

ALTERNATIVE RESOLUTION PRACTICES IN RESPONSE TO GENDER-BASED MISCONDUCT: PART 2

Roger Williams University
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RK Resolution


1

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2



Rachel King, Ph.D.
(she, her)

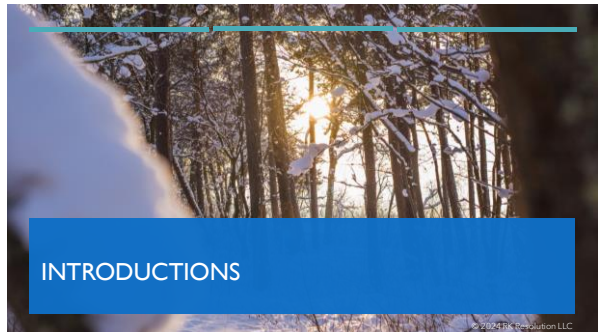
Restorative Justice Practitioner

Higher Education Background

- Title IX
- Bias Incident Response
- Behavioral Intervention
- Student Conduct

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INTRODUCTIONS

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AGENDA

| | |
|-------------------------------|-----------------------------|
| Principles revisited | Scenarios, Case Study |
| The Intake | Facilitation Consideration |
| Resolution Agreement Items | Records and Agreement Terms |
| Implementation Considerations | Q & A |

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TRAINING: RESTORATIVE PRACTICES IN ACTION

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ASKING QUESTIONS: OUR PROCESSES

- What does it feel like to go through our process?
- What are the needs of complainants and respondents?
- Does the community have a role?
- Why do victims not report?
- Why do responsible parties often not accept responsibility?

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Spectrum of Resolution Options (Schrage & Thompson, 2008)

The spectrum includes: No Conflict Management, Dialogue/Debate/Discussion, Conflict Coaching, Facilitated Dialogue, Mediation, Restorative Practices, Shuttle Diplomacy, Adjudication (Informal), and Adjudication (Formal Hearing). A circle highlights the middle three options: Facilitated Dialogue, Mediation, and Restorative Practices.

Reframing Campus Conflict: Student Conduct Practice Through the Lens of Inclusive Excellence (Ed. Edition)
Schrage, J.M. & Giacomini, N.G., 2020

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MEDIATION

- Impartial third-party facilitator
- Specialized training
- Structured, participatory process
- Voluntary
- Private / Confidential
- Role identification not a requirement

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RESTORATIVE WAY OF THINKING

- What is the harm?
- What needs to be done to repair the harm?
- Who is responsible for this repair?

Adapted from H. Zehr (2002)

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RESTORATIVE TRIANGLE

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- Variations in process and purpose
- Indigenous practices
- Set of principles and values

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5 R's OF RESTORATIVE PRACTICE

- Relationship
- Respect
- Responsibility
- Repair
- Reintegration

B. Title (2011)

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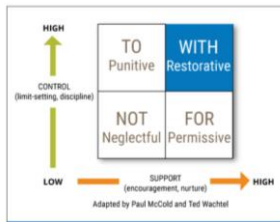
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RESTORATIVE APPROACH

- Relational
- Addresses harms, needs and obligations
- Collaborative
- Equal concern for harmed and responsible parties

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SOCIAL DISCIPLINE WINDOW

Adapted by Paul McCold and Ted Wachtel

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NEEDS — HARMED PARTIES

- Sense of safety
- Validation
- For impact to be heard
- Deeper understanding of what transpired
- Accountability
- Enhanced confidence the behavior will not recur

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EQUAL CONCERN ~ RESPONSIBLE PARTIES

- Acceptance of responsibility
- Voicing the harm
- Addressing causes*
- Reintegration

- Harm to others
- And self-harm
- Damage to relationships
- Destroyed trust
- Lost opportunities

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- How can we increase opportunities for HP involvement in defining harm and potential repair?
- How can we increase RP awareness of impact on the victim?
- How can we encourage HP acknowledgment of wrongness of their behavior?
- How can we involve the RP in repairing the harm?
- How can we acknowledge HP harm and confirm that the victim is not responsible for what happened?
- How can the community send messages of disapproval of the behavior while not banishing RP?
- How can the community provide opportunities for the RP to repair the harm?
- How can the community be involved in the process of holding RPs accountable?
- How can the community be supportive of HPs and help meet their needs?

