

F.A.Q.s for Informal Resolutions

1. What is an Informal Resolution?

Under the [CUNY Policy on Sexual Misconduct](#) or the [CUNY Equal Opportunity and Non-Discrimination Policy](#), an Informal Resolution is an alternative to formal investigation and adjudication procedures in which both sides voluntarily agree to “informally” resolve issues or concerns involving harassment, discrimination, or retaliation. The goal of an Informal Resolution is to provide flexibility and the option for the parties to agree on any of a wide range of possible outcomes. Informal Resolution is a voluntary agreement between parties involved in an issue that has come up related to these policies or a climate-related issue. If both parties agree, an Informal Resolution agreement takes the place of a “formal resolution.” (Please see Question 2 below for more information on formal resolution.) Any Informal Resolution must be consistent with the law, the [CUNY Policy on Sexual Misconduct](#), and the [CUNY Equal Opportunity and Non-Discrimination Policy](#).

2. What is a formal resolution or investigation?

A formal resolution involves conducting a fact-finding investigation, reporting the results to the President of the College for review and possible referral to the College’s disciplinary processes for students and employees and/or, for certain sexual misconduct cases, referral to an “Adjudication Committee,” which then conducts a live hearing to determine responsibility, if any, for that sexual misconduct.

3. Who decides whether to resolve a concern by Informal Resolution?

Both parties, must agree to participate in an Informal Resolution process and also agree to the terms of an Informal Resolution agreement in order to finalize it. Any party to a concern brought to the Office of Compliance and Diversity (CDO) can request to enter into an Informal Resolution process, but there are some situations where our policies or other factors may not permit it (see #10 below). Unless informal resolution is prohibited by CUNY policy, the Chief Diversity Officer/Title IX Coordinator will share with both parties the option to participate in the informal resolution process. (see Question #10 for additional information)

4. When can I decide to seek an Informal Resolution?

Either party may tell the Chief Diversity Officer/Title IX Coordinator at any time that they would like to seek an Informal Resolution. However, the Chief Diversity Officer/Title IX Coordinator may determine that further actions or further investigation are necessary before helping the parties to explore and reach an Informal Resolution.

For Title IX sexual harassment issues, Informal Resolution is only possible after a formal Title IX formal complaint. (Consult with the Chief Diversity Officer/Title IX Coordinator if you are unsure under which category your concern falls.) For Non-Title IX sexual misconduct issues, or situations involving discrimination or non-sexual harassment, an Informal Resolution is possible at any point after an issue has been raised with the Chief Diversity Officer/Title IX Coordinator.

5. How will I know if the Informal Resolution process has started?

In eligible situations, the Chief Diversity Officer/Title IX Coordinator will provide the parties with written notice that an Informal Resolution is being offered to resolve the concern brought to the CDO. No Informal Resolution process can begin unless both parties agree.

6. Do I have to talk to the other party during the Informal Resolution Process?

No. The parties do not have to speak to each other during the process, unless they agree to do so. Once the parties choose to participate, the Chief Diversity Officer/Title IX Coordinator can serve as the intermediary to help the parties come to an agreement.

7. What kinds of things do parties agree to in an Informal Resolution agreement?

Parties have flexibility under an Informal Resolution to agree together on what will help address the concern that was originally raised to the CDO. For example, the parties might agree to terms such as (but are not limited to): requiring one or both parties to participate in educational or training programs, mediation by a third party, administrative resolution (such as a mutual agreement to abide by a No Contact Order), acceptance of responsibility and penalty, mediation or other alternative dispute resolution, modification of work or academic assignments, or an apology.

8. What are some possible advantages or disadvantages of Informal Resolution?

Some parties may prefer Informal Resolution because it is a flexible process that enables parties to achieve many of the same outcomes as a formal process, but often more quickly. An Informal Resolution may decrease future uncertainty associated with the possibility of participation in a disciplinary hearing in which particular sanctions are determined by other members of the John Jay community. However, there are reasons why the parties may wish to choose the formal resolution process. For example, some parties may not feel that the Informal Resolution process will achieve their desired outcome. Others may desire a determination through the formal process, even though that process may or may not result in their desired outcome/determination.

