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*November 2022*

**SCI** LIVE@ DISTANCE BASIC COMPLIANCE  
TRAINING, DAY 2

# TODAY



Sample case review and tools.



Review and legal requirements.



Initiation and tools.

## Option #1: Text Voting



## Option #2: Web Voting



RESPONDING WITH POLL EVERYWHERE

# Would you consider yourself

New professional

Mid-level  
professional

Senior-level  
professional

# Which of these functions best matches your role in the student conduct process?

- Title IX staff **A**
- Residence Life **B**
- Student Conduct Office Staff **C**
- Student Affairs Admin **D**
- Hearing Board Member **E**
- Appeals Board Member **F**
- Human Resources Manager **G**
- Chief Diversity Officer **H**
- Police Officer **I**
- Student Advisor/Advocate **J**
- Other campus professional **K**



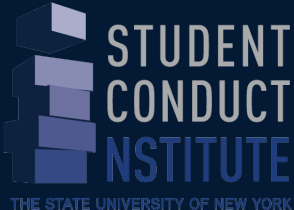
# SELF ASSESSMENT

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

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.

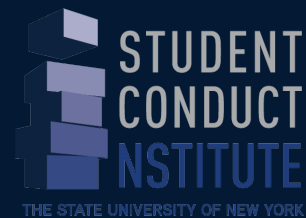


# ROLES IN THE PROCESS\*





# SAMPLE CASE REVIEW





**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

**Complainant:**

Sidney Jones

**Accused:**

Jaime Carter

**Witnesses:**

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?

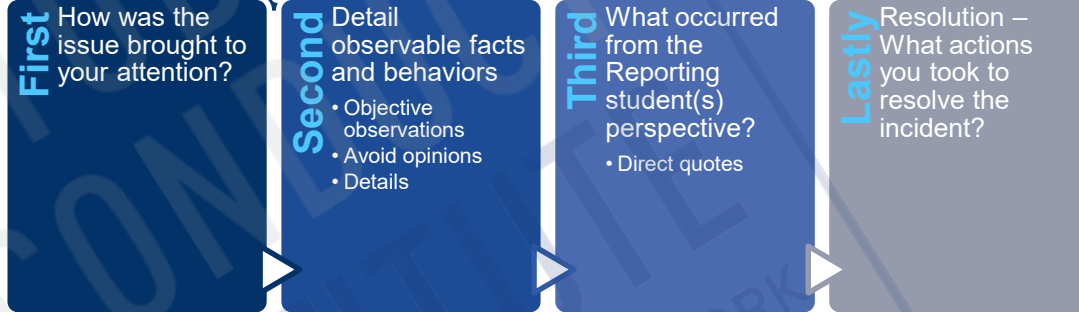
## Highlight

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

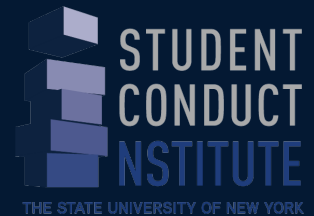
## Areas of

- **Mandatory reporter / confidentiality disclosure**
- **Number of disclosures**

# Incident Report Structure



# INCIDENT REPORT WRITING



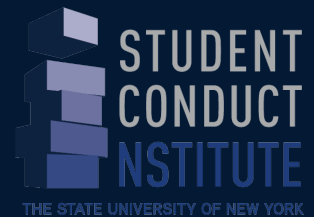
## Option #1: Text Voting



## Option #2: Web Voting



# RESPONDING WITH POLL EVERYWHERE



# Have you worked on or received a report similar to the sample case?



# Would you know how to approach the case, in your role, if it were to occur at your institution?



Start the presentation to see live content. For screen share software, share the entire screen. Get help at [pollev.com/app](https://pollev.com/app)

Flipbook

Title IX  
Grievance  
Process  
Decision  
Tree\*

Items with an Asterix  
(\* ) are available in  
your training packet.

