



South Carolina

Various EOP Process Files

PRE-NEW TITLE IX REGS

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March 23, 2021



UNIVERSITY OF SOUTH CAROLINA



Equal Opportunity Programs

PERSONAL AND CONFIDENTIAL

Regarding Case Number: 2017033406

INVESTIGATION ASSESSMENT CHECKLIST 20170334

(The purpose of this form is to guide the action plan after receipt of a complaint).

CASE NUMBER: 20170334

RE: **XXXXXXXXXXXXXXXXX, Complainant v. XXXXXXXXX, Respondent**
Case Number: 20170334

Assigned Investigator:

Incident Summary: The Complainant alleges sexual assault by non consensual touching and penetration.

Housing:

I. INITIAL NEXT STEPS

- What is the next step for this case? **Case closed, no investigation needed**
- Case referred to Investigator to move forward**
- Case referred to Investigator for assessment of next steps**
- Case referred to another office**
- Will not open a case into this matter**
- Investigator will meet with Complainant to determine next steps**
- Other**

II. SUPPORTIVE MEASURES

- Are other supportive measures relevant? **Room Change**
- Immediate Suspension**
- Academic support**
- Change line of supervision**
- No Contact order**
- Unsure**

None

Other, specify below

If you answered "Other, specify below; If none, please enter "None."

III. PROTECTED CLASS

Is the nature of the alleged behavior/violation based upon a protected class status? **Yes**

If, yes specify: **Race**

Sex

Age

Disability

Religion

Color

If Other: specify below, please indicate the protected class status:

IV. INCIDENT/POLICY

Was a complaint to the submitted to the Title IX Coordinator (or Director of EOP) by the Complainant? **Yes**

No

N/A

Unsure, more information needed

Has the Complainant indicated that he/she/they wish to move forward with an investigation? **Yes**

No

No, but EOP will assess if there is need to move forward without the Complainant

Not applicable

Unsure, more information needed

Unsure at this time, but possibly later

Does the alleged behavior constitute the following and falls within the jurisdiction of the EOP Office: **Resources only provided**

Title IX Policy Violation

EOP Policy Violation

Bullying

Retaliation

Inappropriate behavior that warrants referral to another office

None of the above, will be referred

Not sure, more information needed

Does not warrant an investigation, will close files

If you answered "Other", specify here. Please indicate the violation type. If not applicable, please indicate N/A.

Does the behavior (as reported) constitute a potential violation as defined in University Policy? **Yes**

No

Not sure

N/A

Unsure, more information needed

V. RESPONDENT

According to EOP records, is this a repeat allegation against the Respondent? **Yes**

No

Not sure

Was a no-contact order initiated? **Yes**

No
 Unsure at this point
 N/A

VI. INVESTIGATION

Are there other variables, issues, or factors which would warrant the possibility of investigation? **Yes**

No
 If yes, specify below

If, yes specify:

Based upon consideration of the factors above, I recommend: **Formal Investigation**

Informal Investigation

Mediation

Referral

Counseling

Advisement

Administrative Closure

Will not open a case

Inquiry, more info needed

VII. PRIVILEGES

Did the Complainant report the loss of a tangible benefit or denied a privilege? **Yes**

No
 Not sure, more information needed

Did the Complainant report that the alleged behavior interfered with or limited the his/her ability to participate in an activity, program, or service? **Yes**

No
 Not sure, more information needed

Did the Complainant report that the impact of the alleged behavior limited or interfered with his/her ability to live, work, or learn in this environment? **Yes**

No
 Not sure, more information needed

The EOP Investigative Staff has reviewed this matter and recommend the following investigative approach to the case.

VIII. NEXT STEPS AND/OR INVESTIGATIVE APPROACH:

March 23, 2021 Sincerely.



Carl R. Wells
 Asst. Dir. EOP

Distributed to: Carl Wells, Assistant Director Equal Opportunity Programs



Types of Investigations and/or Resolution

Mediation

Only less serious allegations are subjected to mediation. Sexual assault and other forms of sexual misconduct are not subject to mediation. When an allegation is mediated, both parties agree to mutual resolutions or agreements.

Formal Hearing

A formal hearing results when EOP determines that allegations (as reported and initially screened) rise to the level of a potential violation of University policy or State or Federal law. The goal of a formal hearing is to determine “cause” or “no cause”.

Informal Hearing

An informal hearing results when EOP determines that allegations (as reported and initially screened) are of a less serious nature, but still border on a possible violation of policy or law. The goal of the informal hearing is not to determine “cause” or “no cause”, but instead to resolve and address the incident.

Advisement

Advisement occurs when EOP determines that an investigation is not required; however, the complainant and/or alleged are counseled regarding other ways to address the matter.

Administrative Closure

Files closed for administrative reasons, which include: failure to locate charging party, charging party failed to respond to EOP, charging party requests withdrawal of a charge without receiving benefits or having resolved the issue.

Referral to another Office

Upon initial review of the allegations, EOP determines the case does not involve a protected class status, but does potentially constitute a violation of policies or laws that fall under the jurisdiction of another University office or department.

Did not open a case

The initial screening of the allegations results in a determination that the allegations do not warrant opening a case.

Findings

No Reasonable “cause”

EOP’s determination of no reasonable “cause” to believe that discrimination occurred, based upon preponderance of the evidence obtained during the investigation. The charging party may elect to appeal the determination or seek redress with state or federal agencies.

Reasonable “cause”

EOP’s determination of reasonable “cause” to believe that discrimination occurred, based upon the preponderance of the evidence obtained during the investigation. Reasonable “cause” determinations are generally followed by disciplinary actions and/or attempts to address the harm resulting from the incident. The charging party or the respondent may elect to appeal the determination or seek redress with state or federal agencies.

FYI

FYI is a determination that is neither “cause” nor “no cause”, but warrants addition to files for the sake of record-keeping and possible future repeat offences.



INVESTIGATOR EXPECTATIONS

Office of Equal Opportunity Programs

The disciplinary recommendations resulting from investigations and approval of findings of all investigations are subject to review and approval of the Director of the Office of Equal Opportunity Programs. All investigators in the Office of Equal Opportunity Programs shall be governed by and cognizant of the following investigator standards and expectations:

1. To the extent practicable, EOP investigations will follow the Team of Investigators Model. For each investigation, a Lead Investigator will be assigned. To the extent practicable, no investigation will be conducted by a sole investigator. To the extent practicable, meetings with Complainants, Respondents, witnesses and other individuals involved in the investigative process should be conducted by a team of investigators (at least 2, no more than 3).
2. It is the responsibility of the Lead Investigator to draft all correspondence (including, but not limited to, Letter of Notice of Charge, Witness Letters, Letter of Determination, and Investigative Memo). It is also the responsibility of the Lead Investigator to take the leadership in assembling the Team of Investigators to discuss and decide upon the Office's findings and determination in each case.
3. All allegations and complaints which are reported to the Office of Equal Opportunity Programs shall receive a timely response (within 24 hours of receipt, to the extent practicable).
4. In the event of physical harm, threat, danger, or serious crimes, the receiving EOP investigator of staff member will respond immediately and/or refer the incident to campus police (or other appropriate officials).
5. All investigations will be conducted in accordance with the EOP Complaint Process Policy (EOP 1.01) and all other applicable university policies.
6. All student allegations of discrimination are subject to EOP Policies, the Student Non-Discrimination Policy (Staf 6.24), and the Student Code of Conduct.
7. All allegations and complaints are subject to an intake process for the purpose of determining if the complaint merits a formal or informal investigation, dismissal, referral to another campus entity, or advisement/counseling for the complainant. Sexual assault allegations are not subject to being mediated.
8. If the nature of an incident or allegations warrants, the investigator shall institute interim measures to protect the Complainant, i.e., change of supervisor, change of class schedule, removal of the alleged offender or charged party from a resident hall or a campus department, temporary suspension pending the outcome of the investigation and resolution of the complaint.

