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Measures that Matter: Navigating Supportive Measures from Initial Report Through Resolution

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Agenda

- Review of Supportive Measures
  - Definition
  - Examples
  - Implementation
- Scenario 1 - Supportive Measures During an Investigation
- Scenario 2 - Supportive Measures Without an Investigation
- Key Takeaways
- Q&A

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Supportive Measures - Definition

- Supportive measures mean **non-disciplinary, non-punitive** individualized services offered as appropriate, as **reasonably available**, and **without fee or charge** to the complainant or the respondent **before or after the filing of a formal complaint** or **where no formal complaint has been filed**. Such measures are designed to restore or **preserve equal access** to the recipient's education program or activity **without unreasonably burdening** the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment.

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Supportive Measures - Definition (Cont.)

- Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.
- The recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. **The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.**
- See: 34 C.F.R. 106.30(a) (emphasis added)

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Supportive Measures - Examples

Academic Accommodations

- Deadline extensions
- Remote or alternative testing
- Class schedule changes
- Leaves of absences

Housing and Workplace

- Housing relocation – room, floor, building
- Work schedule modification
- Workstation reassignment

Safety and Communications

- Mutual No Contact Directive
- Campus escort services
- Increased security patrols

Counseling and Health Support

- Access to mental health counseling
- Referrals to confidential victim advocates

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Supportive Measures - Implementation

- Who are your campus partners?
  - Housing
  - Parking
  - Transportation
  - Academic Partners – Academic advisors, Associate Deans, Faculty, Program Directors
  - Counseling and Medical service providers
  - Campus Safety/BIT teams
  - Dean of Students/Student Affairs
- What should you consider when interacting with campus partners?

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Scenario 1

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Scenario 1 – Cousins Beach University

You are the Title IX Coordinator at Cousins Beach University (CBU). You receive a Responsible Employee report via email from the Student Housing Director, Perry Vaughn. Perry wrote:

Good afternoon,

A few minutes ago, I met with student Oscar Herrera. Oscar shared that he was sexually assaulted by his roommate and fellow student, Dennis Martin. Oscar shared that he wants to move out but wants to move next weekend because Dennis is scheduled to be off campus. Oscar further shared that he and Dennis are in a dating relationship, and Dennis does not know that anything is wrong. Oscar said that everything is friendly and business-as-usual for now. Oscar shared that he does not feel unsafe around Dennis but does not want to live with him any longer. Oscar also shared that Dennis will be upset when Oscar moves out, and Oscar does not want to have to face Dennis or speak to him about why he is moving. I am currently working on the housing transfer request, but I wanted to alert you as soon as possible.

What Should You Do?

NEXT STEPS

- Create a new matter in your case management system
- Send an Acknowledgment of receipt of the report to Perry and ask him to keep you updated about Oscar's move, any new information learned, and not to investigate
- Send outreach to Oscar with information about supportive resources, the policy and resolution option, and offer an intake meeting
- If/when Oscar responds, conduct the intake meeting

DOCUMENTATION

- Add your email chain with Perry to the case management system file
- If your outreach to Oscar is not automatically stored in your case management system, upload the outreach email

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Scenario 1 – Cousins Beach University (Meeting Summary)

INTAKE MEETING SUMMARY

- Both Oscar and Dennis are sophomores.
- Oscar and Dennis have been roommates and best friends since freshman year
- Oscar and Dennis have engaged in consensual sexual activity off and on since freshman year, but the two started dating over the summer.
- Oscar stated that Dennis sexually assaulted him last week when the two came home after a night of drinking.
- Oscar reported that he was “definitely” intoxicated, and believes Dennis was intoxicated too.
- Oscar stated he recalls telling Dennis that he did not want to “do anything” that night and then “passed out” and did not wake up until the morning.
- The next morning, Dennis was still sleeping when Oscar woke up. Oscar said he knew the moment he woke up that he had been sexually assaulted.