9. Does agreeing to an Informal Resolution mean that one party is admitting to any wrongdoing?

No. Unless the parties agree to do so, choosing to pursue an Informal Resolution does not require any party to admit to any alleged misconduct. In addition, if (for reasons discussed in these FAQs, including #13 and #19) a formal investigation resumes in the future, the Office of Compliance and Diversity will not consider participation in an Informal Resolution as evidence toward whether or not the alleged behavior occurred.

10. Are there situations in which Informal Resolution is unavailable?

Yes. The Informal Resolution process is not appropriate for all types of alleged conduct. For example, under CUNY Policy, the Informal Resolution process is not available in Title IX sexual harassment cases involving allegations by a student against an employee. In situations where the most serious sanctions are possible if misconduct is found—including possible suspension or expulsion for students or termination from the College for employees, Informal

Resolution is not likely to be the appropriate course of action. In addition, at the discretion of the Chief Diversity Officer/Title IX Coordinator, certain factors may be considered when determining whether Informal Resolution is appropriate. Considerations may include the nature or severity of the alleged offense; when there is an ongoing threat of harm or safety to the campus community; when the accused is a repeat offender; or when the parties are unable or unlikely to participate in good faith in, or comply with the terms of, the Informal Resolution process. Finally, if one of the parties does not agree to participate in the Informal Resolution process, then Informal Resolution is not available.

11. If the CDO raises the possibility of Informal Resolution, does that mean they think my issue or complaint is less serious or not likely to be substantiated?

No. Every issue raised is treated with seriousness. The Chief Diversity Officer/Title IX Coordinator must consider every eligible situation for Informal Resolution. Discussion of Informal Resolution does NOT mean that investigators do not believe the concern is serious or that the allegations as described are false. Rather, Informal Resolution is a different (and sometimes more expedient) way of resolving an issue or complaint. Likewise, discussion of Informal Resolution does not mean that investigators have concluded that the allegations are true or that any misconduct occurred.

12. What if I do not want to file a complaint with the Chief Diversity Officer/Title IX Coordinator, but still want to resolve a concern through an Informal Resolution?

Prior to filing a formal complaint, you may inform the Office of the Chief Diversity Officer/Title IX Coordinator of your desire to resolve your concern through an Informal Resolution; the Office will then advise you whether Informal Resolution is an available option to resolve the concern under our policies, and, if so, will work with both parties to resolve the concern through the Informal Resolution process, assuming both parties agree. Please note that, for situations involving Title IX sexual harassment (as defined in the CUNY Policy on Sexual Misconduct), Informal Resolution is not available unless the party raising the concern has filed a Title IX formal complaint.

13. What is required to resolve a concern through an Informal Resolution?

Resolving a concern through the Informal Resolution process must be acceptable to both parties and the Chief Diversity Officer/Title IX Coordinator (consultation with the Office of the Dean of Students is also required for all concerns that involve students but do not involve sexual misconduct allegations).

14. Who will facilitate the Informal Resolution process?

In situations involving allegations of discrimination or non-sexual harassment, the Chief Diversity Officer/Title IX Coordinator will work with the parties in the informal resolution process. In situations that involve allegations of sexual misconduct, the Informal Resolution process is led by an Informal Resolution Facilitator, a qualified staff or faculty member designated by the Title IX Coordinator, in coordination with the Office of Student Affairs (for students) or Human Resources (for employees).

15. What if I do not want to proceed with an Informal Resolution?

Both parties have choice to proceed with an Informal Resolution process, and the process cannot take place unless both parties agree. Likewise, either party can choose to end the

Informal Resolution process at any time prior to finalizing the Informal Resolution, in accordance with CUNY Policy. If the Informal Resolution process ends, the Chief Diversity Officer/Title IX Coordinator will proceed with a formal process provided that a complaint of discrimination, harassment, or retaliation has been filed, or offer an opportunity for a complaint to be filed. The formal process would then involve completing and communicating the results of a fact-finding investigation to the President of the College for review and possible referral to the College's disciplinary system.

16. How would I know if an Informal Resolution agreement has been reached?

When a concern involves a climate-related issue, discrimination and/or non-sexual harassment, both parties will be involved in discussion with the Chief Diversity Officer/Title IX Coordinator regarding possible terms of the Informal Resolution before it becomes final. Once all terms have been agreed upon, the Chief Diversity Officer/Title IX Coordinator will prepare and send to both parties a written memorandum memorializing the agreed-upon resolution and the consequences for non-compliance.

In situations involving sexual misconduct allegations, the Informal Resolution Facilitator designated by the Title IX Coordinator will complete the above steps.

