Allegany College of Maryland
Student & Legal Affairs

Title IX Procedure – Informal Resolutions

Sexual Harassment & Sex Discrimination Policy

Informal Resolution I: an option available when **(1)** the Title IX Coordinator receives a report of alleged sexual harassment or sex discrimination and has met with the Complainant to discuss the report + possible next steps **and (2)** the Complainant declines to make a formal complaint, choosing instead to resolve the matter by other means such as the Title IX Coordinator issuing a No Contact Order or No Negative Contact Order and/or having an *educational* conversation with the would-be Respondent to discuss the situation.

Informal Resolution II: an option available after a formal written complaint of alleged sexual harassment or sex discrimination has been submitted but before a formal decision (outcome) is issued. (Remember that under these regulations, if there is no formal, written complaint, the Title IX formal grievance procedures do not apply but other institutional policy/procedure *may* apply.) This Informal Resolution is implemented instead of a formal investigation. The Parties must both be students or both be employees. The Parties must agree in writing. The College offers four types:

1) **Alternative Resolution.** Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, restorative practices, facilitated dialogue, etc.) which may be performed by the Title IX Coordinator, another College Official or outside entity. The formal grievance process may be closed with or without a finding.
2) **Supportive Resolution**. At the request of the Complainant, Title IX Coordinator can resolve the matter informally by providing only supportive measures to the Complainant. The process essentially becomes **INFORMAL RESOLUTION I**. The formal grievance process is closed without a finding and the Respondent is notified.
3) **Accepted Responsibility**. Respondent is willing to accept responsibility for violating Policy and is willing to agree to certain actions that will be enforced including possible sanctions. The formal grievance process is closed with a finding of Responsibility.
4) **Withdraw/Resignation.** Respondent voluntarily chooses to separate from the institution, and the formal grievance process is closed without a finding.

Principles to be considered in supporting various approaches to **Informal Resolution II**:

- The Title IX Coordinator has the authority to determine whether to recommend and/or permit an Informal Resolution, in line with any applicable federal or state requirements.
- Informal Resolution can be applied in any most sexual harassment or sex discrimination matters but may not be appropriate or advisable in all matters particularly those involving serious violence.
- Situations involving dangerous patterns or significant ongoing threat to the community should generally not be resolved by Informal Resolution, unless a Respondent is accepting responsibility.
- Informal Resolution can be attempted before and in lieu of a formal investigation.
- Advisors may continue to offer support and guidance to their Party, but they may not participate.
- Any party can withdraw from the Informal Resolution II process at any time before an agreement is reached, and the authorized official may end an informal resolution early at their discretion.
- Information obtained in the Informal Resolution II process may or may not be used in any resumed formal investigation; the Parties and the Facilitator should be clear on understanding this option before beginning.

- There should be clearly agreed-upon ground rules, which the Parties must agree to abide by in advance, otherwise the Informal Resolution process may be deemed to have failed.
- Technology-facilitated Informal Resolution is possible, should the Parties be unable or unwilling to meet in person.
- If Informal Resolution fails, a formal investigation can begin or resume thereafter. Evidence elicited within the "safe space" of the IR facilitation should not be used in a Formal Resolution Process unless all Parties and the Title IX Coordinator determines it should will be shared with Investigators and/or Hearing Officers. This will be clearly explained as a term of the decision to engage in the Informal Resolution process.
- With situations involving violence or sensitive details, the preferred alternative approach typically involves a minimal number of essential Parties. It is not a restorative circle approach with many constituents, in order to ensure privacy.
- Some approaches require acceptance of accountability (this could be more than an acknowledgment of harm). A full admission by the Respondent is not a prerequisite. This willingness needs to be vetted carefully in advance by the Title IX Coordinator before determining that an incident is amenable/appropriate for resolution by Informal Resolution.
- Informal Resolution is intended to provide space for information exchange and connection, if desired, by the Parties. This may include supporting a dialogue to allow each party to express their experience of events or a process resulting in an accord or agreement between the Parties which is summarized in writing and enforced by the College. This outcome can be a primary goal of the process.
- Informal Resolution must be documented in writing and signed by the Parties.
- Informal Resolution agreements are binding on the Parties. They cannot include requirements or restrictions for persons or groups who are not a Party to the Informal Resolution.
- Informal Resolution can result in the Parties' voluntary imposition of safety measures, remedies, and/or agreed-upon terms that the College can enforce. These can be part of the agreement.
- Informal Resolution can result in the voluntary acceptance of "sanctions," meaning that a Respondent could agree to accept specific consequence(s) or remedies as described in the Resolutions or some other outcome acceptable to the Parties and to the College. The terms of a written agreement can be quite varied and include things such as new or continued supportive measures for either Party, course changes, restrictions on campus activities, and more. The Respondent could, for example agree to withdraw or resign, self-suspend (by taking a leave of absence), or undertake other restrictions/transfers/online course options that would help to ensure the Complainant's safety/educational or employment access to programs and services continue instead of formal disciplinary sanctions that would create a disciplinary record for the Respondent. These should be enforceable by the College as part of the agreement.
- Any agreement may contain terms of mutual release, non-disparagement, and/or non-disclosure.
- Although a non-disclosure agreement (NDA) could result from Informal Resolution, it must be mutually agreed upon by the Parties and not coerced, as verified by the Title IX Coordinator.
- Informal Resolution must be civil, age-appropriate, culturally competent, reflective of an effort to neutralize power imbalances, and maximize the potential for the Informal Resolution process to result in the Parties' understanding, restoration, remedy, etc.
- Non-compliance with the terms should be reported to the Title IX Coordinator.
- **For an Informal Resolution to be effective, it needs to be carefully and thoughtfully designed, carefully and thoughtfully executed, and facilitated by well-trained personnel who take the necessary time to prepare and lay a foundation for success.**