

## 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 a voluntary agreement between parties involved in an incident or situation covered by these policies. Through the Informal Resolution process, the parties can voluntarily agree to “informally” resolve issues or complaints involving harassment, discrimination, or retaliation. 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.) An Informal Resolution is intended to be flexible while also providing for a wide range of possible outcomes or terms as long as both parties agree and the terms are 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?**

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

### 3. **Who decides whether to resolve a case by Informal Resolution?**

The Chief Diversity Officer/Title IX Coordinator *may* consider Informal Resolution for a variety of cases involving discrimination or harassment and *must* consider every eligible sexual misconduct case for informal resolution. Subject to certain restrictions (see #9 below), Complainants and Respondents can request to enter into an Informal Resolution process. Both parties, however, 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.

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

In eligible cases, the Chief Diversity Officer/Title IX Coordinator will provide the parties with written notice that an Informal Resolution is being offered to resolve the allegations against the Respondent. This notice will include a) a description of the allegations against the Respondent; b) the requirements of the Informal Resolution process, including the circumstances under which an Informal Resolution will prevent the parties from resuming an investigation and formal resolution arising from the same allegations; c) the potential consequences resulting from participating in the Informal Resolution process, including what records will be maintained or could be shared with the other party; and d) notice that either party has the right to withdraw from the Informal Resolution process and resume an investigation and formal resolution process at any time prior to agreeing to an Informal Resolution.

For Non-Title IX sexual misconduct cases, Complainants may wish to seek an Informal Resolution at any point after they have raised an issue or filed a complaint with the Chief Diversity Officer/Title IX Coordinator. For Title IX sexual harassment cases, Informal

Resolution is only possible after a Complainant has filed a Title IX formal complaint. (Consult with the Chief Diversity Officer/Title IX Coordinator if you are unsure under which category your case falls.) Respondents may also tell the Chief Diversity Officer/Title IX Coordinator that they would like to seek an Informal Resolution. However, the Chief Diversity Officer/Title IX Coordinator may determine that she needs to investigate further before helping the parties to explore and reach an Informal Resolution.

**5. Do I have to talk to the Respondent/Complainant during the Informal Resolution Process?**

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

**6. What are some possible terms of the Informal Resolution agreement?**

Terms may include (but are not limited to): referral to counseling programs, participation 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, an apology, or placement of certain terms of the agreement in a student's or employee's file or record.

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

Some Complainants and Respondents may prefer Informal Resolution because they can 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, Complainants may not feel that the Informal Resolution process will achieve their desired outcome, or Respondents may desire a determination through the formal process that they did not engage in the behavior alleged by the Complainant.

**8. Does agreeing to an Informal Resolution mean that Respondents admit to any wrongdoing?**

No. Unless the Complainant and Respondent agree to do so, choosing to pursue an Informal Resolution does not require the Respondent to admit to any alleged misconduct raised by the Complainant. 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 a Respondent's participation in an Informal Resolution as evidence toward whether the Respondent committed an act alleged by the Complainant.

**9. 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 matters

where the most serious sanctions—including possible suspension, expulsion or termination from the College—are sought, 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 will 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 alleged Respondent 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.

**10. If my investigators raise 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 claim is treated as serious, and the Chief Diversity Officer/Title IX Coordinator must consider every eligible case for Informal Resolution. For Complainants, discussion of Informal Resolution does NOT mean that investigators do not believe your matter 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, for Respondents, Informal Resolution does not mean that investigators have concluded that the allegations are true or that you committed an offense.

**11. What if I do not want to file a complaint with the Chief Diversity Officer/Title IX Coordinator, but still want to resolve it 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 matter through an Informal Resolution; the Office will then advise you whether the matter is appropriate for Informal Resolution and, if so, will work with both parties to resolve the matter through the Informal Resolution process. Please note that, for matters involving Title IX sexual harassment (as defined in the CUNY Policy on Sexual Misconduct), Informal Resolution is not available unless the Complainant has filed a Title IX formal complaint.

**12. What is required to resolve a matter through an Informal Resolution?**

Resolving a case through Informal Resolution 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 cases that involve students but do not involve sexual misconduct). In non-sexual misconduct cases, even if both the Respondent and Complainant agree to certain terms as part of an Informal Resolution agreement, the Chief Diversity Officer/Title IX Coordinator must also agree with the terms for it to be final. In sexual misconduct cases, the Informal Resolution process is conducted by a qualified staff or faculty member designated by the Title IX Coordinator, in coordination with the Office of Student Affairs (for student respondents) or Human Resources (for employee respondents).

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

Both the Complainant and the Respondent have choice to proceed with an Informal Resolution. 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. In that case, provided that a complaint of discrimination, harassment, or retaliation has been filed,

the Chief Diversity Officer/Title IX Coordinator will proceed with a formal process that involves completing and communicating the results of its fact-finding investigation to the President of the College for review and possible referral to the College's disciplinary system.

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

In non-sexual misconduct cases, both the Complainant and the Respondent will be involved in discussion with the Chief Diversity Officer/Title IX Coordinator or their designee 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 sexual misconduct cases, the staff or faculty member 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 Sexual Misconduct (and for Title IX Sexual Harassment matters, the Title IX Formal Complaint) will be deemed resolved.

**15. What information may be included in an Informal Resolution?**

When writing an informal resolution memorandum, Chief Diversity Officer/Title IX Coordinator (or her designee, for sexual misconduct cases) 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): referral to counseling programs, participation in educational or training programs, mediation by a third party, no-contact or stay-away agreements between the parties, 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.

**16. What if the parties involved in a complaint 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 a complaint within a reasonable timeframe, the case will be resolved through the formal investigation process, which involves completing and communicating the results of its fact-finding investigation to the President of the College for review and possible referral to the College's disciplinary system.

**17. 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 tolled 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 formal process must continue for matters involving a complaint of sexual misconduct, discrimination, or retaliation.

**18. 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 sexual misconduct cases).

**19. 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.

**20. Will the Informal Resolution go on my record?**

In many cases, 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 cases, 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. However, once finalized, the agreement will be maintained for seven (7) years by the Office of Compliance and Diversity.

**21. 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, [gleal@jjay.cuny.edu](mailto:gleal@jjay.cuny.edu).

**Robert Kim**, Senior Title IX/EEO Investigator of the Office of Compliance & Diversity/ Title IX Office. Office located in Haaren Hall, Room 662T, 646.557.4409, [rokim@jjay.cuny.edu](mailto:rokim@jjay.cuny.edu).

**22. Who can I talk to confidentially about my case?**

*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](mailto: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](mailto: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.