

2023 Training for Title IX Hearing Panels & Advisors

As required by VAWA, the Clery Act and 34 CFR § 106

What this training will include:

- Training is in 2 parts:
 - 50 slides in part 1, and 35 slides in part 2
 - Feel free to review in stages as it is a lot of information!
 - Please save this training so that you can review it at any time in the future.
- In this PowerPoint we will cover the following required training for hearing officers:
 - Definition of sexual harassment
 - Scope of the University's education program or activity
 - How to conduct a hearing
 - How to serve impartially
 - How to avoid pre-judgment of the facts at issue,
 - Conflicts of interest
 - Bias
 - Issues of relevance related to questions and evidence submitted during the hearing.

What will training include (cont'd)

- Basic Review of Title IX
- Current DOE regulations
 - Definitions
 - Scope of Educational Programs & Activities
- Overview of the complaint/investigation process/grievance process
- Overview of the Hearing Process
- Alternate Hearing process
- Appeal Process
 - Whether a request meets the appeal requirements

What is Title IX?

- Federal Law from 1972 that prohibits sex discrimination in any educational programs & activities
- Applies to students & employees of any University that receives federal funds
- Requires the University to adopt grievance procedures which results in prompt and equitable resolution of student and employee complaints
- University must SPAR (**S**top, **P**revent and **R**emedy) any sex discrimination it receives actual knowledge of.

History of Title IX

- *“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”*
- Jeanne Clery Act
- 1994 Violence Against Women Act (VAWA)
- 2001 Revised Sexual Harassment Guidance
- 2014 Campus SaVE Act
- Dear Colleague Letters (2011, 2014, 2016 all rescinded)
- 2017 Q&A on Campus Sexual Misconduct
- May 2020 Title IX regulations (Current regulations that we follow)
- 2023 Title IX regulations anticipated to be released by October

Clery/VAWA Requirements

- Proceedings must be conducted by officials free from conflicts of interest or bias for either party
- Proceedings must be conducted by officials who, at a minimum, receive training on the following:
 - Issues related to the 4 VAWA (Violence Against Women Act) Offenses
 - How to conduct an equitable hearing process that:
 - Protects the safety of those involved
 - Promotes accountability

Current Title IX Regulations – May 2020

- Department of Education/Trump Administration issued new rules to govern Title IX.
 - New definition for sexual harassment
 - Limitations on types of cases that can be pursued under Title IX
 - Outlined new grievance process
 - Structured complaint process
 - Live hearings for all formal complaints
 - Live, in-person, cross-examination
 - Advisors provided by the university if complainant or respondent does not have one

Effective August 14, 2020

What does Title IX Cover Now?

Sexual Harassment: Conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the University conditioning the provision of an aid, benefit or service of the University on an individual's participating in unwelcome sexual conduct; Quid pro quo.
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's educational programs or activities;
- (3) Sexual assault, dating violence, domestic violence or stalking as defined within the Title IX policy.

Sexual Assault

An offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sex offenses are any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object or oral penetration by a sex organ of another person, without the consent of the victim.

Fondling: Touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary mental incapacity.

Sexual Assault

- Incest: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law
- Statutory Rape: Nonforcible sexual intercourse with a person who is under the age of 18.

Dating Violence

- Definition: Violence committed by a person who has been in a social relationship of a romantic or intimate nature with the complainant.
 - Existence of a relationship determined by both parties' statements: Length of relationship, type and frequency of interaction between the parties

Domestic Violence

- Definition: Form of sexual violence and is abuse committed against someone who is a current or former spouse, current or former co-habitant with the complainant as a spouse or intimate partner, someone with whom the complainant has a child, someone with whom the respondent has or had an intimate dating or engagement relationship, or a person similarly situated.
- Factors to consider in determining whether a domestic relationship existed:
 - Sexual relations between the parties
 - Sharing of income or expenses
 - Do parties share a child together
 - Joint use ownership of property (can apply to residence hall roommates)
 - Whether the parties hold themselves out as spouses or domestic partners
 - Continuity of the relationship
 - Length of the relationship

Stalking

- A repeated course of conduct directed at a specific person (when based on gender or sex) that places that person in reasonable fear for his/her or others' safety, or to suffer substantial emotional distress.
- “Reasonable Person”: a reasonable person under similar circumstances and with similar identities to the complainant.
- “Substantial Emotional Distress”: Significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling.

