



**UNIVERSITY SYSTEM OF GEORGIA**

# **Title IX Training**

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- Title IX Overview
- USG Sexual Misconduct Policy
- Title IX Investigation Process
- Writing the Investigation Report
- The Appeals Process



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# **Title IX Overview**

# Title IX

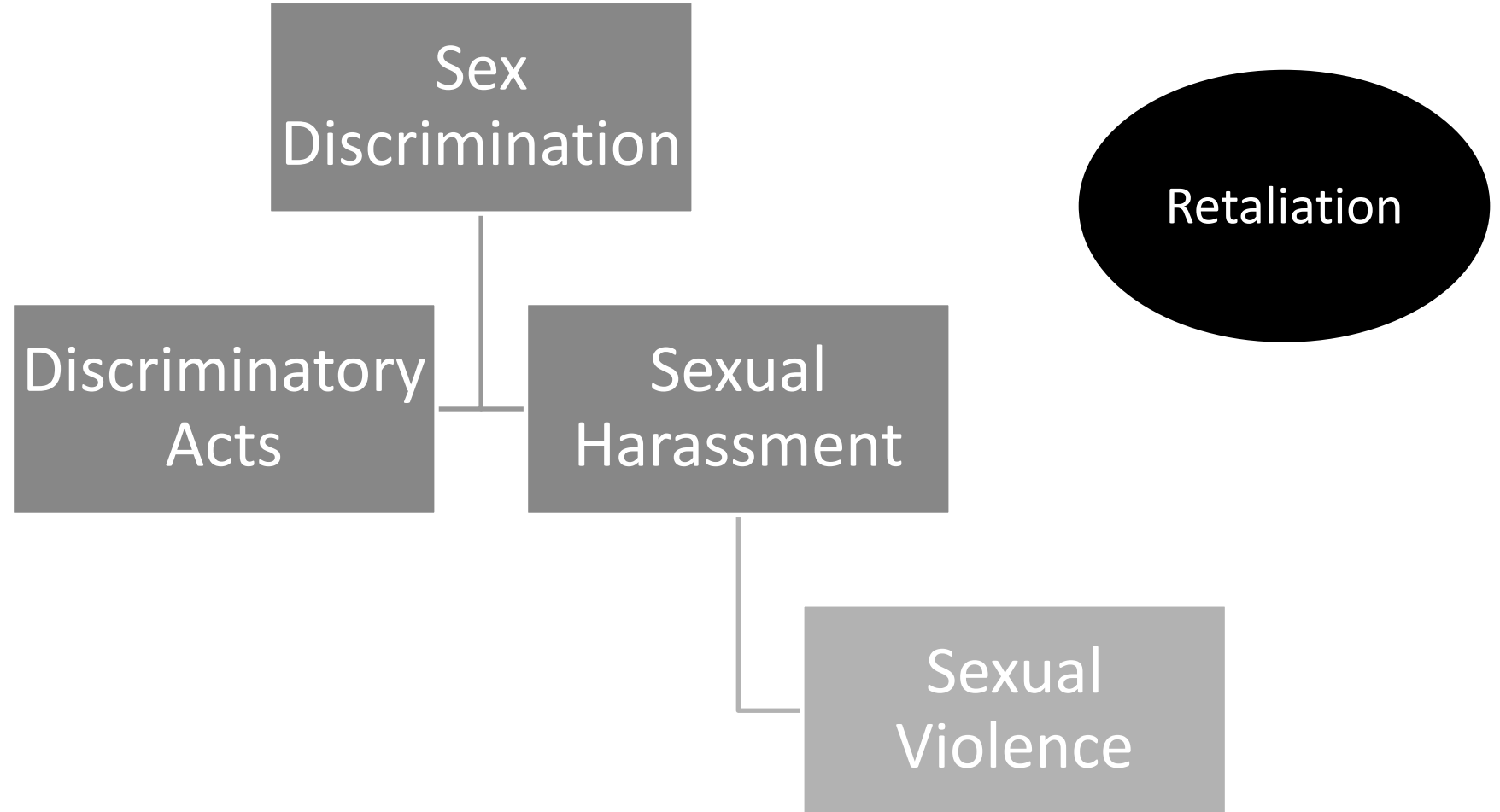
The law states that:

"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..."

