



TITLE IX INFORMAL RESOLUTION FACILITATOR

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LESSON ONE

INTRODUCTION AND OVERVIEW



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AGENDA

- Lesson One Introduction and Overview
- Lesson Two Before a Matter Gets to You as IRF
- Lesson Three Initiating the IR Process
- Lesson Four Role of IRF
- Lesson Five Preparing for the IR Process
- Lesson Six Types of IR
- Lesson Seven Working with the Parties and Outcomes
- Lesson Eight Wrap Up and Assessment of Knowledge



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TRAINING OBJECTIVES

- Understand the Title IX grievance process
- Understand the role and scope of the Informal Resolution Facilitator
- Identify various types of informal resolutions
- Learn best practices for resolution techniques
- Learn how to incorporate trauma-informed practices into informal resolution processes



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REMINDERS



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CONDUCT THAT INVOLVES



01

Student on student

02

Employee on employee

03

Student on employee

04

Employee on student



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FREE FROM CONFLICT OF INTEREST/BIAS





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"PARTIES" IN A TITLE IX MATTER

COMPLAINANT

...an individual who is alleged to be the victim of conduct that could constitute sexual harassment.



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RESPONDENT

...an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.



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REMINDER!!!

-  Your Title IX Team must be trained on your policies and procedures!
-  You are a part of a Title IX Team
-  No conflict of interest/bias
-  Remember the what and the where

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SEE YOU IN LESSON 2!

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LESSON TWO

BEFORE A MATTER GETS TO YOU AS IRF



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REPORT/NOTICE RECEIVED

Title IX



Meet with Complainant/Guardian:
-Support
-Discuss Process
-Explain Options

Unclear

Meet with Complainant/Guardian to gather more information

Not Title IX

High kick to appropriate process



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Formal Complaint: *Document (Written)*

- Alleging Sexual Harassment
- Requesting investigation
- Signed by:
 - Complainant/Guardian or Title IX Coordinator



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GIANT REMINDER!





No Investigation OR
INFORMAL RESOLUTION
before or without a Formal
Complaint



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Notice of Allegations Checklist

- ☐ Notice of Grievance Process; Including Informal
- ☐ Allegations Potentially Constituting Sexual Harassment
 - Identities of the Parties
 - Conduct Constituting Sexual Harassment
 - Date of Incident
 - Location of Incident
- ☐ Statement: Respondent Presumed Not Responsible/Responsibility Determined After Process
- ☐ Right to Advisor of Choice
- ☐ Code of Conduct Provision Prohibiting False Statements or False Information in Process


→

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WHO ARE ADVISORS?



Anyone

- Attorney
- Parent
- Witness--- most challenging--- Not prohibited. Not recommended.

What is their purpose?

- Support
- Understanding
- Extra ears
- Should be copied on written correspondence and permitted to attend all meetings
- Potted plant

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TITLE IX INFORMAL RESOLUTION PROCESS



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INFORMAL RESOLUTION

MAY NOT USE
WHEN THE
COMPLAINANT IS A
STUDENT AND
RESPONDENT IS AN
EMPLOYEE



WHEN	Any time prior to the issuance of the written determination regarding responsibility.
DISCRETION	Title IX Coordinator has discretion to offer Informal Resolution.
PARTICIPATION	May NOT pressure the parties to participate.
CONSENT	Must obtain VOLUNTARY consent from the parties.
NO WAIVER	May NOT require a waiver of the right to investigation/determination as a condition of enrollment or employment.

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COORDINATOR DISCRETION



The Coordinator **MAY** decline to offer Informal Resolution when the alleged conduct would present a FUTURE risk of harm to others (or in other circumstances within the Coordinator's discretion).

CONSIDER:

? Violence

? Prior Behavior

? Multiple Complainants

? Institutional Policy



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MEET THE PARTIES

Hudson Moore and Sophia Kim are 18-year-old students at the same school. They are heavily involved in extracurricular activities and are both members of the school's ballroom dance team, student government, and jazz band. Additionally, they are lab partners in a shared Chemistry class.



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Dear Title IX Coordinator,

I would like to make a formal complaint against Hudson Moore. Hudson and I are in several different student organizations together, including the ballroom dance team, student government, and jazz band. He is also my lab partner in Chemistry I.