Scope of Education Programs & Activities

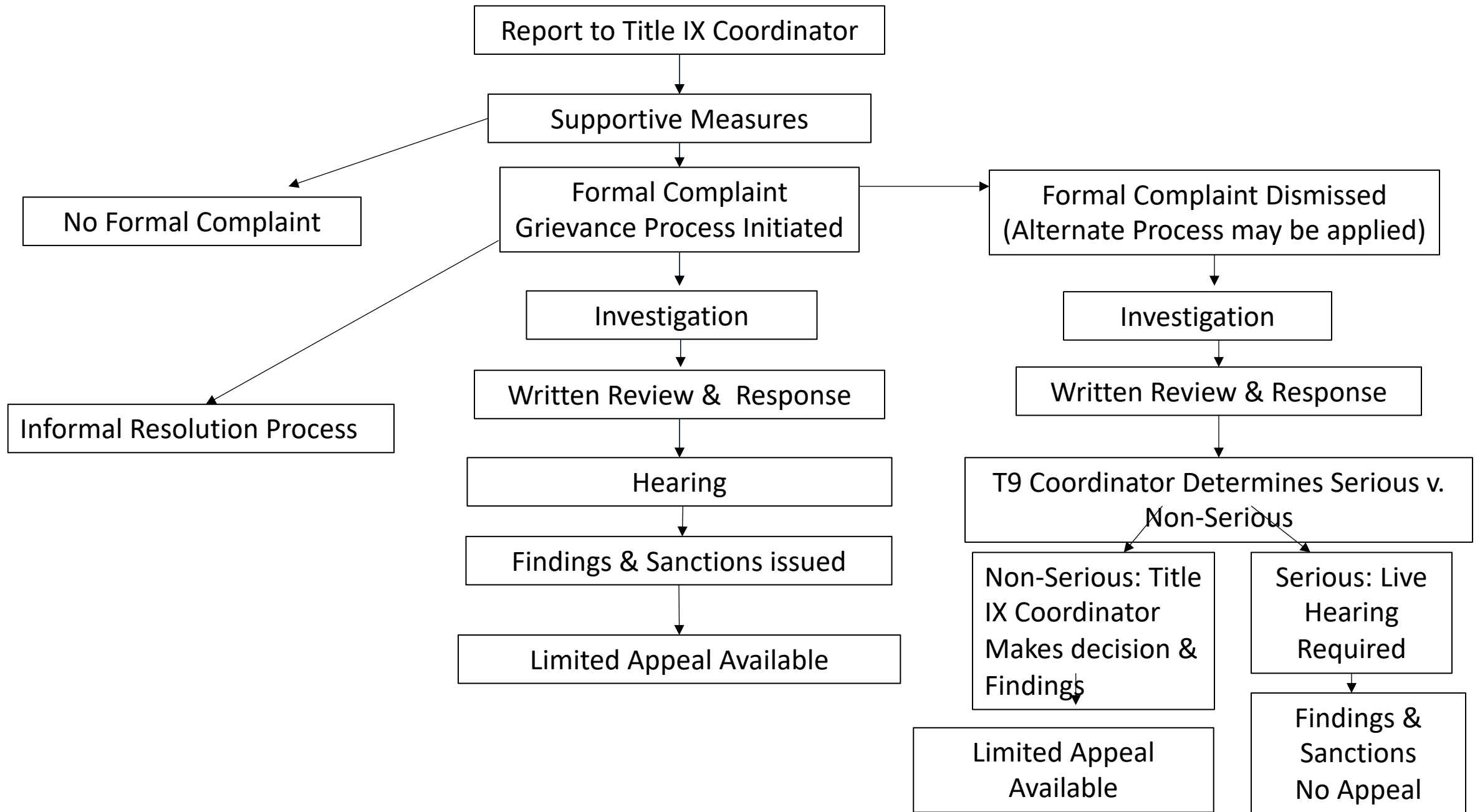
Education Program or Activity: Includes locations, events or circumstances over which the University exercised substantial control over both the Respondent and the context in which the sexual harassment occurred. This includes any building owned or controlled by a student organization that is officially recognized by the University.

- Examples:

- Incident between two students that occurs in the dorms
- Respondent makes inappropriate comments in online class

Overview of the Process

- Report to Title IX Coordinator
- TIX Coordinator offers student supportive measures (*could end here*)
- Formal Complaint
- Informal Resolution Process (*Optional and could end here*)
- Notice of Allegation and Investigation to both parties
- Formal comprehensive investigation
- Parties review investigation/investigative report before findings are made
- Opportunity for written response
- Formal Hearing in front of the Hearing Panel (for matters involving serious discipline)
- Hearing Panel issues findings including sanction



Report v. Complaint

- Report to Title IX Coordinator
 - Title IX Coordinator is notified about an incident
 - Offers supportive measures to complainant
 - Advise complainant of all of their rights and options & follow up in writing
 - Student can choose not to file a formal complaint and ONLY receive supportive measures
- Formal Complaint
 - Occurs when student decides to move forward with a formal complaint (must be in writing)
 - Initiates the investigation and subsequent grievance process

Supportive Measures

- Supportive measures are offered to a complainant regardless of whether they file a formal complaint or not
- Supportive measures are also offered to the respondent
- Supportive measures are defined as:
 - Non-disciplinary, non-punitive individualized services offered to the complainant or respondent before or after the filing of a formal complaint or where no formal complaint has been filed.
 - Designed to restore or preserve equal access to the University's education programs or activities without unreasonably burdening the other party.
 - Includes measures designed to protect the safety of all parties, the University's educational environment and to deter sexual harassment.

Examples of Supportive Measures

- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus Safety Escort Services
- Mutual Restrictions on Contact between the parties/ No Contact Order
- Changes to Housing locations or arrangements
- Leaves of absence
- Increased monitoring of certain areas of campus
- List of local resources (counseling, crisis center, etc.)