—United States Code



# What is Sex Discrimination?

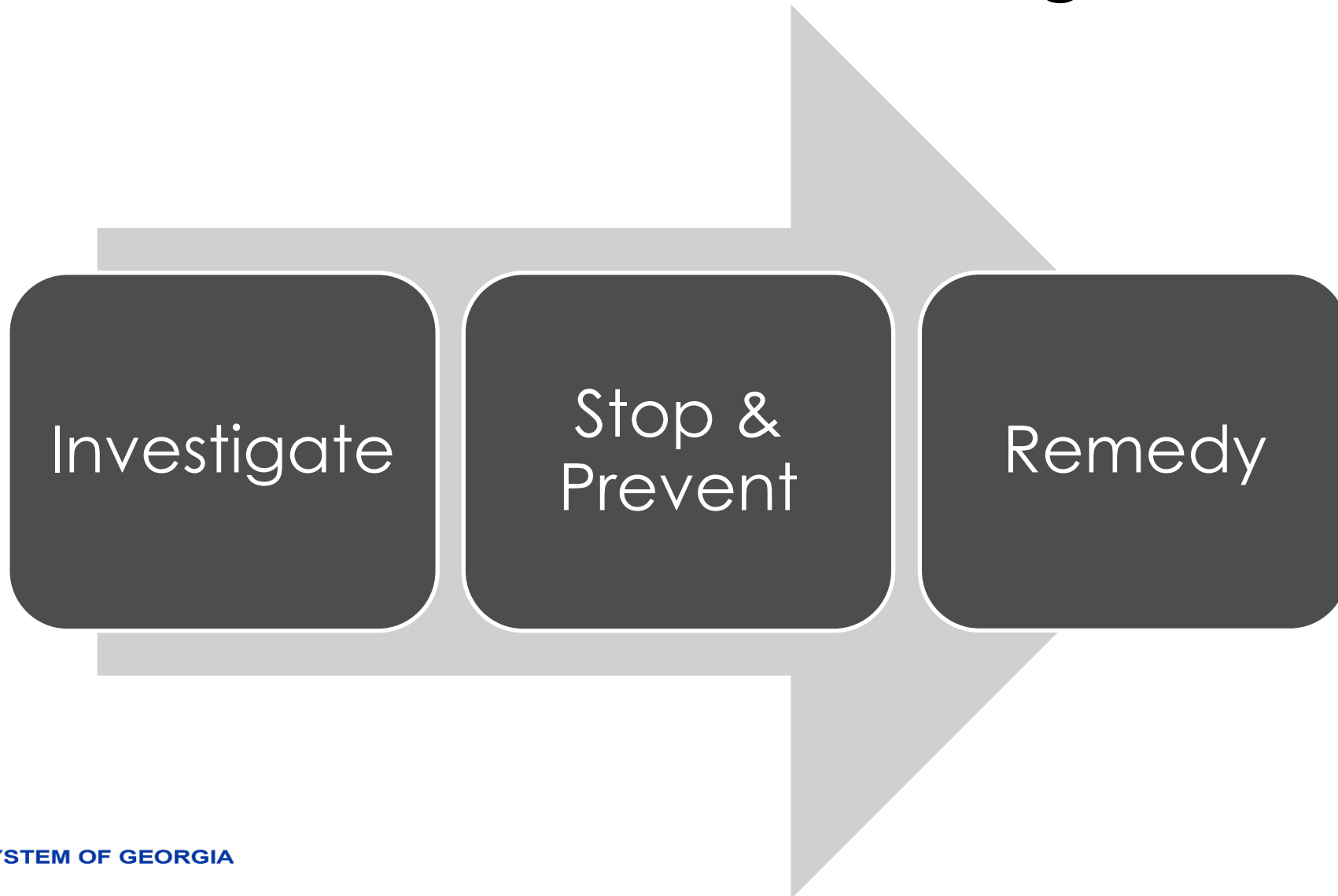


# OCR Guidance

- 2001 Guidance
- 2011 Dear Colleague Letter
- April 4, 2014 (Questions and Answers)
- “Not Alone” White House Taskforce to Protect Students from Sexual Assault
- September 2017 (Withdrawal of the 2011 Dear Colleague Letter)
- September 2017 (Questions and Answers on Title IX)
- Proposed Regulations 2018



