TITLE IX ALTERNATIVE/ INFORMAL RESOLUTIONS

Kate Legee

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MEET YOUR FACILITATOR

Kate Legee

Senior Solutions Specialist
she/her/hers

Kate has more than 15 years of experience working with faculty, staff, and students in public and private higher education institutions. Kate has a background in violence prevention, student conduct, employment discrimination, Title IX & EEO, crisis response, and Behavioral Intervention Team case management and protocols. Kate holds an MS in Human Resources Management from Temple University, a MA in Counseling Psychology from Immaculata University, and a Bachelors Degree from Millersville University. She is ABD in Criminology and Justice Studies. Kate lives in New Hampshire with her husband, two dogs, and a fridge filled with cheese.

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ABOUT US

Vision

We exist to create safe and equitable work and educational environments.

Mission

To bring systemic change to how school districts and institutions of higher education address their Clery Act & Title IX obligations.

Core Values

- Responsive Partnership
- Innovation
- Accountability
- Transformation
- Integrity

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AGENDA

- **Title IX**
  Regulations, Definitions, Scope
- **Informal Resolution**
  Requirements and Types
- **Impartiality**
  Avoiding Bias or Prejudgment
- **Getting Started**
  Initial Steps & Considerations
- **Conducting the IR**
  Options & Considerations
- **Reaching a Resolution**
- **Documentation**
  Recordkeeping
- **Implementation**
  Strategies for Success

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WHAT ARE YOU HOPING TO GET FROM THIS TRAINING?

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TITLE IX

Regulations, Definitions, Scope

01

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Title IX of the Education Amendments Act of 1972

"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."

20 U.S.C. § 1681 (1972).

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EDUCATION PROGRAM OR ACTIVITY

> For the purposes of this section, §§ 106.30, and 106.45, "education program or activity" includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.

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TITLE IX APPLIES TO ALL FORMS OF SEX DISCRIMINATION

- Sexual Harassment
- Achievement Awards
- Athletics
- Benefits
- Financial Aid
- Leaves of absence and re-entry policies
- Opportunities to join groups
- Pay rates
- Recruitment
- Retention Rates
- Safety
- Screening Exams
- Sign-on Bonuses
- Student and Employee Benefits
- Thesis Approvals
- Vocational or College Counseling
- Research opportunities

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THE HISTORY OF TITLE IX

A TIMELINE

1972: Title IX is passed

1979: Cannon v University of Chicago

1992: Franklin v Gwinnett

1998: Gebser v Lago Vista

1999: Davis v Monroe

2001: Revised Sexual Harassment Guidance

2011: Dear Colleague Letter ("DCL")

2014: Q&A

2016: DCL on Transgender Students

2017: 2017 DCL guidance & 2016 DCL on Transgender Students Rescinded

2018: DCL and Q&A

2020 Regulations Withdrawal of 2001 Guidance

2021/2022: Q&A

2023 Proposed Athletics Regs Q&A

2024 Regs Implemented Athletics Regs Withdrawn

2024 Regs Vacated

2025 DCL

1972 | 2011 | 2017 | 2020 | 2025

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THE TITLE IX REGULATIONS

SEXUAL HARASSMENT ONLY

1. Narrows the definition of sexual harassment;
2. Narrows the scope of the institution's educational program or activity;
3. Narrows eligibility to file a complaint;
4. Develops procedural requirements for the investigation and adjudication of sexual harassment complaints, only.

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DEFINITIONS

Recipient	Complainant	Respondent
The recipient of federal funds; the institution/school/ college	An individual who is alleged to be the victim of conduct that could constitute sexual harassment.	An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

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SEXUAL HARASSMENT: *SECTION 106.30*

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) An **employee** of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so **severe**, **pervasive**, <u>and</u> **objectively offensive** that it **effectively denies** a person equal access to the recipient's education program or activity; or
- (3) "**Sexual assault**" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "**dating violence**" as defined in 34 U.S.C. 12291(a)(10), "**domestic violence**" as defined in 34 U.S.C. 12291(a)(8), or "**stalking**" as defined in 34 U.S.C. 12291(a)(30).

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COVERED GEOGRAPHY

Includes locations, events, or circumstances over which the recipient exercised **substantial control** over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.

- ✓ On campus or in a building owned or controlled
- ✓ Off-campus incident that occurs as part of the institution's operations
- ✓ Institution exercised substantial control over the respondent and the context of alleged sexual harassment that occurred off campus pursuant to § 106.44(a); or
- ✓ The incident of sexual harassment occurs at an off-campus building owned or controlled by a student organization officially recognized by a postsecondary institution

