

THE ROAD LESS TRAVELED

USING RESTORATIVE JUSTICE TO ACHIEVE A RESOLUTION

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SESSION

LEARNING

OBJECTIVES

- Explore the foundational principles of restorative justice
- Analyze the effectiveness of restorative justice practices
- Evaluate when restorative justice is an appropriate process

What is Restorative Justice?

- Restorative Justice is a general term that encompasses various forms and practices
- The focus of Restorative Justice is the “harm” caused by one’s conduct and how to repair that “harm”
- Less focus on punitive results, and more on educating the participants of the impacts of their behavior, reach resolution, and perhaps reconciliation

SHIFTING FOCUS

From this

A violation against the school and its policy

Can create adversarial relationships and focus on a process

Accountability in the form of punishment

Justice is school making determination and sanctioning, if needed

A violation of a person, trust, and responsibility

Can create dialogue and focus on people

Accountability in the form of accepting responsibility

Justice is all affected parties coming together to repair harm

To this

IS RESTORATIVE JUSTICE ALLOWED UNDER TITLE IX?

- Short answer, yes
- In Title IX cases, restorative justice falls within the informal resolution section of the regulations (See Sec. 106.45 (a)(9))

TITLE IX LANGUAGE

“ At any time prior to reaching a determination regarding responsibility the recipient may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the recipient - ”

Sec. 106.45 (a)(9)

1

Provides party a written notice with

- The allegations
- Requirements of the informal resolution
- Language about the right to withdraw at any time and re-enter the grievance process under the formal complaint
- Consequence of participating in informal resolution, including record-sharing

