
Students
Informal Resolution Process

The Informal Resolution process under Title IX is a voluntary, structured interaction between the Complainant and Respondent to resolve the allegations following the filing of a formal complaint and prior to a final decision. This process is separate and distinct from the District's formal investigation and resolution process. Generally speaking, the Informal Resolution process is less time intensive than an investigation but still affords students an opportunity to actively participate in a process of resolution of their complaints.

For purposes of this policy, the terms "Complainant" and "Respondent" encompass either a Title IX Complainant and Title IX Respondent under the District's Title IX policies or a complainant and respondent under the District's policies on Harassment, Discrimination, Intimidation and Bullying.

The Informal Resolution process is limited to matters involving students. Informal Resolution processes may never be applied where the allegations include sexual assault: penetration or the equivalent and are also not permitted to address allegations that an employee sexually harassed a student.

The parties may be accompanied by an advisor (support person) of their choice to any meeting related to the Informal Resolution process.

A Complainant or Respondent may request an Informal Resolution process by making a written request to the Title IX Coordinator's Office. The District may also refer a matter for Informal Resolution. Matters may only go to Informal Resolution under the following circumstances:

- The matter involves a student complainant and a student respondent;
- A complainant has filed a complaint of sexual misconduct, harassment, discrimination, intimidation, bullying, or a formal Title IX Complaint;
- The Title IX Coordinator or has determined, through assessment, that the alleged conduct, if substantiated, would constitute sexual misconduct and/or Title IX Sexual Harassment and that the Informal Resolution process may be appropriate for the matter;
- The School Administrator has determined, through assessment, that the alleged conduct, if substantiated, would constitute harassment, discrimination, intimidation or bullying and that the Informal Resolution process may be appropriate for the matter.

In making a determination as to whether the Informal Resolution process is appropriate, the Title IX Coordinator will consider factors that include, but are not limited to, the following:

1. The outcome of an individualized safety and risk analysis of the Respondent relating to sexual misconduct, physical violence, failure to comply with a No Contact Directive (NCD) or a Civil No Contact Order, and/or other relevant conduct;
2. The nature of the alleged conduct, whether allegations involve multiple victims, and/or a pattern of conduct, or other evidence-informed factors indicative of increased risk to safety;
3. Whether the parties are participating in good faith; and
4. Whether the circumstances warrant the Title IX Coordinator filing a complaint.

At any time after the commencement of the Informal Resolution process, the Title IX Coordinator may determine that the Informal Resolution process is not an appropriate method for resolving the matter and may require that the matter be returned to the formal process. This determination is not subject to appeal.

Role of the Facilitator

Informal Resolution processes are managed by facilitators, who may not have a conflict of interest or bias against Complainants or Respondents generally or regarding the specific parties in the matter. The Title IX Coordinator may never serve as the Facilitator. It is recommended that neither the Title IX Investigator or Decision-Maker serve as the Facilitator. All Title IX Facilitators must have received Title IX training.

Confidentiality

In entering the Informal Resolution process, the parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the Informal Resolution process concerning the allegations of the Formal Complaint is confidential while the parties are participating in the Informal Resolution process. No evidence concerning the allegations obtained within the Informal Resolution process may be disseminated to any person, provided that any party to the Informal Resolution process may generally discuss the allegations under investigation with a parent, friend, advisor, or other source of emotional support. Should the parties withdrawn from the Informal Resolution process, information disclosed or obtained for purposes of the Informal Resolution process may be incorporated into the formal investigation, provided that this information is disclosed and reviewed by the parties under the investigatory and hearing procedures described in the Title IX Grievance process.

Elements of the Informal Resolution Process

A. Initiation of Information Resolution

1. Participation in an Informal Resolution process is voluntary and the District will not require, encourage, or discourage the parties from participating in the process.
2. Either party may request that the District facilitate Informal Resolution after the parties are provided written notice of a Formal Title IX Complaint or a complaint alleging sexual misconduct, harassment, discrimination, bullying, or intimidation. This request can be made up until five (5) days before a scheduled Investigative Report is due.
3. The Complainant and Respondent must each separately consent in writing to participate in the Informal Resolution process.
4. Following review and approval by the Title IX Coordinator, a trained Informal Resolution Facilitator will be assigned to work with the parties to attempt to facilitate an Informal Resolution Agreement.
5. The parties will be notified about the identities of the Informal Resolution Facilitator in advance and the parties have the opportunity to raise concerns regarding a conflict of interest to the Title IX Coordinator.

B. Informal Resolution Process

1. The Informal Resolution Facilitator will hold an initial process meeting with each party to discuss the Informal Resolution process and to communicate to each party their rights under applicable District policies.
2. The Informal Resolution Facilitator will ask the parties to submit written requests that provide detail regarding the remedies that they are seeking. The Informal Resolution Facilitator may meet again with the Complainant and Respondent to discuss the written requests.
3. The Informal Resolution Facilitator will share the written requests with the other party and will meet separately with both parties to identify and facilitate areas of agreement.
4. Any agreements reached as part of the Informal Resolution process must be approved by the Title IX Coordinator. If the Title IX Coordinator determines at any time prior to signing of the Informal Resolution Agreement that the Informal Resolution process is no longer appropriate, the Title IX Coordinator may terminate the process and refer the matter back to the Formal Resolution process.
5. Upon signing the Informal Resolution Agreement, the Complainant and Respondent are bound by its terms and cannot elect for a formal resolution process under applicable District policies based on the conduct alleged in the underlying complaint. Failure to comply with the signed agreement may result in disciplinary action for either party.