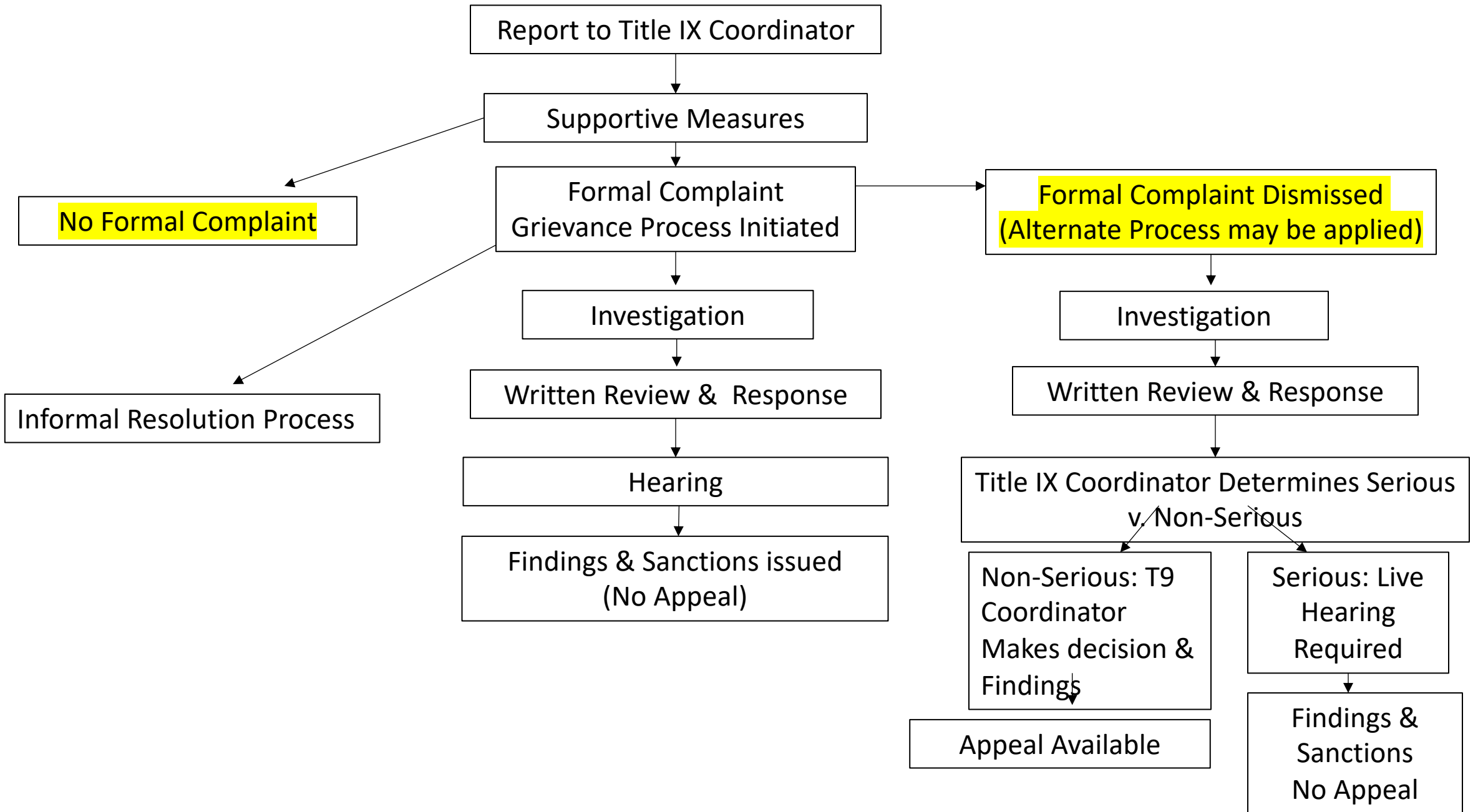
Any supportive measures provided to the complainant or respondent will remain confidential to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures

Dismissal of Formal Complaint

- **Mandatory Dismissal from Title IX Process**
 - The conduct alleged in the Formal Complaint would not constitute sexual harassment as defined in this policy (even if proved)
 - The conduct alleged did not occur within the University's education program or activity; or on the University's campus
 - The conduct alleged did not occur against a person in the United States
- **Optional Dismissal**
 - If the complainant notifies the Title IX Coordinator, at any time during the investigation or hearing, that they would like to withdraw the formal complaint or any of the allegations listed in the complaint;
 - The Respondent is no longer enrolled or employed by the University
 - Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the allegations contained in the complaint

Dismissed complaints

- Any complaints that must be dismissed will go through an alternate process that is slightly different
- Title IX Coordinator can move the complaint to the alternate process depending on the circumstances.



Grievance Process

Formal Complaint is Filed

Notification to both Parties

- Prior to any investigation both parties are informed of the nature of the complaint and their rights and options which include:
 - The right to have an advisor present
 - The right to decline to give a statement
 - The right of the respondent to be presumed “not responsible” until a final determination is made
 - The right to add or give additional evidence to the investigators
 - The right to view all of the information, including evidence the University does not intend to rely on, that is relevant to the investigation.
 - The right to not be disciplined for other student code of conduct violations (i.e. drug or alcohol offenses) as it relates to a Title IX complaint.

Investigation

- Investigator meets with both parties to discuss the case.
- All investigators are impartial, unbiased and receive annual training in these topics as well as on VAWA related offenses.
- The Investigator will complete a report with all of the evidence and statements of the complainant, respondent and any witnesses.
- The investigator will not make any findings
- The investigator will deliver the completed report to the Title IX Coordinator

Review and Written Response

- After the Investigative Report is complete, each party is entitled to review the report and all relevant evidence.
 - Provided with a OneDrive link to the report
- After reviewing the report both parties have 10 days to submit a written response. Any written responses will be reviewed by the investigator and included in the investigative report.
- The parties are then given the written investigative report and related evidence 10 days prior to the hearing
- Hearing officers will also receive a copy of the report and related evidence prior to the hearing.

Summary of Hearing Process

- TIX Coordinator notifies all parties of the date/time/location of the hearing and the names of the hearing officers.
- Parties can object to any of the hearing officers within 3 days of receiving notice of who will be on the panel. Any objections will be forwarded to the hearing panel for review and decision.
- Hearings will be via Zoom and will be recorded.
- Hearing Panel decides format for the hearing.