Case  
Rationale  
Map\*

Advisor  
Resource  
Guide

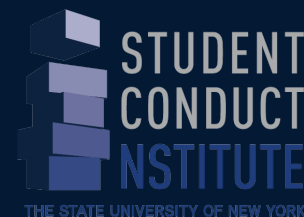
Intake  
Form

Notice of  
Allegation  
s\*



The State University  
of New York

TOOLS & RESOURCES TO  
SUPPORT YOUR PROCESS



## 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](#)

- 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

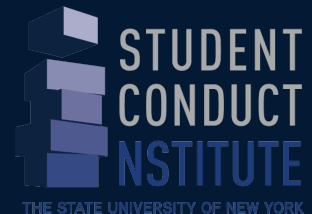
## Hearing

- 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

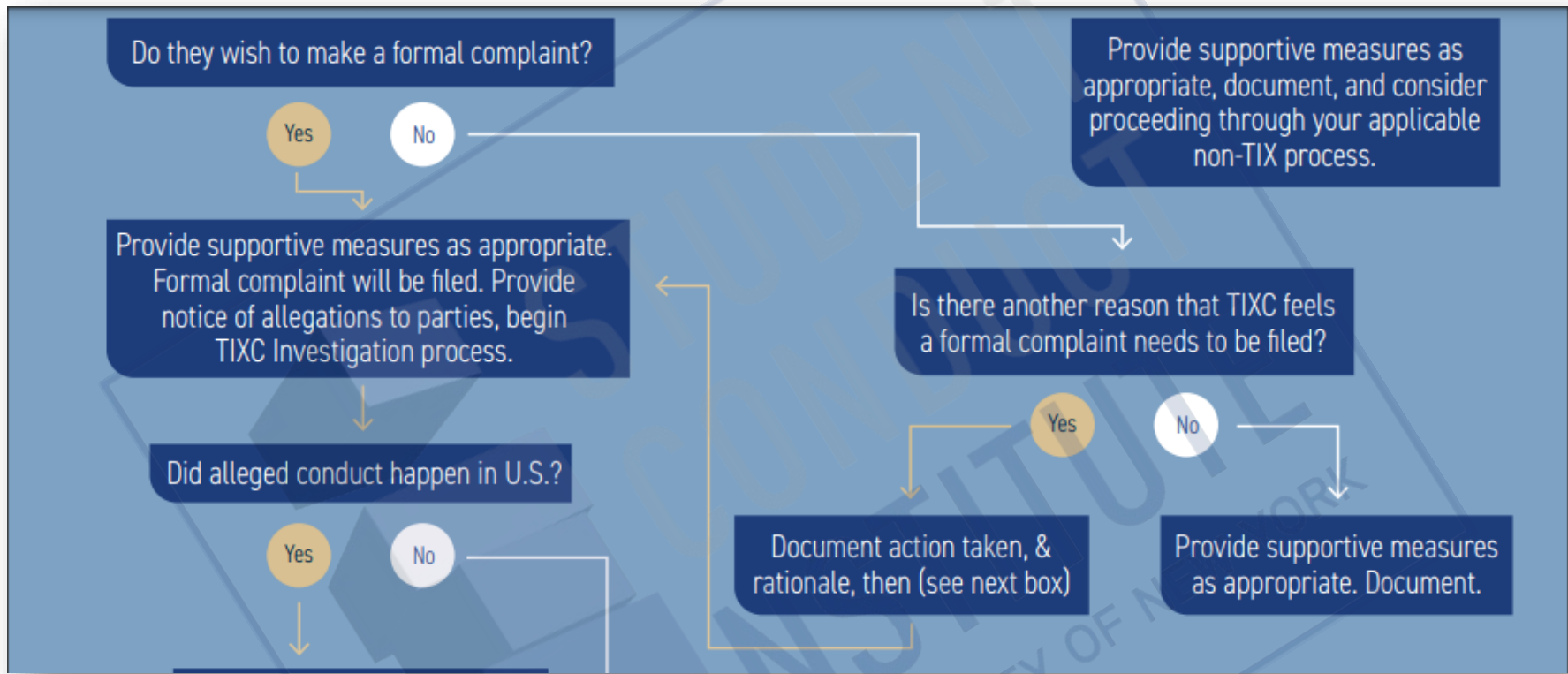
Do they wish to make a formal complaint?

Yes

No

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





# DECISION TREE



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!

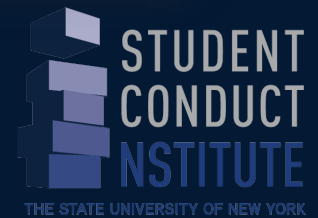
If at any point during the investigatory process, (1) complainant notifies in writing desire to withdraw complaint or any allegations, (2) respondent no longer enrolled/employed, (3) circumstances prevent gathering sufficient evidence, complaint \*may\* be dismissed.  
**Note** This may be appealed by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

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

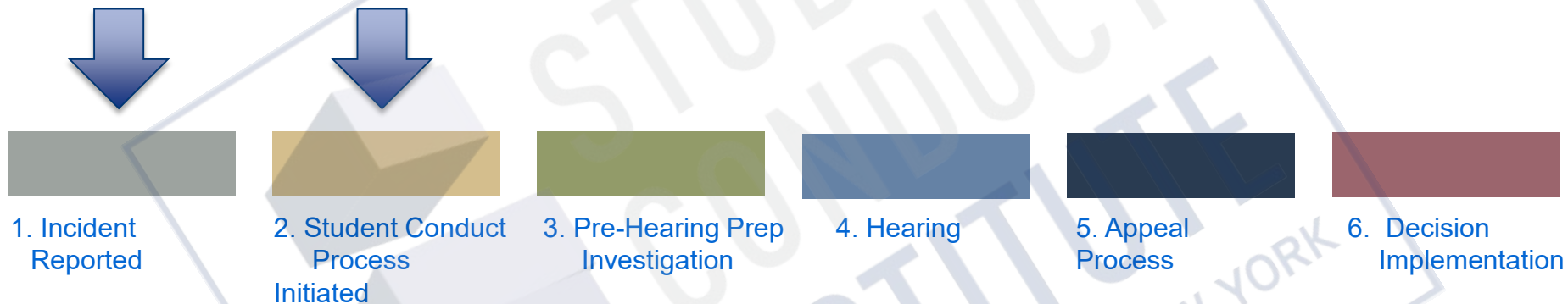
*\*This Decision Tree is intended to capture the most foreseeable routes that a matter may take, but it cannot cover every circumstance that may arise. Please consult with your campus counsel for specific circumstances and questions.*

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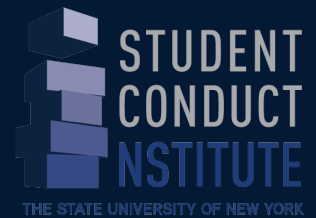
# DECISION TREE: IS IT TITLE IX?



