



# Title IX: Informal Resolution Facilitator



# Aspirational Agenda

- Definitions
- Bias and Implicit Bias
- Informal Resolution Process
- Goals and Desirable Outcomes
- Possible Outcomes
- Facilitation

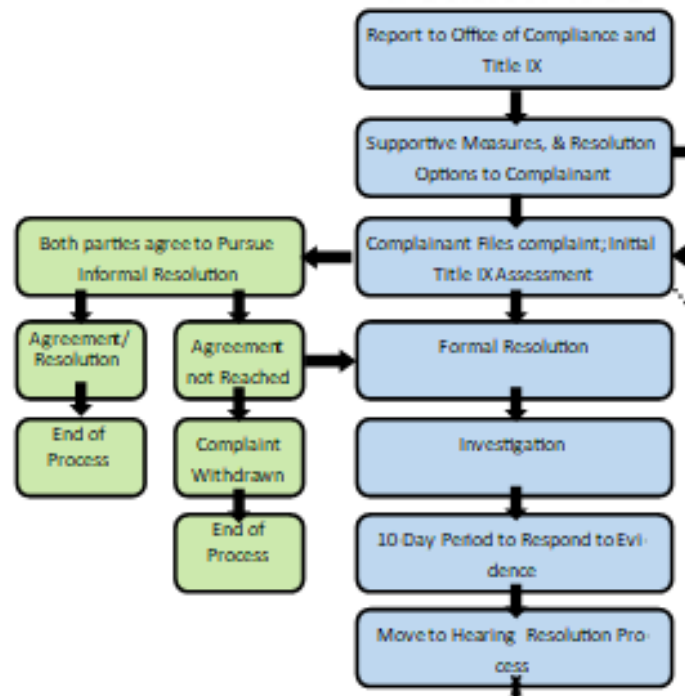


# Definition: Informal Resolution

Process by which parties agree to enter to reach agreed upon outcome of complaint, facilitated by a mediator.

**Not** a formal process.

**CANNOT** occur between student/employee.



# Informal Resolution

Help parties find ways to move forward at your institution (as long as they are at the institution); with equal access to educational opportunities

- *Feels* informal, but we are not “winging” it.

Best Alternative to a Negotiated Agreement (BATNA)

# Best Alternative to a Negotiated Agreement

- Parties end up “better through an agreement than they could otherwise”
- “walk away” alternatives, both parties agree before leaving the facilitation
  - Be realistic not “dream alternative”
  - If agreement cannot be reached, process returns to formal procedure; decision for formal procedure can be reached at any time by either party or facilitator

# Return to Formal

- Optional if:
  - Parties request
  - Facilitator feels negotiation is not moving forward
- Required if:
  - Parties cannot reach agreement

# Facilitator Biases

## Implicit Bias

- Unconscious
- Form of bias that happens automatically/unintentionally
- Judgements based on prejudice and assumptions, not facts

## Explicit Bias

- Conscious and intentional
- Attitudes, beliefs, thoughts, or behaviors we have about an individual or group on a conscious level
- Hate speech, discrimination, unfair treatment

## REMINDER

We do not aim to determine whether or not respondent is responsible, but rather to help parties reach a resolution to move forward from an incident.



# Informal Resolution Process

- Read any documents related to the incident.
- Individual meetings with parties
  - Determines their goals and candidacy for informal procedure
- Facilitate resolution between parties
- Write and sign agreement at the end of the facilitation

# Documents related to Procedure

- Incident reports
- Intake meeting notes
- Police reports
- Signed formal complaint
- Notice of Investigation and Allegation
- Informal Resolution Consent form



*May also  
include FERPA  
release forms*

# Individual Meetings with Parties

- Gauge each party's willingness to proceed
- Identify desired outcomes from each party
  - Ensure each party is aware of realistic outcomes
  - Alert parties of University control: outcomes that the University can facilitate or monitor (ie. educational paper vs. not contacting someone at their off-campus job)
- Remind parties that aim is to move process forward with equal access to educational opportunities

# Pre-Meeting Document

- Checklist of items to discuss with each party
- Optional methods for facilitation
  - Discussion: in-person or virtually
  - Written facilitation: facilitated back and forth between the parties
  - Combination: written statements shared in person and discussed during mediation
- Description of university controlled outcomes