6. If the Complainant's or Respondent's circumstances change, they may request a supplemental agreement. The Title IX Coordinator will determine whether it is appropriate to make a change. For example, if there are changes to a Complainant or Respondent's academic program that may conflict with a term of an agreement, the party can raise the concern to the Title IX Coordinator for their assessment as to whether a supplemental agreement may be appropriate.

C. Available Remedies of the Informal Resolution Process

Depending on the nature and circumstances of the particular situation, the following may be outcomes of an Informal Resolution agreement:

- Voluntary restrictions from participation in particular registered student organizations or campus events;
- Participation in educational offerings on topics including but not limited to: consent and communication, the use of alcohol or other drugs, healthy interpersonal relationships, stress management and wellbeing;
- Provision to the Respondent to read an "impact statement" written by the complainant (describing the impact(s) that the respondent's alleged conduct had on the complainant);
- Other measures deemed appropriate by the Title IX Coordinator.

D. Informal Resolution Outcomes

1. No Agreement Reached. The Informal Resolution process may be discontinued at any time by either the Title IX Coordinator, the Complainant, or the Respondent. If the Informal Resolution process is discontinued for any reason or if the parties fail to reach a mutually agreeable outcome for the alleged conduct, the Complainant may request to re-engage an investigation and formal resolution process under District policies, as applicable. If an Informal Resolution process is terminated, the Informal Resolution process will no longer be made available as a remedy to resolve the complaint.
2. Administrative Resolution. Should the parties mutually determine to enter the Informal Resolution process, and the respondent elects to accept responsibility for the allegations of the Formal Complaint at any point during the Informal Resolution process, the District may administratively resolve the Formal Complaint. The Decision-Maker will determine the respondent's sanctions and other remedies, as appropriate after receipt of written input from the Complainant and Respondent. The Parties will receive simultaneous written notification of the decision regarding sanctions and remedies, which may be appealed.
3. Restorative Justice Process. A facilitated restorative justice process is a philosophy of justice as well as a set of practices and seeks to (a)

eliminate prohibited conduct; (b) prevent recurrence of prohibited conduct; and (c) address harm caused by prohibited conduct through active accountability in a manner that meets the needs of both Complainant and the District community. Disputes of fact are permitted in a Restorative Justice process, however, in all cases the Respondent must be willing to admit and take responsibility for the prohibited conduct as generally described in the complaint. At the end of the Restorative Justice process, an agreement is required to document the outcome

4. Because the District has an obligation to address reports of sexual assault, dating violence, domestic violence, and stalking, the District may use party admissions or other information learned during the Informal Resolution process in any pending or subsequent formal resolution process agreement reached.
5. Once both parties and the Title IX Coordinator sign an Informal Resolution Agreement, the agreement is final, the parties are bound by its terms, and the allegations addressed by the agreement are considered resolved and will not be subject to further investigation, adjudication, remediation, or discipline by the District, except as otherwise provide in the agreement itself, absent a showing that a party induced the agreement by fraud, misrepresentation, or other misconduct or where required to avoid a manifest injustice to either party or to the District.
6. The District may investigate and discipline a party alleged to have breached an Informal Resolution Agreement.

E. Final Resolution Report

In cases where an Informal Resolution Agreement has been reached, the Facilitator shall prepare a final report which may include the following:

1. A summary of the complaint;
2. A summary of the steps taken to reach informal resolution;
3. Whether the parties take responsibility for the matter;
4. Any disciplinary sanctions that may be imposed or recommended against the respondent;
5. Any remedies that may be provided to the complainant; and
6. Whether the parties reserve any rights on certain elements of the resolution.

F. Informal Resolution Timeline

In most cases, the Informal Resolution process will be completed within thirty (30) calendar days of receiving the written request. The District, at its discretion, may extend this timeframe for good cause. Agreements reached in the Informal Resolution process are not subject to a request for review (appeal).

G. Breaches of Agreement; Subsequent Use

1. Alleged violations of an Informal Resolution Agreement, or allegations that an agreement was induced by fraud, misrepresentation, or any other misconduct, should be reported to the Title IX Coordinator, and may be subject to review and resolution by the District and may lead to disciplinary action.
2. The participation of a Respondent in a prior Informal Resolution process will generally not be considered relevant or taken into account in the resolution of a subsequent, unrelated complaint filed by a different complainant under the policy on Title IX Sexual Harassment, or the District's policies.

H. Non-Retaliation

Retaliation is strictly prohibited for any individual that participate in the Informal Resolution process.

I. Required Recordkeeping

In accordance with District Policy, the Title IX Coordinator's office will maintain any records from an Informal Resolution process and the results therefrom for a period of at least ten (10) years.

J. Finality of Formal Agreements

If the parties reach a formal resolution, a party may not withdraw from the agreement in whole or in part in order to (1) insist on a full investigation and adjudication of the formal complaint, (2) challenge or appeal elements of the resolution, or (3) file a new formal complaint arising from the same allegations.

Legal Reference:

Title IX of the Educational Amendments, 20 U.S.C. §1681, *et. seq.*

KENAI PENINSULA BOROUGH SCHOOL DISTRICT
Adopted: