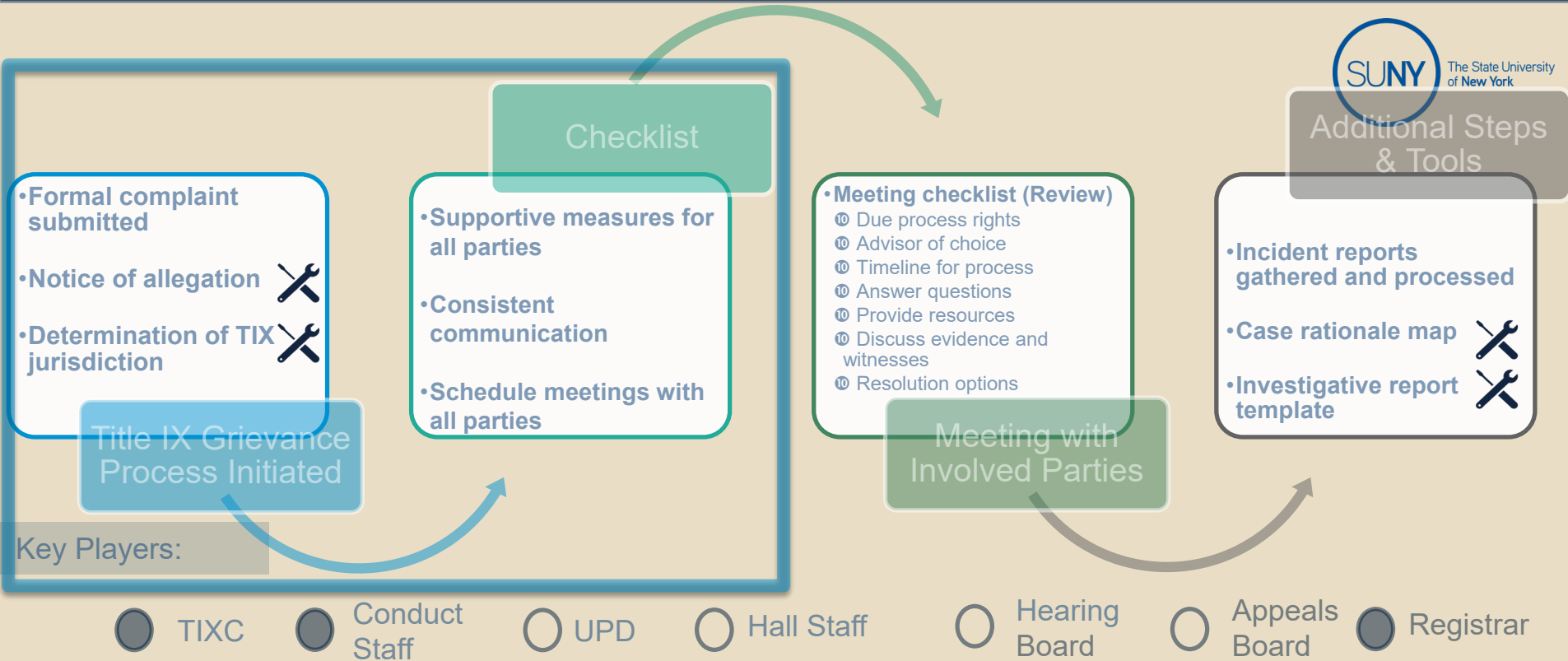


CASE PROCESS DECONSTRUCTED

2. STUDENT CONDUCT PROCESS INITIATED



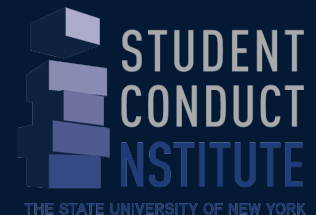
- Institutions **must** investigate all “formal complaints” filed with the Title IX Coordinator
- Who can file a formal complaint?
 - A person who is currently participating in the education programs or activities of the institution
 - A person who is **attempting** to participate in those programs or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

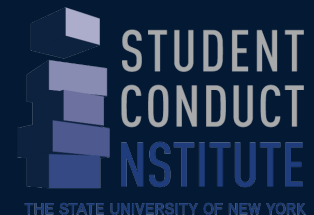
Action Items

- 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

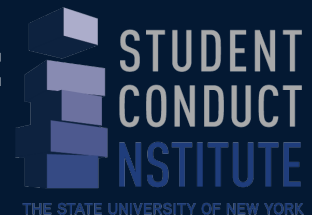
Advisor

- 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;

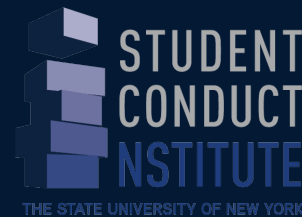
Identify the date and location of the alleged incident, if known.