# Facilitation Guidelines

- Share “Ground Rules/Decorum” document with parties prior to facilitation
- Identify private, quiet space to facilitate
  - Preferably with restrooms close by for each party to use separate from one another
- Ensure enough time to facilitate a discussion and ask parties if there is a hard stop to facilitation
- Have tissues and water on hand

# Facilitation

- Remind parties of ground rules, informal resolution is voluntary for the parties, and goal is to reach an outcome that is agreed upon (agreeable) to both parties
  - If agreement cannot be reached, case will be referred to formal hearing procedure
- Share that facilitator is there to ensure the parties are heard and that the outcome is agreed upon, not to take sides

## Facilitation Continued

- If the parties are amenable, share a brief description of the initial complaint and ask if the complainant to share how they have been impacted
- Ask if respondent wants to share how they have been impacted by the incident and/or response to the complainant's statement

# Facilitation: Helpful Tips

- There is no script for facilitation
- Remember that facilitator is there to help parties reach agreed upon outcome, within the University's control
  - Back and forth discussion from the parties with breaks taken when needed has been a good method for helping parties understand each other's prospective and reach an outcome
- Once agreement is reached, there is no appeal or opportunity to rehear case- make sure the parties (and facilitator) actually agree!



# Facilitation: Helpful Tips

- Emotions run high, give the parties (and yourself) plenty of breaks when needed
- Restating a party's words back to them can be helpful to ensure both parties understand (ie "am I understanding correctly that you\_\_\_\_")
- Focus on the outcome of the facilitation and helping the parties move forward, rather than looking back at the incident itself
  - However, the impact of the incident can be helpful to reflect upon

# Advisors

- Advisors are welcome to join the informal resolution, but are not permitted to speak
  - Apart from asking questions
- If an advisor is disruptive to the informal resolution process, the process should be paused and advisor reminded of their role
- If advisor is not compliant, process should be referred to formal procedure

# Writing Agreement

- Facilitator writes the agreement document based on what the parties have determined and what the University can control
- Facilitator asks each party to sign prior to leaving the facilitation
- Share copies with each facilitator and with the Title IX Coordinator for documentation

## Possible Outcomes

- Educational training
- Reflection paper
- No Contact Order
- Move of rooms
- Change of classes

## Impossible Outcomes

- Suspension
- Expulsion
- Loss of Privilege
- Any off-campus jurisdiction

# Concluding Resolution

- Once resolution is signed, the case has concluded.
- Parties cannot appeal the outcome of informal resolution.
- Case cannot be reheard after informal resolution is agreed upon.
  - An additional case may be heard if there are additional incidents which occur between the same parties.

# Review Documents

Documents shared in calendar invitation. Please see the following:

- Consent for Informal Resolution
- Informal Resolution Discussion Document
- Informal Resolution Scheduling Notice
- Ground Rules and Rules of Decorum
- IR Agreement Template

# Case Study

**Complainant:** Charlie

**Respondent:** Rich

**Narrative:** Charlie and Rich were in a consensually sexual relationship for a two months. One day, Charlie was not feeling well and told Rich that sex was not an option. Rich told Charlie that without sex, their relationship was over. Charlie felt pressured to having sex with Rich that evening, texted him the next morning that she was upset, and broke up with him a few days later.

# Case Study Questions

## **Charlie (complainant) Wants**

- Rich removed from campus
- To ensure that Rich cannot access any residence hall on campus ever again.
- Rich to know that he pressured her into having sex and that she is negatively impacted by the interaction.

## **Rich (respondent) Wants**

- To understand why Charlie broke up with him.
- To try to rekindle the relationship.
- To make sure Charlie knows that she broke his heart and she shouldn't do that to anyone else again.



# During Informal Resolution

- Tensions are high between the parties. Charlie is yelling at Rich and both parties refuse to listen to one another.
  - What do you do?
  - What tools do you have at your disposal?

# Advisors at Informal Resolution

- Charlie brought her mom as an advisor to the Informal Resolution meeting. Charlie's mom keeps asking questions about the procedures for resolution.
  - What do you do?

# Resolution

Charlie and Rich have been able to discuss their reactions to the incident and reached the following agreement:

- Charlie will move to an available residence hall room somewhere on campus.
- A mutual, non-punitive no contact order will be in place between Charlie and Rich.
- Rich will participate in sexual assault education course (provided through CSSC).

# Final Steps

- Email the signed copies of resolution to the parties and Title IX Coordinator to file.
  - Title IX Coordinator will share with CSSC if educational outcomes require attention

# Questions?

