

ADAPTABLE RESOLUTION GUIDE

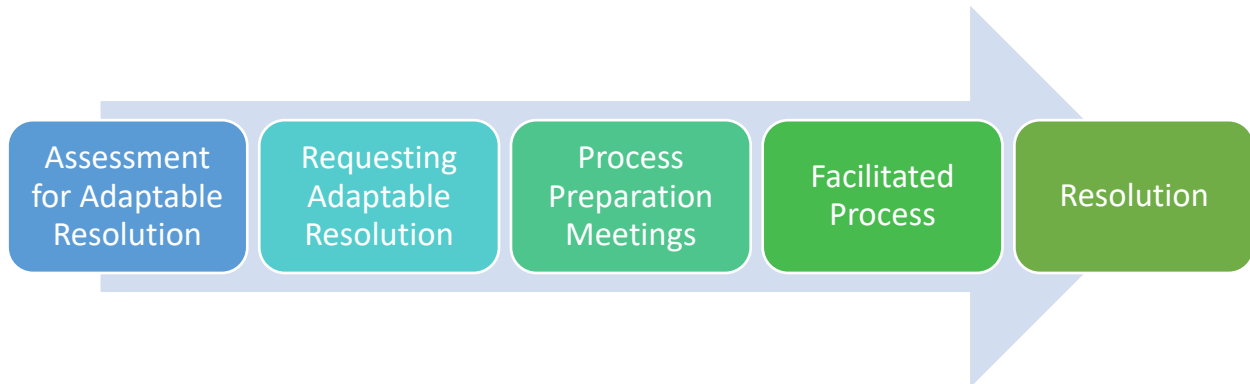


Table of Contents

<i>ASSESSMENT FOR ADAPTABLE RESOLUTION</i>	2
IDHR Initial Assessment of Formal Complaints.....	2
Assessment for Adaptable Resolution.....	2
<i>REQUESTING ADAPTABLE RESOLUTION</i>	3
Initial Meeting with Requesting Party	3
Invitation to Participate in Adaptable Resolution	3
AR Invitation Informational Meeting.....	4
<i>PROCESS PREPARATION MEETINGS</i>	5
Initial Process Meetings.....	5
Process Preparation Meetings.....	5
AR Time and Scheduling	5
<i>FACILITATED PROCESS</i>	6
Types of Adaptable Resolution Processes.....	6
Indirect or Direct Adaptable Resolution	7
Process Scheduling and Time	8
Recordings	8
<i>RESOLUTION</i>	8
Terminating the Adaptable Resolution Process	8
Failure to Reach a Final Resolution	8
Final Resolution Agreements	9
Failure to Complete Terms of Final Resolution Agreement.....	9

ASSESSMENT FOR ADAPTABLE RESOLUTION

IDHR Initial Assessment of Formal Complaints → Assessment for Adaptable Resolution

IDHR Initial Assessment of Formal Complaints

All formal complaints to the Institute Discrimination Harassment Office (IDHR) must pass through the Initial Assessment process to determine if they can move forward to a formal resolution pathway in IDHR. If the complaint has passed initial assessment for a IDHR formal complaint and is determined by IDHR's Resolution Team to be viable for Adaptable Resolution (AR), a party may choose AR as a resolution pathway.

Assessment for Adaptable Resolution

IDHR prioritizes the wishes of the complainant in determining whether a case is viable for Adaptable Resolution. There are several additional factors that we consider at the on-set and throughout the span of the case to determine whether Adaptable Resolution is appropriate, including, but not limited to:

- **Severity and nature of the allegations.** Does the nature and/or severity of the allegations warrant investigation and/or possible disciplinary outcomes?
- **Parties' goals.** Do the parties' goals align with the process goals and possible outcomes?
- **Personal capacity.** Do the parties have the capacity to be a present, active, and collaborative participant in making timely, clear, and productive decisions?
- **Conflict of interest.** Are there conflicts of interest that would interfere with the parties' full participation in the process? [For example, the facilitator may be working with one of the parties in a collaborative or supervisory role.]
- **Resource allocation.** Are the resources available to facilitate the process with fairness and integrity?
- **Power dynamics.** Does the relationship between the parties involve a power imbalance that would impact the process?
- **Risk assessment.** Would an attempt at adaptable resolution potentially cause more harm?
- **Disciplinary history.** Does the responding party have a disciplinary history related to the alleged conduct?
- **Voluntary.** Are all parties participating willingly and uncoerced?
- **Mutual.** Do all parties agree to the clearly defined terms of engagement, participants, and all other key process elements?