Summary of Hearing Process

- The hearing must be recorded and subject to the inspection and review by both parties after the hearing.
- The hearing panel may exclude witnesses, such as character witnesses, who are irrelevant to deciding the outcome
- Formal rules of evidence will not apply

Hearing Process Summary: Advisors

- Students can bring their own advisors to the hearing
 - Advisors can be anyone (i.e. friend, attorney, relative)
- If a student does not have an advisor, they will need to be provided with one from the University
- At the hearing the hearing panel will permit advisors to ask the other party and any witnesses all relevant questions and follow-up questions
 - Includes questions that challenge the person's credibility

Hearing Process Summary: Advisors

- Before either party answers the question, the hearing panel must first determine if the question is relevant and explain any decision as to why they believe it is not relevant.
- Only the parties' advisors can conduct cross-examination directly, the parties cannot cross-examine each other.
- Advisors ideally will meet with the student in advance to discuss the case and any questions and witnesses they may potentially want to call
 - Advisors main role at the hearing will be to conduct cross-examination questions

Hearing Process Summary: Cross-Examination

If a party does not submit to live cross-examination at the hearing the panel must not consider ANY statement of that party or witness in reaching a determination as to whether a policy has been violated.

The Panel cannot assume that a party or witness' absence or refusal to answer cross-examination or other questions indicates an admission of responsibility or lack thereof.

Hearing Process Summary: Cross-examination

- Questions and evidence about a complainant's sexual predisposition or prior sexual behavior are, in general, not relevant
- Questions and evidence about the complainant's prior sexual behavior *may* be admitted if:
 - (1) They are offered to prove that someone other than the Respondent committed the conduct alleged by the complainant; or
 - (2) If the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are being offered to prove consent.

Hearing Process Summary: Findings & Sanctions

- The Hearing Panel will review all of the information presented at the hearing as well as all the information included in the report and will make a finding
- Standard of Review – Preponderance of the Evidence: Whether it is more likely than not that the Respondent engaged in the misconduct.
 - 51% threshold (50% + a feather)
- A written summary of the findings and sanctions will be put together.
- TIX Coordinator will notify both parties of the final decision, no further appeal.

Findings must include the following:

- Identification of the allegations constituting sexual harassment
- A description of the procedural steps taken from date complaint was received through the determination (notification to parties, interviews, site visits, etc)
- Findings of fact supporting the determination
- Conclusions regarding the application of the provisions of this policy to the facts
- The rationale for each allegation, including a determination regarding responsibility
- Any disciplinary sanctions the University is imposing on the respondent
- Any remedies designed to restore or preserve access to educational programs or activities

Findings

- Look at Policy elements
- Look at facts
- Apply the facts to the elements to decide whether the facts indicate a violation of policy occurred

Examples

- **Procedural steps**: On March 1st the complainant contacted the Title IX coordinator and informed the TIXC about the incident that occurred on February 28th. The complainant received an alternate housing arrangement as a supportive measure on March 2nd. On March 3 the complainant filed a formal complaint and both parties were notified of their rights and options on March 4th. The Complainant met with the investigator on March 9th and on March 11th the Respondent met with the investigator...
- **Findings of Fact**: After the completion of the hearing the hearing panel found the Respondent *did/did not* violate the University's student code of conduct and *did/did not* engage in sexual harassment. The hearing panel made the following findings of fact:
 - The complainant welcomed the respondent's inappropriate comments because the complainant actively engaged in the conversation and initiated similar inappropriate comments on multiple occasions
 - The Respondent saw the complainant drink several shots of vodka over a short period of time and reasonably knew or should have known that the complainant was incapacitated and could not provide consent
- **Rationale & Conclusion**: Therefore based on the facts outlined in this report, the Hearing panel found the conduct was not sufficiently severe and pervasive to constitute sexual harassment.

Sanctions

Goal of Sanctions: To eliminate a hostile environment, prevent the reoccurrence of the misconduct and to address any effects of the misconduct while considering the impact of separating a student from his/her education.

Possible Sanctions:

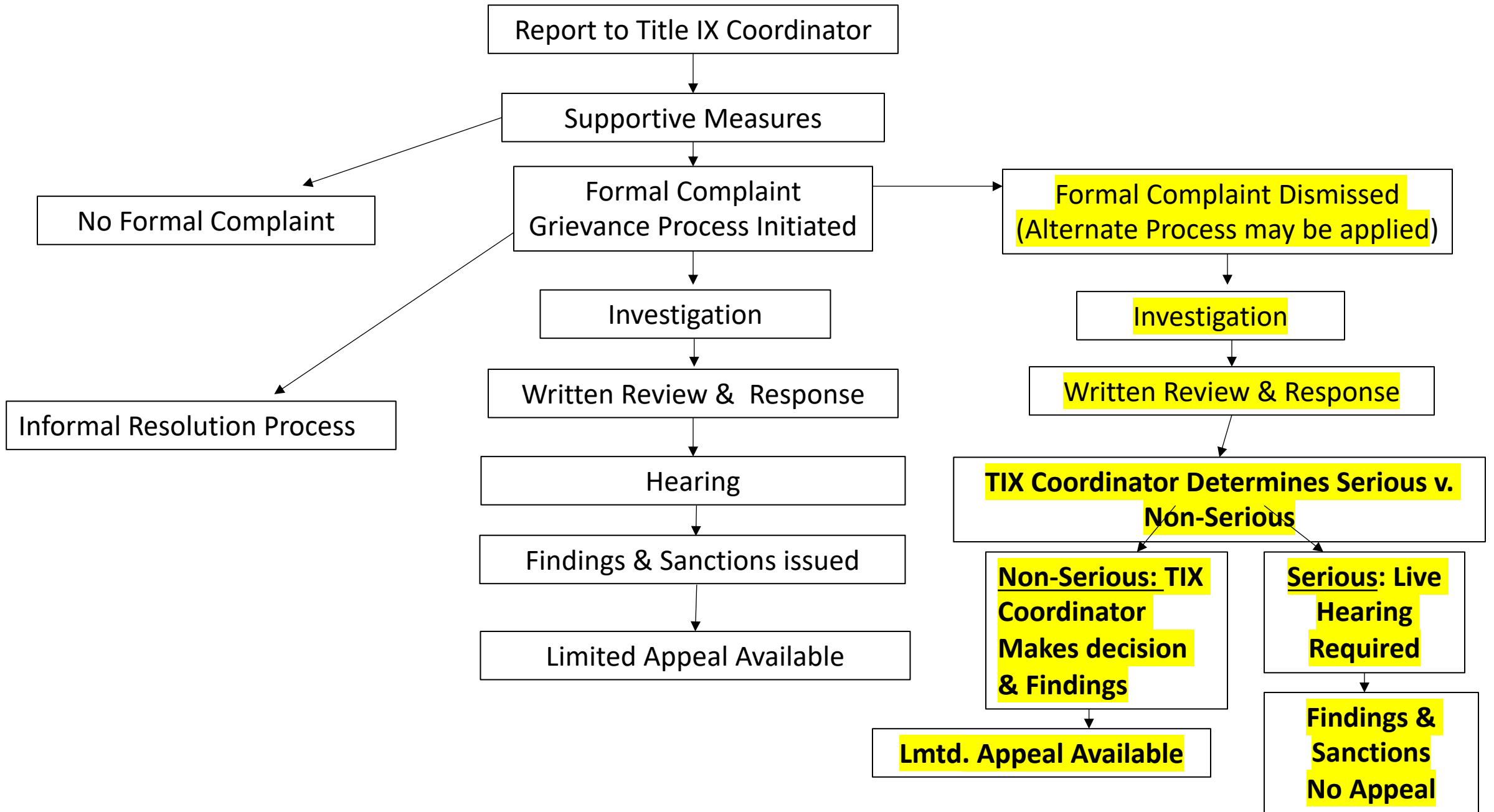
- An order for no contact between the parties
- Formal warnings
- Conduct probation
- Alternate housing or class arrangements
- Limitations for Respondent to attend on-campus classes or enter certain buildings
- Suspension for one or more semesters
- Moving a student to online classes only
- Expulsion or termination (employees)

Appeal

- Either party may file an appeal for the findings after the hearing on one of 4 outlined bases:
 - (1) Procedural Irregularity that affected the outcome
 - (2) New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; or
 - (3) The Title IX Coordinator, investigator(s) or hearing panel member(s) had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent, that affected the outcome of the matter
 - (4) Determined sanctions were excessive given the findings of the investigation
- Appeal goes to the Executive Vice President of Educational Support Services who reviews written appeals and makes a decision in writing.

Alternate Process Serious v. Non-Serious Discipline

- **Serious Discipline**
 - Includes suspension, dismissal and removal to online classes only.
- **Non-Serious Discipline**
 - Includes anything lesser than that defined under Serious Discipline, examples could include:
 - Formal warnings
 - Conduct Probation
 - Implementation or continuation of a No Contact Order
 - Requiring additional training
 - Removal from Housing
 - Inability to join or serve in a leadership role in extracurricular activities.



Serious v. Non-Serious

- The Title IX Coordinator will review the file and if she determines the allegations, if proven true, could lead to Serious Discipline, the Respondent is entitled to a live hearing with the opportunity to cross-examine witnesses.
- If the Title IX Coordinator determines that the allegations, if proven true, would more likely lead to Non-Serious Discipline, the Title IX Coordinator will make the findings and will issue any sanctions

Why the Distinction?

- *Doe v. Allee* - Case from the California 2nd Appellate District that was issued in January
- In the case a Respondent sued USC alleging he was not provided sufficient due process when he was dismissed from school after being accused of sexually assaulting another student.
- The Court found for the Respondent stating: “When a student accused of sexual misconduct **faces severe disciplinary sanctions**, and the credibility of witnesses (whether the accusing student, or witnesses, or both) is central to the adjudication of the allegation, fundamental fairness requires, at a minimum, that the University provide a mechanism by which the accused may cross-examine those witnesses, directly or indirectly, at a hearing in which the witnesses appear in person, or by other means, before a neutral adjudicator with the power independently to find facts and make credibility assessments.”

During the Hearing

- 3 person panel
- The Panel will ask the questions posed by the parties for the witnesses. The parties can submit follow up questions during the hearing, but the Panel will only ask the questions if they believe it is relevant.
- The Panel can exclude any witnesses it believes to be irrelevant. If there are multiple witnesses who will essentially say the same thing, they can be excluded.

During the Hearing (continued)

- Both parties are entitled to have one support person at the hearing. It can be an attorney if they wish. The support person CANNOT speak or participate for the party. They are only there for consultation and advice.
- No advisor is provided for the parties if they do not have one in this process outside of Title IX.
- Each party will be able to present any relevant evidence or witnesses.
- No formal rules of evidence (hearsay evidence admissible but does not carry as much weight)
- Where there is no testimony from a party whose credibility is critical to the determination of the complaint it will limit the Hearing Panel's ability to consider evidence from that party.

Resolution Process – Available for “Non-Serious” Cases Only

- If an appeal is received by the TIX Coordinator it will be forwarded to a group of 3 members of the appeal panel along with a complete copy of the investigative report.
- The 3 members selected should not have any conflict of interest or bias toward either party.
- The 3 members will review the request for appeal and the investigative file to make a determination as to whether it falls into one of the 4 categories.
- The TIX Coordinator will then notify the parties as to whether the appeal has been accepted or rejected.