9. All information relating to an employee's employment files, personal characteristics, or family matters is private and confidential.
10. Information relating to an employee should be released only on a need-to-know basis, or if a law requires the release of the information.
11. All information requests concerning employees should be submitted through the Director of EOP and the Office of the General Counsel.
12. The purpose of an investigation is to establish whether there is sufficient evidence to conclude the alleged policy violation has occurred.
13. In conducting the investigation, the investigator may interview and/or obtain written statements from the complainant, the accused, and other persons believed to have pertinent factual knowledge. The investigator will also inquire about and collect any supporting documentation or evidence, such as emails, text message, or pictures.
14. The investigator must realize and balance the rights of the accused and the complainant.
15. The investigator must afford the accused the opportunity to respond to the allegations.
16. Not all inappropriate conduct constitutes discrimination or harassment. When investigations identify inappropriate behaviors or actions that may not violate the Discrimination and Harassment Policy or the Sexual Harassment Policy, but violate other University policies or expectations of faculty, staff and students, these behaviors and actions may result in disciplinary action, but should be referred to the appropriate campus governing body. A separate investigation may be conducted by the appropriate campus entity if possible University policy violations outside the scope of a discrimination or harassment complaint investigation are uncovered.
17. Upon the timely completion of the investigation, the investigator shall make a written recommendation to the appropriate Executive Officer – the Director of the EOP Office. The Director may, if he deems appropriate, present the recommendations to the Office of the General Counsel for review.
18. Possible outcomes of the investigation are...
 - (a) **NO CAUSE** – a determination that the allegations are not warranted or cannot be substantiated;
 - (b) **CAUSE** – a determination that a violation of the policy has occurred;
 - (c) **NO POLICY VIOLATION, BUT INAPPROPRIATE BEHAVIOR** – a determination that a violation of the policy has not occurred but inappropriate actions/behaviors have occurred which may merit a disciplinary action; or
 - (d) **NEGOTIATION SETTLEMENT** – a negotiated resolution of the complaint;
19. When a violation of policy is established, the action to be taken shall be immediate and appropriate to prevent any recurrence, and shall be reasonably related to the gravity and/or frequency of the violation or violations. The University shall take whatever disciplinary action it considers appropriate under the circumstances, including but not limited to counseling, reprimand, suspension, transfer, expulsion or termination.
20. Possible disciplinary actions for faculty members will be considered, in light of the University's policy on termination and nonrenewal of faculty appointments.
21. The appropriate Executive Officer will make the ultimate determination of the action to be taken in response to any finding of a violation of policy. The resolution of an alleged violation of policy shall be

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made as expeditiously as possible, consistent with the facts and the process. A final determination will be communicated in writing to the person alleged to have violated policy and to the complainant. The Office of Human Resources will retain in a secure place a record of any investigation and determination as to an alleged violation of this policy.

Submitted by



Director, Office of Equal Opportunity Programs



INVESTIGATION PROCESS CHECKLIST

1. Open the case

- Incident Report Uploaded (Garnet colored items represent documents to appear in the files).**
- Open case in Maxient
- Case assigned to investigator (Assignment letter sent and uploaded to Maxient)**
- Letter of Receipt sent to Incident Report submitter and uploaded to Maxient)**
- Case assessment to determine if incident is actionable or not¹**
- Initial Communication with Complainant**
 - Email (Attach email to Maxient case, if emailed)
 - Letter (Attached letter to Maxient case, if letter is sent)
 - Phone Call (document phone call in files, if a phone call is made)

2. Meet with Both Parties

- Interview with Complainant**
 - Advise Complainant of rights, policies, and resources (send resource card, and copy of policy with Initial letter to request meeting; make sure copy of letter is in file)**
 - Read opening statement and have note-taker checkoff in Maxient to verify reading**
 - Complete risk assessment and need for interim measures, upload to Maxient**
 - Take notes of meeting (Transfer notes to Maxient files)**
 - Collect list of witnesses (If campus faculty, staff, or student, add them to the case via Maxient)
 - Collect copies of evidence (If email or pictures, or other physical items, attach to case in Maxient)
- Interview with Respondent**
 - Send Notice of Investigation, Redacted Incident Report, and copy of policy to Respondent.
 - Meet with Respondent (make sure copy of all letters are in Maxient file)*²
 - Read opening statement and have note-taker checkoff in Maxient to verify reading**
 - Advise Respondent of rights, policies, and resources
 - Take notes of meeting (Transfer notes to Maxient files)**
 - Collect list of witnesses (If campus faculty, staff, or student, add them to the case)
 - Collect copies of evidence (If email or pictures, or other physical items, attach to case file)
- Meet with witnesses**
 - Send General Witness Letter, via Maxient**
 - Read opening statement and have note-taker checkoff opening statement in Maxient**
 - Take notes
 - Send Witnesses a verification letter, verifying that notes capture essence of meeting.**
 - Document all calls, emails, and correspondence/interactions with both parties as well as with witnesses in the Maxient files. Be detailed – include dates, times, and specifics.
 - Working with the Asst. Dir. or Dir. Of EOP, analyze the case and all evidence to generate a determination.

3. Documentation³

- Write up the case**
 - Investigative Memo (Make sure a copy is in the files)**
 - Letter of Determination (Make sure a copy is in the files)**
 - Mail the Letter of Determination to the Charged Party via Maxient
 - Mail the Letter of Determination to the Complainant via Maxient
 - If faculty or staff, send Letter of Determination to individuals who “have a need to know.”

4. Wrap-up

- Generation of CRF (Makes sure a copy is generated in the files)
- Send Closure Letters (Make sure a copy is generated in the files)

¹ Determination of formal investigation, informal investigation, referral, etc.

² According to our policy, the Alleged has 5 business days to meet with you and to respond to the Notice of Charge in writing.

³ Often cases do not progress to the point of a formal investigation and stop at this point; however, make sure that you document how a case was handled and what decisions were made when the case does not involved a full investigation.

- _____ Complainant _____ Respondent
- _____ Poke the Asst. Dir. on the case to insure that he is allowed an opportunity to review the case.
- _____ Close the case in Maxient; list hearing types, charges, findings, rationale, etc. **FOR ALL PARTIES.**



Types of Investigations and/or Resolution

Mediation

Only less serious allegations are subjected to mediation. Sexual assault and other forms of sexual misconduct are not subject to mediation. When an allegation is mediated, both parties agree to mutual resolutions or agreements (*This was pursuant to the old regs. Mediation is now an option in the new regs.*).