Scenario 1 – Cousins Beach University (Meeting Summary Cont.)

INTAKE MEETING SUMMARY (CONT.)

- Oscar reported that he was upset but got up quickly and left the residence and did not return until the evening.
- The next day, Oscar went to the housing office to request a room transfer.
- Dennis does not know that Oscar made a request to move.
- Oscar and Dennis have related majors and have two classes together this semester and one lab. Oscar wants to change to different sections.
- Oscar does not want to speak to Dennis ever again after he moves out.
- Oscar does not want Dennis to try and contact him.
- Oscar does not feel unsafe around Dennis, but he no longer wants to be in a relationship with Dennis, nor to be friends or roommates with Dennis
- Oscar emphasized that he does not want anything to change until after he moves out.

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What Should You Do After Intake?

NEXT STEPS

- Send a summary email to Oscar confirming his requests and let him know that you are available for further discussion about his resolution options after his move is complete.
- Send a follow up message to Perry to find out status of Oscar's move

DOCUMENTATION

- Summarize your intake notes in the case management system or upload after you have completed them.
- Document Oscar's supportive measures requests and make a note to follow up with him after his move is completed.
- Complete your assessment of Oscar's report and determine whether you have sufficient information to open an investigation.

Scenario 1 – Cousins Beach University (Days Later)

- A few days later Perry emails you to share that he has been able to secure new housing arrangements for Oscar and that he is scheduled to move this coming weekend.
- After you complete your initial assessment of the information, you determine that you have sufficient information to open an investigation, and you share this information with Oscar via email and ask him how he would like to proceed.

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Scenario 1 – Cousins Beach University (Week Later)

A week later you receive the following email from Perry:

Oscar Herrera completed his move, but I wanted to share information about a report I received from Resident Assistant, Trevor Workman, considering what I previously reported to you. Trevor is the RA on the floor where Dennis currently lives and where Oscar used to live. Trevor reported that Oscar successfully moved most of his personal items out of the dorm he shared with Dennis on Saturday but on Sunday morning when Oscar came to collect the remainder of his items, Dennis returned home before Oscar was able to leave the residence. Trevor explained he began receiving texts and calls from many students on the floor who reported shouting coming from Dennis and Oscar's unit. Trevor went to check it out and said that just as he knocked on the door, he heard a "yelp." Trevor explained that when Oscar opened the door, he saw Dennis rubbing his left shoulder. When Trevor asked what happened, Dennis said that his shoulder hit the wall when Oscar shoved him. Oscar denied shoving Dennis and said that Dennis fell back against the wall when he picked his box up from the floor because Dennis was standing too close. Trevor asked Dennis if he wanted to file a report, and Dennis declined. Oscar handed Trevor the key and left with his box.

What Should You Do Now?

NEXT STEPS

- Send acknowledgement to Perry and ask for a list of the students who filed noise complaints and the incident report, if any, that Trevor may have submitted.
- Send another follow up message to Oscar about next steps.
- Send outreach to Dennis with information about supportive resources and offer an intake meeting.
- If/when Dennis responds, conduct the intake meeting.

DOCUMENTATION

- Add your email chain with Perry to the case management system file.
- If your follow up message to Oscar is not automatically stored in your case management system, upload the email.
- If your outreach to Dennis is not automatically stored in your case management system, upload the outreach email.

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Scenario 1 – Cousins Beach University (Follow Up)

- You send follow up outreach to Oscar to check in and ask him if he knows how he would like proceed or if he needs any additional support. Oscar writes back immediately and says he wants to proceed with an investigation, is ready for his classes to be changed, and wants a no contact order against Perry.
- That same day, Dennis comes to your office and states that he wants to make a report. He shared that he had been to the Confidential Advocate's office and they encouraged him to make a report. While sobbing, Dennis shared:
- Dennis's boyfriend Oscar broke up with him, and he does not know why.
- Dennis came home early from visiting family to find Oscar "sneaking out" of their dorm with the last box of his stuff.