RESTORATIVE JUSTICE ASKS...

(Adapted from Pranis, 1997)

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THE ROLE OF COMMUNITY

- Who is impacted and how?
- What are the needs?
- Whose obligation is the repair?
- How does community support the person harmed?
- How does community support the person responsible?

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SCENARIO: THE PHOTO

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Sohum hooked up with Max a few times last year. While they were together, he sent a few photos to him of himself partially nude, at Max's request. This year, back on campus from winter break, the picture seems to have surfaced and has been texted around to large groups of students and reportedly posted on social media, but when he hears about it, he is not able to find anything online.

Sohum has had numerous people ask him if he knows about the photo and feels like everyone is talking about him when he is out around campus. He hasn't been eating, because he isn't leaving his room much and went from loving school, where he is an education major, to missing classes and jeopardizing his ability to stay in the program. He knows some of the people who have shared the photo, but not all.

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ALTERNATIVE RESOLUTION PROCESS

Assessing Appropriateness

Harmed persons' willingness, availability

Responsible persons' willingness, availability

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ROLES

- Facilitator
- Co-facilitator
- Community Members
- Harmed Party
- Responsible Party
- Support Persons
- Other Involved Parties (law enforcement, responding staff member)

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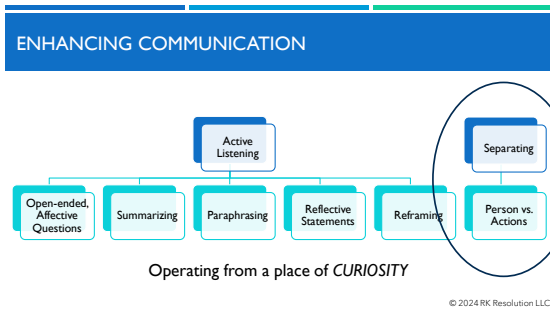
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TIPS FOR FACILITATION

- Active Listening Strategies
- Responsible Parties
- Harmed Parties
- Creating Effective Restorative Agreements

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GOOD QUESTION!

- Dig deeper
- Invite storytelling
- Get at what matters
- Try to understand underlying needs
- Open-ended

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- Getting the story
- Follow-up questions
- Strategies if not fully accepting responsibility
- Thank for contributions

RESPONSIBLE PARTIES

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When challenging behavior:

- What happened?
- What were you thinking of at the time?
- What have you thought about since?
- Who has been affected by what you have done?
- In what way have they been affected?
- What do you think you need to do to make things right?

<https://www.ijp.edu/news/time-to-think-using-restorative-questions>

RESTORATIVE QUESTIONS

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HARMED PARTIES

- Encourage *Verbal and non-verbals*
- Paraphrase and Summarize
- Statements to avoid
- Cognizant of victim blaming

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To help those affected:

- What did you think when you realized what had happened?
- What impact has this incident had on you and others?
- What has been the hardest thing for you?
- What do you think needs to happen to make things right?

<https://www.ijp.edu/news/time-to-think-using-restorative-questions>

RESTORATIVE QUESTIONS

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SCENARIO: THE LAB

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Raul and Althea are both working in Dr. Johnson's lab. Raul is a 5th year doctoral student and Althea is in her first year in the same program. The two have been working closely together throughout the year, as Dr. Johnson paired Raul with Althea as her mentor. They have hung out socially a few times, in a group, with the others working in the lab, and both have expressed some interest in each other, through flirting and kissing at a bar one time. After a couple months, Althea begins to feel more uncomfortable with Raul's overt sexual comments to her while they are at work, in part because she started dating someone who doesn't work at the university.

One afternoon, while they are alone in the lab, Raul started making comments about Althea performing oral sex on him. She tells him to stop and he does, but he seems annoyed, telling her he was just joking and walking out. Althea confides in another student who tells her that she should report his conduct. Althea feels anxiety about what to do, scared about what will happen if Raul finds out that she reported what occurred and worried that Dr. Johnson will find out. She is concerned that this will jeopardize her opportunities professionally, but doesn't know how she can continue to work beside Raul as if nothing happened. Reluctantly, she looks up the office responsible for meeting with students who feel they may have experienced harassment and schedules a meeting.

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ASSESSING "APPROPRIATENESS"

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ASSESSING "APPROPRIATENESS"

- Voluntary
- Degree of Consensus
- Complainant Needs
- Safety
- Risk of Revictimization

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ASSESSING "APPROPRIATENESS" CONT.