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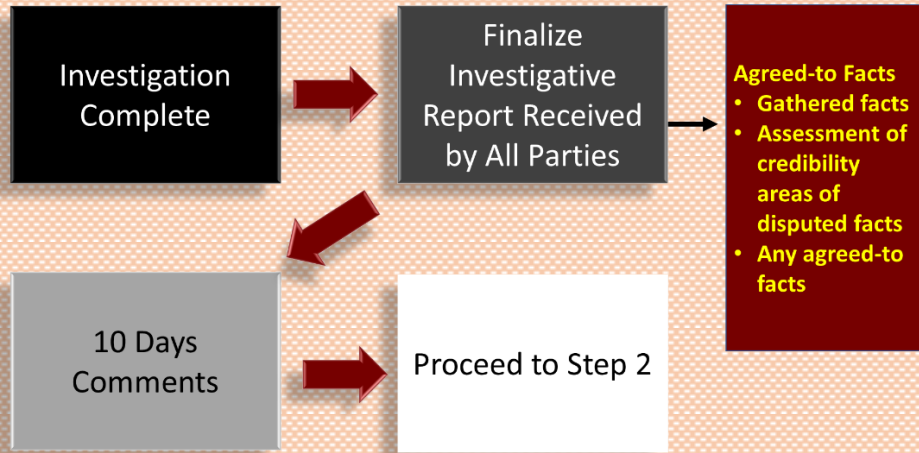
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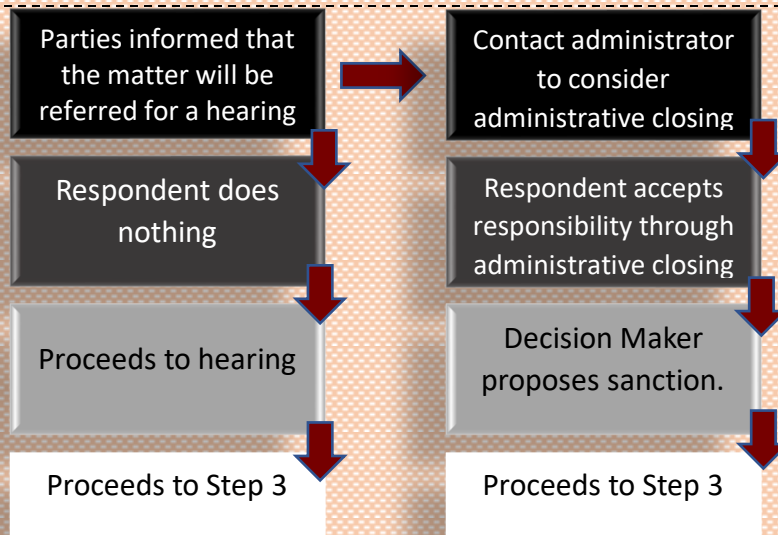
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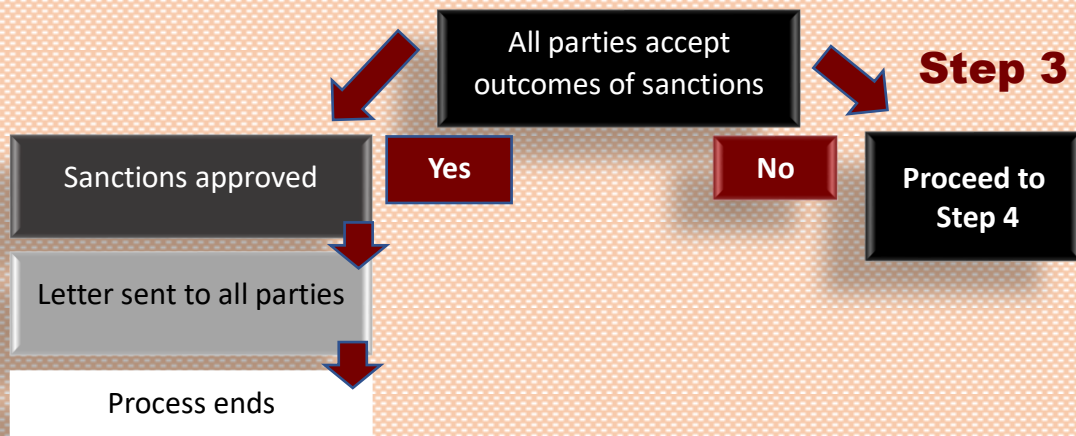
Investigation Process Flowchart – Step 1

