



Informal Resolution Process

**Nondiscrimination on the Basis of Sex in Education Programs or Activities
Receiving Federal Financial Assistance based on Title IX 2020**

ST9T Training (#4)



Disclaimer of Title IX 2024

- On January 9, 2025, a federal district court issued a decision vacating the 2024 Final Rule. Consistent with the court's order, the 2024 Title IX regulations and these resources are not effective in any jurisdiction.
- The U.S. Department of Education stated that it would revert to enforcing Title IX based on the rules established in 2020 under the Trump administration.
- Due to the legal reversal, the 2020 Title IX regulations are now the binding standard for all educational institutions, and training must accurately reflect this change.
- A comprehensive summary for 2025 of the changes are available from the U.S. Department of Education's web site:
<https://www.ed.gov/laws-and-policy/civil-rights-laws/title-ix-and-sex-discrimination/sex-discrimination-overview-of-law>

Title IX Regulations Training

Informal Resolution Process (IRP)

IRP Definition

Under Title IX 2020 regulations a complainant may choose whether to receive supportive measures without filing a formal complaint, may choose to receive supportive measures and file a formal complaint, or may choose to receive supportive measures and request the Informal Resolution Process (IRP) that the school offers. Accordingly, these regulations respect complainants' autonomy and require recipients to consider the wishes of each complainant with respect to the type of response that best suits a complainant's particular needs.

While Title IX 2020 regulations permit recipients wide discretion to facilitate informal resolution of formal complaints of sexual harassment, the Department of Education declines to require parties to attempt mediation by IRP before initiating the formal grievance process. Every party should know that a formal, impartial, fair process is available to resolve Title IX sexual harassment allegations; where a recipient believes that parties may benefit from mediation or other informal resolution process as an alternative to the formal grievance process, the decision to attempt mediation or other form of informal resolution should remain with each party.

106.45(b)(9) permits recipients to facilitate informal resolution processes (thus avoiding the need to hold a live hearing with cross-examination), which may be particularly desirable by the parties (complainant and respondent) and the school in situations **where the facts about the underlying incident are not contested** by the parties and thus resolution **does not turn on resolving competing factual narratives.**

Prompt Time Frame

The school establishes a reasonably prompt time frame for the conclusion of any Informal Resolution Process (IRP), whether there is not a broader threat to individual or campus safety, while maintaining the purpose of Title IX regulations of: *To give individuals protections against discriminatory practices and ensure that recipients provide victims of sexual harassment with remedies to help overcome the denial of equal access to education caused by sex discrimination in the form of sexual harassment.*

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Informal Resolution Process (IRP) Requirements

1. Section 106.45(b)(9) gives recipients the discretion to offer and facilitate informal resolution processes, such as mediation or restorative justice, subject to each party voluntarily agreeing after giving informed, written consent. Informal resolution may present a way to resolve sexual harassment allegations in a less adversarial manner than the investigation and adjudication procedures that comprise the § 106.45 grievance process.

Informal resolution may only be offered after a formal complaint has been filed, so that the parties understand what the grievance process entails and can decide whether to voluntarily attempt informal resolution as an alternative. Recipients may never require any person to participate in informal resolution, and may never condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to informal resolution.

2. Section 106.45(b)(1)(i)–(x) requires that the school employees who facilitate informal resolutions to be free from conflicts of interest and bias and trained to serve impartially without prejudging the facts at issue.
3. Section 106.45(b)(9) allows recipients to offer and facilitate informal resolution processes, within certain parameters to ensure such informal resolution only occurs with the voluntary, written consent of both parties; however informal resolution *is not permitted to resolve allegations that an employee sexually harassed a student*.
4. Section 106.45(b)(10) requires recipients **to publish materials used for training persons who facilitate informal resolutions on the recipient's website** or make these materials available upon request for inspection by members of the public.

Title IX Regulations Training

Informal Resolution Process (IRP) Requirements cont.

5. Section 106.45(b)(9) allows recipients the option of facilitating informal resolution processes (except as to allegations that an employee sexually harassed a student) so long as both parties voluntarily agree to attempt an informal resolution.
6. An informal resolution process, in which the parties voluntarily participate, may end in an agreement under which the respondent agrees to a **disciplinary sanction or other adverse consequence**, without the recipient completing a grievance process, under § 106.45(b)(9).
7. 106.45(b)(1)(iii) prohibits persons who facilitate informal resolution processes from having conflicts of interest or bias against complainants or respondents generally, or against an individual complainant or respondent, training that also includes “how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.”
8. § 106.45(b)(1)(iii) obligates persons who facilitate informal resolutions) to serve impartially without conflicts of interest or bias for or against complainants or respondents generally, or for or against an individual complainant or respondent.

No Retaliation Against Complainant

The school prohibits retaliation against any student who reports a concern or who testifies, assists, or participates in a proceeding, investigation, or hearing related to a Informal Resolution Process. All parties and witnesses are informed of the prohibition on retaliation, and any behavior that feels retaliatory should be reported immediately to the school Title IX Coordinator.

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School Informal Resolution Facilitator (SIRF)

The U.S. Department of Education's Title IX regulations permit schools to use either internal staff or outside professionals, such as consultants, for the SIRF. Consequently, **an School Informal Resolution Facilitator (SIRF) is either a School Administrator or a School Support staff** (not a faculty member or having instructor responsibilities) trained to help parties when Title IX complaint voluntarily reach a mutually agreed-upon, written resolution outside of the formal disciplinary process. The SIRF impartiality, ensures the process is confidential and voluntary, guides constructive dialogue, and assesses the parties' readiness to participate. The SIRF role differs from an investigator or decision-maker.

Key Aspects of a SIRF's Role

Impartiality Neutrality:

The facilitator must be neutral and have no personal or professional interest in the IRP's case.

Training:

They must be trained on the scope of conduct prohibited by Title IX, the informal resolution process, and how to serve impartially.

Voluntary Process:

Informal resolution is entirely voluntary, and neither party can be pressured or required to participate.

Confidentiality:

Discussions within the informal resolution process are kept private above all considerations.

Facilitation:

The facilitator guides constructive dialogue, helps parties understand the goals of the process, and may suggest different types of informal resolutions, such as facilitated dialogue, restorative circles, or negotiated agreements.

Written Agreement:

The ultimate goal is to reach a written resolution agreement that is signed by both parties.

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Neutrality

Under Title IX, the trained Title IX coordinator, the Investigator, the Decision-Maker, and the Informal Resolution Facilitator must remain neutral and free from conflicts of interest and bias. Therefore, the School Informal Resolution Facilitator (SIRF) must remain impartial throughout the entire Informal Resolution Process (IRP) process. The neutrality requirement prevents prejudgment of the facts, ensuring a fair process for both the complainant and the respondent.

Key Aspects of SIRF Neutrality

Freedom from bias: Neutral individuals must not harbor biases either for or against complainants or respondents generally, or against any specific individual involved in a case.

No conflicts of interest: The regulations prohibit any person in a Title IX role from having a conflict of interest. This could include personal relationships, prior involvement in the case, or other factors that could compromise impartiality.

Avoids prejudgment: Personnel must not reach conclusions about the case or the responsibility of the parties before all evidence has been gathered and considered.

Separation of roles: Institutions must ensure that the investigator and the decision-maker are separate individuals to prevent bias.

Focus on process, not outcome: Being neutral means providing an equal opportunity for both parties to present evidence and challenge the other party, not ensuring a particular outcome. A school that fails to investigate or minimizes a complaint shows "deliberate indifference," which is the opposite of neutrality and violates Title IX.

Training requirements: The U.S. Department of Education requires mandatory training for all Title IX personnel to ensure they understand their obligation to serve impartially and avoid conflicts of interest.

Title IX Regulations Training

School Informal Resolution Facilitator Impartiality

An School Informal Resolution Facilitator (SIRF) under Title IX, must actively avoid bias and sex stereotypes to ensure an impartial process. Biases can be implicit and unconscious, making self-awareness and vigilance essential.