# CASE PROCESS DECONSTRUCTED



# INCIDENT REPORTED OVERVIEW





“**Actual knowledge**” of an incident is defined as:

Notice of sexual harassment or allegations of sexual harassment to:

- A school’s Title IX Coordinator or
- Any official of the school who has authority to institute corrective measures on behalf of the school

**NOTE:**

“Notice” includes, but is not limited to, a report of sexual harassment to a Title IX Coordinator as described in the final rule.

# TITLE IX: NOTICE TO COLLEGES & UNIVERSITIES “SCHOOLS” OF INCIDENT



## Action Items

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



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

- Institutions must inform employees and students of reporter and confidential employee designations.

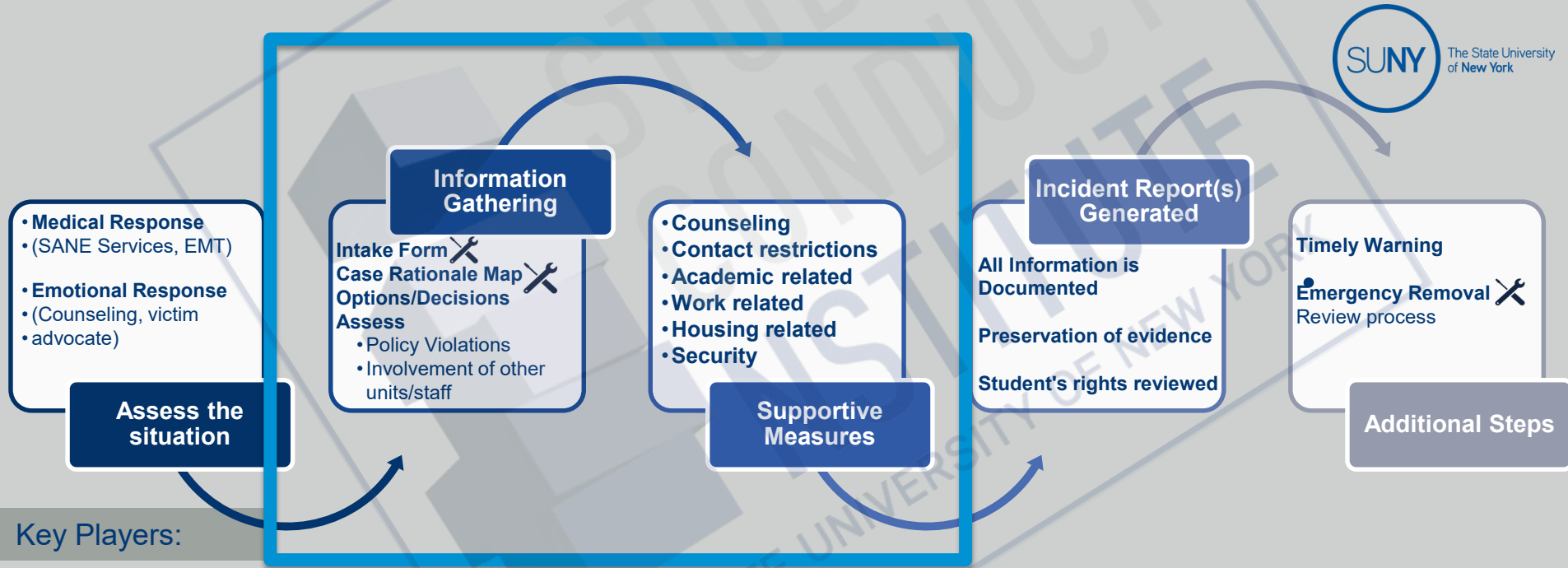
## The Coordinator must balance confidentiality with:

- Communications necessary to fulfill legal duties
- The safety of other members of the college community.
- Title IX Coordinators are not confidential employees!

