





Adrienne Mathis Executive Director



TODAY'S GOALS

- Recall the purpose, benefits and cornerstones of informal resolution under Title IX
- Outline steps for preparing for the informal resolution process
- Walk through potential outcomes and consequences of the informal resolution process

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WHY INFORMAL RESOLUTION?

- Empower Complainants and Respondents to address incidents through a process that best suits their needs
- Enhance school and party autonomy by providing schools and parties with flexibility in addressing unique situations
- Presents an opportunity to educate and change behavior



WHAT ARE THE BENEFITS?

In the American Legal system, informal or alternative dispute resolution has the potential to:

- Shorten timeframe of the grievance process
- Provides greater party control over outcomes, which may improve parties' sense of justice and increase compliance with outcomes
- Yield remedies more customized to the needs of unique situation



INFORMAL RESOLUTION CORNERSTONES



- Clear, consistent communication to parties
- Explain process, potential outcomes, and confidentiality



- Emotional and physical safety
- Safety and risk analysis (optional)
- Safety measures in policy (optional)





- Voluntary, written consent
- Right to withdraw prior to agreement

TITLE

INSTITUTIONAL PREPARATION





- Does your policy include language regarding informal resolution?
- What options are afforded to the parties?
- Have you prepared the necessary templates

• Have individuals been trained to facilitate the informal resolution process?





and/or language to communicate with the parties?

TITLE

SOLUTION

INSTITUTIONAL PREPARATION

YPES INFORMA RESOLUT

- Mediation
- Arbitration
- Restorative justice
 - Group circles, impact statements,
 - complainant-respondent dialogue
- Craft your own process





INITIAL STEPS 6 INTAKE

GATEKEEPING

- Not permitted to resolve allegations that an employee sexually harassed a student
- Are the parties receptive to informal resolution?

TIMELINE

- Can occur any time following formal complaint until determination has been reached
- Should there be a defined amount of time for the IR process?

COMMUNICATION

- Written correspondences such as Notice of Informal Resolution, Invitation to Informal Resolution Meeting, etc.
- If either party is a minor or legally incompetent person, parent or legal guardian will receive the required written notice
- Follow-up conversations



CASE PREPARATION

- Identify and Engage Informal Resolution Facilitator
 - Training requirements:
 - Definition of sexual harassment contained under Title IX and scope of the school's education program or activity;
 - How to conduct informal resolution processes; and
 - How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, or bias
 - Facilitators may be internal or external
- Role of Advisors
 - Permitted to participate, but the school may impose restrictions on participation

TITLE



The requirements of the informal resolution process, including:

- Circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations,
- At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and
- Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;

TITLE



ADDITIONAL INFORMATION

- Potential terms of the agreement
- Need for written consent to participate in the process

WRITEN

NOTICE

- Date, time, location, participants and purpose of the meeting
- Name and information about Facilitator to confirm absence of bias or conflict of interest

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ourpose of the meeting to confirm absence of

CASE PREPARATION

Schools must obtain parties' written, voluntary consent to participate in the informal resolution process



PREPARING FOR INFORMAL RESOLUTION

Pre-Informal Resolution Caucus

- Facilitator meets separately and privately with each of the parties (and advisors, if any)
- Talk about how the informal resolution process will typically unfold
- Listen to parties' perspectives, hopes, desired outcomes, concerns, etc.
- Facilitators assess parties' safety concerns, ability to communicate effectively and sincerely, etc.
- If dialogue is not possible or appropriate, the facilitator may invite the parties to submit a written Pre-Informal Resolution Brief containing similar information



NFORMAL RESOLUTION

- Facilitator meets with the parties and advisors, if any
- Type of informal resolution and the setup will depend on the parties' needs
 - In person versus virtual, dialogue in the same room versus separate rooms with shuttling, etc.
- Duration of the informal resolution meeting can vary greatly
- If the parties reach an agreement, the facilitator will draft and circulate an Informal Resolution Agreement



NFORMAL RESOLUTION

- If the parties do not reach an agreement, the formal grievance process will resume
 - Title IX Coordinator should notify the parties in writing once the process resumes and provide updated timeframes
 - The Complainant can still withdraw their complaint in writing, if desired
- Admissions of responsibility?



What is the role of the school in the IR process?





INFORMAL RESOLUTION AGREEMENT

- In writing and signed by parties (and possibly advisors, facilitator and school)
 - The Agreement is binding, no return to complaint arising out of same facts
- Terms of the agreement must be outlined • Specific, feasible, take into account the parties' academic and nonacademic presence, consider short and long-term solutions
- Terms may resemble supportive measures and can be disciplinary



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RESOLUTION AGREEMENT

- Education/Training
- Counseling
- Restrictions on Contact
- Accommodations for academics, work-place, residence
- Disciplinary action
- Voluntary removal
- Be creative to accommodate parties' needs



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Consider partnerships and coordination needed

Have you considered the broader educational community?

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