# Overall Institutional Obligations





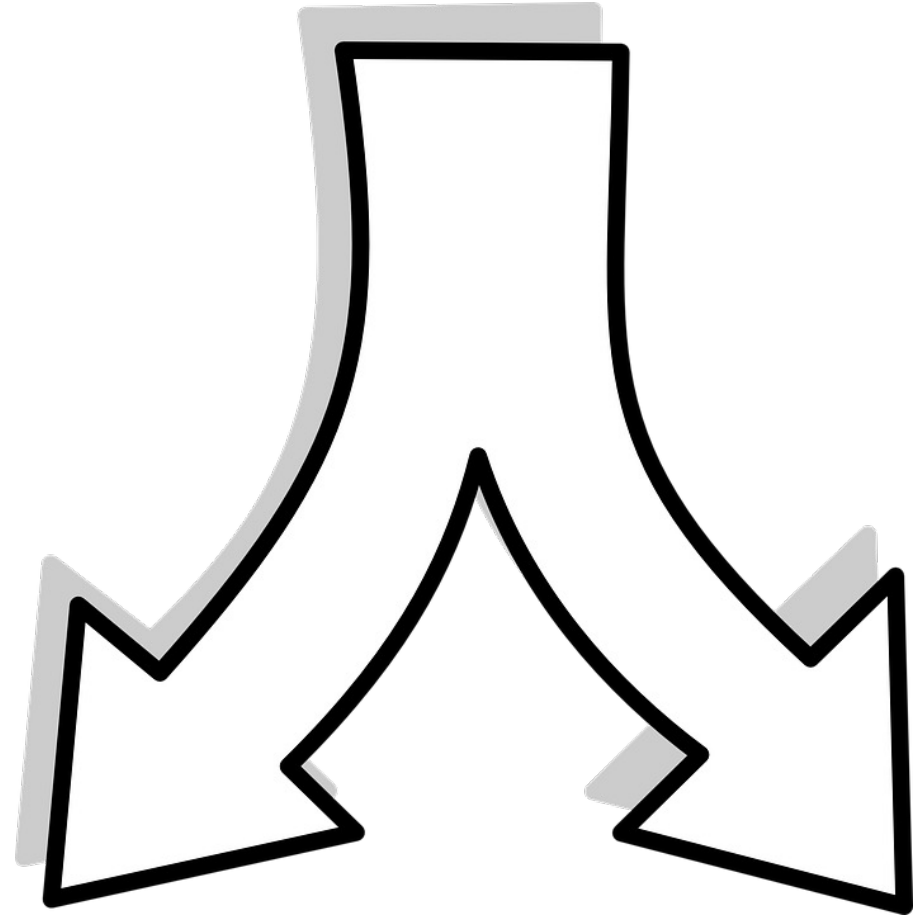
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# **System Wide Sexual Misconduct Policy**



# Policy Updates: A Bifurcated Process

- No longer a single investigator model
  - Student Conduct
  - Human Resources
  - Other
- Title IX Coordinators are NOT investigators



# Key Categories of Prohibited Conduct

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Sexual  
Misconduct

Dating Violence

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Domestic Violence

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Sexual Exploitation

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Sexual Harassment

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Stalking

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Nonconsensual Sexual Contact

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# Dating Violence

**Violence** committed by a person who is or has been in a **social relationship of a romantic or intimate nature** with the alleged victim.

- Includes sexual or physical abuse
- Includes threats of such abuse

# Domestic Violence

**Violence** committed by:

- a current **spouse**, former spouse or **intimate partner**
- a person whom **shares a child**
- a person who is **cohabiting** with or cohabitated with the alleged victim as a spouse or intimate partner

# Sexual Exploitation

**Taking non-consensual or abusive sexual advantage** of another for **one's own advantage or benefit**, or for the benefit or advantage of anyone other than the one being exploited.

