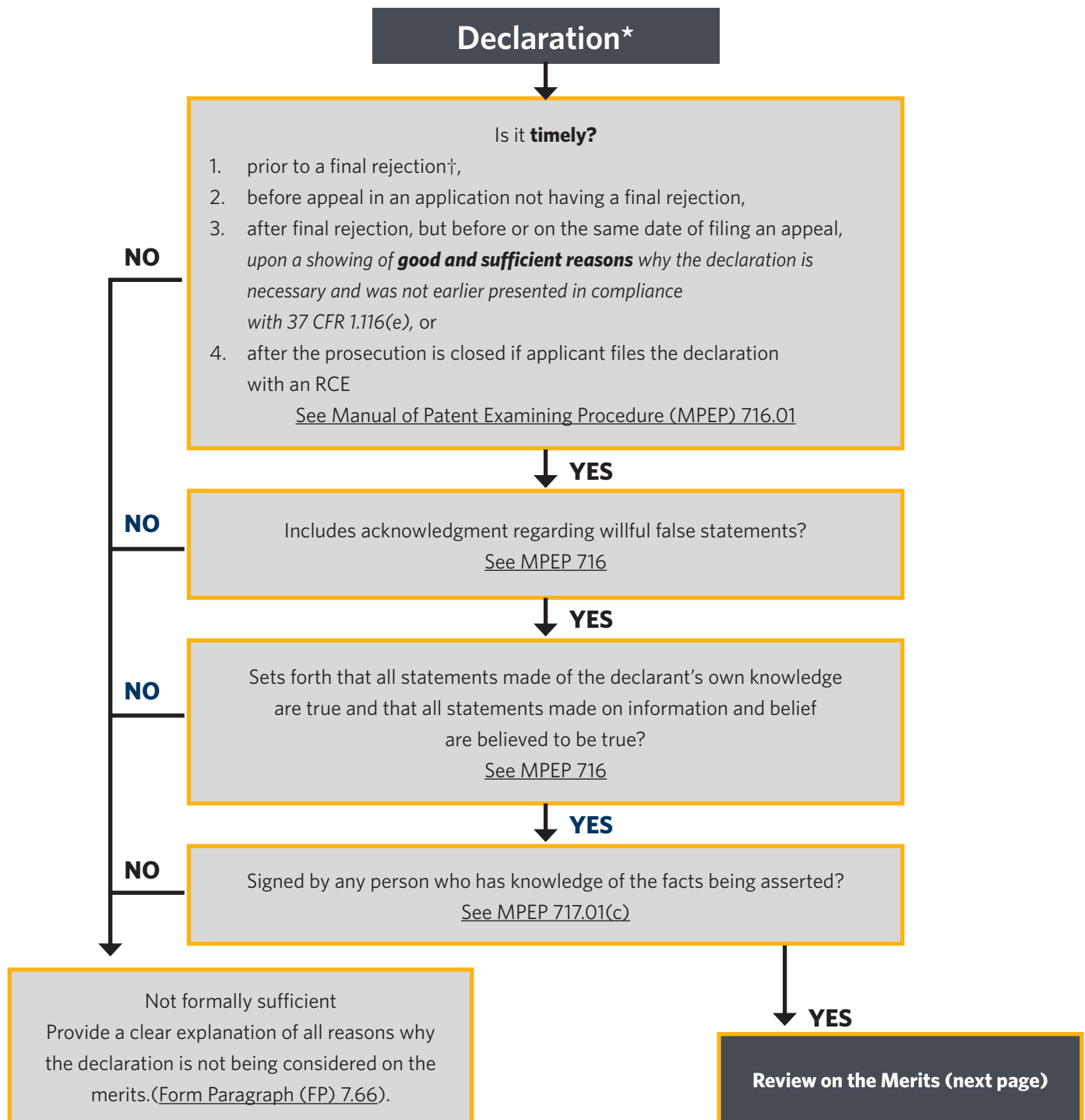


Evaluating Subject Matter Eligibility Declarations (SMEDs)