AVAILABLE CONFIDENTIALITY

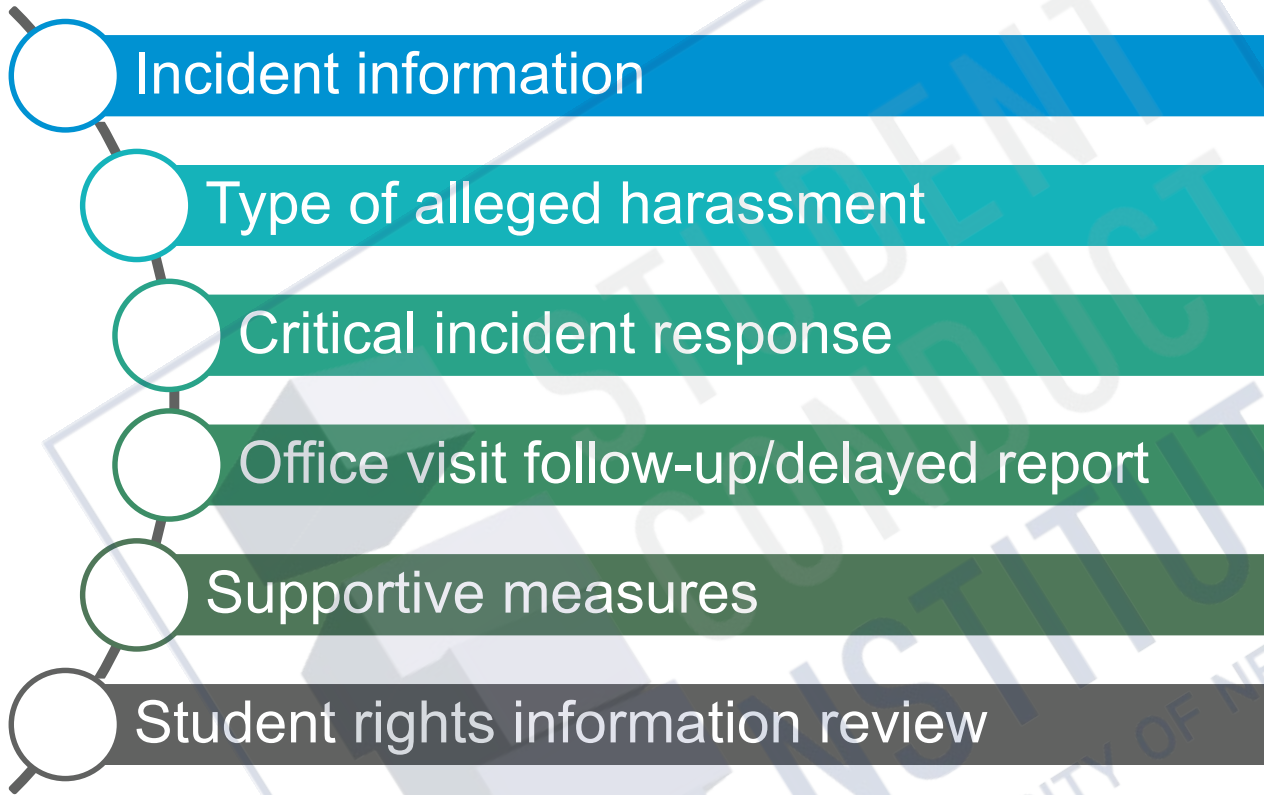
# CASE PROCESS DECONSTRUCTED

## 1. INCIDENT REPORTED

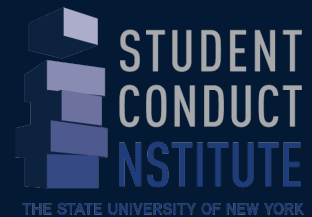


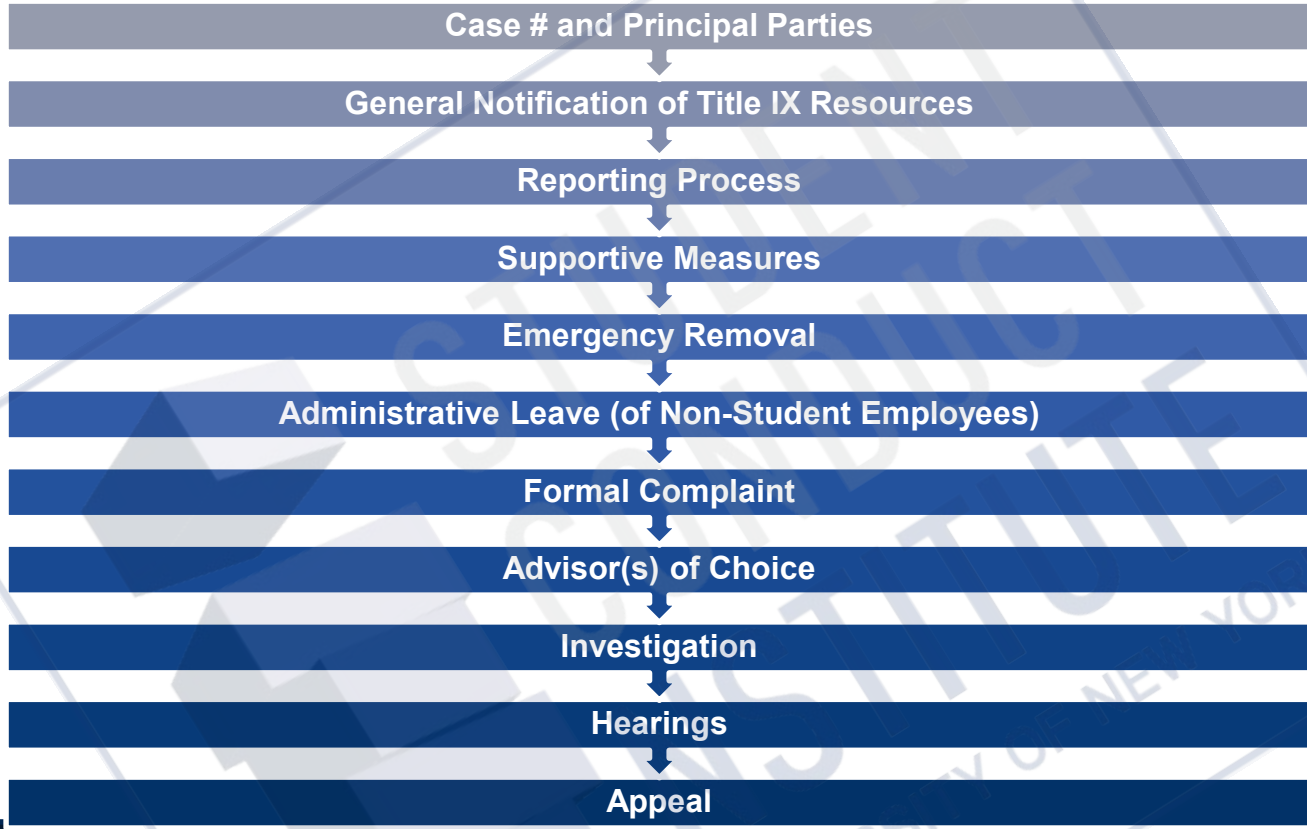
Key Players:

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

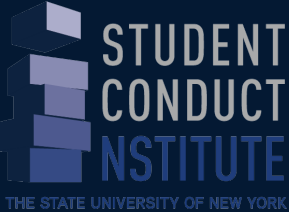


# TITLE IX: INTAKE FORM





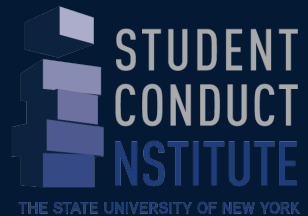
# WHAT'S A CASE RATIONALE MAP?



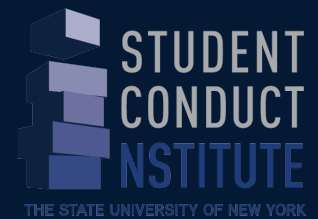
Type	Considerations
<b>Safety</b>	Security escort, reasonable safety accommodations
<b>Health</b>	Medical and mental health related resources
<b>Housing</b>	Location of incident, safety of the student(s) involved, room lock change, designated emergency space
<b>Contact restrictions</b>	One-way or Mutual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



# TITLE IX: SUPPORTIVE MEASURES

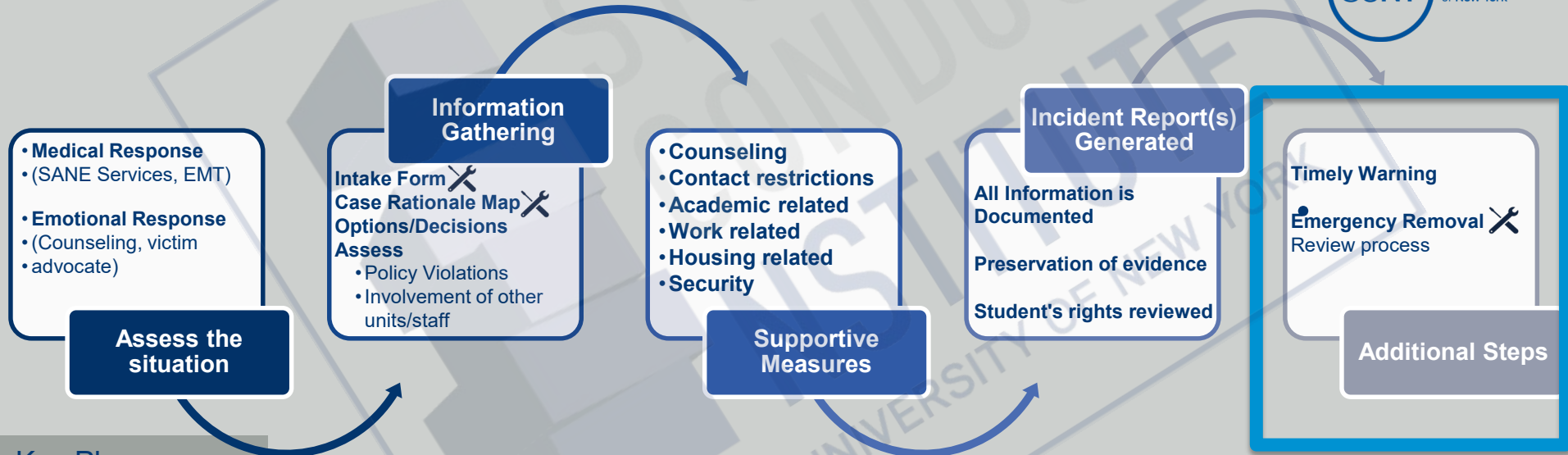


**BREAK**



# 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:

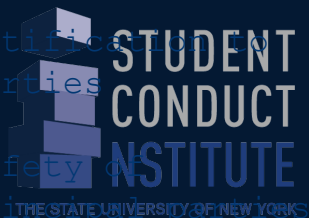
- Person poses threat of immediate **physical** harm
- Threat arises from allegations of sexual harassment
- Depends on individualized safety and risk assessment

