



## **Guidelines for Alternative Resolution<sup>1</sup>**

### **1. The Alternative Resolution Process**

An alternative resolution process is a voluntary process in which a trained facilitator assists the parties in resolving the allegations made by a Complainant. An alternative resolution prioritizes educational and conciliatory approaches over more adversarial contestation of the facts. One objective of the alternative resolution is to provide to the parties an opportunity to learn and understand each other's concerns and address them as collaboratively and usefully for the parties as possible, with the assistance of the facilitator. The intent of an alternative resolution process is for the parties to undertake a facilitated dialogue regarding the matters at issue related to the allegations to see if they can reach agreement on a resolution that leaves both parties feeling satisfied with that resolution. The University must also be satisfied that the resolution is appropriate.

The alternative resolution process is not available if the Respondent in a sexual misconduct complaint is a faculty or staff member of the University and the Complainant is a student. Generally, the process may not be appropriate in cases of alleged violence or a parallel criminal case.

### **2. Steps Prior to the Alternative Resolution Process**

The Title IX Coordinator will offer the alternative resolution process to the parties after a formal complaint is filed by a Complainant if the Title IX Coordinator believes alternative resolution may be appropriate.

The Title IX Coordinator must explain in writing the following information to the parties, and both parties must acknowledge the following by written consent:

- a. Both parties must provide voluntary, written consent to the alternative resolution process.

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- b. By consenting, the parties do not waive an investigation and adjudication as a condition to consenting, or enjoyment of any other right, should alternative resolution not resolve the matter.
- c. If the parties enter alternative resolution, either party may withdraw and resume the formal process at any time before a resolution agreement is signed.
- d. Alternative resolution is confidential, and statements made in this process may not be used in the formal resolution process.
- e. Individuals who facilitate alternative resolution may not be called as fact witnesses at a hearing.
- f. If the formal complaint is resolved through the alternative resolution process, the Title IX Coordinator will close the case, which cannot be re-opened unless the terms of the agreement are violated or new compelling evidence is discovered.
- g. The process may result in remedial measures imposed on the respondent. This is not considered formal discipline, which can only be imposed after a finding of responsibility.
- h. Both parties must consent in writing to use the alternative resolution process.

### **3. How the Process Works**

If both parties consent to participate in the alternative resolution process, the University will assign a facilitator who will act in an independent, impartial manner to facilitate a resolution between the parties. The facilitator will be trained on how to perform the role. The facilitator will also be screened to ensure that such person is free from conflicts of interest and bias.

There is no requirement that the parties be in the same room together for any portion of the alternative resolution process. At the first meeting held separately with each party, the facilitator will explain the terms governing the process, including the information contained in Section 2. The facilitator will also remind each party that knowingly furnishing false information to the University is a violation of the Student Code of Conduct.

The facilitator will schedule one or more meetings with each party to explore their views about the allegations and desired outcome from the process. The facilitator may also utilize a “shuttle” mediation model at any time, where the parties sit in different rooms (either physically or virtually via zoom) and the facilitator shuttles between the parties to attempt to reach a resolution.

The facilitator's role is to conduct the alternative resolution process in a way that is impartial and does not favor one party over the other. If the facilitator believes at any point in the alternative resolution that the process is unlikely to lead to a resolution, the facilitator will recommend that the University cancel the alternative resolution process, and the complaint will be addressed through the formal grievance process.

#### **4. Confidentiality**

For the alternative resolution process to have the best chance for success, the parties should be free to express themselves. As a result, the information received from both parties during the alternative resolution process will be kept confidential by the facilitator but the facilitator may share information with the Title IX Coordinator as necessary to enable the Title IX Coordinator to oversee the process in accordance with University policy. In addition, the facilitator will not be available as a witness in any hearing that may occur should either party or the University terminate the alternative resolution process before a resolution. This is in keeping with the concept that the facilitator is impartial and is only facilitating the interaction between the two parties.

Should the formal complaint proceed or be returned to the formal grievance process, the parties and any support persons may not disclose information shared by the other party during the alternative resolution process in the hearing. This confidentiality protection does not apply to information that is learned outside the alternative resolution process through the investigation or otherwise (but not learned through a violation of the foregoing confidentiality requirement).