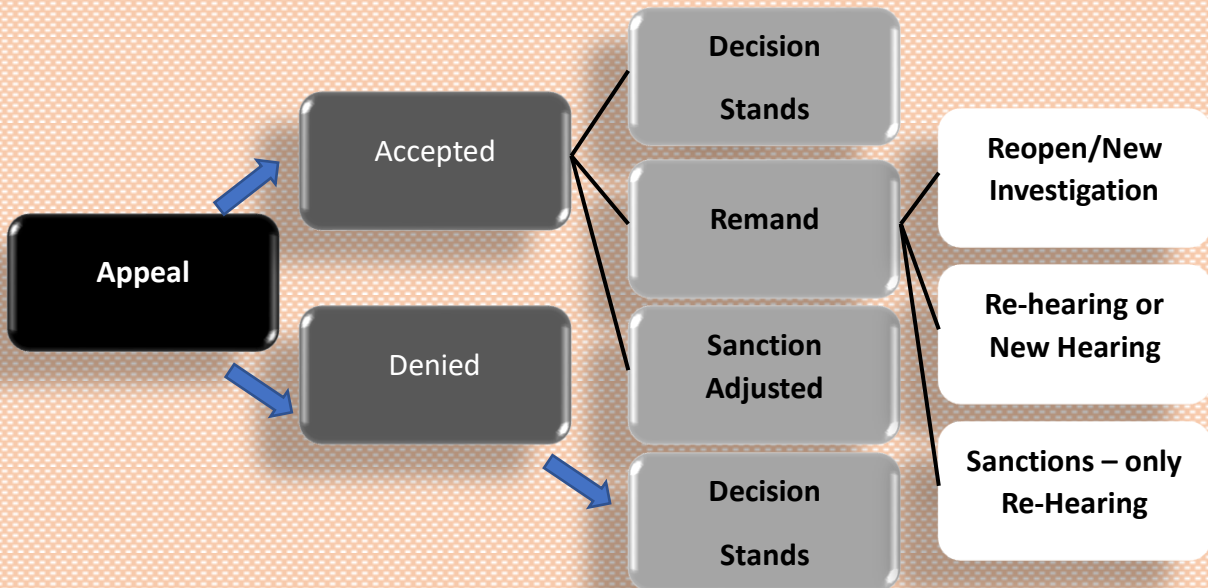
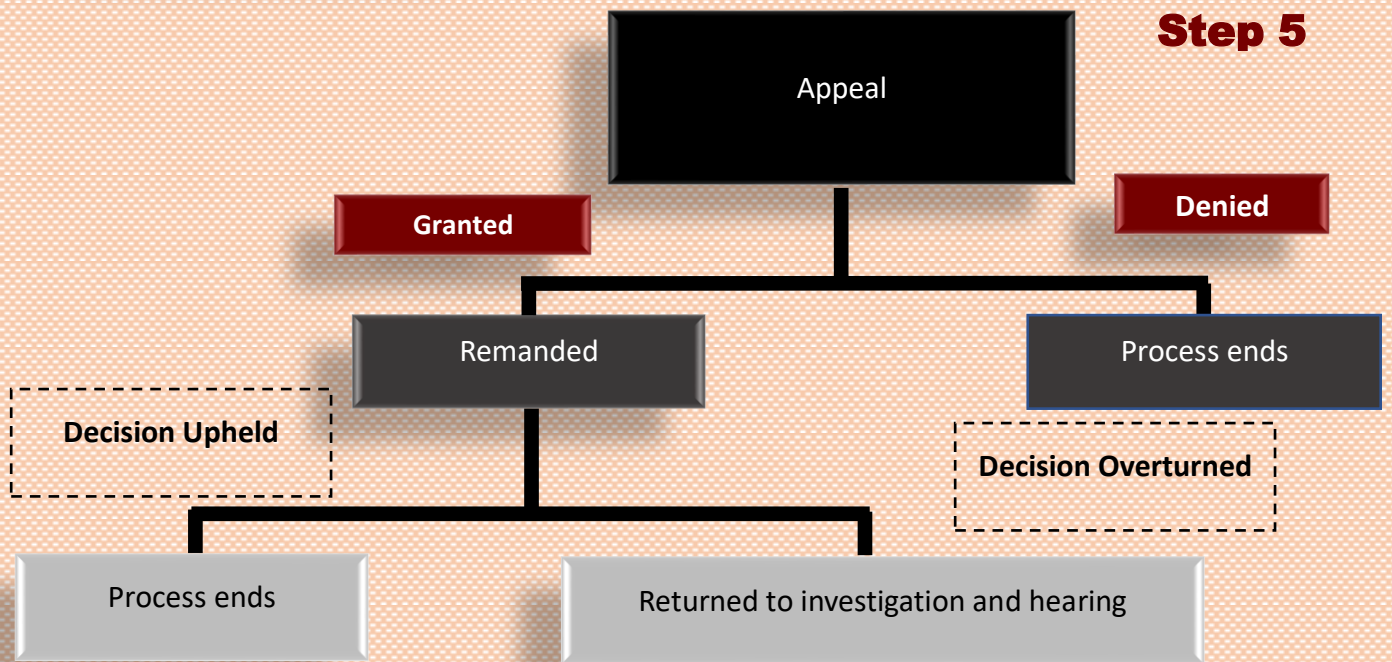
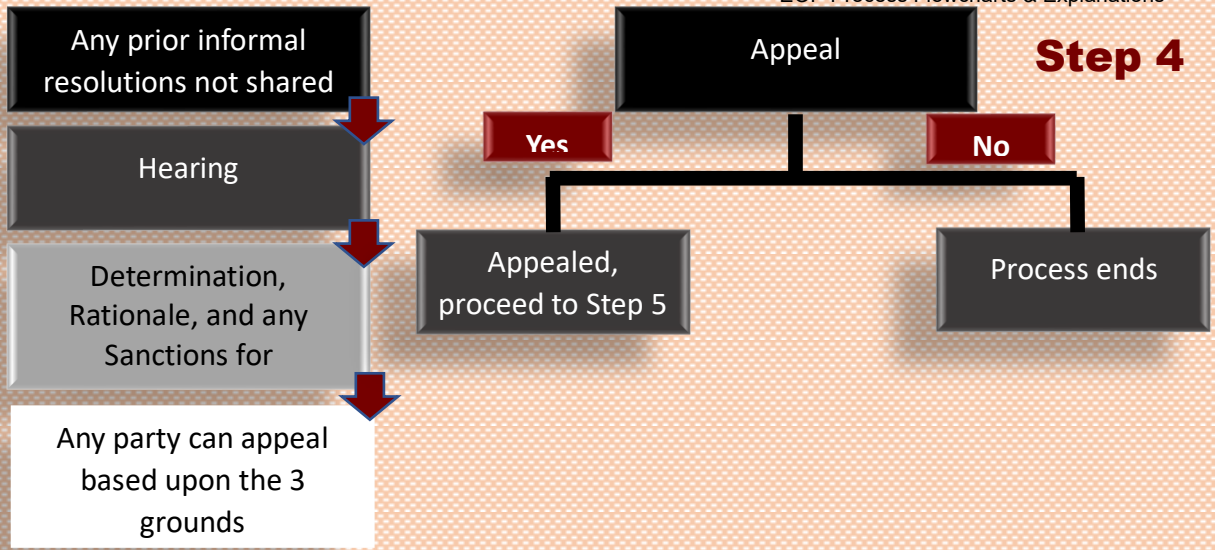


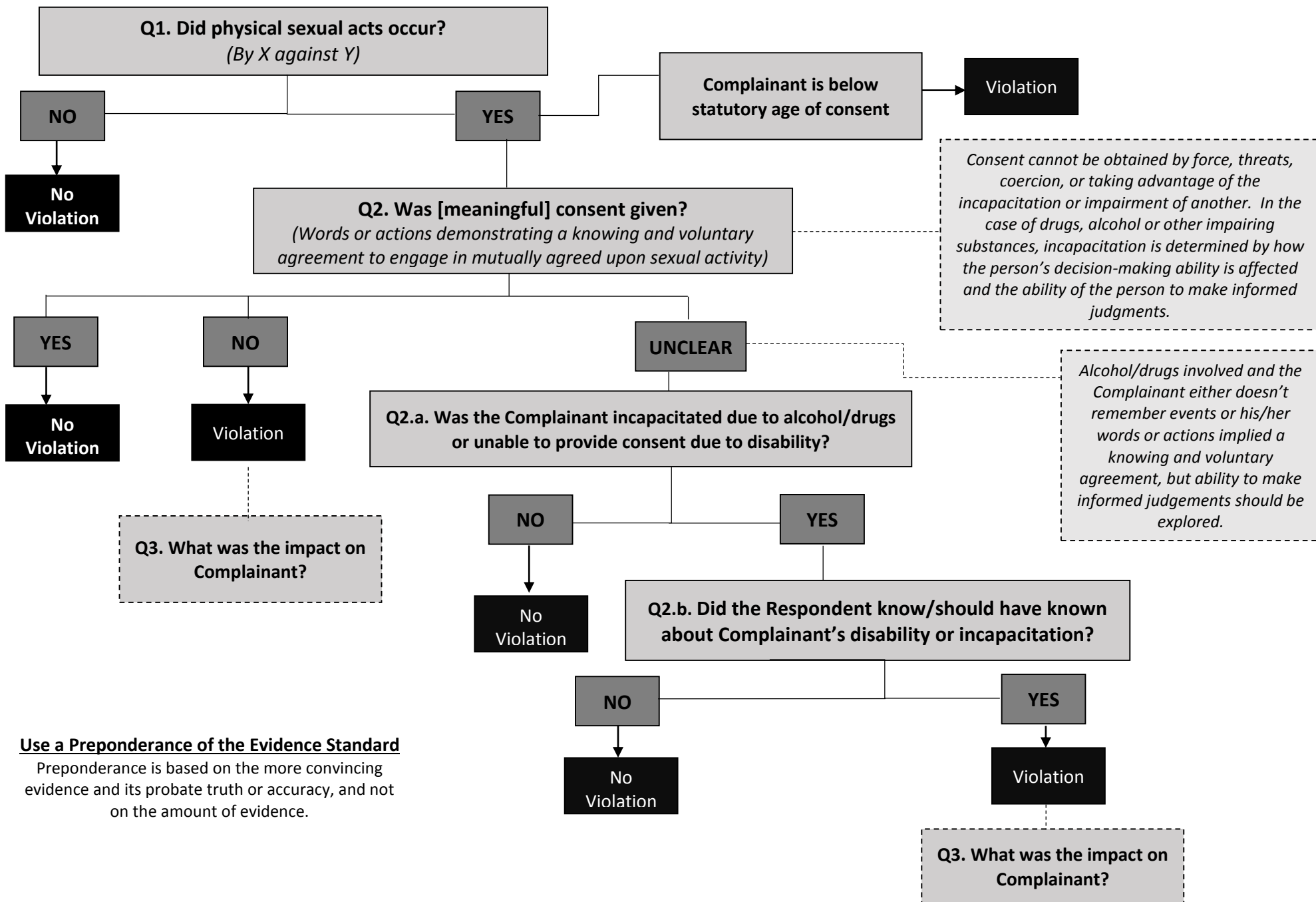
Step 2



Step 3







Use a Preponderance of the Evidence Standard

Preponderance is based on the more convincing evidence and its probate truth or accuracy, and not on the amount of evidence.