## Must provide opportunity for “immediate” opportunity to challenge the removal (need not be a formal hearing)

### Action Items

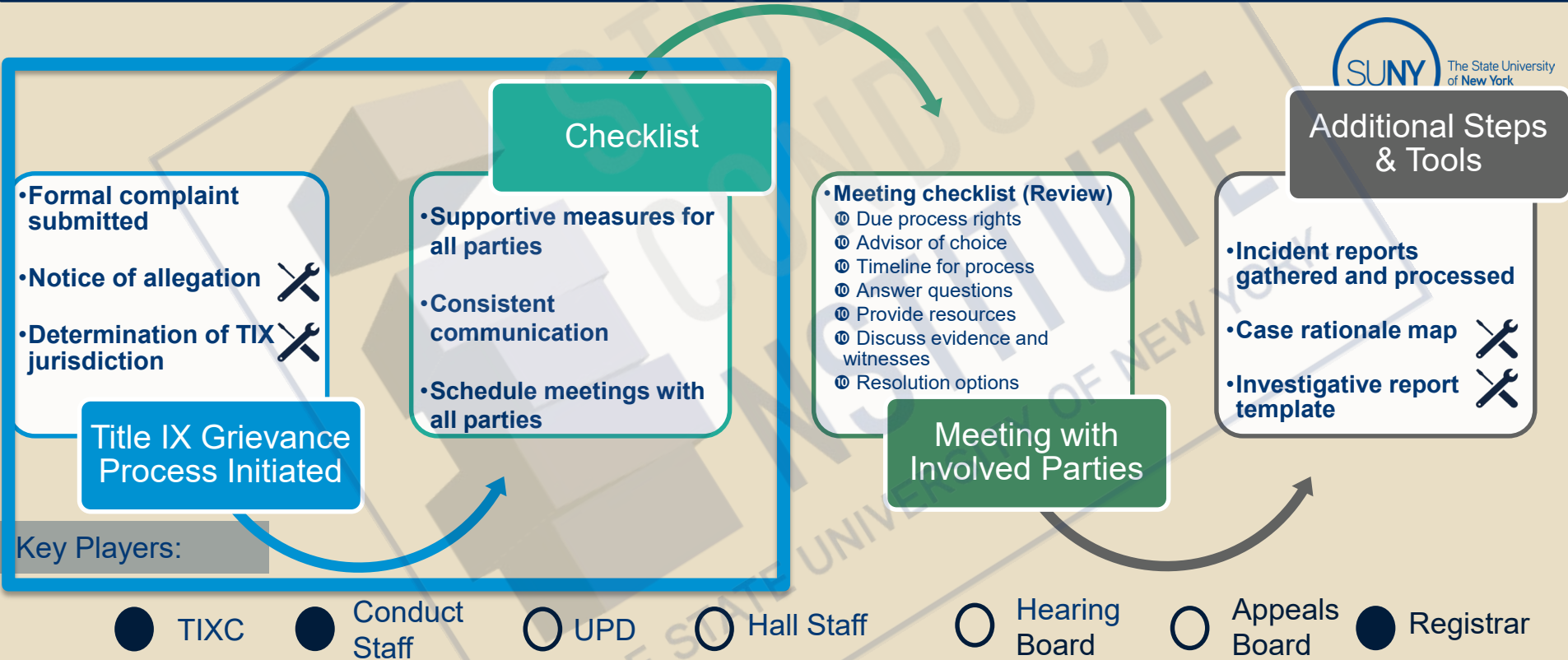
- ✓ Who makes the final call?
- ✓ How will you assemble staff?
- ✓ Documents and Form Templates
- ✓ Review meeting with student
- ✓ Review process/tech considerations
- ✓ Review process determination

# TITLE IX: EMERGENCY REMOVALS

- ✓ Notification to parties
  - ✓ Safety of
- 
- STUDENT  
CONDUCT  
INSTITUTE
- THE STATE UNIVERSITY OF NEW YORK

# 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
  - Varied familiarity of the process
  - Delayed report
  - Non-responsive
- ✓ If non-responsive
  - Determination on next steps



## 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



• Institutions ***must*** dismiss formal complaints that don't fall within the statutory criteria for the Title IX grievance process.

