

What is an Informal Resolution?

Under Marshall policies and procedures, 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.

Parties have flexibility under an Informal Resolution to agree together on what will help address the concern that was originally raised to Marshall. 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.

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 Student Conduct can request to enter into an Informal Resolution process, but there are some situations where our policies or other factors may not permit it. Unless informal resolution is prohibited by Marshall policies or procedures, the Office of Student Conduct will share with both parties the option to participate in the informal resolution process.

What is a Formal Resolution?

A formal resolution involves conducting a fact-finding investigation, reporting the results to the Student Conduct Director for review and possible referral to the University’s disciplinary processes for students and employees, which may include a live hearing to determine responsibility, if any, for that sexual misconduct. In the majority of cases, formal processes are only initiated if the victim (complainant) wants to move forward with the process. However, an institution’s Office of Student Conduct can step in and assume the role of the complainant if the individual cannot or will not proceed and/or if there is a deeper threat to the community.

What can happen when the Complainant Requests Anonymity, that an Investigation Not Be Pursued, and/or that No Disciplinary Action Be Taken?

The University attempts to balance the needs of the parties for privacy with the institutional responsibility of ensuring a safe educational environment and workplace of the Complainant and other members of the University community. Confidentiality is an aspiration but is not always possible or appropriate. An individual’s requests regarding the confidentiality of reports of discrimination or harassment, including, but not limited to, sexual misconduct, will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of the institution’s legal obligation to ensure a working and learning environment that is free from discrimination or sexual misconduct. The institution may be limited in its response and investigation if confidentiality is requested.