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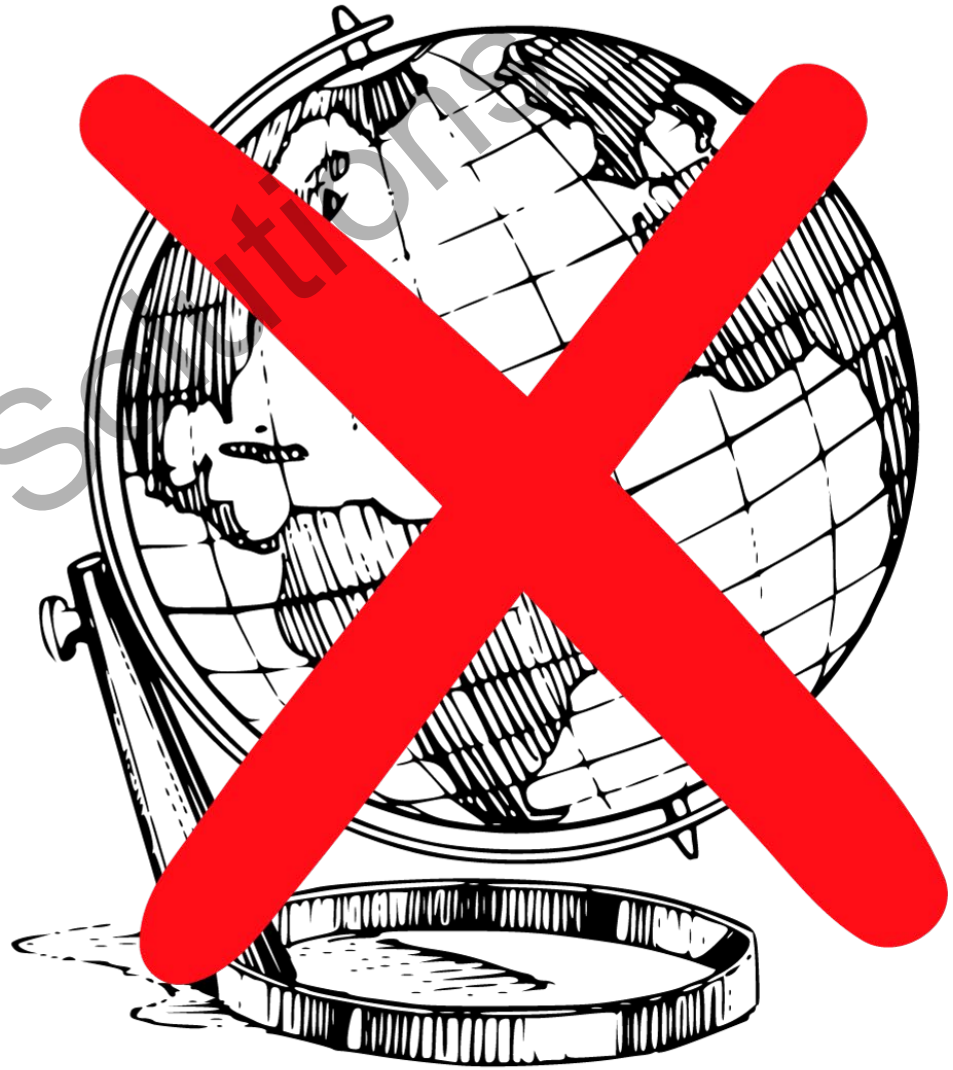
NOT COVERED GEOGRAPHY

- x Off campus conduct, even if it has an impact on the educational program or activity;
- x Conduct that occurs outside of the United States.



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COVERED INDIVIDUALS

ELIGIBILITY FOR TITLE IX'S PROTECTIONS:

"At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed." 34 C.F.R. § 106.30

- Applicant
- Enrolled or Employed
- Accepted or Hired

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TITLE IX APPLICATION REGULATIONS
(POST-MAY 2020)

Type of Conduct
- Hostile Environment
- Sexual Harassment
- Quid Pro Quo
- Sexual Assault
- Dating/Domestic Violence
- Stalking

+

Ed Program or Activity
- On campus
- Campus Program, Activity, or Building
- In the United States

+

Required Identity
- Complainant is participating or attempting to participate in the Ed Program or activity
- Institution has control over Respondent

→

Apply 106.45 Procedures

Required Response:

Section 106.45 Procedures

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CONDUCT FALLING OUTSIDE THE SCOPE OF TITLE IX

- Apply other institutional policies and procedures
- Ensure that those policies and procedures are complaint with VAWA/Clery, other intersecting federal and state laws

Off-Campus Sexual Assault

Sexual Harassment Abroad

Severe or Pervasive, only

Quid Pro Quo Between Students

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ACTUAL NOTICE

A NARROWED SCOPE OF INSTITUTIONAL RESPONSIBILITY

Institution <u>must</u> respond when it has:

"Actual Knowledge…"

When "an official of the recipient <u>who has authority to institute corrective measures</u>" has notice, e.g., Title IX Coordinator

…of "sexual harassment that occurred within the school's "education program or activity…

"includes locations, events, or circumstances over which the recipient exercised substantial control" over the respondent and the context in which the sexual harassment occurred

- Fact specific inquiry focused on control, sponsorship, applicable rules, etc.