Regardless of Outcome, provide support & resources.



South Carolina

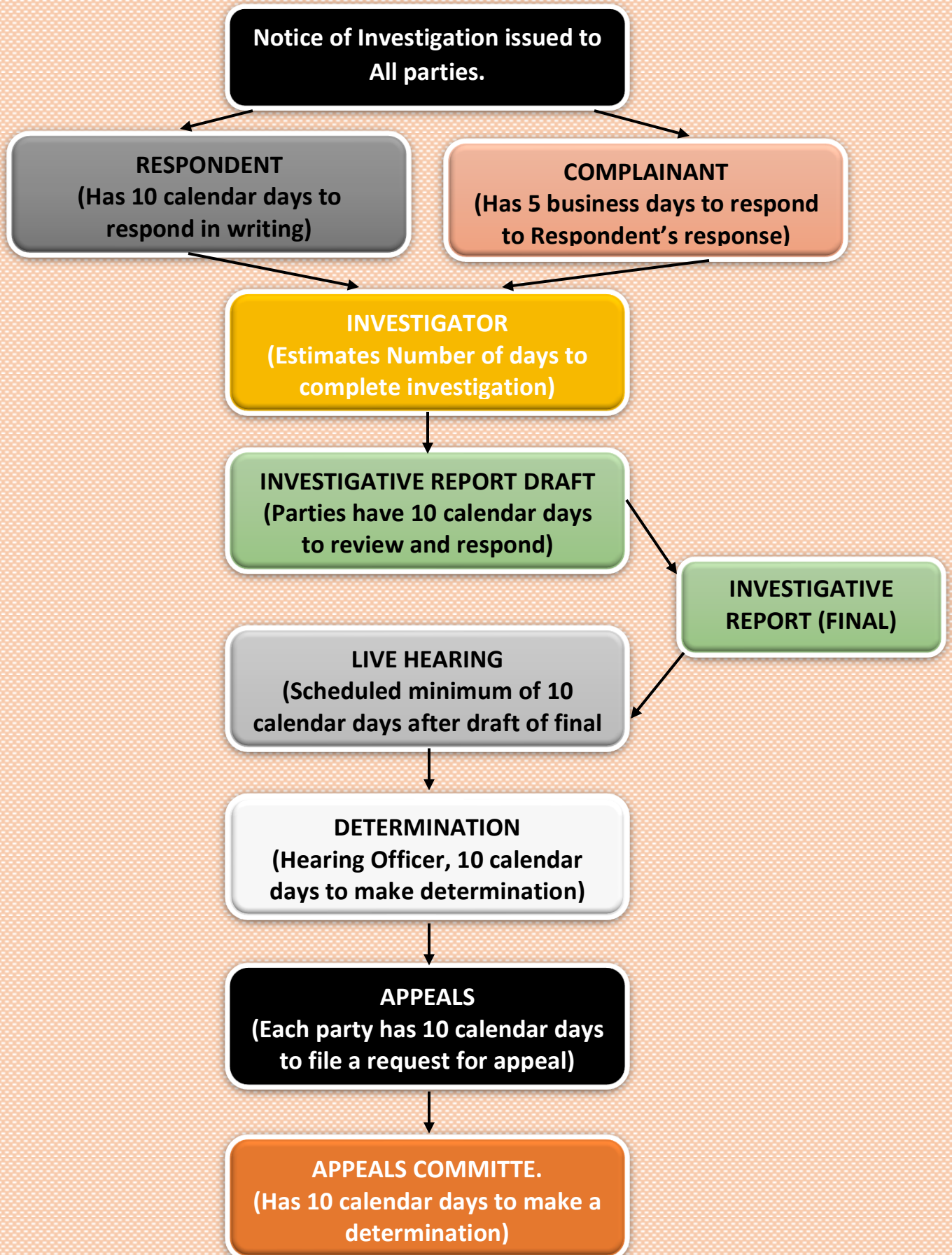
Various EOP Process Files

POST-NEW TITLE REGS

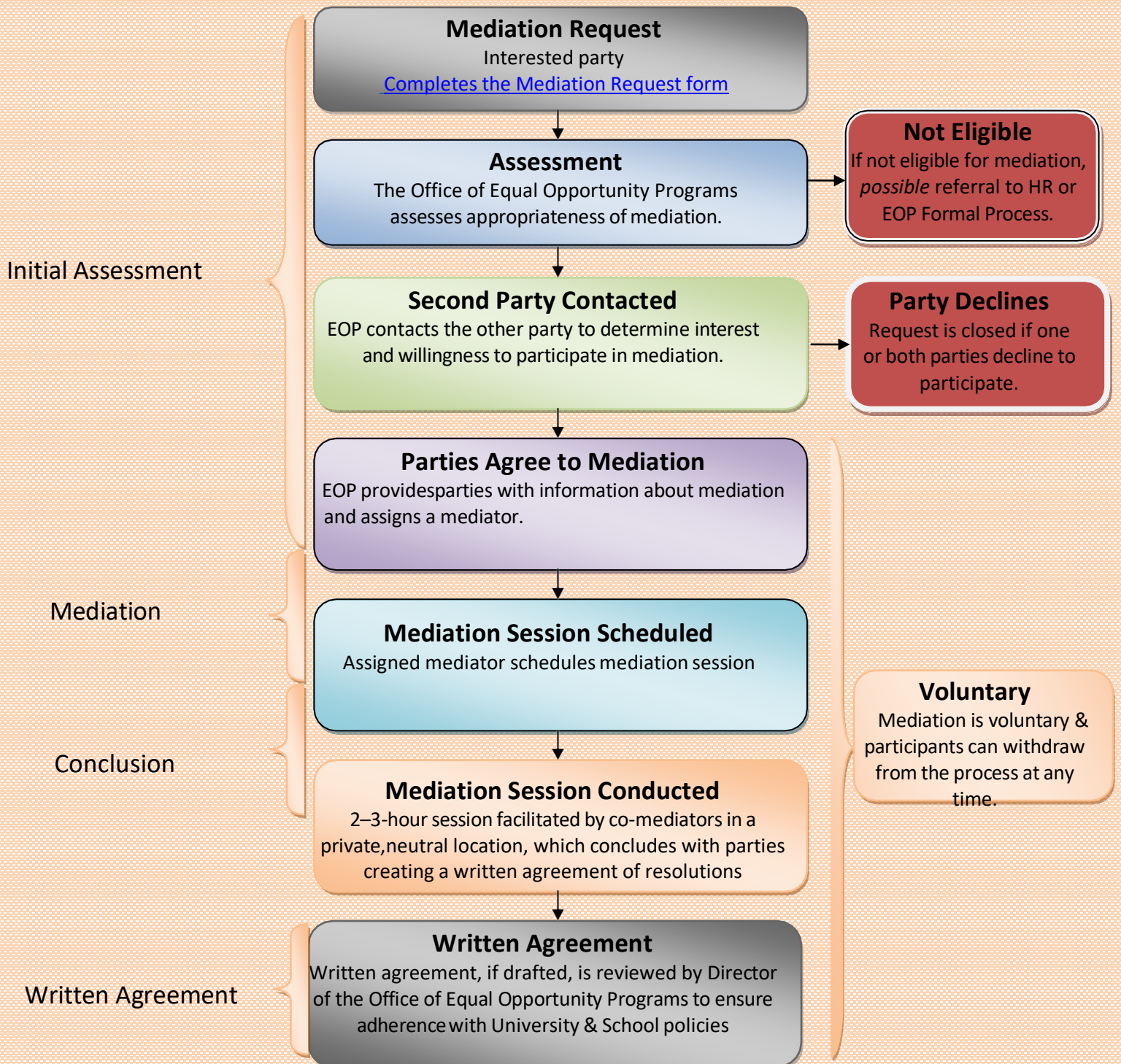
EOP Investigation Timeline Flowchart	Page 18
Faculty/Staff Information Resolution (Proposal, not finalized)	Page 19
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March 23, 2021

