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Student Informal Resolution

For Sexual Misconduct (including Title IX) Matters

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Agenda

- Informal Resolution
- Informal Resolution Foundations
- Resolution Process
- *Possible Outcomes*



Informal Resolution

- Common Concerns
 - Not serious enough
 - Does not send strong message
 - Pressures individuals to participate
 - Not a true form of justice



Brief Introduction

- Individuals choose informal because it's not formal
 - No live hearing, answering questions with attorneys, etc.
 - No investigation with detailed sharing
- Individuals want to be involved in deciding the outcome
- They want a stronger sense of agency
- They want the focus on healing from the harm caused
- Don't want the respondent to get in trouble or kicked off campus
- Retain their rights to change to formal process

Punitive vs. Restorative Lens

Punitive

- System is the expert
- Focus on authority
- Violations
- Community as spectator
- Harmed party involvement is limited
- Blame, guilt, shame, & Stigma

Restorative

- System is the facilitator
- Focus on social support
- Harms
- Community as participant
- Harmed party given voice & agency
- Relief, forgiveness, repentance, & closure



Informal Resolution Foundations

- Facilitator ≠ Investigator
- Role shift
 - Confidential
 - Dialogue vs. interview
 - Multipartial vs. impartial
 - Motivational interviewing tenants
 - Partnership
 - Acceptance
 - Compassion
 - Evocation

Facilitating Negotiated Agreement

- Acknowledge privilege-informed thinking
- Engage in judgement-free communication
- Provide a safe space for parties to express their points of view
- Center the voices and harm of the involved parties
- Assist in presenting information to the other party that promotes mutual understanding
- Seek to help parties identify common interests and outcome(s)
- Limit personal/institutional interest in possible outcome(s)
- Rely on the involved parties to determine the outcomes



Resolution Process

Reporting party/complainant Intake

- Initial information
 - Report
 - Walk-in
- Intake conversation
 - Present policy, procedure
 - Discuss supportive measures
 - Discuss reporting options
- *Sexual Misconduct Matrix*



Voluntary Agreement: Complainant

Complainant asks for informal resolution option

- Answer questions
- Explain next steps

Facilitator assigned, as relevant

Notice of informal resolution

- Information about reported situation
- Respondent given opportunity to voluntarily participate
- Title IX Coordinator offers meeting to discuss



Voluntary Agreement: Respondent

Meet with accused student/respondent

- Provide information regarding report
- Discuss/offer supportive measures
- Introduce informal resolution process
- Answer questions
- Explain next steps



Facilitator Assignment

Person conducting intake → facilitator?

Individually: facilitator meets with complainant, meets with respondent

- Build rapport
- Participation agreement, review
- Dialogue: behavior in question, impact, harm
- Motivational interviewing re: repairing the harm
- Draft Resolution Agreement



5 Questions – Complainant

1. What happened?
2. What was going through your mind at the time? or What were you thinking when you realized what happened?
3. What's been on your mind since? Has anything been showing up for you or have any new thoughts or feelings surfaced?
4. Describe ways this has impacted you? Who/what else may have been impacted or affected?
5. In what ways might some of these harms begin to be repaired?



5 Questions – Respondent

1. What happened?
2. What were you thinking at the time?
3. What have you thought about since?
4. Who/what was affected and how were they affected?
5. How can harm be repaired? What needs to happen to make things right?

Possible Outcomes

- Mutual no contact
- Harmed party shares “impact statement”
- Required referral to alcohol and other drug education/counseling
- Required referral to counseling services for shared mental health concern(s)
- Participation in training (offered by MinnSt)
- Facilitated dialogue between both parties
- Creative options



Facilitator Guide

TEMPLATE



References

- Jacoby & Gall (2021). “Who SAID harm can’t be repaired through informal resolution? Creating restorative and educational learning environments for students accused of sexual misconduct.” Presented at NASPA Annual Conference.
- Miller & Rollnick (2013). *Motivational interviewing: Helping people change*.
- Schrage & Giacomini (Eds.) (2009). *Reframing campus conflict: Student conduct practice through a social justice lens*.



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