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Scenario 1 – Cousins Beach University (Follow Up, Cont.)

- When Dennis asked Oscar why he was moving out and Oscar said, “you know why.” Oscar told Dennis that Dennis was an awful person, that he never wanted to see or speak to him again, and that he “did not want to talk about this anymore.”
- Oscar shoved Dennis against the wall, which caused bruising on Dennis’ left shoulder.
- The RA Trevor came to the door and said that he had received noise complaints. Oscar said he was just leaving and left with his box. Dennis told Trevor what happened and when Trevor asked if he wanted to file a report, Dennis declined.
- Dennis said that he was very upset and cannot believe that this happened. He shared that Oscar had been emotionally abusive to him in the past, but this is the first time Oscar had ever been physical with him.

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What Should You Do? (Next Steps)

NEXT STEPS

- Provide Dennis with resources to connect with the student counseling center. Due to his current state, with his permission, you may contact the counseling center and set up an appointment for him and walk him there.
- Should you contact the confidential advocate who Dennis reported referred him to you?

DOCUMENTATION

- Document your offer of supportive measures and steps you took to provide implementation.
- Summarize your intake notes in the case management system or upload after you have completed them.
- Calendar a follow up message to discuss resolution options with Dennis.

Scenario 1 – Cousins Beach University (NOIA)

- An investigation is underway based on the allegation of sexual assault made by Oscar against Dennis.
- After receiving notice of the investigation, Dennis contacts you and says though he previously stated he did not want an investigation into his report of dating violence against Oscar, he now wants an investigation into Oscar's conduct of shoving him against the wall and for the emotional abuse he endured during their relationship for which he has been receiving counseling.
- You are in the process of drafting amended notices to include the claims made by Dennis against Oscar. The following support measures are in place:
- Oscar received academic accommodation to switch two classes and one lab to different sections.
- Mutual no contact orders; Counseling support for Dennis.

Scenario 1 – Cousins Beach University (Course Request)

One night Dennis sent you the following message:

I am sorry for the late email, but I am up because I cannot sleep. I am very stressed out because I have missed classes for the past week and I have midterms starting next week. I need help with extensions to take the midterms and am requesting to move to a different section of the classes I am taking. I am hoping to take classes later in the day because I cannot make the morning classes because I cannot sleep at night.

- You receive Dennis's message in the morning and, after checking the course schedule, realize the only courses that meet Dennis's requests are those that Oscar switched into, and none of the professors who teach these courses offer recorded lectures for asynchronous learning.

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What Should You Do? (Supportive Measures)

NEXT STEPS

- Contact the department administrator(s) to obtain any additional information about course offerings and review discussion alternatives.
- Arrange extensions for Dennis's midterms.
- Set up a meeting with Dennis to discuss his options.
- Contact Dennis to let him know the options for continuing his courses this term.
- Should you contact Oscar?

DOCUMENTATION

- Ensure that Dennis's email is added to the case management system and make a note of Dennis's requested supportive measures.
- Add your research regarding the course schedule to the case management system.
- Add case notes regarding the discussion with the department administrator regarding Dennis's mid-term extensions.
- Document any discussion with Dennis and/or Oscar in case notes.

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Scenario 1 – Cousins Beach University (Witness)

- A potential witness to the investigation emails you after she receives a request for an interview from the investigator.
- The potential witness explained she was impacted by having overheard the argument between Oscar and Dennis the day Oscar moved out of the dorm because she had been in an abusive relationship in the past. Her anxiety has increased since that time and she cannot participate in the investigation because of this.

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What Should You Do? (Witnesses)

NEXT STEPS

- Should you offer supportive measures to the potential witness?
- What should be offered to her?
- Is counseling available to her?
- Should she be referred anywhere else?
- Should we encourage her to participate in the investigation?
- Can you insist that she participate in the investigation?