EOP INVESTIGATION TIMELINE



Faculty/Staff Mediation Process





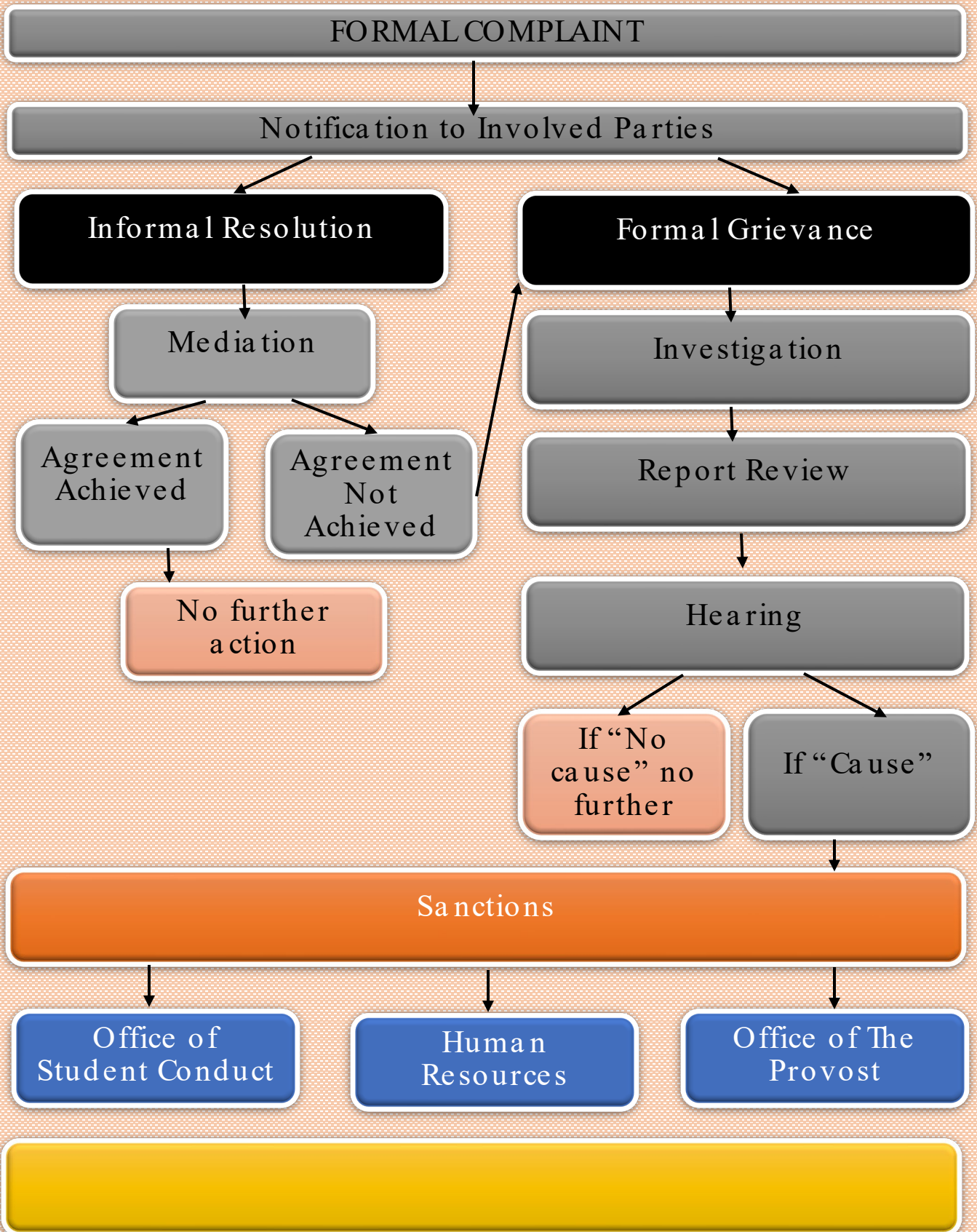
South Carolina

Rights of the Complainant and Respondent

- A. The Complainant has the right to choose whether to file a Formal Complaint with the University.
- B. Complainant has the right to access supportive measures regardless of whether they file a Formal Complaint.
- C. In addition to pursuing administrative penalties and remedies, the Complainant maintains the right to pursue criminal or other legal action.
- D. Respondent has the right to be presumed innocent. It is the University's responsibility to prove that Respondent engaged in Sexual Harassment or Sexual Misconduct.
- E. Both the Complainant and Respondent have the right:
 - (1) To have the University respect their rights provided by the United States and University of South Carolina policies;
 - (2) To be treated with respect by University officials;
 - (3) To take advantage of campus support resources;
 - (4) To experience a safe living, educational, and work environment;
 - (5) To have an Advisors, including attorneys, present during any investigation, pre-hearing meeting, or hearing;
 - (6) To have an attorney represent them at any hearing;
 - (7) To refuse to have an allegation resolved through conflict resolution procedures;
 - (8) To receive amnesty for certain student misconduct, such as alcohol or drug violations, that occurred ancillary to the incident;
 - (9) To be free from retaliation for reporting violations of this regulation or cooperating with an investigation;
 - (10) To have complaints heard in accordance with University procedures;
 - (11) To be informed in writing of the outcome/resolution of the complaint, any sanctions where permissible, and the rationale for the outcome where permissible;
 - (12) To have minimal interaction or contact with Respondent or Complainant; and
 - (13) To request supportive measures from the University to ensure minimal interaction or contact with Respondent or Complainant.

F. The University will keep confidential to the greatest extent possible the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of Sexual Harassment or Sexual Misconduct, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness. The University may be required to disclose the identity of individuals when necessary to provide due process to the Respondent or to comply with federal or state law.

TITLE IX PROCESS UNIVERSITY OF SOUTH CAROLINA



TITLE IX HEARINGS AND APPEALS

Timelines: All deadlines below are counted in calendar days. In the event a deadline falls on a weekend or University recognized holiday, the deadline is altered to the next business day.

- A. The live hearing must not occur earlier than ten (10) calendar days after the parties are provided copies of the investigative report and access to all inculpatory and exculpatory evidence.
- B. For allegations involving individuals, hearing notices will be sent to Respondent's and Complainant's official University email addresses no less than five (5) calendar days prior to the hearing date. Failure to read and comply with the notice is not suitable grounds for an appeal.
- C. For registered student organizations, a hearing notice will be emailed to the organization's representative, typically the organization's president, on file with the University no less than five (5) calendar days prior to the hearing date. Failure to read and comply with the notice is not suitable grounds for an appeal.
- D. The Title IX Coordinator, or their designee, will schedule the hearing. In scheduling a hearing, the Title IX Coordinator, or their designee, considers the availability of Respondent, Complainant, their respective Advisors, and the Decision-Maker.