Since the beginning of this school year, Hudson has made me feel uncomfortable. He makes sexual comments like:


“If you are as good at sex as you are at dancing, I bet you’re incredible in bed.”
 “If you come to my place, I’ll show you some real chemistry...if you know what I mean.”

He says these things to me almost every single day.

Recently, he has started grabbing my butt and hips when we rehearse for our upcoming ballroom dancing competition. This has happened at least four different times and he keeps brushing it off as part of the routine. There is no reason for him to be doing that.

I feel like I am being sexually harassed and don’t know what else to do. I need someone to help.


Sincerely,

 Sophia Kim





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What Title IX conduct is alleged?


Can we offer informal resolution in this matter?


Would YOU offer informal resolution in this matter? Why or why not?



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TITLE IX COORDINATOR...

Meet with the parties to set expectations and understand their needs from the IR process.



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LET'S TALK TO THE PARTIES...




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HOW DOES SOPHIA FEEL?




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HOW DOES HUDSON FEEL?



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What are some of Sophia's concerns?

What are some of Hudson's concerns?

Do you feel IR is right for these parties? Why or why not?

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NOTICE

INSTITUTIONS/SCHOOLS MUST PROVIDE WRITTEN NOTICE OF THE INFORMAL RESOLUTION PROCESS TO THE PARTIES BEFORE INITIATING.

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NOTICE OF INFORMAL RESOLUTION

When:

- Requested by one or both parties and/or recommended by Title IX Coordinator (cannot be coerced, forced or required by institution or district) AND
- Agreed upon by all parties
- After receipt of Formal Complaint and before determination regarding responsibility

Must Include:

- Allegations contained within the Formal Complaint
- Requirements of informal resolution process including circumstances under which it precludes parties from resuming Formal Complaint from the same allegations
- Right to withdraw
- Consequences including records that will be maintained or could be shared
- Voluntary written consent to the informal resolution process

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DATE

Dear [COMPLAINANT OR RESPONDENT NAME AND GUARDIAN NAMES (IF NEEDED)],

On [DATE OF FORMAL COMPLAINT] INSTITUTION/DISTRICT received a formal complaint alleging that [RESPONDENT] engaged in sexual harassment in violation of the INSTITUTION/DISTRICT Title IX Policy against [COMPLAINANT]. The allegations specifically include that the following occurred:

[INPUT ALLEGATIONS DIRECTLY FROM NOTICE OF ALLEGATIONS]

This notice is to inform you of the availability of the Title IX Informal Resolution Process to address the allegations in this matter and to provide additional information about the process.

During this process, the Informal Resolution Facilitator, [NAME OF INFORMAL RESOLUTION FACILITATOR], will work with the parties to try to facilitate a mutually acceptable resolution of the above allegations.

The Complainant and Respondent are not required to participate in the Informal Resolution Process as a condition of enrollment or employment, continued enrollment or employment, or enjoyment of any other right afforded by INSTITUTION/DISTRICT. Participation in the process is voluntary, and both parties must consent in writing to participate in the Informal Resolution Process.

Likewise, either party may withdraw their consent to participate and resume the Formal Grievance Process at any time before the parties reach a mutual. The decision to participate, not participate, or to terminate the Informal Resolution Process once it has started will not be a factor in any determination made by a Decision-Maker as to whether a Title IX policy violation occurred. No recording of the Informal Resolution Process will be made and all statements made during the Informal Resolution Process will not be used for or against either party (and the decision-maker and/or appellate decision-maker may not consider any such statement made during informal resolution) should the parties resume the Formal Grievance Process. Failure to comply with an informal resolution agreement may result in disciplinary action.

If a resolution is reached through the Informal Resolution Process, parties may not appeal the agreement or resume the Formal Grievance Process related to the same allegations.

Records from the Informal Resolution Process will be maintained by INSTITUTION/DISTRICT for seven years but will not be used as part of the investigation or resolution if the Formal Grievance Process is resumed. Records will be shared between the parties during the Informal Resolution Process as determined and communicated by the Informal Resolution Facilitator.

