

Allegany College of Maryland
STUDENT & LEGAL AFFAIRS

TITLE IX PROCEDURE – INFORMAL RESOLUTIONS
 SEX-BASED HARASSMENT & SEX DISCRIMINATION POLICY

INFORMAL RESOLUTION: an option available when allegations of sex-based harassment or sex discrimination have been reported instead of a formal investigation. The College offers four types:

- 1) **SUPPORTIVE RESOLUTION.** Title IX Coordinator can resolve the matter informally by providing only supportive measures to the Complainant; such measures are designed to remedy the situation.
- 2) **EDUCATIONAL CONVERSATION.** Title IX Coordinator can resolve the matter informally by having a conversation with the Respondent to discuss the Complainant's concerns and the institutional expectations regarding past conduct and prohibiting any future incidents.
- 3) **ACCEPTED RESPONSIBILITY.** Respondent is willing to accept responsibility for violating Policy and is willing to agree to certain actions that will be enforced similarly to sanctions. Complainant and the College must agree to the resolution terms.
- 4) **ALTERNATIVE RESOLUTION.** Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.) which is performed by another College Official or outside entity.

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

- The Title IX Coordinator has the authority to determine whether to permit an Informal Resolution, in line with any applicable federal or state requirements.
- Informal Resolution can be applied in any most sex-based 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.
- Any party can withdraw from the Informal Resolution 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 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.
- The Title IX Coordinator cannot facilitate any alternative resolution identified in option #4 above; the IR Facilitator for those particular outcomes must be a different College Official or an external and qualified third party/agency.
- 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.
- Alternative approaches can inform formal resolution, as in a formal resolution model infused with restorative practices.
- Informal Resolution may follow a Final Determination at the Parties' request and with the Parties' written agreement.
- 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 take place thereafter. Evidence elicited within the “safe space” of the IR facilitation could be later admissible in the Resolution Process unless all Parties and the Title IX Coordinator determines it should not be. 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 should also 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.**
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