Examples include:

- Non-consensual photos, videos, or audio of sexual activity
- Non-consensual distribution of photo, video, or audio of sexual activity, even if the sexual activity was consensual
- Intentionally and inappropriately exposing one's breast, buttocks, groin, or genitals in non-consensual circumstances

# Stalking

Engaging in a **course of conduct** directed at a specific person that **would cause a reasonable person to fear for his or her safety** or the safety of others OR suffer **substantial emotional distress**.

- Can be direct actions or through third parties
- Could include the use of devices or other methods
- Includes following, monitoring, observing, surveilling, threatening, communicating to or about a person, or interfering with a person's property

# Sexual Harassment

**Unwelcome verbal, nonverbal, or physical conduct,** based on sex or on gender stereotypes, that is

- Implicitly or explicitly a **term or condition of** employment status in a course program or activity
- **A basis for** employment or education decisions; OR
- Sufficiently severe, persistent, or pervasive to interfere with one's work or educational performance creating an **intimidating, hostile, or offensive** work environment

# Examples of Sexual Harassment\*

- Making sexual propositions or pressuring students for sexual favors;
- Touching of sexual nature;
- Using derogatory gender-specific slang, even if joking;
- Telling sexual or “dirty” jokes;
- Spreading sexual rumors or rating other students as to sexual activity or performance;
- and
- Circulating or showing emails or websites of a sexual nature.

\*Note: this list is NOT exhaustive



# Nonconsensual Sexual Contact

Any **physical contact** with another person of a **sexual nature without the person's consent**.

Includes:

- Touching (or penetrating) of another's intimate parts (genitalia, groin, breasts, buttocks)
- Touching (or penetrating) a person with one's own intimate parts; or
- Forcing a person to touch his or her own or another person's intimate parts

# Consent

- **Words or actions** that show a **knowing** and **voluntary willingness** to engage in a **mutually agreed upon sexual activity**
- Past consent ≠ Present consent
- The scope of consent matters
- Can be invalidated by: force, intimidation, incapacitation, or withdrawal





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# **Title IX Investigation Process**

# Steps in the Investigation Process

- Complaint Intake
- Consideration of Interim Measures\*
- Assignment to the Investigator
- Development of an Investigation Plan
- Fact Gathering
- Analysis of Information & Report Writing
- Case Resolution/Adjudication



# Complaint Intake

- Typically handled by the Title IX Coordinator
- Determination that the alleged conduct falls within the Sexual Misconduct Policy
- Identifies the involved parties
- IS NOT THE INVESTIGATION



# Key Aspects in the Investigation Process

- Written notice to parties
  - Pending investigation
  - Possible charges
  - Possible sanctions
  - Available support resources
  - Identify the assigned investigator
- Opportunity for written response



# Key Aspects in the Investigation Process

- Parties' right to an Advisor
  - May be an attorney
  - Purpose: provide advice and counsel
- Parties' right to remain silent or otherwise not participate
  - Non-response = general denial
  - Non-response ≠ adverse inference