I have read and understand the information above and voluntarily agree to participate in the informal resolution process.

Printed Name: _____ Date: _____

Signature: _____



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DATE _____

Dear [COMPLAINANT OR RESPONDENT NAME AND GUARDIAN NAMES (IF NEEDED)],

On [DATE OF FORMAL COMPLAINT] INSTITUTION/DISTRICT received a formal complaint alleging that [RESPONDENT engaged in sexual harassment in violation of the INSTITUTION/DISTRICT Title IX Policy against [COMPLAINANT]]. The allegations specifically include that the following occurred:

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I have read and understand the information above and voluntarily agree to participate in the informal resolution process.

Printed Name: _____ Date: _____

Signature: _____

BOTH PARTIES MUST SIGN TO CONSENT TO PARTICIPATE IN THE IR PROCESS!




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LESSON FOUR

THE ROLE OF THE IRF

WHAT IS YOUR ROLE

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ONCE THE PARTIES AGREE TO PARTICIPATE, THE HANDOFF IS MADE TO THE INFORMAL RESOLUTION FACILITATOR.

The Title IX regulations do not preclude a Title IX Coordinator from serving as an Informal Resolution Facilitator, so you might just be switching hats!

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WHAT IS YOUR ROLE?


- ✓ Establish expectations
 - For you
 - For the parties
- ✓ Define goals/objectives
- ✓ Listen
- ✓ Document
- ✓ Receive permission before sharing
- ✓ Stay flexible
- ✓ Remain neutral
- ✓ Serve as the "go between"



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WHAT IS NOT YOUR ROLE?


- ~~✗~~ Advocate for a party
- ~~✗~~ Investigator
- ~~✗~~ Decision-Maker/Adjudicator



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INFORMAL RESOLUTIONS WILL TAKE SIGNIFICANT TIME

- Discussion between parties
 - through you
 - in person
 - in writing
- Be patient, don't rush
- Set deadlines




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PUT IN THE EFFORT

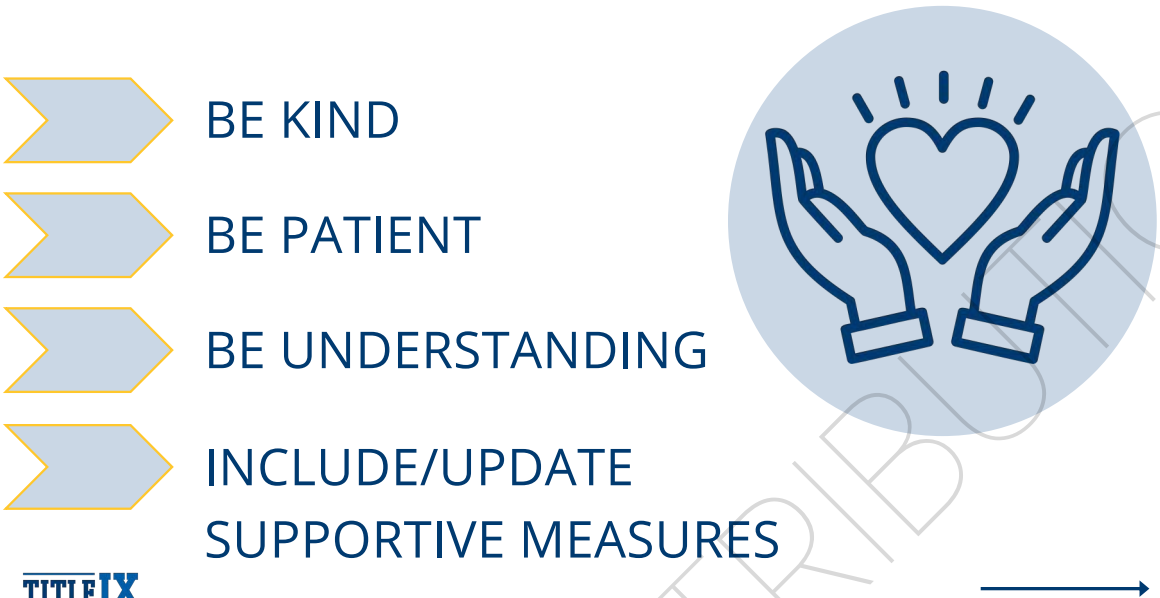
- ✓ If parties request and agree to this process they will have to put in the work...and so will you.
- ✓ Every outcome will look different. It may get messy.
- ✓ Give breaks during meetings with either or both parties.
- ✓ Parties may put up walls. Therefore, you may have to resume the Formal Grievance Process.