- **Good-faith participation.** Are all parties participating meaningfully with a good-faith commitment to the process goals and agreements?
- **Timely and responsive participation.** Are the parties active participants in the process, meeting agreed upon timelines, and providing clear and responsive communication?
- **Additional relevant information.** Is there any new information pertinent to the complaint, process, or possible outcomes that require re-evaluation of the conditions for adaptable resolution?
- **Compliance.** Is Adaptable Resolution for the case permitted under applicable MIT policy or law? For example, under Title IX regulations, Adaptable Resolution is not available to resolve a Title IX Sexual Harassment complaint by a student against staff/faculty member.

REQUESTING ADAPTABLE RESOLUTION

Initial Meeting with Requesting Party → Invitation to Participate → AR Invitation Informational Meeting

Initial Meeting with Requesting Party

Either the impacted party or the responding party can request Adaptable Resolution. When a party requests adaptable resolution, the first step will be to meet with a facilitator from the Adaptable Resolution Team to discuss:

- Interests and motivations for adaptable resolution;
- Goals for the process, including key issues and concerns to be resolved;
- Party expectations and needs regarding process options;
 - o Desired engagement (in-direct/shuttle, direct)
 - o Capacity for engagement (mental/physical health and wellbeing, time, and availability)
 - o Potential participants
- Concerns about participation; and
- Invitation to the other party and next steps.

Invitation to Participate in Adaptable Resolution

The facilitator will send an email invitation to the other party to resolve the formal complaint through the adaptable resolution process. The email will generally contain:

- Name of person requesting the process;
- General description of the concerns/allegations to be resolved via adaptable resolution;

- Request to meet with the AR facilitator to discuss the invitation and overview of the adaptable resolution process; and
- Requested timeline for a response
 - o **Note on response time to a request for AR.** *As adaptable resolution is a voluntary, mutual, and non-disciplinary process, the facilitator will generally work with the requesting party as to the timeline for a response to an invitation for adaptable resolution. However, timely and responsive participation are required process elements and a lack of timely and declarative responses to communications from the AR facilitator or designee may lead to a determination that the complaint is not viable for adaptable resolution.*

AR Invitation Informational Meeting

If the party receiving the invitation is open to resolving the complaint through adaptable resolution, they will first meet with the AR facilitator to:

- Provide a high-level overview of the requesting party's invitation, including the concerns which they hope to resolve and their process goals;
- Provide an overview of the AR process, including confidentiality, expectations and the participation agreement;
- Inform participants of their rights and responsibilities; and
- Address any questions or concerns the party may have regarding the process.

In the AR Invitation Informational Meeting, a party may:

1. Agree to move forward with AR
 - The next step would be to schedule the "Initial Process Meeting."
2. Ask for time to consider the request
 - The party is generally asked to respond within one week; however, consideration is given for the length allowed for deliberation by the party requesting the process and the AR facilitator, who will make the final determination.
3. Decline participation in the adaptable resolution process
 - If the party declines to participate in the AR process, the complaint may proceed with the investigation process or be withdrawn by the complainant.
 - Parties can revisit a request for AR until there is a final investigation report or the AR facilitator has deemed a complaint not viable for AR.

Note: As AR is voluntary, a party is not required nor can be compelled to participate in the process. However, the investigation and adjudication process is disciplinary and can proceed without a respondent's participation or consent. MIT will only move forward with a formal complainant against a complainant's wishes in very limited circumstances. In those instances, actions would not be taken without the complainant's knowledge or considerations for their safety.