Examples of Bias And Sex Stereotypes to Avoid

Bias related to gender stereotypes

- The "emotional woman" stereotype: Assuming a female student is "catty" or "emotional," leading you to prematurely dismiss her side of the story.
- The "sexually aggressive man" stereotype: Presuming a male student is more likely to perpetrate sexual misconduct based on gender stereotypes alone.
- The "regretful sex" myth: Assuming that a female complainant is just experiencing regret and is lying about sexual assault.
- The "invulnerable man" stereotype: Failing to take a male complainant's report of sexual harassment seriously because of the misconception that men cannot be victims.
- The "bad driver" stereotype: Dismissing a witness's account because their gender doesn't align with a stereotype about how they should or would behave.

Bias related to the parties' roles

Assuming the complainant is truthful: Automatically believing the account of the reporting party based on their status as a complainant, rather than on evidence.

Assuming the respondent is guilty: Presuming the accused person is responsible for the alleged misconduct. The regulations require a presumption of non-responsibility for the respondent until a decision is made.

Bias related to personal characteristics

Credibility based on language: Favoring one party's testimony over another because they speak "perfect English," while the other party speaks English as a second language.

Judging the marginalized: Holding stereotypes against marginalized groups, such as people with disabilities, people of color, or those in the LGBTQ community.

Judging based on history: Allowing a party's reputation or history with other conflicts to influence your judgment about the current incident, which should be evaluated solely on its own facts.

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School Actions for the Initiation of an IRP

IRP Documented Agreement

Once there is a signed complainant(s) decision of accepting an Informal Resolution Process (IRP), the Title IX coordinator will contact the alleged respondent(s) and provide individual written information of:

1. Notice of facts alleged by a complainant;
2. The policy of not contacting with a complainant during and after the IRP resolution;
3. Information of school prohibition on retaliation policy;
4. Informal Resolution Process (IRP) confidentiality;
5. The range of the IRP Disciplinary Actions;
6. The no appeals to any IRP resolution and disciplinary actions decided by School Informal Resolution Facilitator;
7. Assurances that any party may withdraw from the IRP and resume the Grievance Process at any time before an informal resolution agreement have been reached;
8. The no statute of limitations for addressing a complaint under the school's IRP policy and how, whether the individual decides to moves forward with the IRP or not, resources are available to provide supportive measures; and
9. The option to of the respondent of refusing the IRP and commencement of a full investigation and adjudication of a formal complaint.

Important Notice: As corollary an Informal Resolution Process (IRP), as an alternative to a full investigation and adjudication of a formal complaint may encourage some complainants to file a formal complaint where they may have been reluctant to do so if a full investigation and adjudication was the only option. The school will never force, threaten, or require any party into going into informal resolution.

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School Response to an Informal Resolution Process

School Response

An Informal Resolution Process (IRP) allows the school to tailor responses to the unique facts and circumstances of an incident between complainant(s) and respondent(s), particularly in cases where there is not a broader threat to individual or campus safety. In these cases, the designated School Informal Resolution Facilitator (SIRF) shall:

(a) Meet with the respondent to:

- ❖ Discuss the behavior of the respondent;
- ❖ Provide an opportunity for a response and/or review of the facts;
- ❖ Explain Disciplinary Actions and consequence upon the respondent; and
- ❖ Enforce the importance to avoid any retaliation against the complainant;

(b) Follow-up with the complainant regarding the discussion with the respondent.

School Management Disciplinary Sanctions

After the conclusion of an Informal Resolution Process the disciplinary sanctions range, to be imposed by the School Management, depends on the factors of each case and might include:

1. Educational actions;
2. Student Probation;
3. Letter of reprimand to the student file;
4. Class Suspension;
5. Expulsion from program;

In Case that Alcohol and/or Drugs are Involved

Because the School's primary concern is safety and to encourage reporting, minor infractions by individuals involved in an incident, such as personal consumption of alcohol or other drugs, will not be addressed through any disciplinary action against an individual who reports a concern. However, **intoxication resulting from intentional use of alcohol and/or drugs is neither a defense against allegations of misconduct nor a justification of an underlying incident.** Consequently, the Informal Resolution Facilitator shall recommend School management to follow the policy TERMINATION BY FELONIES, DUI, DRUGS, OR ALCOHOL ABUSE published in the School Catalog.