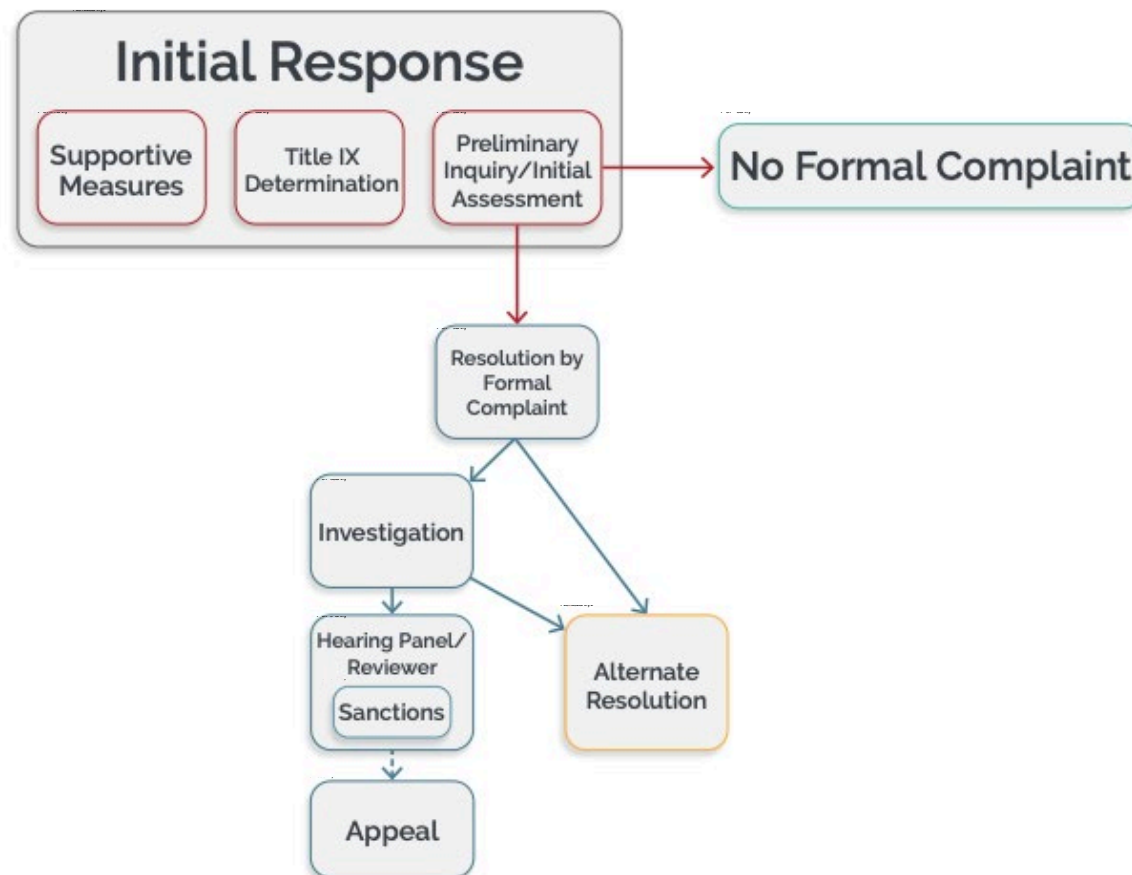


Cornell's Process for Incident Response and Resolution

Policy 6.4 clearly defines the process for individuals to file complaints related to prohibited conduct and for those complaints to be reviewed and addressed in a manner consistent with the terms and provisions of the policy.

This flowchart outlines the process. Click on any area of the flowchart to read a complete description of that step in the process.



Initial Response

This is the first stage after a report of prohibited conduct. During the initial response, a complainant has the opportunity to provide more information about their experience, learn about their rights and options under Policy 6.4, and request supportive measures.

During the intake stage, the Cornell Office of Civil Rights (COCR) may also make a determination as to whether the Title IX regulatory framework applies to the report. Only some sexual harassment reports will be subject to the Title IX regulatory framework. In instances where the University's ability to provide a safe and equitable learning and working environment may be impacted, or when a complainant is seeking disciplinary resolution through the investigative process, COCR will also take additional steps to assess the report as part of a preliminary inquiry or initial assessment.

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Supportive Measures

Supportive measures are nondisciplinary, nonpunitive individualized services offered as appropriate and reasonably available, without fee or charge to the complainant or respondent. They may be offered before, during, or after the filing of a formal complaint or where no formal complaint has been filed. A no-contact order or an academic accommodation for students are examples of supportive measures.