Resolution Process Eligibility Requirements

- The person requesting the appeal MUST meet at least one of these four requirements before the appeal can be granted:
 - There was a procedural error in the process that *substantially affected the outcome*.
 - Previously *unavailable* evidence is not available which could *significantly* impact the outcome of the case.
 - Findings were not one that a reasonable investigator could have made.
 - Sanctions imposed were not ones that could have been issued by reasonable persons given the findings of the case.

If the Appeal is Rejected

- The decision is final and the TIX Coordinator will notify both parties in writing.

If the Appeal is Accepted

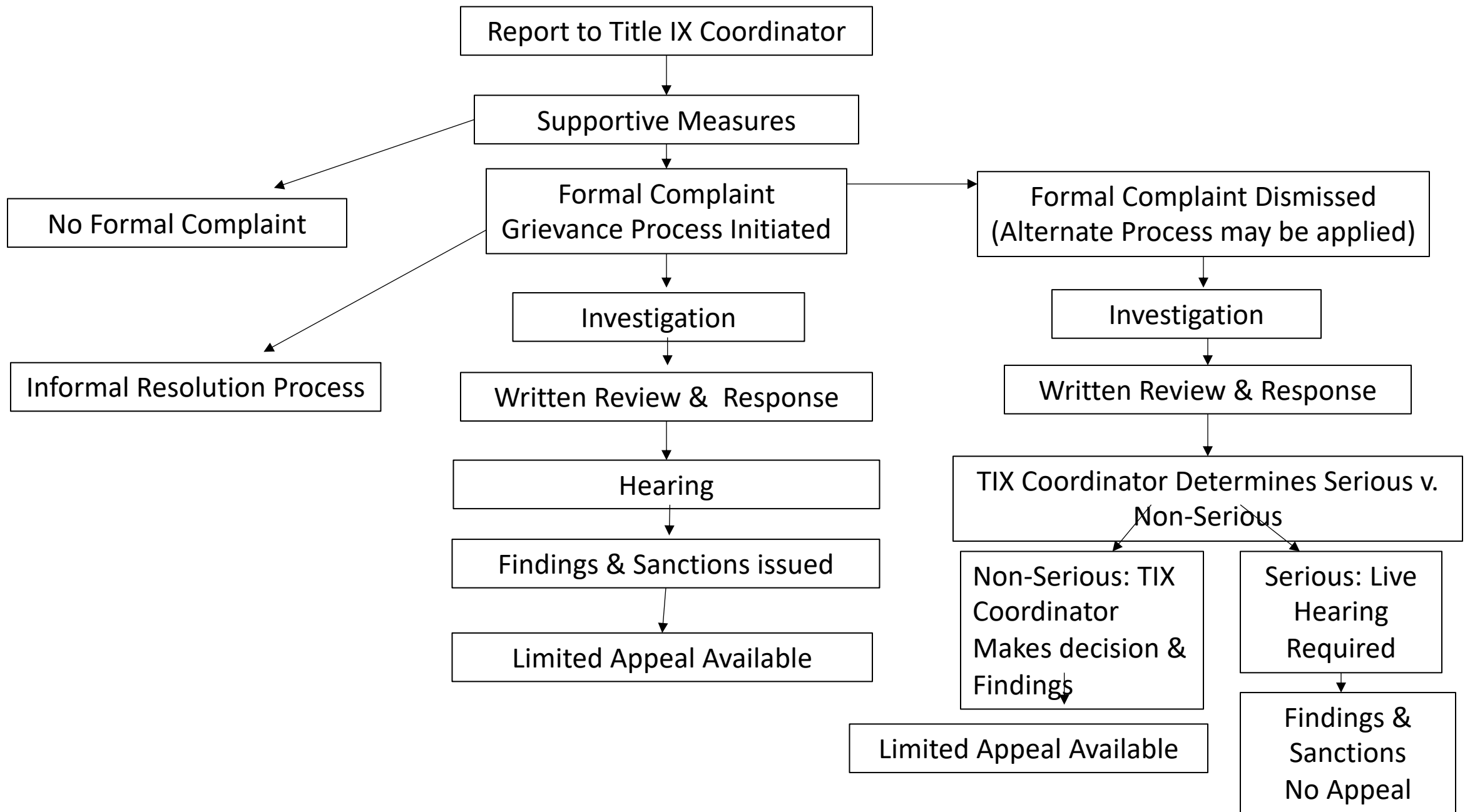
- A hearing before the resolution committee will occur

Procedural Rules for Conducting a Resolution Committee Hearing

- Appeal is NOT a chance to hear all of the evidence again, but merely to hear new evidence related to the person's request for the appeal.
- Both parties will be notified and will have the ability to attend.
- 3 Appeal Panel members – One person will be the chair
- Hearing to be held within 30 calendar of the determination the request met the requirements for a hearing.
- Each party is entitled to one support person (can be an attorney)
 - Support person may not speak for the complainant/respondent and may not participate
 - Support person may only consult with and advise the complainant/respondent

Finding

- The Resolution Committee will review the information presented at the hearing as well as the information in the investigation file.
- The committee will draft a decision to send to the Title IX Coordinator
- Must clearly outline what the finding is, based on a preponderance of the evidence and whether any sanctions should be applied or altered
- Must clearly articulate the reasons for that finding.
- TIX Coordinator will notify both parties in writing of the Appeal Panel's findings.
- The Resolution Committee's findings are final



This is the end of the first
training session & the
beginning of the second
session.