PRE-HEARING CONFERENCE

At least three (3) days prior to the hearing date, Complainant, Complainant's advisor, Respondent, and Respondent's advisor must attend a prehearing conference with the Decision-maker. The prehearing conference will be held virtually by videoconference at the time agreed upon by the Decision-maker and participants. The purpose of the prehearing conference is to discuss the purpose of the hearing, hearing procedures, and to address any procedural or evidentiary issues. The topics for the prehearing conference include, but are not limited to, the following:

- A. Purpose of the hearing;
- B. Notice of charge(s) of misconduct;
- C. Hearing procedures;
- D. Time estimates for the hearing;
- E. Special requests for the hearing (e.g., breaks, separate rooms, virtual hearing, etc.);
- F. Hearing expectations related to professionalism and decorum;
- G. Witnesses expected to be called for the hearing;
- H. Documents to be submitted at the hearing. Advisors must state whether the document(s) was provided to the Investigator. If the document(s) was not provided, the advisor must explain the circumstances why the document(s) was not previously provided;
- I. Conflict of Interest of the Decision-maker. Objections to the Decision-maker must be raised during the prehearing conference or at the beginning of the hearing. The Decision-maker will indicate on the record whether either party raised objections to the Decision-maker conducting the hearing;
- J. Submission of sexual predisposition, history, or reputation questions to the Decision-maker. Advisors must submit any questions related to the sexual predisposition, history, or reputation of the Complainant or Respondent to the Decision-maker at least one (1) day prior to the hearing for the purpose of determining relevancy and whether they are permitted under the Title IX regulations. The Decision-maker will make a determination as to the relevancy of the questions based on Title IX regulations and notify the advisors at the beginning of the hearing.

LIVE HEARING PROCEDURES

- A. *Location of Hearing:* The University may conduct the live hearing with all Parties physically present in the same geographic location or any Parties, witnesses, or other participants may appear virtually as long as all participants can simultaneously see and hear each other.

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B. *Record of Hearing*: The University must create an audio or audiovisual recording or transcript of any live hearing. Copies of the recording or transcript must be made available upon request to the Complainant and Respondent.
- C. *Live Hearings*: Live hearings will be conducted by the Decision-Maker according to the following procedures:
- (1) The Decision-Maker is responsible for maintaining order and determining the sequence of events during a hearing. The Decision-Maker may direct any person who fails to comply with procedures during the hearing or who disrupts or obstructs the hearing to leave the hearing. All questions of law, whether substantive, evidentiary, or procedural, will be addressed to, and ruled upon by, the Decision-Maker. The Decision-Maker does not have authority to dismiss allegations.
 - (2) Complainant and Respondent have the right to be assisted by an advisor. If a party does not have an advisor present at the hearing, the university **MUST** provide, without fee or charge to that party, an advisor of the university's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.
 - (3) The hearing will be closed to the public. Complainant, Respondent, and their respective Advisors are allowed to attend the entire hearing.
 - (4) Witnesses other than the Complainant and Respondent will be excluded from the hearings, except for the period of their own testimony.
 - (5) Given the nature of these incidents and the impact on the overall University community, it is presumed that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. It is the responsibility of the Decision-Maker to determine whether by preponderance of the evidence that the Respondent committed Sexual Harassment or Sexual Misconduct as defined under the Title IX regulations.
 - (6) The Title IX Coordinator, or their designee, will arrange the attendance of witnesses who are members of the University community, if reasonably possible. The Respondent is responsible for arranging the attendance of witnesses who are not members of the University community.
 - (7) Advisors may ask both parties and witnesses relevant questions. Only Advisors may conduct cross-examination of the parties and witnesses and only relevant cross-examination and other questions may be asked. The Decision Maker is responsible for making the determination of relevance and will explain to the advisor asking cross-examination questions any decision to exclude a question as not relevant.
 - (8) Complainant, Respondent, or any witness may refuse to appear and/or exercise their Fifth Amendment right against self-incrimination. The Decision-Maker must not draw an inference about the determination regarding responsibility based solely on a Party or witnesses' absence from the live hearing or refusal to answer cross-examination or other questions.
 - (9) If a Complainant, Respondent, or any witness testifies on direct examination but does not submit to cross-examination, the Decision-Maker must not rely on any statement of that individual in reaching a determination regarding responsibility.
 - (10) Unless a party explicitly waives the privilege in writing, the Decision-Maker will not allow questions or evidence constituting or seeking the disclosure of information protected under a legally recognized privilege.
 - (11) Questions and evidence about Complainant's sexual predisposition or prior sexual behavior are not relevant unless (1) such questions and evidence about Complainant's prior sexual behavior are offered to prove that someone other than Respondent committed the conduct alleged by Complainant, or (2) if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with Respondent and offered to prove consent. This standard is mandated by federal regulations and preempts any contrary South Carolina law. Any line of questioning referring to a party's sexual history or prior sexual behavior must be submitted to the Decision-Maker at least one day before the hearing.

- (12) The Decision-Maker will issue a written determination that includes:
- Identification of the allegations potentially constituting Sexual Harassment or Sexual Misconduct;
 - A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications of the parties, interviews with the parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - Findings of fact supporting the determination;
 - Conclusions of law regarding the application of this Regulation;
 - A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
 - A statement of any disciplinary sanctions;
 - A statement as to whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided to Complainant; and
 - The University's provisions for appeal.
- (13) If disciplinary sanctions are included in the written determination, the past disciplinary record of the Respondent may only be supplied to assist in determining a sanction and not to determine if the current incident constitutes a violation of the policy.
- (14) The Decision-Maker's written determination will be provided simultaneously to both Complainant and Respondent.
- (15) The Title IX Coordinator is responsible for the effective implementation of any sanctions and remedies.
- (16) The Title IX Coordinator does not have the authority to overturn or modify the Decision Maker's findings of responsibility. Only the Appeals Committee may overturn the Decision Maker's findings of responsibility.

SANCTIONS

The chart below outlines the range of sanctions for specific acts of Sexual Harassment. Additional sanctions not specifically listed below may also be imposed when appropriate.

	Recommended Range of Sanctions (STUDENTS)	Recommended Range of Sanctions (EMPLOYEES)
Sexual Harassment: Quid Pro Quo	Disciplinary Probation, Counseling Assessment, Social Restrictions, Social Suspension, Suspension, Expulsion	Probation, Written Warning, Counseling Assessment, Suspension, Termination
Sexual Harassment: Hostile Environment	Disciplinary Probation, Counseling Assessment, Social Restrictions, Social Suspension, Suspension, Expulsion	Probation, Written Warning, Counseling Assessment, Suspension, Termination
Sexual Harassment: Sexual Assault	Suspension, Expulsion	Suspension, Termination
Sexual Harassment: Dating Violence or Domestic Violence	Disciplinary Probation, Counseling Assessment, Social Restrictions, Social Suspension, Suspension, Expulsion	Probation, Written Warning, Counseling Assessment, Suspension, Termination
Sexual Harassment: Stalking	Disciplinary Probation, Counseling Assessment, Social Restrictions, Social Suspension, Suspension, Expulsion	Probation, Written Warning, Counseling Assessment, Suspension, Termination