- Procedural Flexibility
- Institutional Openness
- Disciplinary Records
- Informal Resolution Records
- Process and Facilitation
- Attention to Intersectionality

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WHAT DO I NEED TO THINK THROUGH?

| | |
|-------------------------|--|
| Degree of Consensus | • Do the parties agree, by and large, about what occurred? |
| Voluntary | • Is there interest from both parties to address a matter through an informal resolution process? |
| Institutional Openness | • Are there restrictions, based in law, policy, or philosophy, that prohibit using restorative practices in particular situations? |
| Complainant Needs | • What would the impacted party like to achieve as a result of a resolution process? |
| Risk of Revictimization | • To what extent is the responsible party accepting responsibility and open to acknowledging the impact of their actions? |

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WHAT DO I NEED TO THINK THROUGH?

- Disciplinary Records**
 - Does the impacted party value the responsible person being found "in violation?"
- Safety**
 - Are there safety concerns or power dynamics that make a restorative response high-risk with respect to ensuring the impacted party and campus community's safety?
- Process & Facilitation**
 - Is a trained facilitator available?
- Culturally Conscious**
 - Are resolution options offered equitably?

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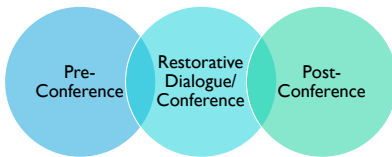
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INFORMED CONSENT

- Confidentiality
 - Administrative processes
 - Legal proceedings
- Mandated Reporting
- Facilitator Selection, Boundaries
- Record-keeping
- Waiving of any rights

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PRE-CONFERENCE

- Trust
- Support
- Transparency
- Preparation
- Goals
- Needs
- Not linear

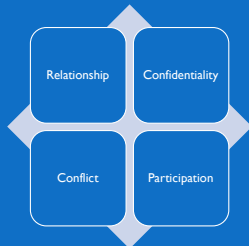


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SUPPORT PERSONS

- Friend
- Family
- Attorney
- Advocate



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RESTORATIVE AGREEMENTS

- Centering the harm
- Promoting healing
- Meaningful accountability
- Prioritizing safety planning
- Facilitating reintegration

- Logistics
- "SMART"
- Monitoring*

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Specific
Measurable
Achievable
Realistic
Timely

FACILITATING
EFFECTIVE
AGREEMENTS

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FACILITATING EFFECTIVE AGREEMENTS

- Preface brainstorm
- Number of items
- Timeline for completion
- Items to avoid
- Items to include

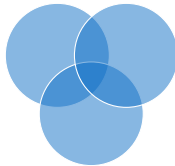


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POTENTIAL ITEMS

- Contact Restrictions
- Work / Learning / Living Arrangements
- Assessment & Treatment
- Psychoeducation
- Restitution
- Community Reparation
- Safety Plan
- Reintegration Measures



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POSSIBLE TERMS (1)

- I understand that any party, including the University, can end an informal resolution process and resume the applicable student grievance procedures at any time.
- I understand that information obtained during the course of the informal resolution process will not be available for use during a formal grievance process.
- I understand that failure to complete the items in this agreement may result in the case being referred to the formal resolution process and/or the Student Conduct process for failure to comply, and may impact the Respondent's eligibility to access University property or activities.

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POSSIBLE TERMS (2)

- I understand that participation in an informal resolution process does not constitute a finding of responsibility for a policy violation and is therefore not part of the student's disciplinary file. Information regarding participation in the informal resolution process is maintained, however, as well as the agreement.
- I understand that if the Respondent is found responsible for a violation of any University policy in the future, this agreement can be considered when issuing sanctions for the Respondent.

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FACILITATOR INTEGRITY

| | | |
|--------------------|----------------------|--|
| Multipartiality | Conflict of interest | Not promising outcomes |
| Cultural awareness | Upholding privacy | Recognizing when not appropriate facilitator |

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MOVING FORWARD



- HOW CAN WE REFRAME THE ISSUES?
- WHAT POLICY OR PROCEDURAL CHANGES MAY BE NECESSARY?
- WHO ELSE MAY REQUIRE EDUCATION?
- WHO CAN HELP YOU PROMOTE THIS APPROACH?


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QUESTIONS

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53