DOCUMENTATION

- Ensure that the potential witness's email and any response are placed in the case management system.
- Create a new case in the case management system for the potential witness' allegations of an abusive relationship.
- Document any offered or requested supportive measures and if they were accepted.

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Scenario 1 – Cousins Beach University (Party Requests)

- At the end of the investigation, there was insufficient information to find that either Dennis or Oscar engaged in behavior that amounted to a policy violation.
- Both parties are unhappy with the results but accept them, and have made the following requests:
- Oscar wants no contact with Dennis and wants the order to remain in place for the remainder of Oscar's time on campus.
- Dennis intends to only enroll in afternoon classes going forward and would like for Oscar to be restricted from being able to enroll in the same classes.

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What Should You Do? (Party Requests)

NEXT STEPS

- Confirm with both parties that their requested options are under consideration
- Check with the department administrator and/or each party's academic advisor to determine if course schedule coordination is possible
- Meet with Oscar to confirm that the no contact order will be mutual not unilateral and to determine if he will agree not to take afternoon/evening courses that both he and Dennis are interested in taking, if there is an earlier option.
- Meet with Dennis to confirm that a mutual no contact order will stay in place and whether Oscar agree not to take afternoon/evening course when available.

DOCUMENTATION

- Ensure that both parties' requests are captured in the case management system.
- Capture any notes from discussions with campus partners.
- Add any notes from discussions with the parties.
- Document the final measures that are put in place along with correspondence to and from the parties regarding the same.

Scenario 2

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Scenario 2 – Cousins Beach University (1)

- You are the Title IX Coordinator at Cousins Beach University (CBU). You receive an email from Susannah, the CBU confidential advocate, asking to schedule a meeting ASAP with you. Susannah writes,

  Hi Laurel,

  I just had a student drop into my office. They want to meet with Title IX. Can we come over now? She's needing support and I want to connect her with you ASAP.

  Thanks,

  Susannah

- You send over a quick Teams message and give your availability for the afternoon. You also ask for the student's name but Susannah declines to provide that information, writing, "She's not ready to give you her name. Maybe she will after she meets with you. I don't have a release and cannot share anything with you." You schedule the appointment for 2 pm at the Title IX office.

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Scenario 2 – Cousins Beach University(2)

- At 2 pm, Susannah and an unnamed student arrive at the Title IX office. You welcome them into your office, offer some water or tea, and begin the intake meeting by explaining your office and the Title IX process. The student does not identify herself and tells you,

  Something happened a few weeks ago. I don't really want to go into it. I'm not sure what I want the University to know and I don't know what I want to do. All I know is that I'm scared to go to class. I'm scared to go to my lab. I see the person who did this everywhere I go – my apartment complex, the gym, the library, the lab – and that needs to stop. It's not fair that I have to see them. I don't feel safe.

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Scenario 2 – Cousins Beach University (3)

- You explain that it's fine that she doesn't know what she wants and she can choose what she shares with you. You go over the availability of supportive measures and resolution options. You highlight academic accommodations, safety measures, and mutual no contact directives. You explain that the Title IX office can offer supportive measures without initiating an investigation and she does not have to make any decision today but if she wants to engage and share more, we can work to put the right supportive measures in place. The student declines any supportive measures and you tell her that you can follow up with all of this information in writing if she'd like to think about what would help. You also share that she can talk with Susannah about these options as Susannah is confidential. The student agrees to provide her name, Belly, and her email address.

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What Should you do? (1)

Next Steps

- Follow-up with outreach
  - Policy
  - Resources
- If no response, consider additional outreach attempts
- Assess for any safety risks
  - Do you add Belly to your “students of concern” or otherwise connect with BIT?

