

# NEGOTIATED RESOLUTION FAQ.

*Swarthmore College  
Office of Diversity, Equity, And Inclusion*

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## 1 What is a Negotiated Resolution?

A Negotiated Resolution is a pathway to resolve allegations of discrimination, harassment, retaliation or other related conduct of concern that allows both or all parties to propose and negotiate interventions for restoration, education, mediation or accountability.

## 2 What are the steps of reaching a Negotiated Resolution Agreement?

There are two options for reaching an agreement: direct negotiation and shuttle negotiation. Direct negotiation involves the Complainant and Respondent coming together to draft a final Agreement. In a shuttle negotiation, the Complainant will meet with the Equal Opportunity Officer to draft an agreement. This draft will then be shared by the Equal Opportunity Officer with the Respondent in a separate meeting to review, discuss, and provide feedback which will then be shared back to the Complainant. This process will repeat until an agreement is reached or it becomes clear that the parties are at an impasse. Which type of negotiation will be used will be at the discretion of the Equal Opportunity Officer.

## 3 When is Negotiated Resolution appropriate?

Negotiated Resolution is especially useful when allegations implicate College offices, policies, processes or protocols, a formal investigation is not likely to lead to a resolution, when both parties prefer an informal process, and/or cases involve allegations that may be able to be resolved faster than conducting a full formal investigation because they are less serious and/or less complex.

## 4 Do I have to participate?

While it may sometime be the only or most appropriate available option for resolution, participation on the part of all parties is nearly always voluntary. The goal of the process is to create a Negotiated Resolution Agreement that all involved parties understand, both in content but also in value.

## 5 Are interventions in a Negotiated Resolution the same as sanctions?

Negotiated Resolution Interventions are slightly different than sanctions. The most key difference being that these interventions are both negotiated and agreed upon by all parties, including the Respondent, rather than imposed. In addition, Negotiated Resolution Agreement interventions are not recorded in individual conduct or employment records. However, once a Negotiated Resolution Agreement is signed by the Complainant, Respondent and the College, the interventions become binding and must be adhered to - the same as sanction expectations

## 6 Is a Negotiated Resolution as serious/good/effective as a formal investigations or other types of resolutions?

Negotiated Resolution is as effective as all other types of resolution pathways, provided it is the most appropriate. Just because a party opts for Negotiated Resolution or because Negotiated Resolution is recommended by the College, it does not mean that the issue at hand is any less serious or complex.

## 7 What happens if we can't reach an agreement through this process?

If parties cannot reach an agreement, the proposal with items marked as “agreed upon” and “disagreed upon” will be presented to the Bias Incident Response Team. They will then make a decision whether to mandate any interventions that are disagreed upon *and* educational in nature. Other types of interventions cannot be mandated.