PROCESS PREPARATION MEETINGS

Initial Process Meetings → Process Preparation Meetings → AR Time and Scheduling

Initial Process Meetings

Once the parties have agreed to participate in the Adaptable Resolution process, the initial process meetings are scheduled to begin to structure the resolution process. The first meeting is scheduled with the impacted party with the following goals:

- Review and sign the <Participation Agreement>
- Explore narrative and concerns
 - o Highlight possible tensions or conflicts in party perspectives, as well as shared understandings
- Assessment for safety, party needs, and continued viability of the process
 - o Potential participants and how they can support resolution
 - o Type of AR process that could support resolution
 - o Preferred engagement (in-person, zoom, shuttle, etc.)
- Negotiable/non-negotiable process needs, and conditions for consideration
- Schedule follow-up sessions

Process Preparation Meetings

Once all potential participants had their initial meeting with the facilitator and are deemed appropriate for participation, the impacted and responding parties will work with the facilitator to agree to the final list of participants.

The facilitator will shuttle information indirectly through parties to help support the creation of mutual process terms (type of AR, topics for discussion, scheduling, discussion guidelines, etc). The facilitator will clarify with the parties as to what information can and should be shared at this stage, in order to move the process forward.

AR Time and Scheduling

As AR is a dialogue-driven process, and not primarily a fact-gathering process, the time from initiation to resolution varies.

Some of the factors that affect the length and time of the AR process include:

- Type of adaptable resolution process
- Responsiveness of parties
- Number of participants

- Complexity of concerns
- Availability of participants and IDHR facilitator
- Institute and holiday calendar

Tentative scheduling of the process meetings should happen once both the impacted party and the responding party have agreed to the adaptable resolution process. This will help give parties a general sense of time to potentially resolve the concerns.

As a party's decisions regarding the process options and their availability effect the scheduling, the facilitator will work to keep parties informed and negotiate timeline and deadlines. The facilitator may choose to end AR if they believe that either party is intentionally delaying the process or in the event the process is unreasonably delayed.

FACILITATED PROCESS

Types of Adaptable Resolution → Indirect or Direct Adaptable Resolution → Process Scheduling and Time → Recordings

Types of Adaptable Resolution Processes

IDHR offers three core types of Adaptable Resolution processes that provide meaningful, supported, and structured dialogue (direct or indirect):

- **Negotiated Agreement**
Parties work independently through the facilitator to discuss experiences, perspectives, impacts, and needs in order to identify actions that support a mutually agreed upon resolution.

Negotiated agreements can be most useful when parties feel they have exhausted the conversation regarding the concerns and are focused on outcomes moving forward. Negotiated agreements are usually conducted through a shuttle process and do not require the parties to meet directly.

- **Mediation/Facilitated Restorative Dialogue**
Mediation/facilitated restorative dialogue is a process in which parties work to resolve their conflict through the assistance of a facilitator. The mediator supports parties in identifying conflicting issues, interests and finding a mutually agreeable resolution forward. Depending on the stated interest, a resolution agreement with additional action items may not be required to close the process.

Mediation/Facilitated restorative dialogue can be most useful in circumstances when there may be mutual concerns underlying the complaint and/or a need for dialogue to increase understanding and clarity before agreeing to a resolution.

- **Restorative Justice Conferencing**

Restorative justice conferencing is a structured facilitated dialogue where the person alleged to be responsible for causing harm can meet with the impacted party as well as other impacted community members to work on mutual understanding, acknowledgement and (to the extent possible) repairing the harm.

Restorative conferencing can be most useful in situations where the harm is clearly defined, and the responding party is looking to engage directly with the impacted individuals and community to make amends.

Indirect or Direct Adaptable Resolution

These three processes offer the general guiding frameworks through which facilitators can work with parties to achieve a resolution to their concerns. Parties can work with the facilitator to adapt and customize aspects of each process to meet their mutual needs, including the option of proceeding directly or indirectly.