• Institutions ***may*** dismiss complaints that do meet the criteria if:

- A complainant notifies the TIXC in writing that they would like to withdraw the formal complaint or any allegations in it;
- The respondent is not enrolled/ employed by the institution; or,
- If specific circumstances prevent the institution from gathering evidence sufficient to reach a determination

Note: Institution may still investigate through a non-Title IX process

**MANDATORY &  
DISCRETIONARY DISMISSAL**

# NOTICE REQUIREMENTS

## 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

## Timing

Send to parties as soon as practicable after filing of formal complaint

No investigative interviews until parties have sufficient time to review allegations

## 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

Date/Time of Formal Complaint and who filed the complaint

References to policy and procedures

Parties involved

Conduct alleged

Date/location of the alleged conduct

Upcoming meeting date/time/location

Notice of advisor of choice

Presumed not responsible until a determination is made clause

Copy sent to complainant



## 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

NOA





# 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

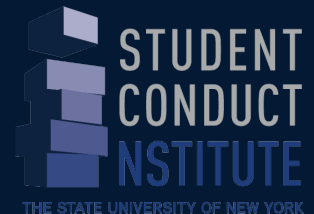
Cross Examination & Relevance

After the Hearing

Checklist



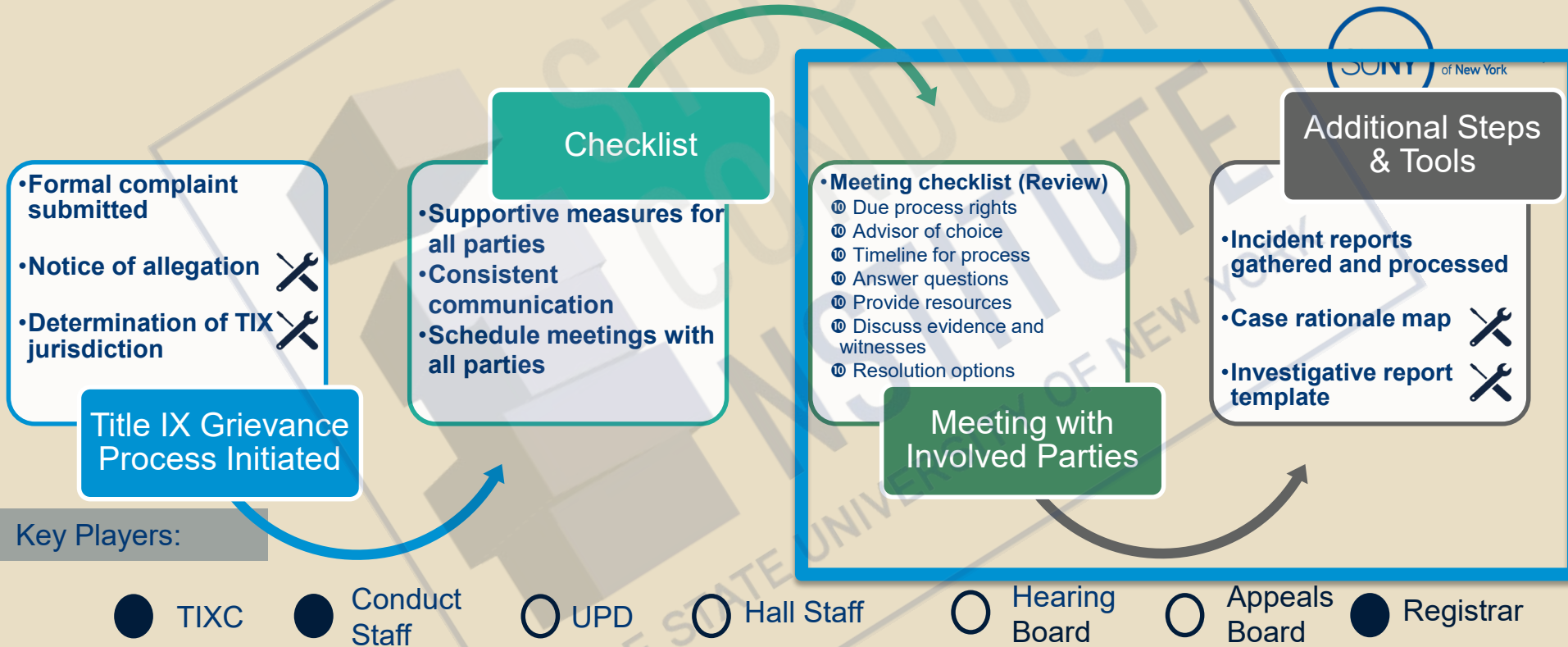
[bit.ly/TIXadvisor](https://bit.ly/TIXadvisor)