…against a "person in the United States"

So, not in the study abroad context

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INITIAL RESPONSE REQUIREMENTS

1. Receipt of Report
2. Outreach/Response from Title IX Coordinator
3. Support Measures, whether or not Formal Complaint is filed
4. How to File
5. Options for Resolution

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PROCEDURAL REQUIREMENTS FOR INVESTIGATIONS

- Notice to both parties
- Equal Opportunity to Present Evidence
- Advisor of choice
- Written notification of meetings, etc., and sufficient time to prepare
- Opportunity to review all directly related evidence, and 10 days to submit a written response to the evidence prior to completion of the report
- Report summarizing relevant evidence and 10-day review of report prior to hearing

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PROCEDURAL REQUIREMENTS FOR HEARINGS

Must be live, but can be conducted remotely

Cannot compel participation of parties or witnesses

Standard of proof used may be preponderance of the evidence or clear and convincing; standard must be the same for student and employee matters

Cross examination must be permitted and must be conducted by advisor of choice or provided by the institution

Decision maker determines relevancy of questions and evidence offered

Written decision must be issued that includes finding and sanction

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GROUNDS FOR APPEAL

(A) Procedural irregularity that affected the outcome of the matter;

(B) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or

(C) The Title IX Coordinator, investigator(s), or decision-maker(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.

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OTHER REQUIREMENTS OF THE REGULATIONS

- Designation of a Title IX Coordinator
- Dissemination of policy
- Separation of Responsibilities
- Training and posting of training
- Impartiality
- Record Keeping

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ALTERNATIVE RESOLUTION

Requirements and types

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TRAINING REQUIREMENTS

Title IX coordinators, investigators, decision-makers, and "any person who facilitates an informal process" must receive training on:

- The definition of sexual harassment in the regulations
- The scope of the institution's education program or activity
- How to conduct an investigation and grievance process
- How to serve impartially
- Any technology to be used at a live hearing
- Training materials must be made publicly available on website
- Training materials "must not rely on sex stereotypes" and must be maintained for seven years.

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REPORT

- Notice to institution that prohibited conduct may have occurred
- Can be submitted by anyone
- Requires prompt outreach and response

FORMAL COMPLAINT

- Notice to institution that the impacted party wants the school to take action on a report
- Can only be submitted by the party themselves or Title IX Coordinator
- Requires review under Title IX

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GRIEVANCE PROCEDURES

Formal Complaint

Informal resolution may be offered only ***after*** a formal complaint has been filed.

Notice of Allegations

Upon receipt of a formal complaint, the Title IX Coordinator or designee must issue a notice of allegations.

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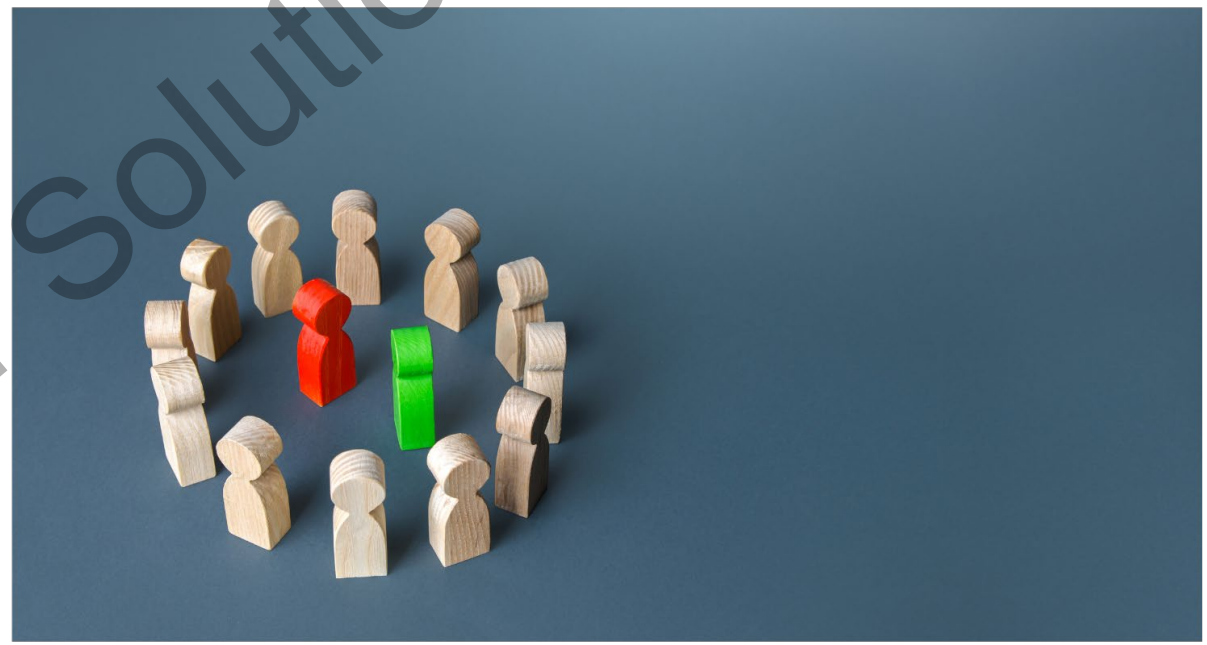
INFORMAL RESOLUTION

- Institutions have the option to offer an informal resolution; it is not required
- Institutions may decide on a case-by-case basis which matters are eligible for informal resolution; except
- Instances of alleged employee sexual harassment against a student are never eligible for informal resolution.



