

EARLIER RESOLUTION INFORMATION

This document outlines [USU Interim Policies and Procedures 339, 339A, 339B](#). For a complete understanding of the process please review the policies and procedures.

General Information

Administrative Process: An Office of Equity [earlier resolution](#) is an administrative process designed to facilitate an agreement by the parties to address a formal complaint alleging sexual misconduct in violation of USU policy.

Process Advisors and Support Persons: Both parties may use a [process advisor and/or a support person](#) to assist them throughout the earlier resolution process. The party must sign a release of information from for the [process advisor](#) and/or [support person](#).

Certain Cases Ineligible: Under certain circumstances, cases involving a student Claimant and an employee Respondent are not eligible for the Earlier Resolution process.

Participation: Participation in the Earlier Resolution process is completely voluntary, and no party shall be pressured, coerced, or unduly influenced into participating. Parties must consent, in writing, to participating. Additionally, either party may change their mind about participating in the process at any time.

Presumption of Not Responsible: The Respondent is presumed not responsible for the alleged sexual misconduct and voluntary participation in the earlier resolution process is not considered an admission of responsibility.

False Information: A person who knowingly provides false information related to sexual misconduct will be referred to the appropriate administrator for appropriate action, including possible Sanctions under the [USU Student Code](#), [USU Policy 311](#) or [407](#).

Retaliation: University policy prohibits retaliation against anyone who comes forward with concerns regarding violations of the University's sexual misconduct policy or anyone who testifies, assists, participates, or refuses to participate in any manner in a formal investigation, earlier resolution, proceeding, or hearing related to sexual misconduct. Retaliation also includes intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege under USU Policy.

A student who engages in retaliation may be subject to discipline up to and including suspension or expulsion. An employee who engages in retaliation may be subject to discipline up to and including termination.

Supportive Measures: If your employment or education has been affected as a result of the incident underlying the formal complaint or the Office of Equity process, you may be able to get [supportive measures](#) while your case is pending. Please contact the Supportive Measures Specialist in the Office of Equity for more information.

Accommodations: You may request an accommodation based on a disability or other reasonable grounds by calling or visiting the Office of Equity or by submitting a written request to the Office of Equity Director. Disability accommodations sought by students will be referred to the Disability Resource Center and those sought by employees will be referred to the ADA Coordinator in Human Resources.

Conflicts of Interest/Bias: If you have a concern at any point in the process that anyone involved in your case in the Office of Equity has a conflict of interest or bias, please email the Equity Executive Director at matthew.pinner@usu.edu.

Privacy and Information Sharing: With the exception of an Earlier Resolution Agreement signed by both parties, which are private but may be shared with the Title IX Coordinator and other Employees in order to help ensure relevant Sanctions and Remedies are implemented, any statements made or documents generated during the Earlier Resolution process shall remain confidential and will not be used in a formal Grievance Process. However, these documents are not privileged and may be subpoenaed in a civil or criminal case.

Formal Investigation: Either party may request to withdraw from the Earlier Resolution at any time before an agreement has been signed by both parties. In that event, the Earlier Resolution will be stopped and the [formal investigation](#) process will resume. A formal investigation will also proceed if the parties do not reach an agreement.

Withdrawal of a Formal Complaint: The Claimant may request to withdraw their formal complaint at any time. The Office of Equity may, but need not, dismiss the case at that point. If the Office of Equity does not dismiss the case and determines to proceed without Claimant's involvement, it will notify both parties.

Facilitation: Earlier Resolution agreements may be facilitated via written communication, telephone, videoconferencing, and/or in-person meetings. Parties will not be required to confront each other or be in the same room during the Earlier Resolution process.

Possible Terms: Depending on what the parties agree to, an Earlier Resolution may result in a number of outcomes including but not limited to:

- An apology by Respondent, in-person or in writing;
- That Respondent complete sexual misconduct training or other related education;
- That Respondent complete community service;
- That Respondent leave the university and not reenroll until Claimant has graduated;
- A finding that Respondent violated the university's sexual misconduct policy; and/or
- A sanction or other punitive or disciplinary measures.

Sanctions: If Respondent admits they violated USU's sexual misconduct policy, Respondent may be sanctioned as follows:

For employees: An employee who is found to have violated Interim Policy 339, 339A, 339B may be subject to Sanctions from a warning up to and including termination.

For students:

- A Student who is found to have violated Policy 339 with regard to Sexual Harassment may be subject to Sanctions from a warning up to and including suspension. With compounding factors, expulsion may be ordered. The Sanction may include a permanent notation on the Student's transcript.
- A Student who is found to have violated Policy 339 with regard to Relationship Violence may be subject to Sanctions from a warning up to and including suspension. With compounding factors, expulsion may be ordered. The Sanction may include a permanent notation on the Student's transcript.
- A Student who is found to have violated Policy 339 with regard to Stalking may be subject to Sanctions from a warning up to and including suspension. With compounding factors, expulsion may be ordered. The Sanction may include a permanent notation on the Student's transcript.
- A Student who is found to have violated Policy 339 with regard to Sexual Assault specifically Fondling may be subject to Sanctions from probation up to and including suspension. With compounding factors, expulsion may be ordered. The Sanction may include a permanent notation on the Student's transcript.
- A Student who is found to have violated Policy 339 with regard to Sexual Assault including Rape, Sodomy, Sexual Assault with an Object, Incest, or Statutory Rape may be subject to Sanctions from suspension up to and including expulsion. The Sanction may include a permanent notation on the Student's transcript.

The parties may agree that Respondent will admit to violating the sexual misconduct policy. If they cannot agree on terms with that admission, the case may result in a hearing to determine the appropriate sanction(s).

Title IX Coordinator Approval: The Title IX Coordinator must approve an Earlier Resolution Agreement for it to become effective.

Compliance: An Earlier Resolution agreement signed by the parties and approved by the Title IX Coordinator is binding and the parties will be expected to comply. A Respondent who fails to abide by the terms of an Earlier Resolution agreement may be subject to discipline. The facilitator shall be responsible for monitoring and ensuring the terms of the agreement have been met.

Remedies: Following an Earlier Resolution agreement by the parties, the Title IX Coordinator and the Claimant may reach an agreement about the Remedies the University will provide to Claimant without the Respondent's agreement. Remedies shall be designed to restore or preserve the Claimant's equal access to the Employment or Education Program or Activity.