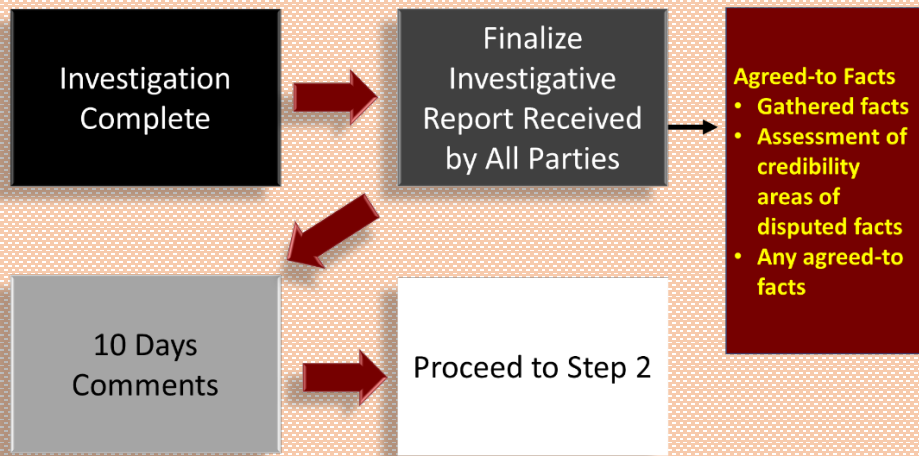
Sexual Misconduct: Sexual Exploitation	Disciplinary Probation, Counseling Assessment, Social Restrictions, Social Suspension, Suspension, Expulsion	Probation, Counseling Assessment, Suspension, Termination
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APPEALS

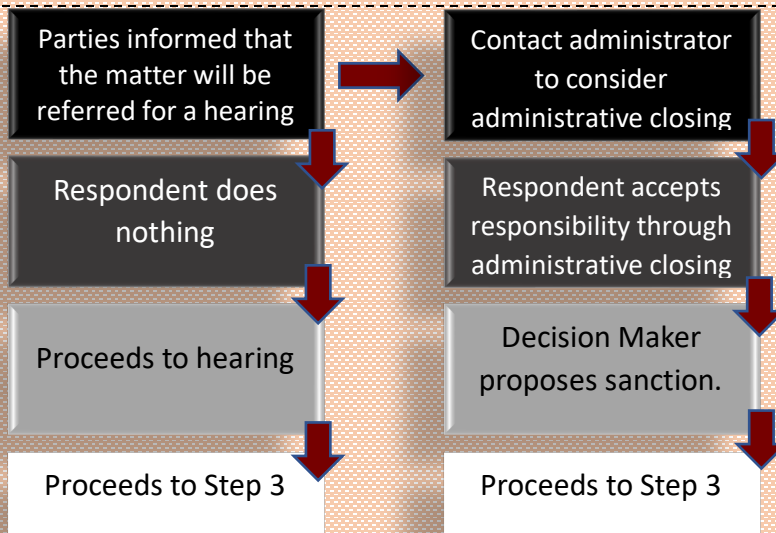
- A. *Jurisdiction:* The Appeals Committee has appellate jurisdiction over appeals related to Sexual Harassment and Sexual Misconduct.
- B. *Appellate Deadlines:* The following deadlines are applicable to all appeals. Dates are calculated in calendar days. In the event a deadline falls on a weekend or University recognized holiday, the deadline falls on the next business day.
- (1) No later than ten (10) days after the Decision-Maker's written decision or Dismissal of a Formal Complaint, a Notice of Appeal must be filed with the Title IX coordinator
 - (2) When one party appeals a dismissal or responsibility decision, the other party must be notified in writing, and will have ten (10) calendar days to provide a written response to the appeal.
- C. *Decisions Subject to Appeal:* A Respondent or Complainant may appeal the Decision-Maker's determination regarding the responsibility, the imposition of a particular sanction, the dismissal of allegations, or the finding of no Cause for any allegation to the Appeals Committee on any ground identified below in (D).
- D. *Grounds for Appeal:* A Respondent or Complainant may appeal on the following bases: (1) the Title IX Coordinator, investigators, or Decision-Maker had a conflict of interest or bias for or against Complainant or Respondent that affected the outcome of the matter; (2) procedural irregularity that affected the outcome of the matter; (3) 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.
- E. *Composition of Appeals Committee:* The appellate authority must be different from anyone who made the dismissal decision or responsibility determination and must not be the investigator or Title IX coordinator. The appellate authority will consist of a three-person panel comprised of a University of South Carolina law professor, and (depending upon the identities of the parties involved in the case) the appropriate deputy Title IX coordinator or designee, and one other person from the appropriate university division or department (student affairs, academic affairs or human resources).
- F. *Conflicts of Interest:* Any member of the Appeals Committee who has a conflict of interest must immediately recuse themselves by notifying the Board Chair. Conflicts of interest include, but are not limited to, personal knowledge of the facts and circumstances of the allegations or having a family, personal, faculty/student, or professional relationship with either the Complainant or Respondent. If the Chair of the Appeals Committee recuses themselves, then the Title IX Coordinator will appoint a new Chair.
- G. *Challenge to Appeals Committee Members.* Respondent or Complainant, may challenge any Appeals Committee member if there is a belief that a member of the Appeals Committee cannot render a fair and impartial result. The Chair of the Appeals Committee will determine if cause exists and will excuse any Panel Member where cause exists. Under no circumstance will an Appeals Committee Member be excluded for a reason that would violate the University's *Policy on Discrimination and Harassment*. If the Complainant, or Respondent challenges the Chair of the Appeals Committee for cause, the President will determine if cause exists.
- H. *Appellate Briefs:* A briefing schedule will be provided to the parties by the Chair of the Appeals Committee
- (1) The Appellant's Opening Brief must not exceed twenty-five (25) pages, double-spaced, with twelve- point type. Prior to filing the Opening Brief, Appellant and their advisors have the right to review any recording of the hearing, the investigative report, and any other evidence considered at the hearing depending on the decision being appealed.

- (2) ²⁷ The Appellees' Response Brief must not exceed twenty-five (25) pages, double-spaced, with twelve-point type. The Appellees and their advisors have the right to review the hearing file, including any recording of the hearing, or the investigative report, depending on the decision being appealed.
 - (3) The Appellant's Reply Brief must not exceed ten (10) pages, double-spaced.
 - (4) Upon request of any party, the Chair of the Appeals Committee has the discretion to extend deadlines or expand page limits.
 - (5) After receipt of all Briefs, the Appeals Committee will begin its review of the briefs and the record.
- I. *Appeal Record*: In considering an appeal, the Appeals Committee will conduct a review of the entire record, including but not limited to:
- (1) Notice of Dismissal;
 - (2) The Final Investigative Report and the evidence provided with the report;
 - (3) Any pre-hearing rulings from the Decision-Maker;
 - (4) The written determination of the Decision Maker;
 - (5) The recording or transcript of the live hearing;
 - (6) Any other materials admitted into evidence by the Decision Maker, and
 - (7) The Opening, Response, and Reply Briefs.
- J. *Appeals Committee Decision*: The Appeals Committee shall issue a decision describing the result of the appeal and the rationale for the result. The appellate authority shall affirm the decision or remand the case to the investigator or the Decision-Maker, as appropriate, for further proceedings. For students, the decision of the Appeals Committee is final and binding upon all involved. For employees, the decision of the Appeals Committee may be appealed pursuant to applicable grievance policies.

Investigation Process Flowchart – Step 1



Step 2



Step 3