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Informal Resolution (Pt 2)

Informal resolution requires its own notice to the parties and must include:

- The allegations
- The requirements of the informal process
- Rights of parties to withdraw from the informal process at any time and return to the formal grievance process
- Any consequences of participation in informal process, including records that may be maintained or could be shared

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Informal Resolution (Pt 3)

- The parties must voluntarily agree in writing to the informal resolution process
- May not require participation in the process as a condition of employment or enrollment
- May be entered into at any time in the process, prior to reaching a determination regarding responsibility
- May be stopped at any time prior to determination regarding responsibility

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HIGHLIGHTS FROM THE 2020 FINAL RULE

- Must identify persons designated to facilitate informal resolution processes.
- Informal resolution processes must be reasonably prompt.
- Options for informal resolution processes should be included with notice of allegations.
- Informal resolution processes must be voluntary and can only be offered if a formal complaint is filed.
- Must keep records regarding the facilitation of an informal resolution process.
- Facilitators must be trained.

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Q&A ON THE TITLE IX REGULATIONS ON SEXUAL HARASSMENT (JULY 20, 2021)

Question 58: May a school offer an informal resolution process, including restorative justice or mediation, as a way to resolve a sexual harassment complaint?

Answer 58: Yes. The 2020 amendments state that a school is not required to offer an informal resolution process but may facilitate an informal resolution process at any time prior to reaching a determination regarding responsibility, subject to certain conditions.192 A school is not permitted to offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

The 2020 amendments explain that they leave the term "informal process" undefined to allow a school the discretion to adopt whatever process best serves the needs of its community.194 The amendments do not require that the parties interact directly with each other as part of an informal resolution process; mediations are often conducted with the parties in separate rooms and the mediator conversing with each party separately. The parties' participation in mediation or restorative justice, if offered, should remain a decision for each individual party to make in a particular case, and neither party should be pressured to participate in the process. Schools may exercise discretion to make fact-specific determinations about whether to offer informal resolution in response to a complaint. The Department will not require the parties to attempt mediation in its enforcement of Title IX.

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Q&A

Question 59: If a school chooses to offer an informal resolution process, are there any requirements under Title IX?

Answer 59: Yes. If a school chooses to offer an informal process, the 2020 amendments require that the school obtains the complainant's and the respondent's voluntary, written consent before using any kind of "informal resolution" process, such as mediation or restorative justice. With the parties' consent, schools have the freedom to allow the parties to choose an informal resolution mechanism that best suits their needs. If those needs change, however, the 2020 amendments also make clear that either party may withdraw from the informal resolution process and resume the formal grievance process at any time prior to agreeing to a resolution.

A school's discretion to offer an informal resolution process is also limited by the school's obligation to ensure that all persons who facilitate informal resolutions are free from conflicts of interest and bias and are trained to serve impartially without prejudging the facts at issue. For example, schools that choose to offer restorative justice as a means of an informal resolution should ensure that the restorative justice facilitators are well-trained in effective processes. A school may use trauma-informed techniques during the informal resolution process.

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WHAT CAN INFORMAL RESOLUTION LOOK LIKE?

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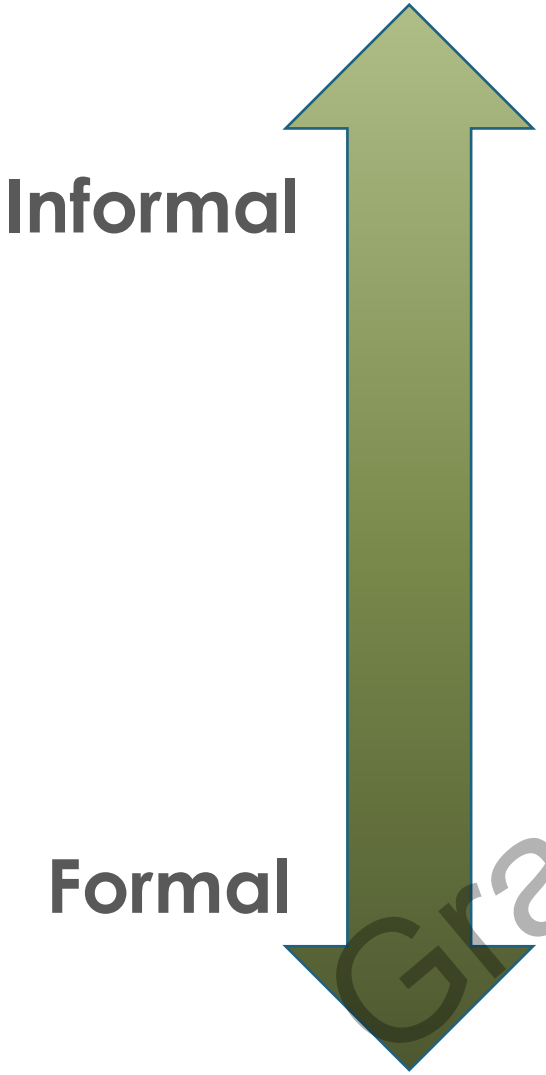
TYPES OF CONFLICT RESOLUTION



- NO CONFLICT MANAGEMENT
- DIALOGUE/DEBATE/DISCUSSION
- CONFLICT COACHING
- FACILITATED DIALOGUE
- MEDIATION
- RESTORATIVE PRACTICES
- SHUTTLE DIPLOMACY
- ADJUDICATION - INFORMAL
- ADJUDICATION - FORMAL HEARING

Schrage, J.M. & Thomas, M.C (2008)

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WHAT WORKS BEST?

