

**TITLE IX SOLUTIONS
WEBINAR**

Unpacking the Informal Resolution Process

SPEAKER



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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

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

Transparent

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

Safe

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

Voluntary

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

INSTITUTIONAL PREPARATION

POLICY

- Does your policy include language regarding informal resolution?
- What options are afforded to the parties?

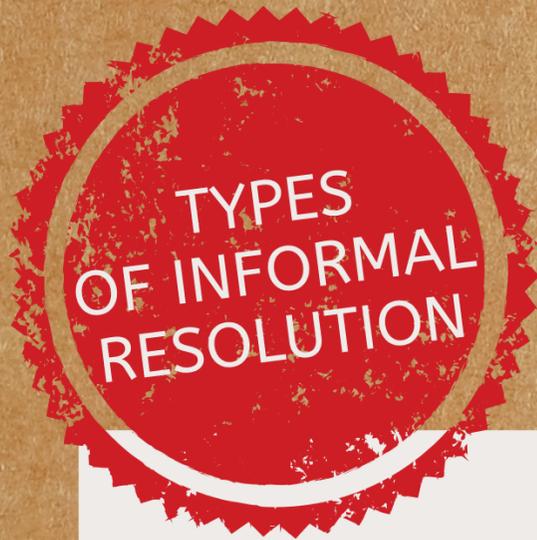
INFRASTRUCTURE

- Have you prepared the necessary templates and/or language to communicate with the parties?

PERSONNEL

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

INSTITUTIONAL PREPARATION



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

INITIAL STEPS & 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

WRITTEN NOTICE

REQUIRED

The allegations

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;

WRITTEN NOTICE

ADDITIONAL INFORMATION

- Explain confidentiality parameters
- Potential terms of the agreement
- Need for written consent to participate in the process
- Date, time, location, participants and purpose of the meeting
- Name and information about Facilitator to confirm absence of bias or conflict of interest

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

INFORMAL 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

INFORMAL 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 non-academic presence, consider short and long-term solutions
- Terms may resemble supportive measures and can be disciplinary

RESOLUTION AGREEMENT

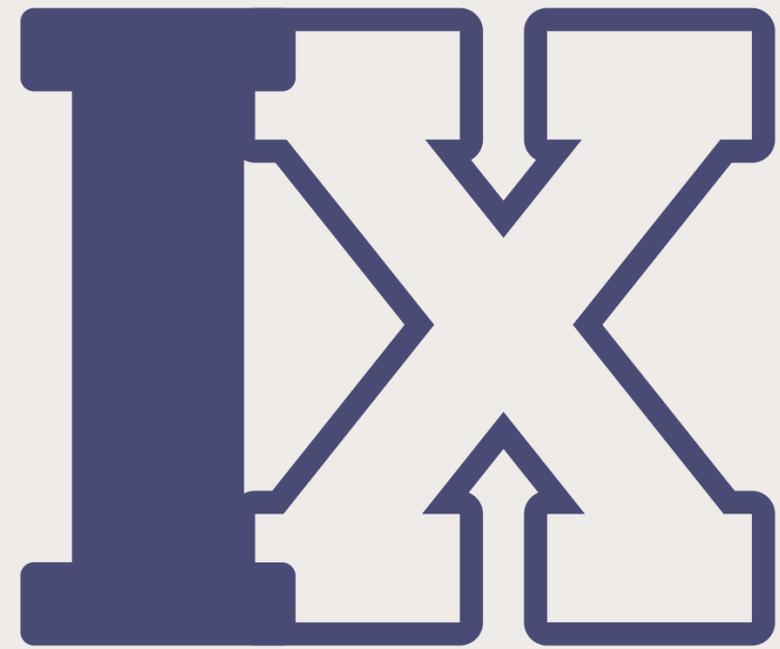
OUTCOMES

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



Have you considered the broader
educational community?

QUESTIONS?



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