

RESPONDING TO CAMPUS SEXUAL MISCONDUCT WITH RESTORATIVE JUSTICE

RK Resolution

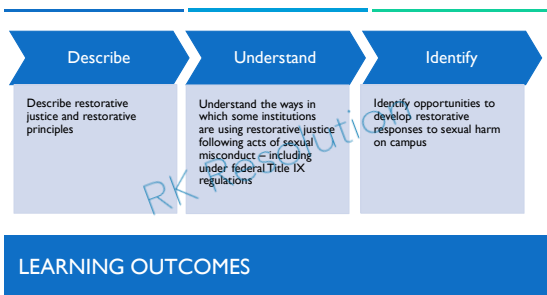
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Restorative Justice Practitioner
Title IX Administrator

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"Restorative justice is a process to involve, to the extent possible, those who have a stake in an offense and to collectively identify and address harms, needs and obligations, in order to heal and put things as right as possible."

— Howard Zehr, PhD, *The Little Book of Restorative Justice*, 2002

RESTORATIVE JUSTICE

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- Who did it?
- What law/policy was broken?
- How should they be punished?

RETRIBUTIVE JUSTICE SYSTEM

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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?

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Adapted from H. Zehr (2002)

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LET'S TAKE AN EXAMPLE

- Who is involved?
- What are the goals of that process?
- Who decides what happens?

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ROLES AND POWER

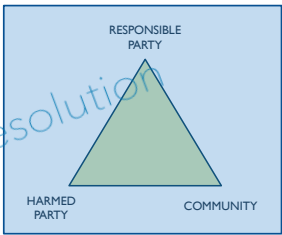
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RESTORATIVE TRIANGLE



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School Restorative Practices Triangle

PURPOSE	PRACTICE
Repairing Serious Harm	Restorative Conferences
Managing Disruptive Conflicts	Restorative Chats
Developing Social and Emotional Capacity, Building Relationships, Improving School Climate	Community Building Circles

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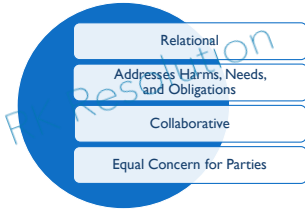
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- Variations in process and purpose
- Indigenous practices
- Set of principles and values

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RESTORATIVE APPROACH



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5 R's OF RESTORATIVE PRACTICE

- Relationship
- Respect
- Responsibility
- Repair
- Reintegration

B. Title (2011)

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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 RP 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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RESISTANCE

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RJ & GBM

- Trauma-informed
- Culturally competent
- Community strengthening
- Not identity-neutral
- Not power-evasive

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A NOTE ON TERMINOLOGY



- Complainant
- Victim
- Survivor

- Affected Party / Person

- Perpetrator
- Respondent
- Accused
- Offender
- Person Responsible

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TITLE IX

- Sex-based Discrimination
- Gender-based Discrimination
- Sexual Harassment
 - Sexual Assault
 - Dating/Domestic Violence
 - Stalking

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INFORMAL RESOLUTION

Not all Informal Resolution processes are Restorative Justice

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Spectrum of Resolution Options
(Schrage & Thompson, 2008)

No Conflict Management	Dialogue/Debate/Discussion	Conflict Coaching	Facilitated Dialogue	Mediation	Restorative Practices	Shuttle Diplomacy	Adjudication (Informal)	Adjudication (Formal Hearing)
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Spectrum of Resolution Options
(Schrage & Thompson, 2008)

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FACILITATOR OF INFORMAL RESOLUTION
TITLE IX REGULATIONS (2020)

- No conflict of interest or bias
- Training
 - Definition of harassment
 - Scope of education program or activity
 - How to conduct informal resolution process
 - How to serve impartially
 - Materials don't rely on sex stereotypes

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TITLE IX REQUIREMENTS

INFORMAL RESOLUTION

- Not a condition of enrollment, employment, enjoyment of any other right, waiver of right to an investigation and adjudication of formal complaints
- Not required to participate
- Must not offer unless formal complaint filed
- Option prior to reaching a determination regarding responsibility

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TITLE IX REQUIREMENTS

INFORMAL RESOLUTION

WRITTEN NOTICE

- Allegations
- Circumstances under which precludes parties from resuming formal complaint
- Prior to agreeing to resolution, any party has right to withdraw and resume grievance process
- Consequences resulting from participation
 - Including the records maintained, could be shared

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TITLE IX REQUIREMENTS


INFORMAL RESOLUTION

- Parties' voluntary written consent
- Not available to resolve sexual harassment allegations by student against employee
- Records maintained for 7 years

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COMPLAINANT & RESPONDENT	HARMED PARTY & RESPONSIBLE PARTY
<div style="background-color: #d9e1f2; padding: 5px; margin-bottom: 5px;">Intake</div> <div style="background-color: #d9e1f2; padding: 5px; margin-bottom: 5px;">Investigation</div> <div style="background-color: #d9e1f2; padding: 5px; margin-bottom: 5px;">Hearing</div> <div style="background-color: #d9e1f2; padding: 5px;">Discipline</div>	<div style="background-color: #d9e1f2; padding: 5px; margin-bottom: 5px;">Intake</div> <div style="background-color: #d9e1f2; padding: 5px; margin-bottom: 5px;">*Informal Resolution</div> <div style="background-color: #d9e1f2; padding: 5px;">Restorative Justice Process</div>



Restorative Approach

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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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RESPONSIBLE PARTIES

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

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

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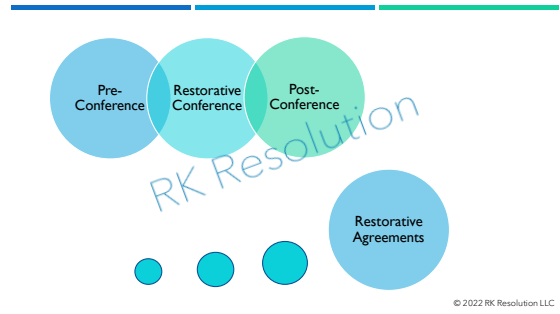
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RESTORATIVE JUSTICE IS A COMMUNITY APPROACH

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RESTORATIVE AGREEMENTS

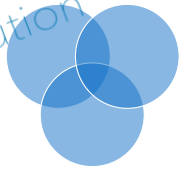
- Center the harm
- Promote healing
- Result in meaningful accountability
- Prioritize safety planning
- Facilitate reintegration

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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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NOT A ONE-SIZE FITS ALL

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RESOURCES

- Center for Justice and Peacebuilding at Eastern Mennonite University
- Impact Justice
- International Institute for Restorative Practices
- National Association of Community & Restorative Justice
- Restorative Justice on the Rise
- USD Center for Restorative Justice
- Vision Change Win
- Visioning B.E.A.R. Intertribal Coalition
- Zehr Institute for Restorative Practices

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