- Mediation
- Shuttle Diplomacy
- Restorative Practices
- Informal Adjudication

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MEDIATION

"Mediation is a process in which a neutral third party (mediator) helps the parties communicate with one another in an attempt to reach an agreement that is acceptable to everyone. Mediation is a forward-looking process in that it encourages the participants to focus on their current and future needs and interests rather than focusing on fault and blame for past actions. Mediation differs from a court proceeding in that the parties maintain control of their dispute. The decision-making power in mediation lies with the parties, not with the mediator."

-Harris County TX Dispute Resolution Center

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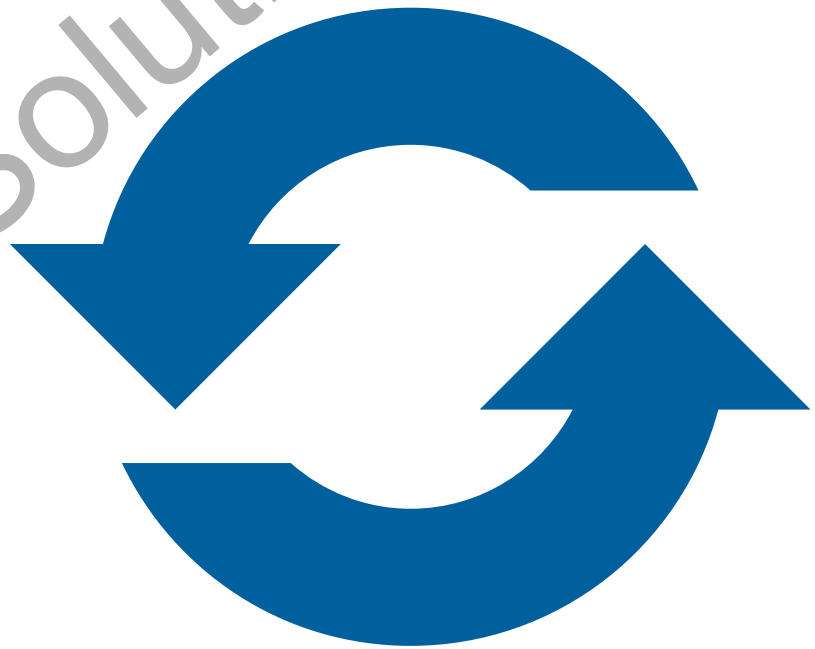
RESTORATIVE PRACTICES

Restorative practices focus on the respondent taking accountability and repairing harm they have caused. Restorative practices are community based and provides space for all of the parties involved to come together to restore trust and build or rebuild community.



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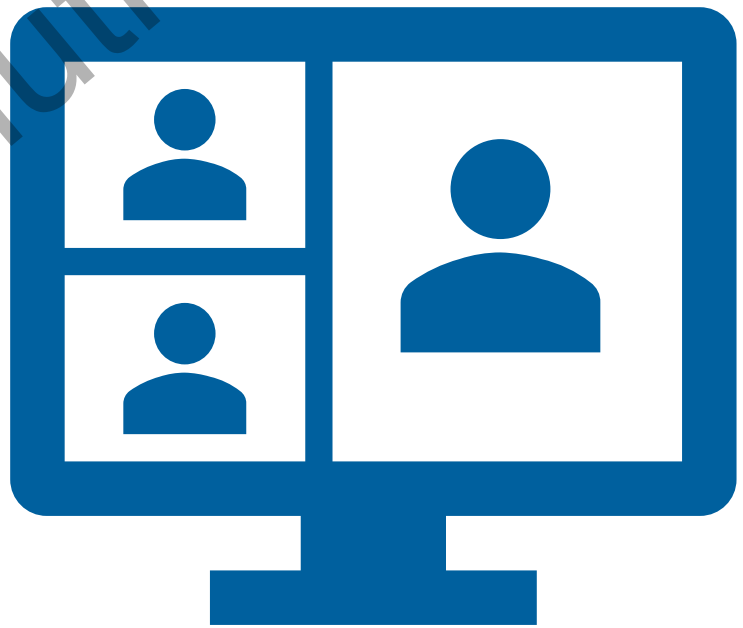
SHUTTLE DIPLOMACY

Shuttle diplomacy is a form of mediation that does not require the parties to interact directly with each other. An agreement is negotiated by a facilitator or mediator working with one party at a time to reach an agreed upon resolution.



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INFORMAL ADJUDICATION

Informal adjudication is an administrative decision made in accordance with processes established by the institution. While the parties are largely responsible for suggestion outcomes and actions in other forms of informal resolution, in informal adjudication, the facilitator may lead by suggesting outcomes for the parties to consider.