- Supportive measures are designed to accomplish a number of goals:
 - Restore or preserve equal access to the University's education program or activity.
 - Support and protect the safety of the complainant, the respondent, the University's educational environment, and the University community.
 - Promote the goals of Policy 6.4.
 - Deter retaliation.
 - Preserve the integrity of the investigation and resolution process pursuant to these procedures.
- Supportive measures may act as either support for or restrictions on one or both parties. Restrictive supportive measures will be calibrated to address a perceived risk but tailored to minimize — to the extent possible — the impact on the affected party or parties, whose underlying case of prohibited conduct has not yet been adjudicated on the merits.
- Supportive measures may be issued based upon a party's request or on the University's own initiative. In all instances, and at its discretion, the University will determine whether any given supportive measure is reasonable and appropriate.
- A violation of a supportive measure may constitute prohibited conduct.

Supportive measures are most commonly issued during the intake stage, but they can also be issued throughout the process if circumstances change and new needs arise.

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Title IX Determination

COCR determines whether the Title IX regulatory framework applies to a report of prohibited conduct. This framework may impact the process and procedures by which a report of prohibited conduct can be resolved. COCR can and does address matters that fall outside the Title IX regulatory framework.

Generally, the Title IX regulatory framework applies when the alleged incident occurred in the University's education program or activity, against an individual in the United States, and when the complainant is participating or attempting to participate in the University's education program or activity.

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Preliminary Inquiry/Initial Assessment

Upon receipt of a report of alleged prohibited conduct, COCR makes an initial assessment of the reported information and responds to any immediate health or safety concerns raised by the report.

- The initial assessment will indicate whether the Title IX regulatory framework applies as well as whether immediate reasonable steps have been taken or should be recommended to the unit or college to address the concerns raised by the report.
- The steps in an initial assessment vary based on whether the identity of the complainant is known.
 - **When the identity of the complainant is known:**
 - The complainant will receive a written explanation of all available resources and options.
 - The complainant will also be given an opportunity to meet promptly and to discuss those resources and options.
 - **When a report is filed but the identity of the complainant is unknown:**
 - COCR will assess the nature and circumstances of the report, including whether it provides information that identifies the potential complainant, the potential respondent, any witnesses, and/or any other third party with knowledge of the reported incident.
 - COCR will then take reasonable and appropriate steps, consistent with applicable federal and state laws and the applicable procedures, to respond to the report of prohibited conduct.
- Reasonable steps are determined on a case-by-case basis and are dependent on the conduct alleged as well as an evaluation of the work environment. Examples could include a separation of the parties — such as a change in assignment, shift, or work location — or administrative leave.

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No Formal Complaint

The University strongly supports the complainant's decision not to pursue a formal complaint under these procedures and their desire for anonymity. A complainant is still entitled to supportive measures even if they choose not to pursue a formal complaint. Additionally, not all reports allege a violation of Policy 6.4.

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Formal Complaint

Written notice to the parties, issued by COCR upon commencement of an investigation, sets forth details of the allegations and information about the process.

- The parties are entitled to have procedural advisors provided by the institution.

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Alternate Resolution

At any time after a formal complaint has been filed, but before a hearing commences, the parties may seek to resolve a report of prohibited conduct through alternate resolution, an administrative process.

There are two available forms of alternate resolution:

1. **Restorative (“informal”) resolution:** The purpose of a restorative resolution is for the parties to agree on a set of remedies. Upon successful completion of those remedies, a finding of “not responsible” will be entered. Such remedies may include:
 - Impact letter
 - Apology letter
 - Directed study
 - Reflection paper
 - Other forms of restorative/transformational Justice.

Note: Informal resolution is not available to resolve allegations that an employee engaged in sexual harassment or sexual misconduct toward a student.

2. **Negotiated (“formal”) resolution:** As a necessary precondition of a negotiated resolution, the respondent must accept responsibility for all or part of the alleged prohibited conduct.
 - The parties will then have an opportunity to negotiate with the Title IX Coordinator what they believe the appropriate sanction should be.
 - In support of their position, parties are encouraged to submit impact/mitigation information they believe the Title IX Coordinator should consider in evaluating any sanction.



- The Title IX Coordinator has the discretion to propose other terms for the resolution that may be appropriate to address the prohibited conduct for which the respondent has accepted responsibility.

The Title IX Coordinator will consult separately with both parties, as well as with appropriate University officials, and recommend to the parties the terms of a potential alternate resolution agreement.