Documentation

- Make a case in your case management system to document the initial report
- Include your emails and teams message with Confidential Advocate
- Document your intake meeting
- Send outreach email and resources to Belly
- Follow-up with additional outreach attempts
- Document safety assessment

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Scenario 2 – Cousins Beach University (4)

- After the meeting, you send a follow-up email to Belly with information about CBU's policies, resolution options, and resources.
- You do not receive a response from Belly, so after 5 days you send another follow-up email.
- After 7 more days, you still have not heard from Belly. You write to Belly reiterating the available resources and inform her that you are going to close this matter but that she can reopen it at any time.
- You document your meeting notes and emails in your case management system and close the case.

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What Should you do? (2)

Next Steps

- Consider whether you should attempt additional outreach through other means (e.g., phone, text, etc.)
- Send final outreach, including offer to reopen the case at any time
- Close matter in case management system

Documentation

- Save all of your outreach attempts in your case management system
- Add a note about your decision related to outreach attempts via other means
- Complete any closure documents in case management system

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Scenario 2 – Cousins Beach University (5)

- On January 4, the first day of spring semester, you receive an email from Belly.

  Hi Laurel –

  I'm sorry I didn't email you back. I just wasn't sure what I wanted to do and thought I could handle things on my own. But over the last semester, I've really struggled. We're in the same program and it just seems like he's everywhere. I think I need some support. Is it too late? I'm ready to tell you more but want to do in person with Susannah there as support. When can we meet?

  Belly

- You write back to Belly and explain it is not too late and you are happy to meet with her. You offer several times over the next few days and land on Friday at 1 pm at the Title IX office. Susannah agrees to join as confidential advocate.

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Scenario 2 – Cousins Beach University (6)

- Belly tells you more about what she experienced. She explains that during fall semester, she and Conrad attended an on-campus PhD candidate recruiting event. During the event, Belly said Conrad made a number of unwanted sexual advances towards her:
  - Conrad told her multiple times, “I see the stars in your eyes” and “Your hair glows like a celestial moon.”
  - He repeatedly said, “You should date me. We’d be the power Astronomy couple.”
  - Conrad brushed her hair off her shoulder and touched her neck on two occasions at the party while whispering something in her ear.
  - Conrad told the others in their cohort that he was going to “wife up” Belly and to back off.
  - He promised Belly an opportunity to work with him on his research if she would date him.
  - At the end of the night, Conrad cornered Belly, grabbed her butt and tried to kiss her. Belly turned her face away from him before he kissed her and walked away.

Scenario 2 – Cousins Beach University (7)

- After the event, Conrad left “love” notes throughout the lab for her, told other men in the cohort not to talk to her and said “hi wife” every time he saw her. Belly said she told her advisor, Adam, that Conrad made her uncomfortable but she never gave him any details about the conduct. She said Adam was generally supportive and offered her a space in a different part of the lab away from Conrad, but when she returned for Spring semester she noticed that Conrad’s workstation was in the new space right next to hers. Belly said she does not want an investigation but she wants to know about supportive measure options.

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Scenario 2 – Cousins Beach University (8)

- During your meeting with Belly, she tells you she wants support but she is not sure what she needs and shares the following information:
  - She and Conrad are both graduate students in the same small Astronomy PhD program.
  - While their specializations are different, they have:
    - one overlapping class this semester
    - workspaces in the same large lab area
    - frequently attend the same colloquium
    - will both be traveling to an important astronomy conference in Paris, France in May.
  - Some colloquium are required for Belly's program, and others she attends for professional development. The same is true for Conrad.
  - Both Belly and Conrad will be presenting their department's research at the May conference.

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What Should You Do? (3)

Next Steps

- What supportive measures may you want to discuss?
- Who do you need to contact for these potential supportive measures?
- What are some challenges you may have?
- How do you determine if there is an unreasonable burden?