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BE KIND

BE PATIENT

BE UNDERSTANDING

INCLUDE/UPDATE
SUPPORTIVE MEASURES

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SEE YOU IN LESSON 5!

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LESSON FIVE

PREPARING FOR THE INFORMAL RESOLUTION PROCESS



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WHAT INFORMATION DO YOU HAVE?



- Is there anything missing?
- Were procedures followed?
- Reminder: You are a check on the process.



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IS THE SCHOOL MAKING A DETERMINATION ON MORE THAN JUST TITLE IX?

Title IX

Title VI

Title VII

**Code of
Conduct**

Other?



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EMAIL INTRODUCTION TO PARTIES, GUARDIANS, AND ADVISORS

Who are you?

What is your responsibility?

What policy/policies & procedures are you using?

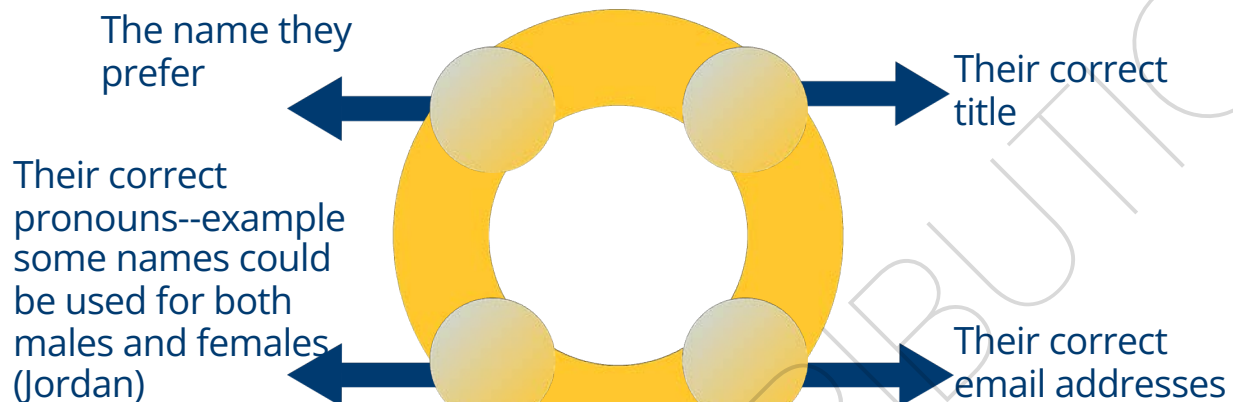
What are the timelines?



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MAKE SURE YOU ARE USING:



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DEVELOPING A PLAN



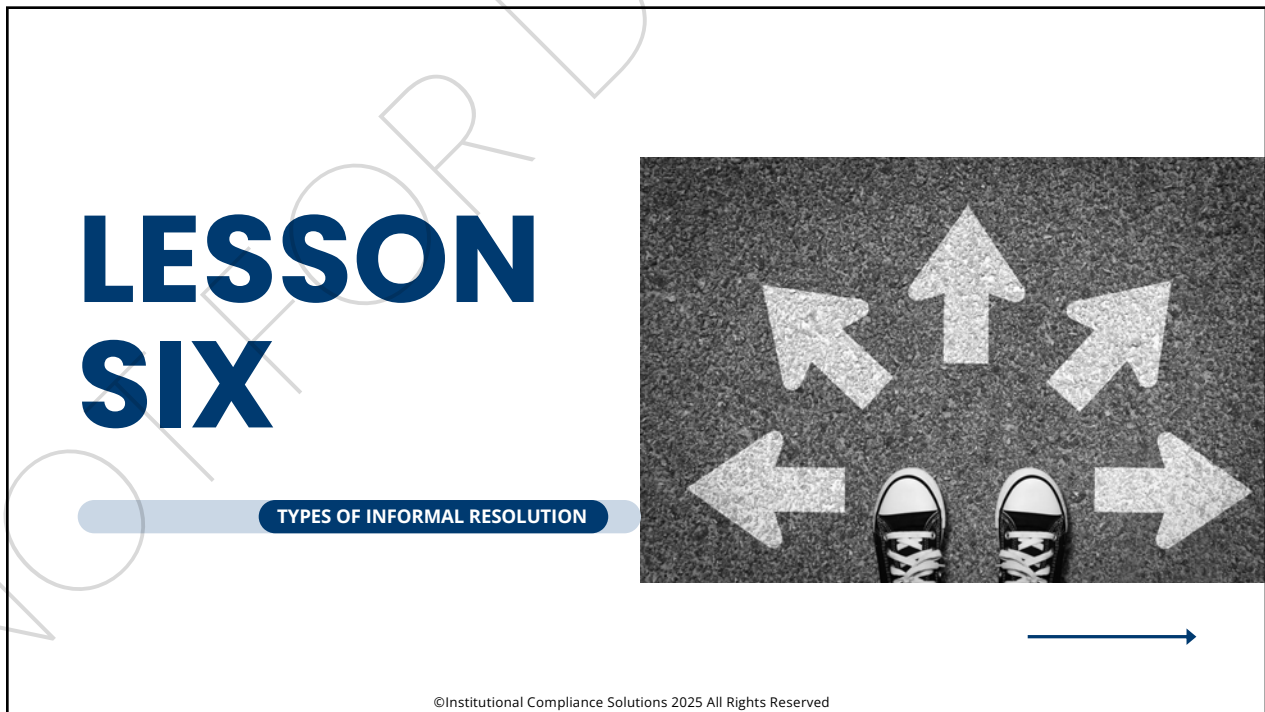
**Your policy may dictate what types of Informal Resolution are available*

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RESOLUTION AGREEMENT

- Respondent accepts responsibility (check your policy)
- Title IX Coordinator recommends sanction and remedies
- Parties agree to sanctions and remedies as recommended



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FACILITATED DIALOGUE

Structured conversation between the Complainant and Respondent led by a facilitator with the possibility of reaching an agreeable outcome



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MEDIATION

Procedure in which the parties discuss disputes with the assistance or aid of an Informal Resolution Facilitator who helps them in reaching resolution terms.

- Parties talk privately about their thoughts, feelings, and experiences
- Consider what actions could meaningfully resolve the situation
- Explore mutually agreeable solution
- Negotiate an agreement



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SHUTTLE NEGOTIATION/ COMMUNICATION

Conversation that is indirect and facilitated by Informal Resolution Facilitator.



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RESTORATIVE JUSTICE PRACTICES

- Emphasis on repairing the harm caused by the behavior
- Best accomplished through cooperation
- Can lead to transformation of people, relationships, and communities
- Can be used in any type of resolution



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SEE YOU IN LESSON 7!

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LESSON SEVEN

WORKING WITH PARTIES/OUTCOMES



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HOW TO HANDLE A RELUCTANT PARTY

- Reiterate the voluntary nature of the informal resolution process
- Assist in the brainstorming process for potential outcomes by engaging in active listening
- Identify with the party their barriers for moving forward to see if those barriers can be addressed

How would you respond to Sophia?



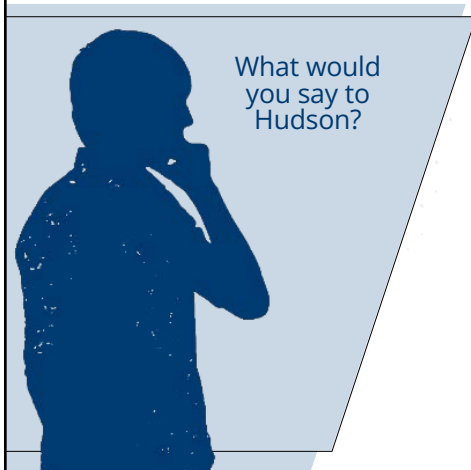
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HOW TO HANDLE A DETACHED PARTY