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IMPARTIALITY

Avoiding bias, prejudgment, and conflicts of interest

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IMPARTIALITY:
AVOIDING PREJUDGMENT AND BIAS

"The Department's interest in ensuring impartial Title IX proceedings that avoid prejudgment of the facts at issue necessitates a broad prohibition on sex stereotypes so that decisions are made on the basis of individualized facts and not on stereotypical notions of what ''men'' or ''women'' do or do not do." 85 Fed. Reg. 30254 (May 19, 2020).

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SECTION 106.45(b)(1)(iii)

The grievance process must require that any individual designated by the recipient as Title IX Coordinator, investigator, or facilitator of informal resolution <u>not to have a conflict of interest or bias</u>:

- For or against complaints or respondents generally, or
- An individual complainant or respondent

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SECTION 106.45(b)(1)(iii) CONT'D

"Title IX Coordinator, investigator, decision maker, or **facilitator of informal resolution** must receive training on…how to serve **impartially**, including **avoiding prejudgment** of the facts at issue, **conflict of interest**, and **bias**. This training material **may not rely on sex stereotypes** and **must promote impartial investigations and adjudications** of formal complaints of sexual harassment."

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IMPARTIALITY: AVOIDING PREJUDGMENT AND BIAS

Do not rely on cultural "rape myths"

Do not rely on cultural stereotypes about how men or women purportedly behave

Do not rely on gender-specific research data or theories to decide or make inferences of relevance or credibility in particular cases

Recognize that anyone, regardless of sex, gender, gender identity or sexual orientation, can be a victim or perpetrator of sexual assault or other violence

Avoid any perception of bias in favor of or against complainants or respondents generally

Employ interview and investigation approaches that demonstrate a commitment to impartiality

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IMPARTIALITY

Avoiding Bias

- Department also rejected commenters' arguments that individuals should be disqualified from serving as investigators because of past personal or professional experience
- "Department encourages [schools] to apply an objective (whether a reasonable person would believe bias exists), common sense approach to evaluating whether a particular person serving in a Title IX role is biased" WHILE
- "exercising caution not to apply generalizations that might unreasonably conclude that bias exists (for example, assuming that all self-professed feminists, or self-described survivors, are biased against men, or that a male is incapable of being sensitive to women, or that prior work as a victim advocate, or as a defense attorney, renders the person biased for or against complainants or respondents"

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IMPARTIALITY
Avoiding Conflicts of Interest

- Commenters argued that investigators and hearing officers employed by schools have an "inherent conflict of interest" because of their affiliation with the school, so Department should require investigations and hearings to be conducted by external contractors
- Department noted that some of those commenters argued that this resulted in bias against complainants, and some argued that this resulted in bias against respondents
- Department's response: Department's authority is over schools, not individual investigators and other personnel, so Department will focus on holding school's responsible for impartial end result of process, without labeling certain administrative relationships as per se involving conflicts of interest

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GETTING STARTED

Initial Steps & Considerations

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INITIAL STEPS

- Discussion of Goals
- Draft Process
- Managing Staffing & Training
- Develop Templates
- Recordkeeping
- Assessment and Evaluation

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GOALS

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GOALS FOR INFORMATION RESOLUTION PROCESSES

- ✓ Neutral/Impartial Process
- ✓ Trauma Informed
- ✓ Meets the Needs of the Parties
- ✓ Clear and Transparent
- ✓ Empowerment of Parties
- ✓ Resolution Focused

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REMINDERS ABOUT INFORMAL RESOLUTIONS

- As a best practice, any information shared or gained during the informal resolution process should not be used against either party should the matter return to the formal process.
- Informal resolutions typically do not result in a formal finding of violation.
- Any agreed upon outcomes are typically not considered sanctions.
- The Title IX Coordinator is responsible for determining when an informal resolution is appropriate.
- An agreement between the parties ends the matter.
- Informal resolution agreements are not able to be appealed.

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DRAFTING PROCESS

- Process should be clear and transparent
- Provides for appropriate due process under the regulations
- Provides flexibility to choose the method of resolution that best suits the parties and the situation at hand
- Complements existing formal grievance process
- Includes details about record keeping and confidentiality

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POLICY STATEMENT EXAMPLES

The Department of Education provides a number of example policy statements on Page 53 and 54 of its July 20, 2021 *Q&A on the Title IX Regulations on Sexual Harassment*:

Part 1: Questions and Answers Regarding the Department's Title IX Regulations

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STAFFING CONSIDERATIONS

- Informal Resolution facilitators need to be trained
  - In some states, mediators need to be trained but do not need to be certified.
  - In others, mediators need to be certified.
- Facilitators cannot be the investigator or decision maker
- Confidentiality is key
- Internal vs. External

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CONSIDERING OUTCOMES

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TEMPLATES

- Informal Resolution specific templates should include:
  - Notice of Informal Resolution
  - Informal Resolution Agreement
- Formal Resolution process templates should also be include information on Informal Resolution options, including:
  - Notice of Allegations
  - Notice of Investigation
  - Notice of Hearing

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ASSESSMENT

Consider assessing:

- Number of cases that enter IR process
- Number of cases that exit IR process
- Kinds of agreed upon outcomes
- Type of process used (mediation, shuttle negotiation, etc.)
- Overall party satisfaction with resolution process
- Compliance with resolution agreements

