

# Student Informal Resolution

For Sexual Misconduct (including Title IX) Matters

Minnesota State

June 16, 2022

1

## Agenda

- Informal Resolution
- Informal Resolution Foundations
- Resolution Process
- *Possible* Outcomes

2

## Informal Resolution

- Common concerns
  - Not serious enough
  - Doesn't send strong message
  - Pressures individuals to participate
  - Not a true form of justice

3

- Brief introduction
  - Individuals choose informal because it's not formal
    - No live hearing, answering questions with attorneys, etc.
    - No investigation with detailed sharing
  - Individuals want to be involved in deciding the outcome
  - They want a stronger sense of agency
  - They want the focus on healing from the harm caused
  - Don't want the respondent to get in trouble or kicked off campus
  - Retain their rights to change to formal process

4

## Punitive vs. Restorative Lens

### Punitive

- System is the expert
- Focus on authority
- Violations
- Community as spectator
- Harmed party involvement is limited
- Blame, guilt, shame, & Stigma

### Restorative

- System is the facilitator
- Focus on social support
- Harms
- Community as participant
- Harmed party given voice & agency
- Relief, forgiveness, repentance, & closure

5

## Informal Resolution Foundations

- Facilitator ≠ Investigator
- Role shift
  - Confidential
  - Dialogue vs. interview
  - Multipartial vs. impartial
  - Motivational interviewing tenants
    - Partnership
    - Acceptance
    - Compassion
    - Evocation

6

- Facilitating a negotiated agreement
  - Acknowledge privilege-informed thinking
  - Engage in judgement-free communication
  - Provide a safe space for parties to express their points of view
  - Center the voices and harm of the involved parties
  - Assist in presenting information to the other party that promotes mutual understanding
  - Seek to help parties identify common interests and outcome(s)
  - Limit personal/institutional interest in possible outcome(s)
  - Rely on the involved parties to determine the outcomes

7

## Resolution Process

- Reporting party/complainant Intake
  - Initial information
    - Report
    - Walk-in
  - Intake conversation
    - Present policy, procedure
    - Discuss supportive measures
    - Discuss reporting options
  - *Sexual Misconduct Matrix*

8

- Complainant asks for informal resolution option
  - Answer questions
  - Explain next steps
- Facilitator assigned, as relevant
- Notice of informal resolution
  - Information about reported situation
  - Respondent given opportunity to voluntarily participate
  - Title IX Coordinator offers meeting to discuss

9

- Meet with accused student/respondent
  - Provide information regarding report
  - Discuss/offer supportive measures
  - Introduce informal resolution process
  - Answer questions
  - Explain next steps

10

- Person conducting intake → facilitator?
- Individually: facilitator meets with complainant, meets with respondent
  - Build rapport
  - Participation agreement, review
  - Dialogue: behavior in question, impact, harm
  - Motivational interviewing re: repairing the harm
  - Draft Resolution Agreement

11

## 5 Questions – Complainant

1. What happened?
2. What was going through your mind at the time?
3. What's been on your mind since? Has anything been showing up for you or have any new thoughts or feelings surfaced?
4. Describe ways this has impacted you? Who/what else may have been impacted or affected?
5. In what ways might come of these harms begin to be repaired?

12

## 5 Questions – Respondent

1. What happened?
2. What were you thinking at the time?
3. What have you thought about since?
4. Who/what was affected and how were they affected?
5. How can harm be repaired? What needs to happen to make things right?

13

## *Possible Outcomes*

- Mutual no contact
- Harmed party shares “impact statement”
- Required referral to alcohol and other drug education/counseling
- Required referral to counseling services for shared mental health concern(s)
- Participation in training (offered by MinnSt)
- Facilitated dialogue between both parties
- Creative options

14

## Facilitator Guide

- TEMPLATE

15

## References

- Jacoby & Gall (2021). "Who SAID harm can't be repaired through informal resolution? Creating restorative and educational learning environments for students accused of sexual misconduct." Presented at NASPA Annual Conference.
- Miller & Rollnick (2013). *Motivational interviewing: Helping people change*.
- Schrage & Giacomini (Eds.) (2009). *Reframing campus conflict: Student conduct practice through a social justice lens*.

16