



**STUDENT
CONDUCT
INSTITUTE**
THE STATE UNIVERSITY OF NEW YORK



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**SCT LIVE@ DISTANCE BASIC
COMPLIANCE TRAINING, WEEK 2**

1

**SAMPLE CASE
REVIEW**



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2

CASE PROCESS DECONSTRUCTED



3

Tools & Resources to Support Your Process

- Decision Tree
- Case Rationale Map



4

INCIDENT REPORTED: BEST PRACTICES







5

CASE PROCESS DECONSTRUCTED

1. INCIDENT REPORTED





Assess the situation

- Medical Response (*SANE services, EMT, etc*)
- Emotional Response (*Counseling services, victim advocate*)

Begin Case Rationale Map ✕

Information Gathering

- Intake form (sample) ✕
- Options/Decisions
- Preserving evidence

Key Players:

TIXC

Conduct Staff

UPD

Hall Staff

Hearing Board

Appeals Board

Registrar

Supportive Measures Assessed

- Room Change, Conduct Hold, Restriction of Contact
- Title IX accommodations (*Absence excuse, course change, etc*)
- Title IX assessment of Risk to Campus Community

Incident Reports Generated

Good Faith, Not Deliberately Indifferent

Timely Warning Issued*

6

CASE PROCESS DECONSTRUCTED

1. INCIDENT REPORTED



Health and Safety first

TIX campus training provide information on centralized reporting structures

Basic student conduct incident report writing- Res Life Training - Documenting observations objectively (*sample case*) & Preserving evidence

Intake Forms (*sample provided*) ✂

Key Players:

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


7


INCIDENT REPORTED & PROCESS INITIATED: RECAP OF LEGAL REQUIREMENTS



8


2001 Revised Sexual Harassment Guidance	Title IX Final Rule
<p>"Responsible employee" framework:</p> <ul style="list-style-type: none"> • 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." 	<p>"Actual notice" is only received when person brings notifies TIXC or "official with authority" to institute corrective measures.</p> <p>Responsible employee framework not mandated, but allowed.</p> <p>Institution may designate employees as confidential.</p>




WHEN REQUIREMENTS KICK IN: THEN AND NOW


9

- Title IX Coordinator will offer parties supportive measures, even where no formal complaint is filed
- Examples of supportive measures (See, 85 Fed. Reg. 30026, 30401)
 - counseling
 - extensions of deadlines or other course-related adjustments
 - modifications of work or class schedules
 - campus escort services
 - restrictions on contact between the parties (no contact orders)
 - changes in work or housing locations
 - leaves of absence
 - increased security & monitoring of certain areas of campus



TITLE IX: INTAKE PROCESS AND SUPPORTIVE MEASURES


10

- **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)



TITLE IX: EMERGENCY REMOVALS



11

- 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



TX: FORMAL COMPLAINT



12

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.**



AVAILABLE CONFIDENTIALITY

CODE WORD TWO: MOUSE



13

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**



IX: NOTICE OF ALLEGATIONS & RIGHT TO ADVISOR

CODE WORD TWO: MOUSE



14

- 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



TIX: MANDATORY &
DISCRETIONARY DISMISSAL



15

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



16

CONDUCT OR GRIEVANCE PROCESS INITIATED: BEST PRACTICES




17

CASE PROCESS DECONSTRUCTED

2. STUDENT CONDUCT PROCESS INITIATED




TIX Investigator Process Initiated
Charge Letter/ Notice of Allegations copied to both parties
Supportive Measures formalized in writing sent to both parties
Resolution options for Respondent (communication with RI)
Meeting with Reporting Individual

- Review students' rights, advisor, timeline

Meeting with Respondent

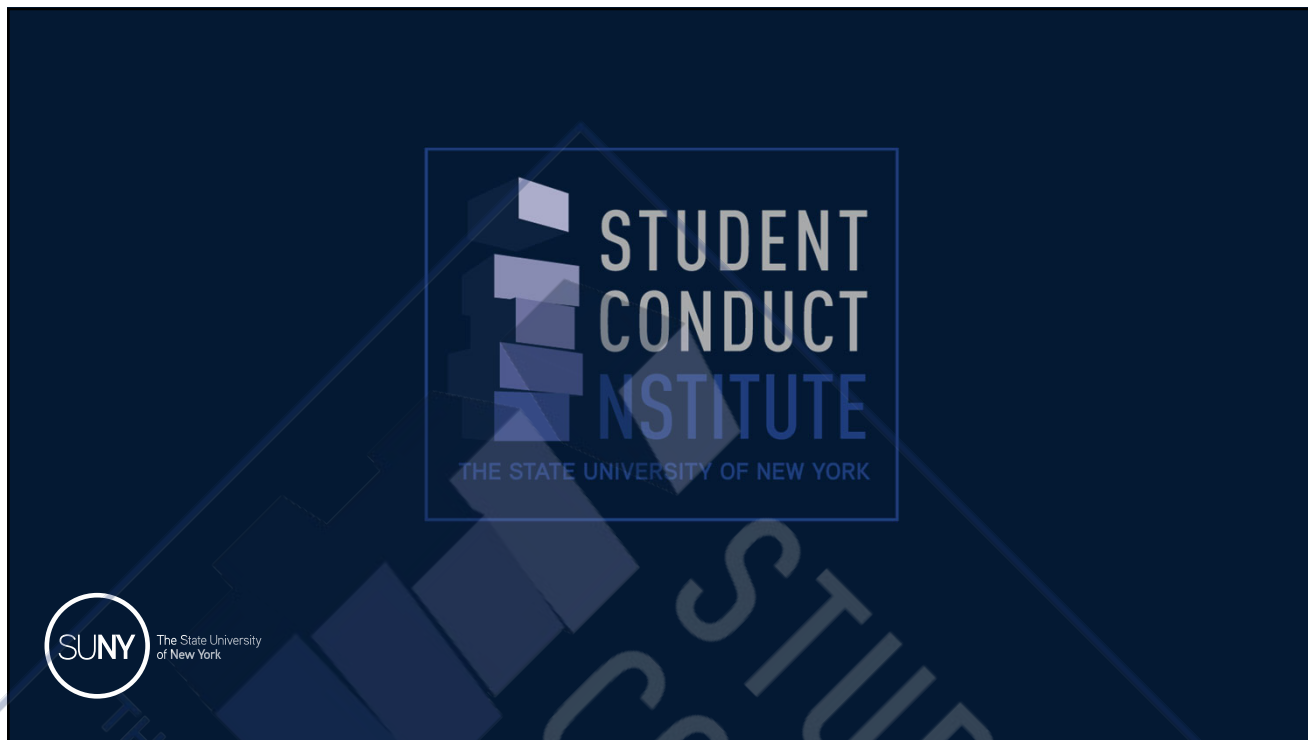
- Review Due Process rights, advisor, timeline

Conduct Hold (*non-TIX*)

Key Players:

TIXC
 Conduct Staff
 UPD
 Hall Staff
 Hearing Board
 Appeals Board
 Registrar

18



19

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