If the parties have agreed to have a ‘face-to-face’ meeting (direct AR process) to discuss the concerns (mediation, facilitated restorative dialogue, restorative conference) the facilitator will work with parties to construct a process that meets their mutual needs.

There are several possible options for in-direct engagement including zoom/video conferencing, video or written exchanges (including impact and accountability statements) and, in some circumstances, participation by proxy, in which a designated individual can serve to represent you in a directly facilitated process.

If the parties have agreed to a shuttle mediation or negotiated agreement, the process preparation meetings serve as the forum to shuttle information in an effort to create a final resolution agreement.

Process Scheduling and Time

We typically set a minimum of four hours for any direct dialogue process. The number of participants and complexity of the concerns can increase the time. Parties may attempt to complete the process in one meeting or schedule a series of structured meetings that will allow for adequate time to discuss the concerns, build mutual understanding, and agree to a final resolution. Parties will work with the facilitator to determine the best structure and scheduling of the time for the process.

Recordings

Please note that recordings of any kind are prohibited. Participants may take notes during the dialogue process in order to facilitate their participation in the process. You will be asked to leave behind/destroy any notes you gather during the process. Participants are prohibited from video/audio recording any meetings and conversations a part of the adaptable resolution process.

RESOLUTION

Terminating the Adaptable Resolution Process → Failure to Reach a Final Resolution → Final Resolution Agreements → Failure to Complete Terms of Final Resolution Agreement

Terminating the Adaptable Resolution Process

As Adaptable Resolution is a voluntary process, any party can withdraw at any time by informing the process facilitator.

The facilitator may also be privy to information that impacts the assessment for viability for the Adaptable Resolution process. Because of privacy and confidentiality of the resolution process, the impacted and responding parties may not receive full details regarding the factors that prevent the Adaptable Resolution process from moving forward/continuing but will usually be informed of the general considerations.

Failure to Reach a Final Resolution

If parties fail to reach a final agreement, the impacted party has several options:

1. Pursue their formal complaint through the Investigation Process;
2. Speak with a member of the Case Management Team about options for supportive measures and informal remedies (mutual no-contact orders; educational conversation with respondent, academic/residential accommodations etc.); or

2. Withdraw the complaint, with the option to pursue at future date, subject to the responding party's active affiliation with MIT.

While timely resolution of a complaint is ideal, there is no statute of limitations. A formal complaint may be re-filed as long as the responding party remains a community member of MIT (student, staff, faculty, and some alum). Delays in filing a complaint, however, may limit IDHR's ability to investigate or address the concerns.

Final Resolution Agreements

Facilitators will work with participants throughout the process to create mutual understandings as to what would address the identified and/or acknowledged harms. The resolution agreement should meet 'SMART' criteria with action items and outcomes being specific, measurable, achievable, relevant, and time bound.

The resolution agreement is documented by the facilitator and signed by the parties.

Types of measures that may be included in a Final Resolution Agreement:

- Acknowledgement and/or apology;
- Educational plan for one or more parties;
- Regular meetings with an appropriate Institute individual, unit, or resource;
- Collaborative initiative/project between parties;
- Permanent extension of a mutual no contact order;
- Withdrawing from participation in specific clubs and/or organizations, events, etc.; and/or
- Counseling sessions.

The resolution agreement will remain on file with IDHR and will be monitored by the Manager of Adaptable Resolution. The signing of the Final Resolution Agreement closes the official formal complaint process with IDHR. A final copy of all Resolution Agreements signed by responsible parties who are students, will be shared with the Office of Student Conduct and Community Standards as documentation of resolution to the complaint.

Failure to Complete Terms of Final Resolution Agreement

The Manager of Adaptable Resolution works with the responding party to meet the terms of the agreement. If the Manager has determined the responding party has not completed the terms of the agreement, the party may be put on registration hold (for students) and/or referred for disciplinary action to the Office of Student Conduct and Community Standards, Human Resources, or the responding party's department, lab, or center manager.