person poses threat of immediate **physical** harm
 - Threat arises from allegations of sexual harassment
 - Depends on individualized safety and risk assessment
- Must provide opportunity for “immediate” opportunity to challenge the removal (need not be a formal hearing)

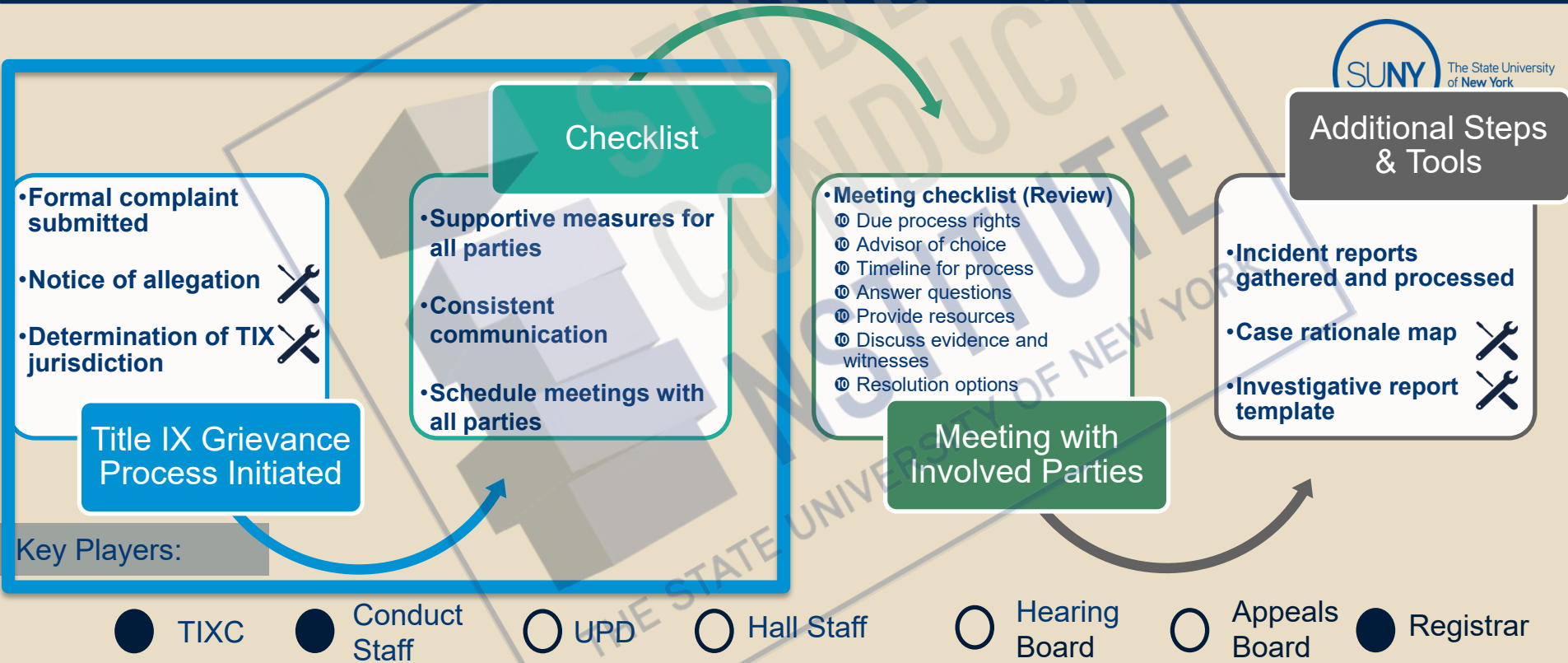
Action Items

- ✓ Who makes the final call?
- ✓ How will you assemble staff?
- ✓ Documents and Form Templates
- ✓ Review meeting with student
- ✓ Review process
- ✓ Review process determination
- ✓ Notification to parties
- ✓ Safety of principal parties