Participation in alternate resolution is entirely voluntary; the Title IX Coordinator will neither pressure nor compel either party to participate in the process or to agree to any specific terms. The parties are strongly encouraged, although not required, to consult with their advisors and any support persons during the entire alternate resolution process. Both parties must agree to the terms before an alternate resolution agreement becomes effective.

- If both parties are satisfied with the Title IX Coordinator's recommendation, the matter will be resolved with a written agreement.
- If the process is terminated for any reason, the matter will be re-evaluated for resolution pursuant to the formal complaint resolution process.

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Investigation

The investigation is conducted by an investigator from COCR. It is designed to be timely, thorough, and impartial, and to provide for a fair and reliable gathering of the facts. When the formal complaint contains allegations against an employee, a trained faculty or staff member will serve as a co-investigator.

Although specifics will vary, the general process of an investigation is as follows:

- Interviews will be conducted with parties involved and relevant witnesses.
- Each party will have the opportunity to:
 - Be interviewed by the investigator.
 - Provide evidence to the investigator and review their own interview statements.
 - Suggest witnesses to be interviewed by the investigator.
 - Propose questions to be asked of witnesses.
- Relevant documents, emails, and/or phone records will be requested, obtained, and preserved.
- If the investigator determines that expertise on a topic will assist the hearing panel in making its determinations, upon the investigator's own initiative or at the request of a party, the investigator may include in the investigative record medical, forensic, technological, or other expert testimony and materials, such as writings and recordings, that the investigator deems relevant and reliable.
 - The results of polygraph tests and other lie-detection techniques are inadmissible in the proceedings.
- A written report is prepared and provided to the parties.
- As part of the Title IX investigative process, both parties have an opportunity to review and comment upon a draft investigative record, which will include all evidence (relevant and not) collected during the investigation before the investigator finalizes it and issues a final investigative report.

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Determination by Hearing Panel (Student Procedures, Employee Title IX Procedures) or by Reviewer (Employee Non-Title IX Procedures)

In the student process and the employee Title IX process:

- If, after investigation, the formal complaint is not resolved through alternate resolution, the matter proceeds to a hearing.
- The hearing panel is composed of three trained faculty and staff.
- The hearing panel makes a determination on responsibility (and, if applicable, sanctions) and issues a written decision provided to the parties simultaneously.
- A non-voting hearing chair administers the hearing.
- The hearing process provides an opportunity for the parties' advisors to conduct cross-examination of the parties and witnesses.

In the employee non-Title IX process:

- The investigator makes findings and provides recommendations for any sanctions or disciplinary actions.
- The investigation report is forwarded to a reviewer.
 - **For a faculty respondent**, the reviewer is the dean of the respondent's college/school.
 - **For a staff respondent**, the reviewer is the head of the respondent's unit.
- The reviewer provides the report to the parties with an opportunity for response.
- After considering the parties' responses, the reviewer must take one of the following actions:
 - Accept, modify, or reject the determination or recommended sanctions and/or remedial measures.
 - Return the report for further investigation.

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Appeal

Both parties have the opportunity to appeal the decision on certain grounds. When there is a finding of responsibility, sanctions are imposed upon the conclusion of the appeal — or, if no appeal is sought, upon conclusion of the period for appeal.

In the Title IX process:

- All appeals are heard by a three-member appeal panel that always includes the Provost and the Vice President for Student and Campus Life or their designee.
 - For employee Title IX matters, the third member of the appeal panel is the Vice President for Human Resources and Chief Human Resources Officer or their designee.
 - For student matters, the third member of the appeal panel is a faculty or staff member of the hearing panel pool.

In the non-Title IX process:

- When the respondent is a member of the faculty, appeals are made to the Provost or their designee.
- When the respondent is a staff member, appeals are made to the Vice President for Human Resources and Chief Human Resources Officer or their designee.

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Sanctions and Remedies

Sanctions are disciplinary actions imposed upon a respondent found responsible for violating Policy 6.4. Remedies are measures intended to restore or preserve equal access to the University's educational program or activity and to remedy the effect or prevent recurrence of the prohibited conduct.

Examples of sanctions and remedies include:

- Appropriate educational steps, such as alcohol/drug education and counseling
- Restrictions or loss of specified privileges at the University for a specified period of time
- Oral warnings
- Written discipline
- Disciplinary probation for a stated period
- Demotion*
- Removal from an administrative or other position held in addition to one's primary position
- Salary reduction or other monetary penalty
- Suspension (students) or unpaid suspension of employment (employees)*
- Dismissal (students) or termination of employment (employees)*

*For a faculty respondent, the panel will impose a sanction of mandatory referral to the trustee suspension/dismissal procedures for the specific sanction.

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