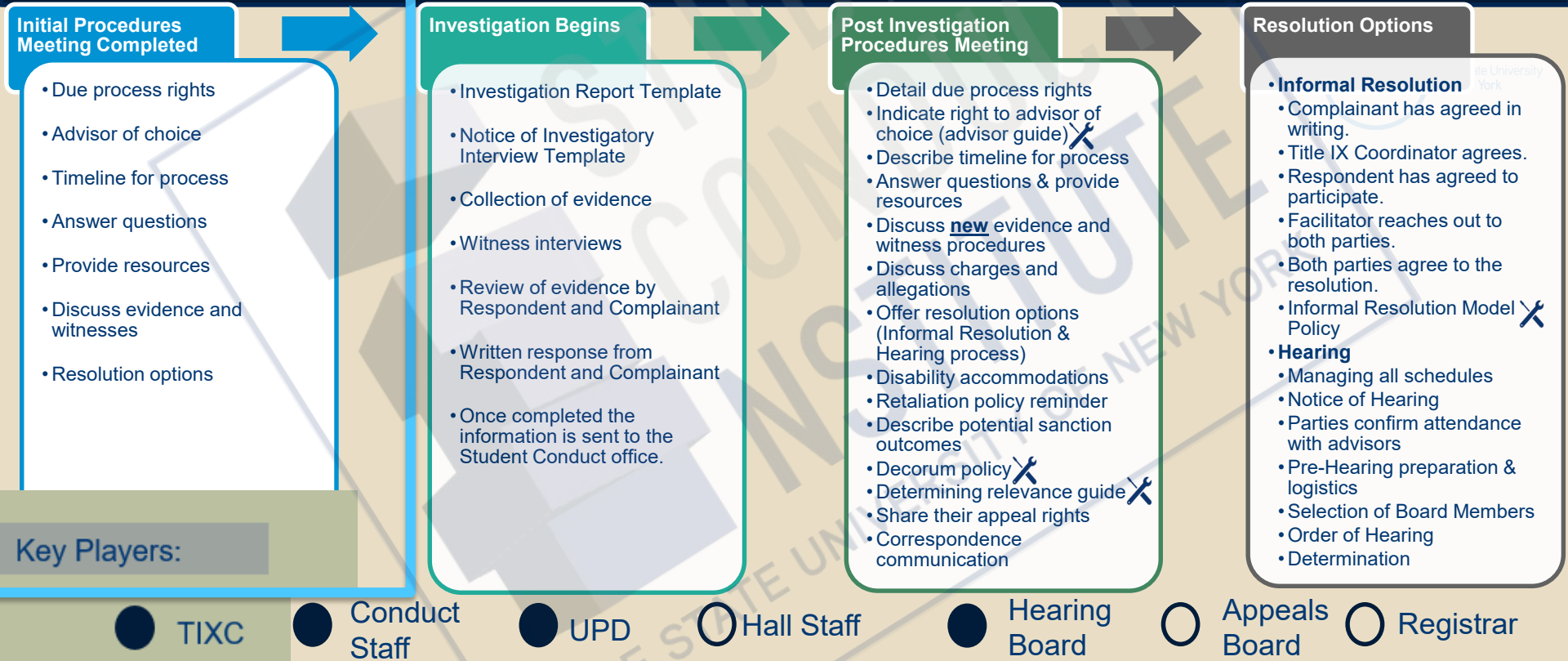
# CASE PROCESS DECONSTRUCTED

## 2. STUDENT CONDUCT PROCESS INITIATED



# 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 the 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

## Not allowed in cases involving employee Respondents

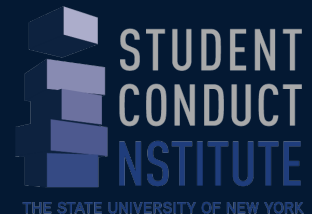
TIXC *can* run the process, but it is not recommended

## Examples:

- Administrative resolution
- Restorative justice
- Mediation



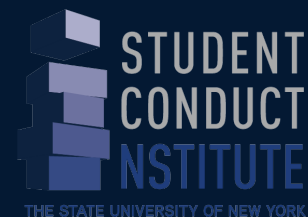
# INFORMAL RESOLUTIONS



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



# INFORMAL RESOLUTION





Review and legal requirements.

Investigations

Review, tools, and legal requirements.

Pre-hearing prep

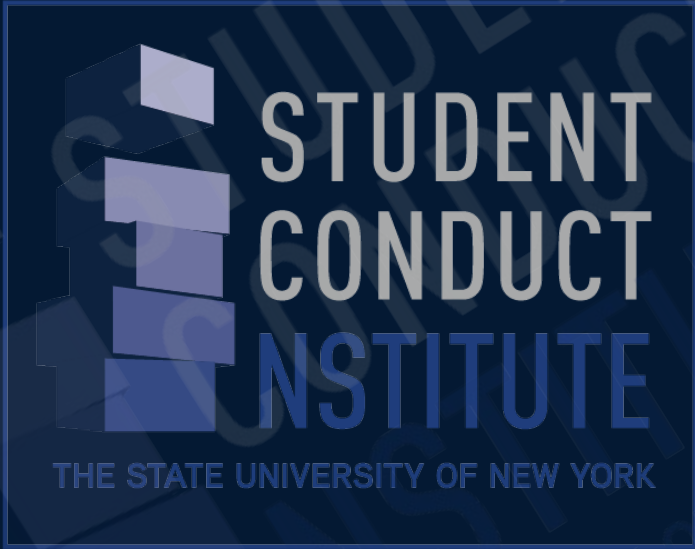
Hearing

Overview, tools, and legal requirements.



# DAY 3 OVERVIEW





The State University  
of New York