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CONDUCTING THE INFORMAL RESOLUTION

Initial Steps & Requirements

05

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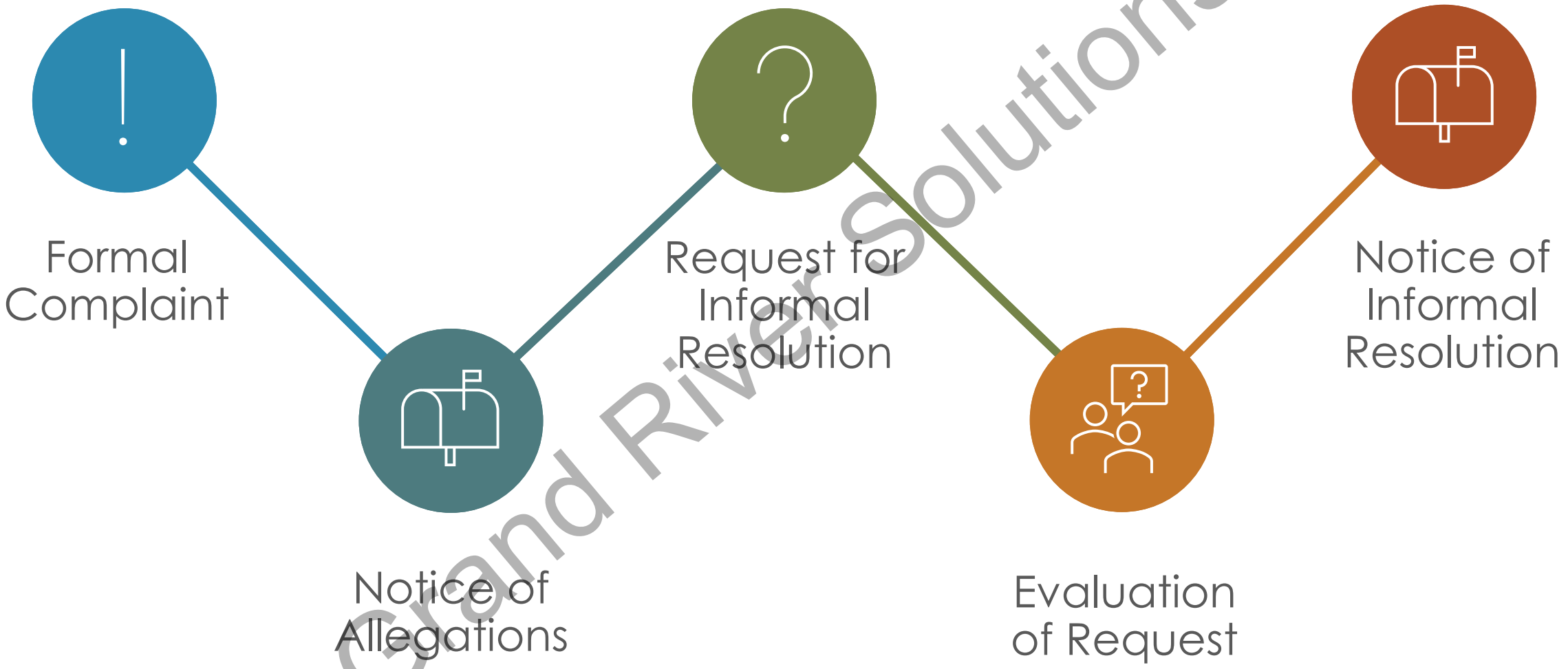
PROCESS STEPS



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EVALUATING IR REQUESTS

Is an Informal Resolution permitted?

- Reminder: If the respondent is an employee and the complainant is a student, IR is not permitted by the Final Rule

Is an Informal Resolution appropriate?

- Considerations:
  - The emotional state of the parties
  - Do the parties hold equal power?
  - Are both parties willing to engage meaningfully in the process?

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PROCESS PARTICIPANTS

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THE PARTICIPANTS: THE PARTIES

Complainant

An individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Respondent

An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

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THE PARTICIPANTS: ADVISORS

- Can be anyone, including a lawyer, a parent, a friend, and a witness
- No particular training or experience required (institution appointed advisors should be trained)
- Can accompany their advisees at all meetings and interviews
- Advisors should help the Parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith
- May not speak on behalf of their advisee or otherwise participate, except that the advisor will conduct cross examination at a hearing
- Advisors are expected to advise their advisees without disrupting proceedings

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THE PARTICIPANTS: ADVISORS, PROHIBITED BEHAVIOR

An Advisor who oversteps their role as defined by the policy should be warned once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting may be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator has the ability determine how to address the Advisor's non-compliance and future role.

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THE PARTICIPANTS: THE FACILITATOR

- Manages logistics of process
- Communicates with parties
- Coordinates with and updates Title IX Coordinator
- Attempts to facilitate an agreed resolution
- Documents process and decisions

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DOES THE FACILITATOR NEED ACCESS TO THE CASE FILE?