Part 1: **Formality Review**

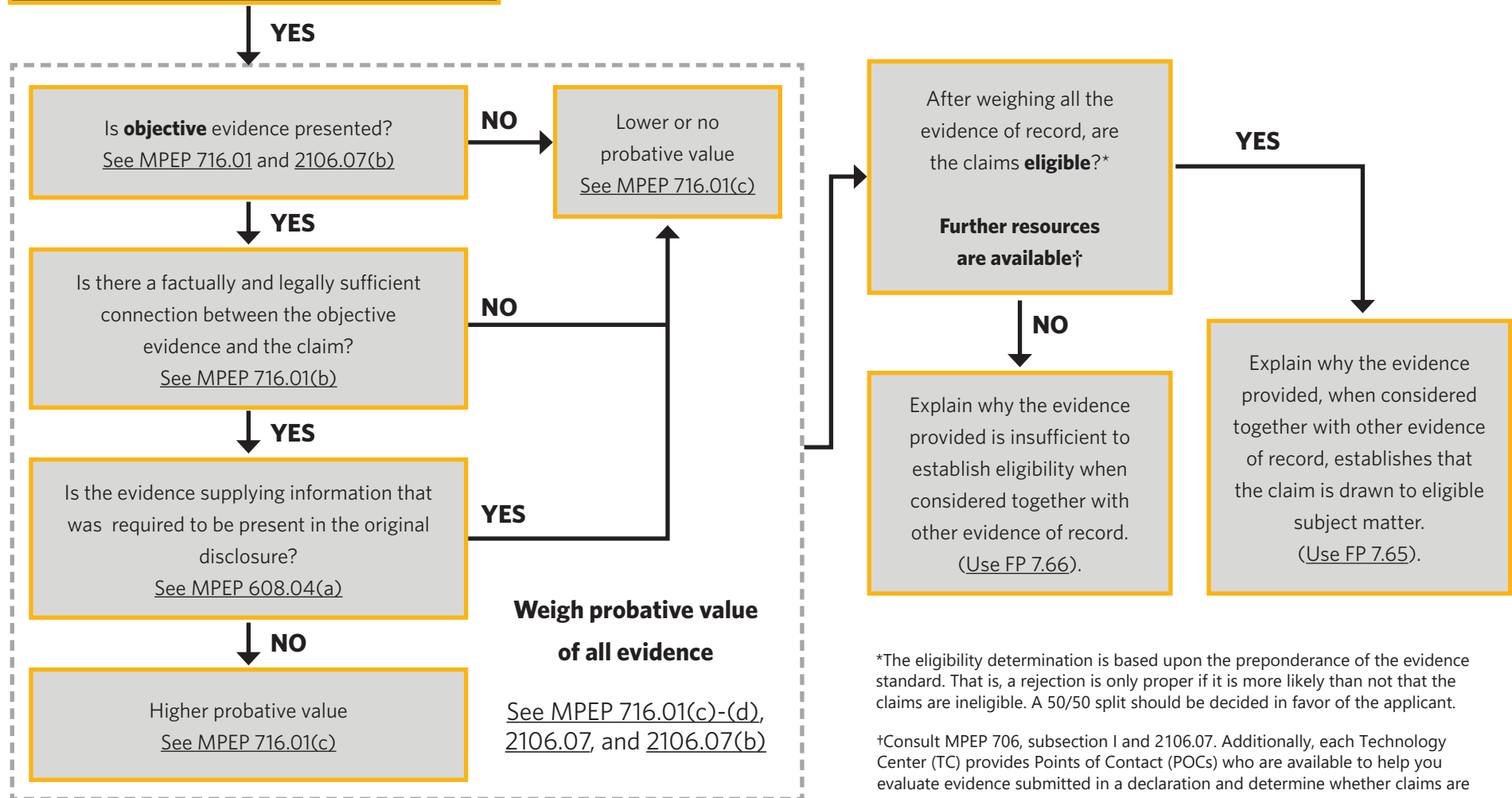


* Affidavits are less common. See MPEP 602 to determine if an affidavit has been properly executed.

†Note: SMEDs may be filed prior to a first action on the merits

Evaluating SMEDs | Part 2: Review on the Merits

Continue from Formality Review



*The eligibility determination is based upon the preponderance of the evidence standard. That is, a rejection is only proper if it is more likely than not that the claims are ineligible. A 50/50 split should be decided in favor of the applicant.

†Consult MPEP 706, subsection I and 2106.07. Additionally, each Technology Center (TC) provides Points of Contact (POCs) who are available to help you evaluate evidence submitted in a declaration and determine whether claims are eligible. Please reach out to a TC POC if you have questions.