Next Training

- VAWA Definitions
- How to serve impartially
- How to avoid pre-judgment of the facts at issue
- Conflicts of interest
- Bias
- Issues of relevance related to questions and evidence submitted during the hearing.

VAWA Definitions

VAWA= Violence Against Women Act

Dating Violence

- Definition: Violence committed by a person who has been in a social relationship of a romantic or intimate nature with the complainant.
 - Existence of a relationship determined by both parties' statements: Length of relationship, type and frequency of interaction between the parties
- 1 in 4 women and 1 in 7 men have experienced some form of severe intimate partner violence

Domestic Violence

- Definition: Form of sexual violence and is abuse committed against someone who is a current or former spouse, current or former co-habitant with the complainant as a spouse or intimate partner, someone with whom the complainant has a child, someone with whom the respondent has or had an intimate dating or engagement relationship or a person similarly situated.
- Factors to consider in determining whether a domestic relationship existed:
 - Sexual relations between the parties
 - Sharing of income or expenses
 - Joint use ownership of property
 - Whether the parties hold themselves out as spouses or domestic partners,
 - Continuity of the relationship
 - Length of the relationship

Stalking

- A repeated course of conduct directed at a specific person (when based on gender or sex) that places that person in reasonable fear for his/her or others' safety, or to suffer substantial emotional distress.
- “Reasonable Person”: a reasonable person under similar circumstances and with similar identities to the complainant.
- “Substantial Emotional Distress”: Significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling.

Sexual Assault

- A form of sexual violence and is an actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to
 - Intentional touching of another person's intimate parts without that person's consent
 - Other intentional sexual contact with another person without that person's consent or
 - Coercing, forcing or attempting to coerce or force a person to touch another person's intimate parts without that person's consent
 - Sexual contact or behavior that occurs without consent.

Consent

An informed, affirmative, conscious decision by each participant to engage in mutually agreed-upon sexual activity

- Consent must be voluntary, clear and knowing, and given without coercion, force, threats or intimidation.
- Consent can be withdrawn or revoked at any time. Consent to one form of sexual activity does not constitute consent to other forms of sexual activity. The fact that two people are in a dating or sexual relationship does not constitute consent to engage in sexual activity.
- Consent cannot be given by a person who is incapacitated. (may be due to alcohol, drugs, age, or medical or mental disability.)
- Being intoxicated by drugs or alcohol does not diminish a person's responsibility to obtain consent from the other person.

Incapacitation

- Incapacitation means being in a state where a person lacks the capacity to appreciate the fact that the situation is sexual, or cannot appreciate (rationally and reasonably) the nature and/or extent of the situation.

Assessing Credibility and Relevant Evidence

Sanction Considerations: Aggravating/Mitigating Factors

- Instances of prior misconduct (compounding factor)
 - Evidence of a pattern of behavior
- Severity and Egregiousness of the offense
- Reporting Party's request for lesser sanctions
- Responding Party's Attitude
 - Right to defend themselves vs. brazen refusal to take responsibility for a clear violation of policy

Important Hearing Reminders

- Respondent is presumed “Not-Responsible”
- Only relevant evidence can be admitted during the hearing
 - Did the conduct that lead to the allegations occur?
 - If it did, does that violate a University policy?
 - If it does violate a University policy, what is the appropriate sanction that can remedy the effects of the discrimination and prevent reoccurrence?
- Certain Evidence is inadmissible
 - Rape Shield Law
 - Evidence protected by a legal privilege
 - Evidence involving medical treatment records

Credibility

- In assessing whether a witness' statement is true and accurate use your common sense and experience.
- Judge each witness by the same standards setting aside any bias or prejudice you may have.
- Do not automatically reject a witness' statement *just* because of inconsistencies or conflicts – consider whether the differences are important or not.
- Witnesses can forget things or remember things differently at different times.
- Two people may witness the same event yet see or hear it differently.

Credibility

- If you believe a witness is deliberately lying about something significant you should *consider* not believing anything that person is saying.
- OR, if you think the witness lied about some things but told the truth about others you may simply accept the part you think is true.

Credibility

- In evaluating a witness' credibility you may consider anything that *reasonably tends to prove or disprove* the truth or accuracy of the statement. Some factors may include
 - How well they could have seen or heard the things the witness testified about
 - Was the witness influenced by a factor such as bias or prejudice (i.e. personal relationship with someone involved in the matter)
 - What was the witness' attitude about the matter?
 - How reasonable is this witness' statement when you consider all of the other evidence in the case.

What makes evidence relevant?

- “Relevant Evidence” means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probably or less probable than it would be without the evidence.

Relevant Evidence

- Only relevant evidence may be admitted during the hearing.
 - In a sexual assault case, the Respondent may NOT ask about the sexual history of the complainant – NOT relevant
 - HOWEVER, the sexual history between the Respondent and the Complainant MAY be relevant in some situations.
 - Example of an Irrelevant Question:
 - What was the complainant wearing the night of the sexual assault?
 - Examples of *potentially* relevant questions:
 - How many drinks did the complainant have? (may be relevant to show capacity for consent)

Relevant Evidence Under the Regulations

- Decision-maker must ask all relevant questions

Not Relevant – Questions that CANNOT be asked

- (1) Sexual Behavior of the Complainant (except for two exceptions)
- (2) Evidence protected by a legal privilege
- (3) Treatment records unless the student indicates in writing that they can be admitted

Rape Shield Law - Exceptions

- Title IX's rape shield protections relate to a complainant's sexual history and provide that questions and/or evidence about the complainant's sexual predisposition or prior sexual behavior are presumptively not relevant and should not be considered.