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REACHING A RESOLUTION

Options & Considerations

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PREPARING FOR RESOLUTION

Individual meetings with each party and their advisor to discuss:

- Process
- Timeline
- Party's goals in the process
- Available types of resolution and comfort level with each
- Expectations of all participants
- Setting for resolution
  - *In person*
  - *Video conference*
  - *Asynchronous*

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PARTY GOALS

- Why is understanding these goals important?
- What are some approaches to determining the goals each party has?

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UNDERSTANDING PARTY GOALS

- Why did they decide to participate in an informal resolution process?
- In an ideal world, what is their desired outcome?
- What are their non-negotiables?
- Where are they willing to compromise?
- What level of interaction with the other party do they want?
- What do they need to feel comfortable with the resolution?

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REMINDER:

Any information shared or gained during the informal resolution process typically may not be used against either party should the matter return to the formal process.

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CONFLICT STYLES

The key difference between conflict styles is the priority each individual places on agenda vs. relationship.

Agenda: Each party has their own individual agenda or goals going into a conflict, which includes how much they are willing to push for what they want.

Relationship: Each party has their own personal perception of the current state of the relationship with the other party and their desired future relationship, if any.

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CHOOSING A RESOLUTION FORMAT

- Mediation
- Shuttle Diplomacy
- Restorative Practices
- Adjudication Informal

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POSSIBLE SETTINGS

In Person:
Process is conducted in person with all parties present, though not necessarily in the same room.

Teleconference:
Process is conducted remotely; parties may or may not meet with each other

Asynchronous:
Facilitator meets with each part individually, at different times.

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SETTING CONSIDERATIONS

- Parties' desire for interaction
- Safety
- Physical location of the parties
- Physical environment if in person
- Timeline required by process
- Timeline desired by the parties

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EXPECTATIONS

Setting expectations for behavior during the IR process is crucial for a smooth, efficient process.

Your institution's hearing rules of decorum are a good place to start.

Treat everyone with respect.

Speak only at approved times in process.

Redisclosure of materials is prohibited.

Abusive conduct is prohibited.

Role of advisor is limited & must not disrupt the process.

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KEY INGREDIENTS TO A RESOLUTION

Written

Clear

Specific

Stated Deadlines

Enforceable

State any process for foreseeable revisions

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WHEN TO CALL IT

- Either party decides to withdraw from the process.
- One or both parties is unresponsive.
- One or both parties is not participating in good faith.
- There is a non-negotiable sticking point for either party.
- The institution cannot support/approve the agreed resolution.

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DOCUMENTATION

Recordkeeping

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ELEMENTS OF A RESOLUTION AGREEMENT

- Identities of participants
- Procedural overview of matter
- Reference to appropriate policy
- Terms of the resolution
- Information on record retention
- Prohibition against retaliation
- Statement of agreement
- Signatures

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RECORDKEEPING

- **The institution must maintain for a period of seven years records of:**
- Each sexual harassment investigation including
    - any determination regarding responsibility and any audio or audiovisual recording or transcript of any live hearing
    - any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the institution's education program or activity;
- Any appeal and the result therefrom;
- ***Any informal resolution and the result therefrom***; and
- All materials used to train Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution process.
    - The institution must make these training materials publicly available on its website, or if the institution does not maintain a website, the institution must make these materials available upon request for inspection by members of the public.

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OTHER IR PROCESS RECORDS

- Request for Informal Resolution
- Notice of denial of request (if appropriate)
- Written agreement of parties to participate
- Notice of Informal Resolution
- Informal Resolution Agreement; or
- Notice of end of informal process and return to the formal process.

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IMPLEMENTATION

Strategies for Success

08

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CONSIDERATIONS

- What information is confidential?
- Recordkeeping
- What IR process(es) will you use?
- Who will conduct informal resolution?
- What are the possible outcomes?
- Compliance with outcomes

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POSSIBLE OUTCOMES OF INFORMAL RESOLUTION

- No-contact directives
- Apology/Reflective Writing
- Coaching or Training
- Agreements to stay away from certain classes or activities
- Facilitated dialogue
- Agreement to withdraw/transfer/resign.

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PRACTICAL APPLICATION - QUINN

"Casey and I have been friends for a few weeks. On Friday night, we were hanging out alone in my room, watching a movie. We started to make out, and I was ok with that. After making out for a while, Casey started touching me down there. Then Casey tried to have sex with me. Casey knew that I didn't want to have sex but kept trying anyway. Casey was being really coercive, and so I just went along with it. Casey raped me and I want Casey to be held accountable."

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PRACTICAL APPLICATION - BARRI

"When I got to the party, I was already lit. I kept letting Marc get me drinks anyway. At some point, I just kinda don't remember anything. And then I woke up in Marc's bed and it was morning. I had all my clothes on, but I know someone had sex with me. I could feel it. I just wanted to go, so I did. Before I left Marc woke up and tried to talk to me but I wasn't hearing it. He looked guilty and I could tell he felt bad."

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PRACTICAL APPLICATION - COLIN

"Pat and I have been together for about a month and have been intimate for the last two weeks. We went out with my friends on Friday night and Pat got really drunk. At some point we ran into my ex and Pat was really jealous, so we left. When we got back to my place, I thought things were fine. We started hooking up and all of a sudden Pat's mood changed. Pat got really aggressive and choked me. He was so angry and I was so scared."

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