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.

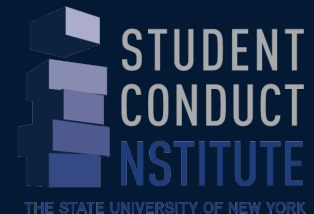
Sincerely,

Title IX Coordinator

CC: COMPLAINANT



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

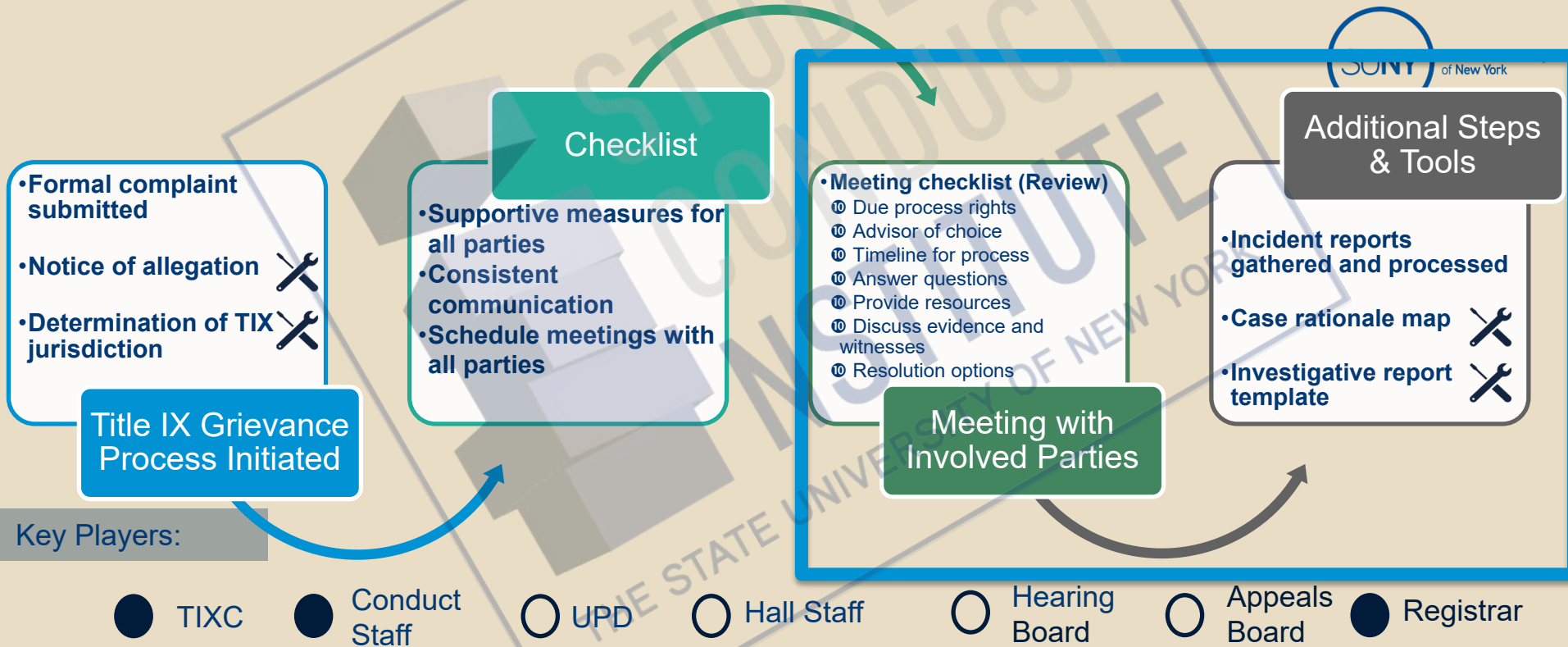


bit.ly/TIXadvisor



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**

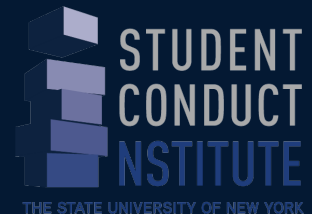
Not allowed in cases involving employee respondents

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



INFORMAL RESOLUTIONS

**CODE WORD
THREE: SAM**

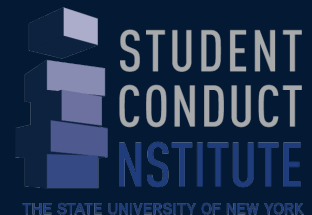


Area	Considerations
Capacity	Staff and technology needs
Policy Updates	Website, code, promotional materials
Process	Conceptualization, implementation, criteria, execution, form creation
Facility	Space needs, limitations, reserving space
Training	Individuals serving in a facilitator capacity and individuals 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