Once finalized, the Informal Resolution agreement will be treated as a binding contract and the allegations of discrimination or sexual misconduct (and for Title IX Sexual Harassment matters, the Title IX Formal Complaint) will be deemed resolved.

17. What information may be included in an Informal Resolution?

In general, the informal resolution memorandum will include the agreed-upon terms, the consequences for a violation of the terms, the duration of the informal resolution agreement, and any other information or terms needed to reflect the agreed-upon terms by both parties or required by law and policy.

Terms may include (but are not limited to): participation in educational or training programs, mediation by a third party, no-contact or stay-away agreements between the parties for a set period of time, modification of work or academic assignments, an apology, or placement of certain terms of the agreement in a student's or employee's file or record.

18. What if the parties involved fail to reach a mutually agreeable outcome though the Informal Resolution process?

The Chief Diversity Officer/Title IX Coordinator will check on progress toward reaching Informal Resolution every thirty days. If an agreement is not reached by both parties to resolve the concern within a reasonable timeframe, the individual who brought the concern to the CDO will have the option to file a complaint with the CDO or continue the formal investigation process if a complaint has already been filed (see Question #2) or take no further action through the CDO.

19. How long does the Informal Resolution process last?

Informal Resolution suspends the formal complaint process for a reasonable but not unlimited period of time; this time period can be extended upon consent of both parties, at the discretion of the Chief Diversity Officer/Title IX Coordinator. The time frame for

investigations will be suspended while the parties engage in the Informal Resolution process. The Chief Diversity Officer/Title IX Coordinator must reevaluate the parties' progress towards informal resolution every thirty (30) days and has the discretion to terminate the Informal Resolution process and resume the investigation at any time. If an Informal Resolution is not reached within a reasonable timeframe, then the individual who brought the concern to the CDO will have the option to initiate or continue the formal investigation process or to take no further action through the CDO.

20. What is the duration of an Informal Resolution agreement?

The duration of an Informal Resolution agreement varies; it may last only a few weeks or significantly longer than that. The precise duration should be reasonable given the nature of the allegations, and will be determined by mutual agreement of the parties and Chief Diversity Officer/Title IX Coordinator or her designee (for situations involving sexual misconduct allegations).

21. What happens if one or both parties violates a term of the Informal Resolution?

The parties should notify the Office of Compliance and Diversity immediately if they have reason to believe a term has been violated. Violations of Informal Resolution agreements will be referred for discipline or other appropriate action in accordance with CUNY Bylaws, policies, and (for employees) collective bargaining agreements.

22. Will the Informal Resolution go on my record?

In many instances, an Informal Resolution is not placed in a student or employee's permanent file or "record" that is housed by the Registrar or Human Resources or communicated with any other individual. For students, all Informal Resolutions are sent to the Office of the Dean of Students and maintained in a file by that office until their expiration. In some circumstances, the parties may seek or agree to placement of certain terms or the agreement in a student or employee file or record. You should discuss the possibility and ramifications of this with the Chief Diversity Officer/Title IX Coordinator or the Informal Resolution Facilitator. However, once finalized, the agreement will be maintained for seven (7) years by the Office of Compliance and Diversity.

23. Who should I contact to have more information about the Informal Resolution process?

Gabriela Leal, Esq., Interim Director for the Office of Compliance & Diversity- Chief Diversity Officer/Title IX Coordinator. Office located in Haaren Hall, Room 622T. 646.557.4674, galeal@jjay.cuny.edu.

24. Who can I talk to confidentially about my concern?

Students may contact Jessica Greenfield, Gender Based Violence Prevention and Response Advocate at the **Women's Center for Gender Justice**: New Building, Room L.67.07, (646)-557-4535, jgreenfield@jjay.cuny.edu or any counselor in the **Counseling Services Center**: New Building, Room L.68.00, (212) 237-8111. For more information visit: <http://www.jjay.cuny.edu/counseling>.

In addition to these resources, the Counseling Services Center offers a spectrum of services for students, including confidential personal and group counseling, a full-time nurse, health testing, and other resources. They are located in L68.00 and can be reached at counseling@jjay.cuny.edu

Employees can access supportive confidential resources, including private counseling from the **CUNY Work-life Program**, through CCA@YourService. More information can be accessed here: <http://www.jjay.cuny.edu/cuny-employee-assistance-program>, (800)-833-8707.