Documentation

- Save your emails with Complainant, Confidential Advocate, and others in the case management system
- Write up notes from your meeting with Belly
- Contact necessary campus partners for information related to supportive measures
- Document what was offered/discussed for supportive measures
- Communicate the decision about supportive measures to parties

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Scenario 2 – Cousins Beach University (9)

- Belly asked for the following supportive measures:
    1. Mutual No Contact Directive between her and Conrad
    2. Move Conrad's workstation away from her so she doesn't see him
    3. Restrict Conrad from attending any colloquium
    4. Transfer out of the class that she and Conrad are both enrolled in
    5. Restrict Conrad from attending the Paris conference in May

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Scenario 2 – Cousins Beach University (10)

- After meeting with the Department chair and Belly's advisor, you learn the following information:
  - There is only one lab with the specialized astronomy equipment that both Belly and Conrad need for their PhD research.
  - Colloquium are open to all students in the Department and are seen as an opportunity to develop mentorship relationships and discuss research in adjacent disciplines. Attendance is voluntary for most but highly encouraged.
  - There are two sections of the class that Belly and Conrad are enrolled in. The section they are in is taught by a world-renowned astronomer and it is hard to get into. The other section is taught by a more junior faculty member. The classes are not offered at the same time.
  - Both Conrad and Belly had separate papers accepted by the Paris Conference. They are representing the department but not presenting the same paper.
  - Conrad and Belly do not need to collaborate for their projects or classwork.

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What Should You Do? (4)

Next Steps

- Can you issue a Mutual No Contact Directive?
  - Explain to Belly that Conrad will be informed of the NCD
- Who do you need to contact and what information do you need to implement supportive measures re:
  - The colloquium?
  - The lab?
  - The conference?
- What are some challenges you may have?
- How do you determine if there is an unreasonable burden?

Documentation

- Save your emails with Complainant, Confidential Advocate, and others in the case management system
- Write up notes from your meeting with Belly
- Contact necessary campus partners for information related to supportive measures
- Document what was offered/discussed for supportive measures
  - What was approved?
  - Was anything denied and why?
- Communicate the decision about supportive measures to parties

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Scenario 2 – Cousins Beach University (11)

- You issue a Mutual No Contact Directive to Belly and Conrad. When Conrad receives the Mutual No Contact Directive, he writes to you and asks to meet with you. You meet with Conrad the following morning.
- During your meeting with Conrad, you explain that the Title IX office received a report from Belly. While the Title IX Office has not initiated any investigation, you have put in place a Mutual No Contact Directive which limits both Belly and Conrad's ability to communicate with each other. You tell him that the NCD does not limit Conrad's ability to attend the class he shares with Belly, attend Colloquium where Belly is present, work in the lab when Belly is there, or otherwise restrict his educational program or activity. You offer Conrad supportive measures as well and ask if there is any support that he needs. Conrad asks for the following supportive measures:

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Scenario 2 – Cousins Beach University (12)

- Rescind the Mutual No Contact Directive
- Restrict Belly from attending any Colloquium where his research is being discussed or he is presenting.
- Access to parking closer to the lab so he can avoid seeing Belly
- On campus housing because he and Belly currently live in the same off-campus apartment.
- Restrict Belly from the lab whenever he needs to use the astronomy equipment for his research.

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What Should You Do? (5)

Next Steps

- Should you rescind the Mutual No Contact Directive?
- Can you restrict attendance at the colloquium?
- Should you restrict lab access for either party?
- How do you respond to the request for housing?
- What are some challenges you may have?
- How do you determine if there is an unreasonable burden?

Documentation

- Save your emails with Conrad and others in the case management system
- Write up notes from your conversation with Conrad
- Contact necessary campus partners for information related to supportive measures
- Document what was offered/discussed for supportive measures
  - What was approved?
  - Was anything denied and why?
- Communicate the decision about supportive measures to parties

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Key Takeaways

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Key Takeaways (1)

- Document all requests and offers of supportive measures and implementation efforts.
- Engage with campus partners to find creative solutions to requests.
- Carefully consider the request and whether the supportive measure would unreasonably burden the other party.
- Keep in mind that BOTH complainants and respondents are entitled to supportive measures. Make sure your processes treat each equitably.
- Remember that witnesses may also be impacted by conduct and should be offered supportive measures.

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Questions?