Title IX Coordinator

- Title IX Coordinator can file a Title IX complaint and pursue the matter if the complainant chooses not to participate in the investigation.
- ISSUE: Any statements that are made throughout the process (including in the initial report) can **ONLY** be considered by the hearing panel if the student appears at the hearing
 - If a complainant does not wish to participate in the process, **none** of their statements can be considered.

Advisors

- An advisor is a single individual that the student or employee chooses to accompany them to meetings with Title IX during the investigation process. This individual can be a friend, parent, family member, attorney, or any other person the student or employee chooses.

Cross-Examination

- A Title IX hearing is not a criminal courtroom, but there are elements of criminal defense that are beneficial for getting to the truth. In cross-examination, advisors for both parties are provided the opportunity to question the validity and credibility of testimony offered against them.

How Trauma Affects Memory & Perception

Trauma Informed Approach

- Trauma: A state of extreme mental distress due to a critical incident (or the accumulated impact of multiple incidents)
 - Often caused by a life-threatening event
 - Might be experienced as an overwhelming fear/terror, helplessness to resist or escape, or loss of control
 - Has life-altering consequences, potentially negative, severe and long-term

Survival Reflexes

- Alert (orientating response)
 - Temporary redirection of attention to assess a potential threat for any need to act
- Flinch (startle response)
 - A reaction to protect from a sudden threat
- Flight or Fight (acute stress response)
 - Release of adrenaline and cortisol prepares the body for an emergency survival reaction
 - Rational thought is impaired or bypassed

Tonic/Collapsed Immobility (Freeze)

- Involuntary temporary paralysis (rigid or limp) induced by extreme fear coupled with actual or perceived inability to escape
- May retain sensory awareness

Immediate Effects of Acute Stress

- Attention focus on threat
- Peripheral exclusion
- Senses sharpen
- Altered perception of time, size and distance
- Dissociation
 - Temporary suppression of emotional responses
 - Sense of unreality or denial
 - Detachment of awareness from reality to cope with stress
 - Might inhibit memory encoding and recollection
 - Memories not stored where they usually are

Memory of the Crisis

- Details you expect someone to remember *might not* be retained by a traumatized person
- Certain details of the incident may be retained with very high durability and intensity
- Memories of the critical incident may be stored haphazardly and difficult for them to retrieve
- The victim's perceptions of the event may differ from other sources of information.

Take steps to avoid Secondary Trauma

- Occurs when a victim's need for help to address his/her trauma is met with negative and often traumatic responses.
- Victim-blaming attitudes, behaviors and practices engaged in by his/her community which further exacerbate the traumatic event can result in additional trauma.

Beware of the Language you use

- A complainant may be *highly sensitive* to what we say and how we say it (Accuser vs. Complainant, Story vs. Account)
- Match the language of the student. If they use the term “private parts” instead of saying penis or vagina, you should also use “private parts”
- The terms and language we use can further the myths and misconceptions about sexual and gender-based violence.
 - Avoid consensual language
 - Sexual intercourse, oral sex etc.
 - Avoid terms of affection
 - Fondling, caressing
 - Avoid words that imply mutual participation
 - Performed, engaged in, etc.

Myths: What are they?

- Defined as false beliefs about rape/sexual assault shaped by sexism and other prejudices that individuals hold
- Beliefs that serve to deny, downplay or justify sexual violence
- Perpetuate the belief that victims have contributed to their own victimization and are responsible.
- Through awareness and education prevent spreading more of these types of myths.

Common Rape Myths

- MYTH: “A lot of victims lie about being raped or give false reports”
- FACT: Only 2% of rapes are falsely reported, the same percentage as for other felonies.

- MYTH: “Sexual assault usually occurs between strangers”
- FACT: By some estimates, over 70% of rape victims know their attackers. The rapist may be a relative, classmate, friend, co-worker, date or other acquaintance. In college, acquaintance or non-stranger rape accounts for nearly 90% of all completed or attempted rapes on campus.

Domestic/Relationship Violence Myths & Facts

- MYTH: “People abuse their partners because they can’t control their anger”
- FACT: People who abuse their partners do it to gain power and control over the other person (threats, intimidation, psychological abuse, isolation.)

- MYTH: “Most people will end a relationship if their partner hits them”
- FACT: Nearly 80% of girls who have been physically abused in their intimate relationships continue to date their abuser.

Sources

- <http://www.dvsas.org>
- <http://vpva.Rutgers.edu/dating-or-domestic-violence-in-the-lgbt-community/>
- <http://www.nclrights.org/sexual-assault-in-the-lgbt-community>
- National Center for Campus Public Safety

Stalking Myths & Facts

- MYTH: “Stalking is limited to following someone in person.”
- FACT: 1 in 4 victims report being stalked through some form of technology while 10% report to being monitored through GPS, video or digital cameras and/or listening devices

- MYTH: “Stalking isn’t a big deal.”
- FACT: Stalking may cause anxiety, insomnia and severe depression, can lead to significant missed time at work or school. Victims may move as a result of their victimization. In extreme cases stalking may result in homicide.

- MYTH: “You can’t be stalked by someone you’re dating.”
- FACT: If your “friend” tracks your every move in a way that causes you fear; that is stalking.

- Source: National Center for Campus Public Safety

CONGRATULATIONS!!

- You have reached the end of the required training for Hearing Officers and Advisors
- For any questions, please contact Lynda España at Lespana@academyart.edu or 415-618-3813

THANK YOU for volunteering to be a part of this important process!