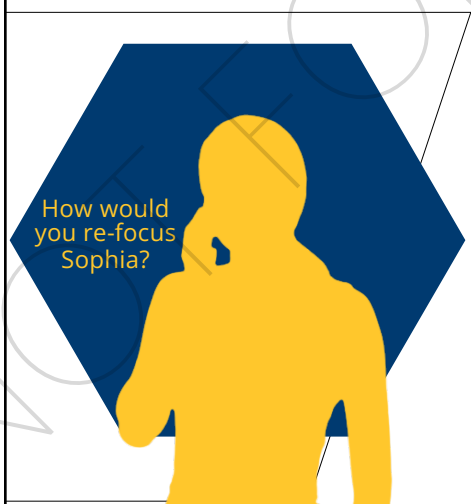
- Review informal resolution vs. formal grievance process for increased understanding of severity of situation
- Look for a “hook” to engage them in the process
- Remind them that this is an opportunity to offer input as to an agreed upon outcome

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WHEN EMOTION IS THE DRIVING FORCE



- Acknowledge the emotional experience
- Assist them in understanding that the resolution will not likely resolve the emotions
- Re-focus on tangible action steps to move toward desired outcomes

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HOW TO HANDLE A PARTY WITH UNREALISTIC EXPECTATIONS

How would you handle Hudson's lack of flexibility?



- Remind them that all parties have to agree on the terms of the resolution agreement
- Help them further distinguish between their needs and wants
- If dissonance remains between the wants/needs, redirect them toward the formal grievance process



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POTENTIAL WITHDRAW FROM INFORMAL RESOLUTION PROCESS AND RETURN TO FORMAL GRIEVANCE PROCESS

- May be requested by either party.
- May occur any time prior signing the mutual agreement.
- Parties do not need to provide a rationale or explanation.
- What records can be used in formal process when transitioning back?
- Provide written notice when resuming the Formal Grievance Process.



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INFORMAL RESOLUTION POTENTIAL OUTCOMES:

Potential outcomes include but are not limited to:



Restrictions on contact.



Restrictions on Respondent's participation in one or more programs or activities.



Restrictions on attendance at specific events.



Restrictions that could have been imposed as remedies or disciplinary sanctions had the grievance process been used and the Respondent found responsible.



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NOTICE OF OUTCOME

- Includes signed agreement
- Expectations of parties
- Deadlines
- Follow up requirements
- How records will be maintained
- Who to contact if there are questions



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OUTCOME CONSIDERATIONS

Are there measurable outcomes?

Additional documentation needed?


Who retains control over outcomes?

Is follow-up required?



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Informal Resolution Outcome (Respondent)


Dear **INSERT NAME**

Attached to this email you will find the signed Informal Resolution Agreement. As we have discussed, this agreement is final. You must complete all requirements within the agreement or be subject to discipline under the **INSTITUTION** Code of Conduct.

Please let me know if you have any questions.

Thank you,

Signature
Title IX Coordinator



Informal Resolution Outcome (Complainant)

Dear **INSERT NAME**


Attached to this email you will find the signed Informal Resolution Agreement. As we have discussed, this agreement is final. The Respondent will complete all requirements within the agreement or be subject to discipline under the **INSTITUTION** Code of Conduct.

The supportive measures for you will remain in place and the following remedies have been instituted. (Include them in the body of the email).

Please let me know if you have any questions.

Thank you,

Signature
Title IX Coordinator



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PRACTICAL TAKEAWAYS

This is hard work. The path to resolution is never a straight line.

Have forms/templates ready before IR.

Can be helpful to start with needs vs. wants for each party.

What does your policy state?



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CONSIDERATIONS

What happens if the parties are unsuccessful in IR?

What if the Respondent admits to the conduct and the investigator is the IR facilitator?

How do you know when/if they are unsuccessful - how long is too long?

Tips and tricks to assist the parties in reaching a resolution.



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SUSTAINABILITY PLANNING

If you were unable to continue with your role starting tomorrow, would the person picking up the file know what had been done and what is left to do?



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REMINDER!



Documentation from the
Informal Resolution
Process **MUST** be saved for
7 years!

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QUESTIONS?

Title IX Coordinator
info@titleixu.com



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CONGRATULATIONS!!



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