#### **5. Support Persons During Alternative Resolution Process**

Each party may have a support person and parent(s) or guardian(s) accompanying them to any alternative resolution meeting. A support person is someone who provides support to a party during the alternative resolution process. This role should be distinguished from the role of an advisor under the formal grievance process. For instance, the support person will not be permitted to question the other party. A support person can help a party understand or explain the issues under discussion or simply help the party feel more comfortable during the alternative resolution process. The support person may be a friend or relative or any other person the party trusts. A support person cannot be someone who is a witness or has been involved in the facts and circumstances in the allegations in any way.

A party must let the facilitator know in advance if they would like a support person to attend any alternative resolution meeting and the name of the support person and that

person's relationship to the party. A party must also let the facilitator know if a they would like a parent(s) or guardian(s) to attend. The facilitator can also exclude a support person if their presence is disruptive during the alternative resolution process. The support person can attend the alternative resolution meeting but may not participate or speak during it. The support person can ask for a break if the person wishes to confer with the party. The limitations on the role of a support person also apply to parent(s) or guardian(s) who participate in the process.

## **6. Possible Outcomes of the Process**

If an alternative resolution process does not result in an agreed-upon resolution, the formal grievance process will proceed.

A resolution is reached only if both parties agree and if the resolution is acceptable to the University. The facilitator will not decide responsibility or impose an outcome, although they may assist the parties in suggesting resolutions that appear to meet the parties' needs. If there is no agreement on a resolution, the complaint will proceed to the formal grievance process. A party may terminate the alternative resolution process at any time before the final written resolution is signed.

A resolution may include the following remedial measures, if the parties agree, and the University approves:

- a. *Censure*: An official written reprimand for the behavior related to the applicable regulations.
- b. *Probation*: A period of time in which a student is expected to demonstrate positive behavioral change and may be excluded from participation in privileged or extracurricular institutional activities. Additional restrictions or conditions for behavioral changes may be part of the resolution. Failure to abide by the terms of student conduct probation, or a violation of the Code of Student Conduct during the period of probation, may void the resolution and return the matter to the formal grievance process.
- c. *Restitution*: Repayment to the University or to an affected party for damages resulting from the behavior that is the subject of the alternative resolution process.

- d. *Denial of Access to Specific Areas*: Ban from certain University-owned or controlled areas or University-sponsored events for a specified length of time.
- e. *On-Campus Residence Termination*: Cancellation of the residence hall agreement and exclusion from visiting within certain or all residential facilities for a specified period of time. A student whose residence hall agreement is cancelled is not entitled to a refund of room fees. A student who is required to live on campus and whose residence hall agreement cancelled is unable to fulfill residency requirements and may be subject to an academic leave or term withdrawal, upon review.
- f. *Revocation of Privileges*: Restrictions placed on activities and/or use of University services and facilities for a specified period of time. In the case of a student who has graduated but the violation occurred while a student, the individual may be subject to restrictions on participating in any University program or activity and/or restrictions on the presence on University premises.
- g. *Academic Leave/Term Withdrawal*: Exclusion from classes and other privileges or activities, including access to University premises or University-sponsored events or activities off campus, normally for at least one semester. A student who is excluded is not entitled to any tuition or fee refund and is banned from University premises for the duration of the exclusion.
- h. *Permanent Withdrawal*: Termination of student status, and exclusion from University premises, privileges and activities. A student who is subject to permanent withdrawal shall not be entitled to any tuition or fee refund and is banned from University premises permanently.
- i. *Discretionary Consequences*: Other consequences that bear a reasonable relationship to the behavior that is the subject of the alternative resolution may be imposed instead of or in addition to those specified above. Discretionary consequences include, but are not limited to: no contact orders, service hours, fines, educational reflection assignments, and participation in alcohol or drug awareness programs, and trainings, counseling, and education regarding sexual assault and misconduct.

## **7. Resolution Agreement**

The University will draft a document reflecting the agreement between the parties that becomes final once it is signed by the parties and accepted by the University. This written and signed resolution indicates that the complaint has been resolved under this process without the need to pursue the formal grievance process. After a written resolution has been finalized, the University will keep a record of the parties' written consent to the alternative resolution process and the written resolution. Results of complaints resolved by alternative resolution are not appealable and are not subject to further review or appeal under other University policies or procedures.

## **8. Recordkeeping**

Records relating to the alternative resolution process are education records of the University and will be maintained by the Dean of Students. These records may be shared with others as permitted by FERPA, other applicable federal laws, and state law.