TITLE IX: EMERGENCY REMOVALS

CASE PROCESS DECONSTRUCTED

2. STUDENT CONDUCT PROCESS INITIATED



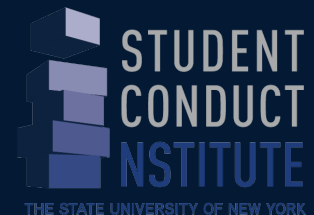
- Institutions **must** investigate all “formal complaints” filed with the Title IX Coordinator
- Who can file a formal complaint?
 - A person who is currently participating in the education programs or activities of the institution
 - A person who is **attempting** to participate in those programs or activities
 - The Title IX Coordinator
- Multiple complaints arising from same incidents can be consolidated

Action Items

- ✓ Preparation
 - Challenges of virtual work
 - Delayed report
 - Non-responsive
 - Varied familiarity of the process
- ✓ If non-responsive
 - Determination on next steps



TIX: FORMAL COMPLAINT



- Institutions **must** dismiss formal complaints that don't fall within the statutory criteria for the Title IX grievance process
 - Institution may still investigate through a non-Title IX process ✂
- Institutions **may** dismiss complaints that do meet the criteria if:
 - Complainant notifies TIXC in writing they would like to withdraw the formal complaint/any allegations in it;
 - Respondent is not enrolled/employed by the institution; or,
 - Specific circumstances prevent the institution from gathering evidence sufficient to reach a determination
- Any party may appeal a dismissal determination

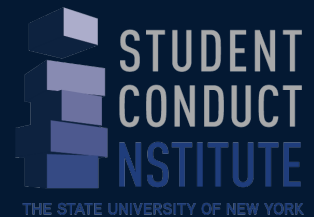
Action Items

- Who makes the dismissal determination?
- Who issues the notification?
- Template(s)
- Appeal process (technology considerations)
- Appeal process determination
- Notification to parties
- Safety and reaction of principal parties



MANDATORY & DISCRETIONARY
DISMISSAL

CODE WORD
TWO: DARLA



Timing

- Send to parties as soon as practicable after filing of formal complaint
- No investigative interviews until parties have sufficient time to review allegations

Contents

- Allegations of sexual harassment
- Identities of parties, if known, including the complainant's name
- Date, time, and location of the incident, if known
- Parties' basic procedural rights
- Presumption of non-responsibility

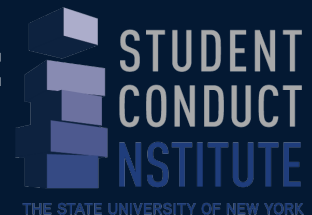
Advisor

- Notice must inform parties of right to advisor, who may be attorney
- School does not need to pay for attorney
- Reasonable restrictions ok...
- Unless they conflict with cross-examination role



**TIX: NOTICE OF ALLEGATIONS
& RIGHT TO ADVISOR**

**CODE WORD TWO:
DARLA**



**Student Conduct Institute
Notice of Allegations Template
July 1, 2020**

Case #:

Date:

SENT VIA EMAIL TO {student's institutional email account}

Dear **First Name, Last Name**:

On **Month/Day/Year, Name of Complainant(s)** filed a formal complaint according to **Institution's** Title IX Grievance Process naming you as a Respondent (this is the term for a person accused of a violation of the policy).

The Title IX Grievance Process is developed and enforced according to the Institution's obligations under the U.S. Department of Education's Final Title IX Rule of May 19, 2020 (you may view the Final Rule at <http://bit.ly/TitleIXReg>). The Title IX Grievance Process defines the meaning of "sexual harassment" (including forms of sex-based violence), addresses how **{institution}** must respond to reports of misconduct falling within that definition of sexual harassment, and mandates a grievance process that this institution must follow to comply with the law in these specific covered cases before issuing a disciplinary sanction against a person accused of sexual harassment. *OPTIONAL: It also defines informal resolution procedures that the parties may voluntarily select to remedy such covered cases.*

A copy of the Title IX Grievance Process is available at the following link: **INSERT LINK**

According to the formal complaint, you engaged in the following conduct that potentially constitutes sexual harassment under the Title IX Grievance Process:

Identify the parties involved in the incident, if known;

Identify the conduct allegedly constituting sexual harassment;

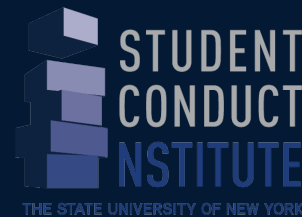
Identify the date and location of the alleged incident, if known.

A meeting has been scheduled for you with **{Official}** at **{date, time, location}** to review our process, review available supportive measures, and discuss any questions you have. As with all meetings during the process, you are entitled to have an advisor present. Please contact us immediately at **{contact information}** with any scheduling conflicts.

Under the Title IX Grievance Process, you are presumed not responsible for the alleged conduct. A determination regarding responsibility is not made until the conclusion of this Process.



NOA





TITLE IX TOOLKIT



You are entitled to an advisor of your choice, who may be, but is not required to be, an attorney. Costs incurred by having such an advisor are your responsibility. In the event this matter proceeds to a hearing and you do not have the assistance of an advisor of choice, the institution will provide you with an advisor, at no cost or fee to you, for the purpose of conducting certain cross-examination within the hearing process.

You also have the right to inspect and review evidence directly related to the allegations of sexual harassment before the investigation concludes, including the evidence upon which {institution} does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source.

If applicable: Please be aware that section ____ of the Institution's code of conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

Sincerely,

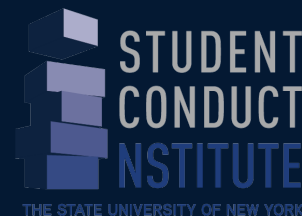
Title IX Coordinator

CC: COMPLAINANT



The State University
of New York

NOA (AND REACTIONS)



Advisor Resource Guide

for Title IX Investigations and Hearings

SEPTEMBER 2021

Abbey Marr, Esq.
Jessica Morak, Esq.
Gemma Rinefierd, Ed.D.
Adam J. Wolkoff, J.D./Ph.D.



Introduction: Serving as an Advisor in Title IX Proceedings

The Role of the Advisor

Pre-Hearing Preparations

Hearing

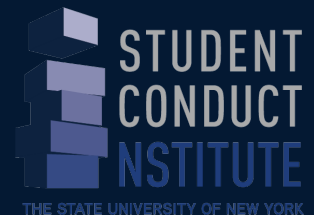
Cross Examination & Relevance

After the Hearing

Checklist

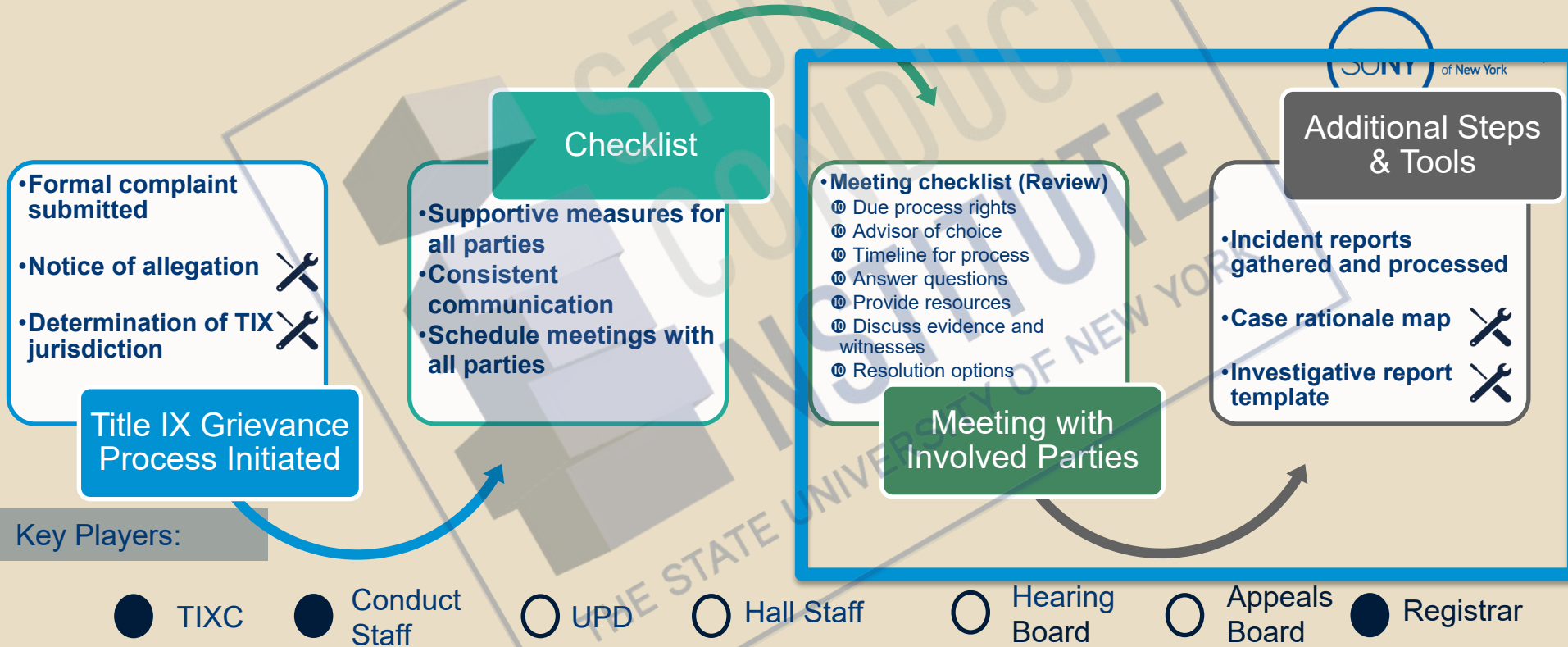


bit.ly/TIXadvisor



CASE PROCESS DECONSTRUCTED

2. STUDENT CONDUCT PROCESS INITIATED



Overview

- **Detail due process rights**
- **Indicate right to advisor of choice**
- **Describe timeline for process**
- **Answer questions**
- **Provide resources**
- **Discuss evidence and witness procedures**
- **Offer resolution options**
- **Describe potential sanction outcomes**
- **Share their appeal Rights**

Action Items

- ✓ **Virtual vs in-person meetings**
 - Clear expectations and reminders in your meeting notices (e.g. Advisor of choice notice)
- ✓ **Location of meeting and privacy concerns**
- ✓ **Preparation of materials in advance**
- ✓ **Schedule with adequate time**
- ✓ **Build in flexibility and anticipate challenges**
 - Emotional state of all parties
 - Breaks may be necessary
 - Working with student's advisor



When Informal Resolutions are allowed under the Final Rule:

- After a formal complaint;
- When all parties and the TIXC coordinator consent;
- Any party can withdraw at any time

Examples:

- **Administrative resolution**
- **Restorative justice**
- **Mediation**

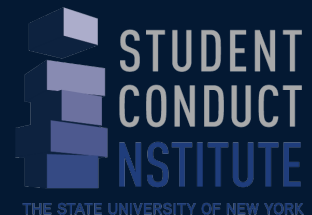
Not allowed in cases involving employee respondents

TIXC *can* run the process, but it is not recommended



INFORMAL RESOLUTIONS

**CODE WORD
THREE: SAM**

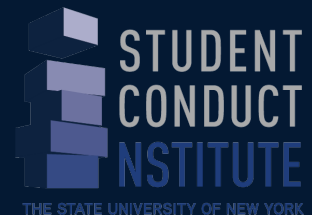


Area	Considerations
Capacity	Staff and technology needs
Policy Updates	Website, code, promotional materials
Process	Conceptualization, implementation, criteria, execution, form creation
Facility	Space needs, limitations, reserving space
Training	Individuals serving in a facilitator capacity and individuals explaining the Informal Resolution process
Awareness	Marketing & outreach



INFORMAL RESOLUTION

**CODE WORD
THREE: SAM**





Review and legal requirements.

Investigations

Review, tools, and legal requirements.

Pre-hearing prep

Hearing

Overview, tools, and legal requirements.



DAY 3 OVERVIEW





**STUDENT
CONDUCT
INSTITUTE**

THE STATE UNIVERSITY OF NEW YORK



The State University
of New York