# Fact Gathering

Provided  
Evidence

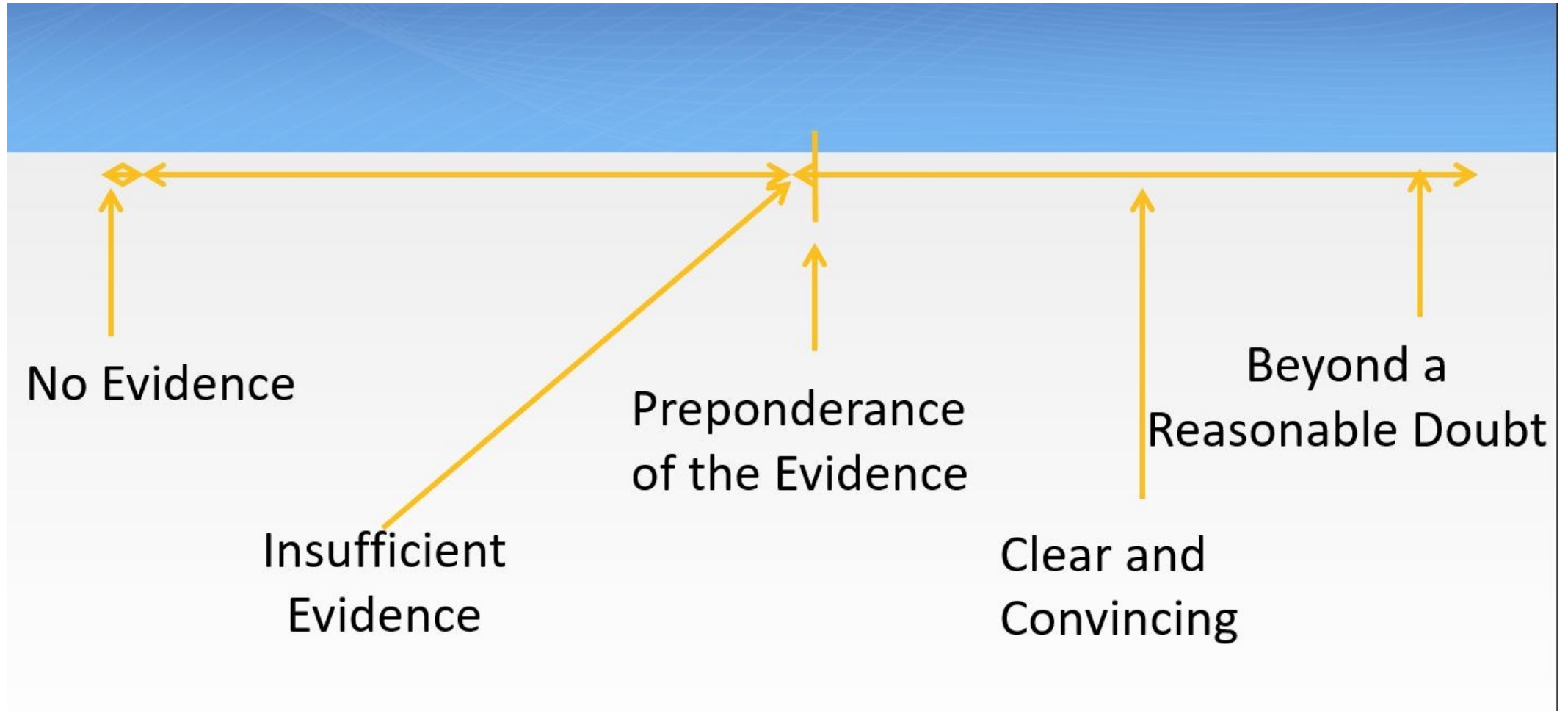
Interviews

Additional  
Evidence





# Understanding Evidence Thresholds



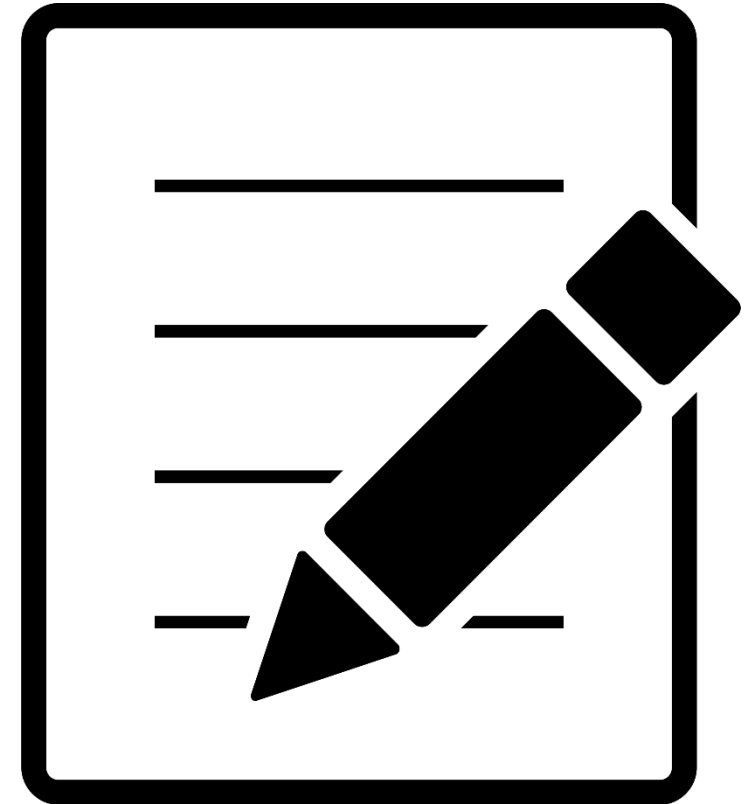


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# **Writing the Investigation Report**

