

# **2023 Public Description of Work for Action Collaborative on Preventing Sexual Harassment in Higher Education**

Yale University

## **Alternative Resolution of Formal Complaints of Sexual Misconduct**

### **Relevant Rubric Area(s):**

- Response: Implementing Restorative or Transformative Justice and Alternative Means of Resolutions
- Response: Trauma-Informed Programs and Practices

### **Description of Work:**

Yale's mission calls for the "free exchange of ideas in an ethical, interdependent, and diverse community..." (<https://www.yale.edu/about-yale/mission-statement>). This free exchange is enabled by a shared ethos of respectful, constructive engagement and strong interpersonal and organizational connections and collaborations. To support this mission, Yale employs a range of resources and processes to respond to campus conflicts as they arise and to prevent and address harms experienced within our community.

Yale has a robust set of procedures to address potential violations of its sexual misconduct policy in a fair and structured manner (<https://uwc.yale.edu/policies-and-procedures>). Yale also has a range of supportive resources available to members of the community who have been impacted by these behaviors so that these individuals can engage fully with Yale's programs and activities. Informal options for resolving formal complaints were less well-developed.

Recognizing that persons involved in formal complaints of sexual misconduct may prefer to resolve the allegations without formal proceedings, the university recently established an alternative resolution option (see below for more detail). The goal of the alternative resolution process is to provide each party with the opportunity to share their understanding of what happened, to hear the other person's understanding of what happened, and to the extent possible, repair the harm that has occurred.

While Yale is exploring opportunities to provide alternative resolution in a range of situations, Yale has initiated a "soft launch" of this pathway for sexual misconduct cases; the pathway includes techniques such as conflict coaching, shuttle negotiation and facilitated dialogue.

The alternative resolution pathway is currently housed in the Office of the University-Wide Committee on Sexual Misconduct (UWC) (<https://uwc.yale.edu/>), the same office that hears formal complaints of sexual misconduct against faculty, students and some

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staff. If a UWC staff member is assigned to oversee a formal complaint and the parties to the complaint then opt for alternative resolution, a different UWC staff member is designated as the facilitator of the alternative resolution.

As described more fully in the UWC's procedures (<https://uwc.yale.edu/policies-procedures/uwc-procedures>), there is procedural scaffolding in place for the alternative resolution process, e.g., each party must consent in writing to participate in the alternative resolution process; the university must agree that an alternative resolution is appropriate to the circumstances of the case; at any time prior to reaching an alternative resolution agreement, a party may withdraw from the alternative resolution process and resume or initiate a formal complaint process; and documents or statements made in the alternative resolution process may not be used in a subsequent formal complaint proceeding about the same allegations.

Between June 2022 and April 2023, Yale successfully facilitated two alternative resolutions in student/student sexual misconduct cases. In each case, the parties were able to identify and agree on a set of outcomes thereby avoiding the toll of a full formal adjudicatory process. Here are a few observations from Yale's experience with alternative resolutions thus far:

- Parties are able to reach a resolution in a significantly shorter timeframe, i.e., approximately two to four weeks for the alternative process versus approximately four to six months for the formal process;
- Parties are electing to pursue an alternative resolution at different stages of the formal complaint process, e.g., prior to or following the release of the investigation report;
- In addition to describing what happened, parties are able to meaningfully reflect on and respond to restorative questions posed by the facilitator (for more detail on this aspect of the process, please see below for contact at Yale);
- It is important to have trained facilitators conduct the alternative resolution process. It is also helpful to have the facilitators take the time to build rapport and trust with each of the parties, to encourage full participation by the parties in the process.
- Crafting reparative measures calls for the active involvement of both parties. Reparative measures may include among other things, a statement of responsibility and/or remorse, a written or oral apology, the offering of an impact statement and the acknowledgement of impact, voluntary recusal from courses or activities, conduct awareness training, no-contact agreements, etc. Shaping reparative measures is an empowering act and can be transformative for parties.

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## **Plans for evaluation**

In the coming year, the UWC plans to begin researching and developing quantitative and qualitative evaluative measures and instruments for this work.

## **Next steps for the work**

In Fall Term 2023, the university plans to offer more extensive training to TIX Coordinators, SHARE Center staff, Office of Gender and Campus Culture staff and the Yale Police Sensitive Crimes Unit in the UWC's alternative resolution process. The university also plans to train additional staff members to serve as alternative resolution facilitators.

**Website for further information (if applicable):** <https://uwc.yale.edu/>

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