# The Investigation Report

- Executive Summary
- Relevant Policy Provisions
- Information Gathered During the Investigation
- An Analysis of the Information Gathered
- Recommendations for Informal Resolution OR Conclusion
- Investigation Timeline
- Necessary Attachments





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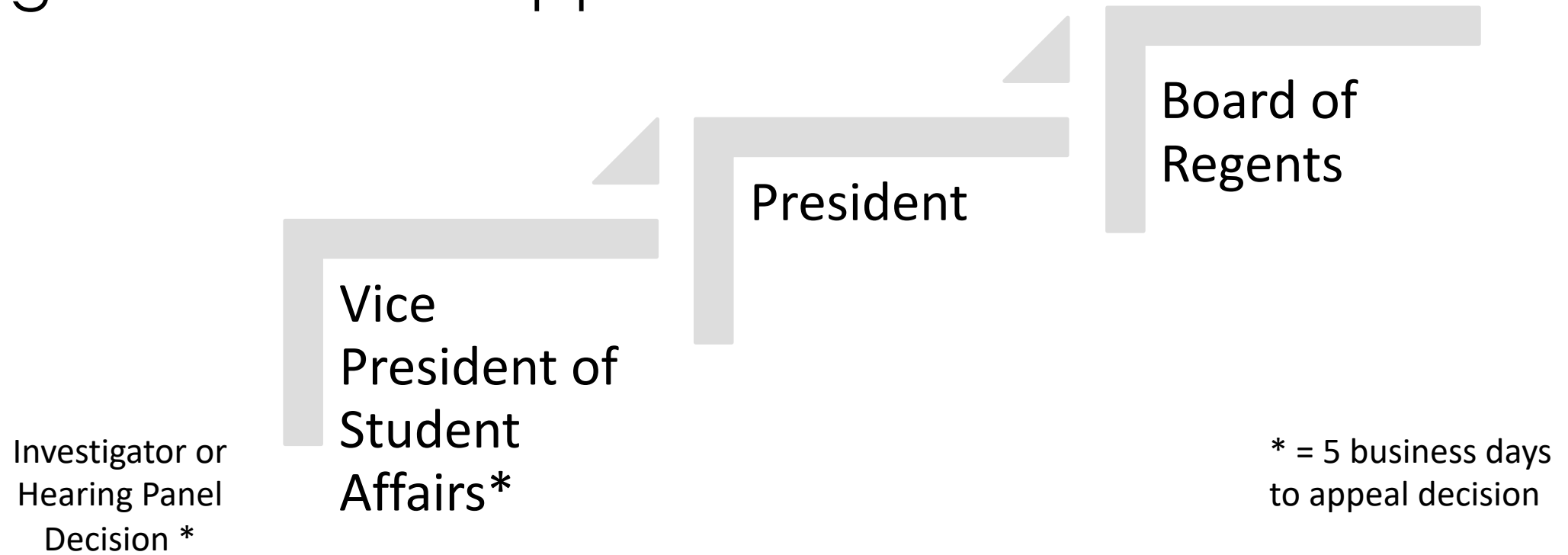
# **The Student Adjudication Process**

# Hearing Panel

- A live-hearing with parties, witnesses, and the investigator
  - Parties have a right to question others via panel members
  - Parties have a right to an advisor and up to two family members
- Decision making panel is made of 3 to 5 faculty or staff
- Majority decisions on finding of responsibility and sanctions

# The Appeals Process

- Appeals must be made in writing setting forth the grounds of the appeal to the:



# The Appeals Process

- Both parties have an equal right to appeal
- Grounds for appeal:
  - To consider new information
  - To allege procedural error that substantially impacted the fairness of the proceeding
  - To allege that the finding was inconsistent with the weight of the information