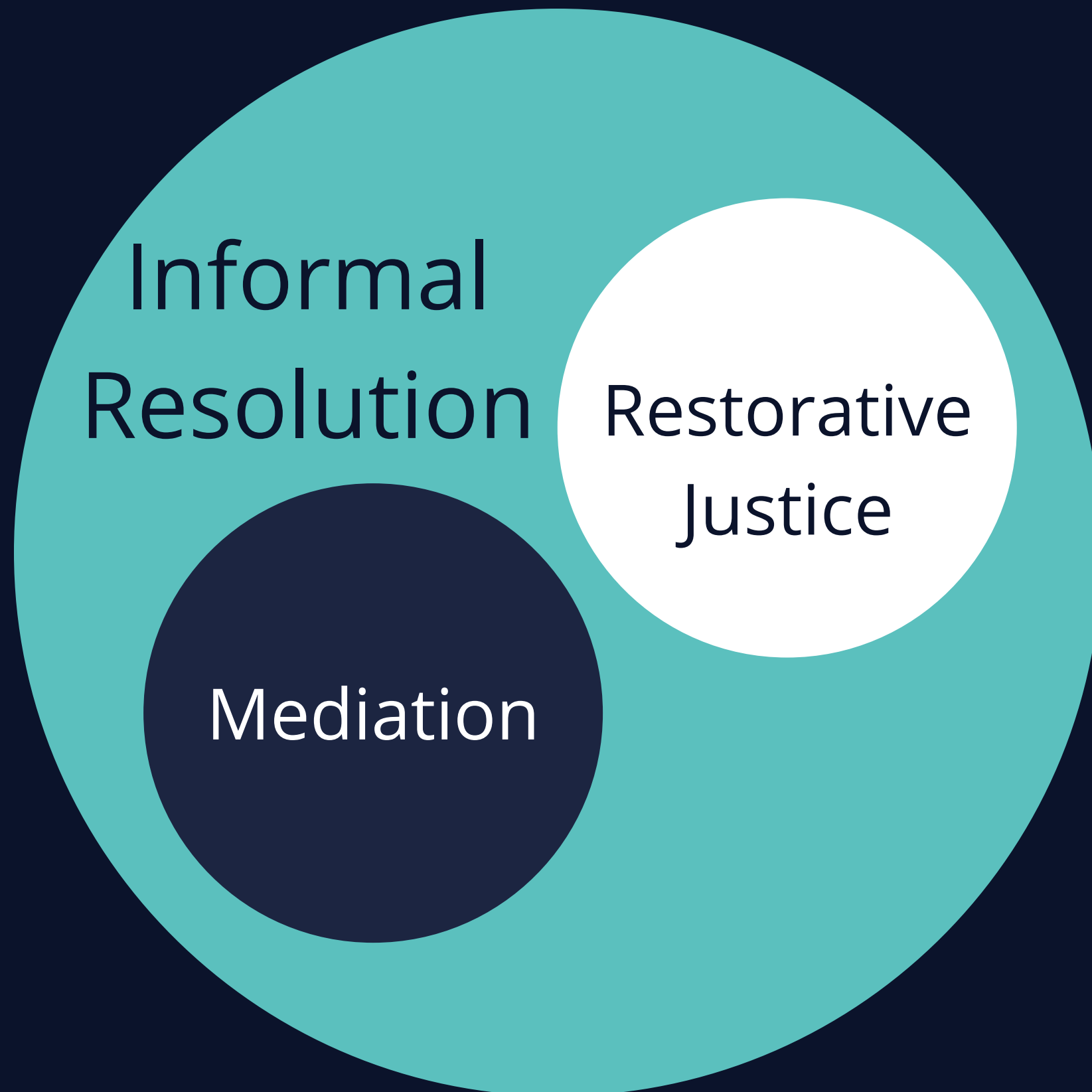
2

Obtains voluntary, written consent from both parties

3

Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student

RESTORATIVE JUSTICE VS. MEDIATION



- Restorative justice and mediation are both types of informal resolution
- Restorative justice requires acceptance of responsibility by the party who caused harm, mediation does not
- Restorative justice requires a significant amount of preparation to ready all impacted parties

THE RIPPLE EFFECT

Restorative Justice takes into account the “ripple effect” of one’s actions. Many people are often harmed by an offense, some of whom may not have been directly involved:

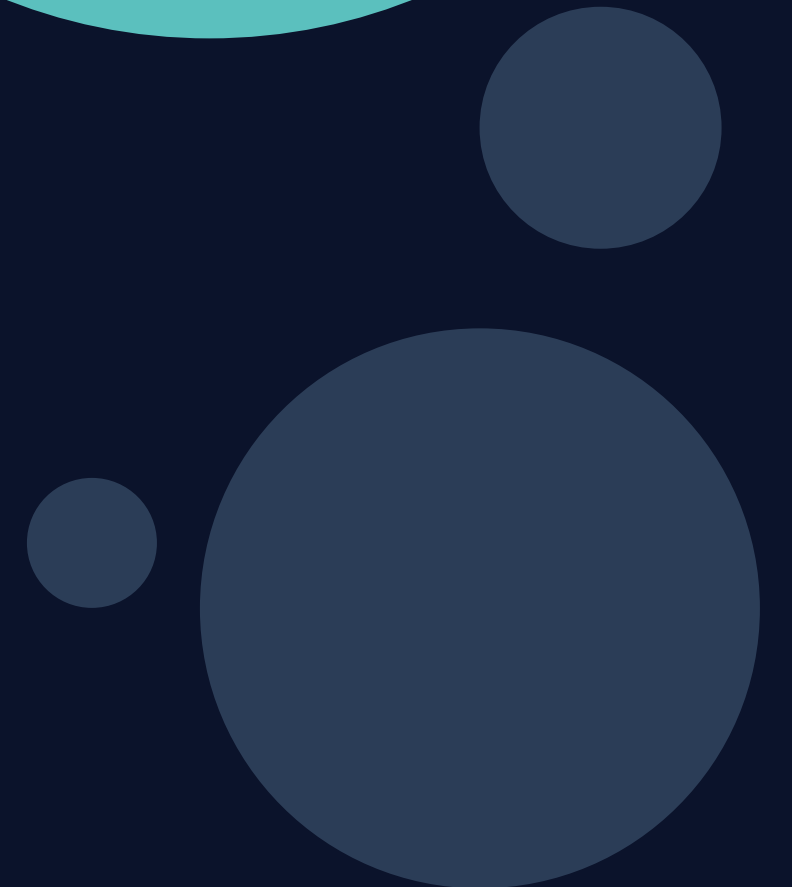


CORNERSTONES OF RESTORATIVE JUSTICE

EMOTIONAL SAFETY



PHYSICAL SAFETY



WHY CHOOSE RESTORATIVE JUSTICE?



14% reduction
in rate of
reoffending



85% of victims
were satisfied
with the
process



62% of victims felt
restorative justice
had made them
feel better after an
incident of crime

HAVE YOU HEARD THESE WORDS?

I want them to be held accountable, but I don't want to ruin their life.

I wish we could just fix this.

I love them, but they hurt me.

I don't want to get them kicked out of school, but something needs to happen.



Relationship

Respect

Responsibility

Repair

Reintegration

CORE QUESTIONS IN RESTORATIVE JUSTICE

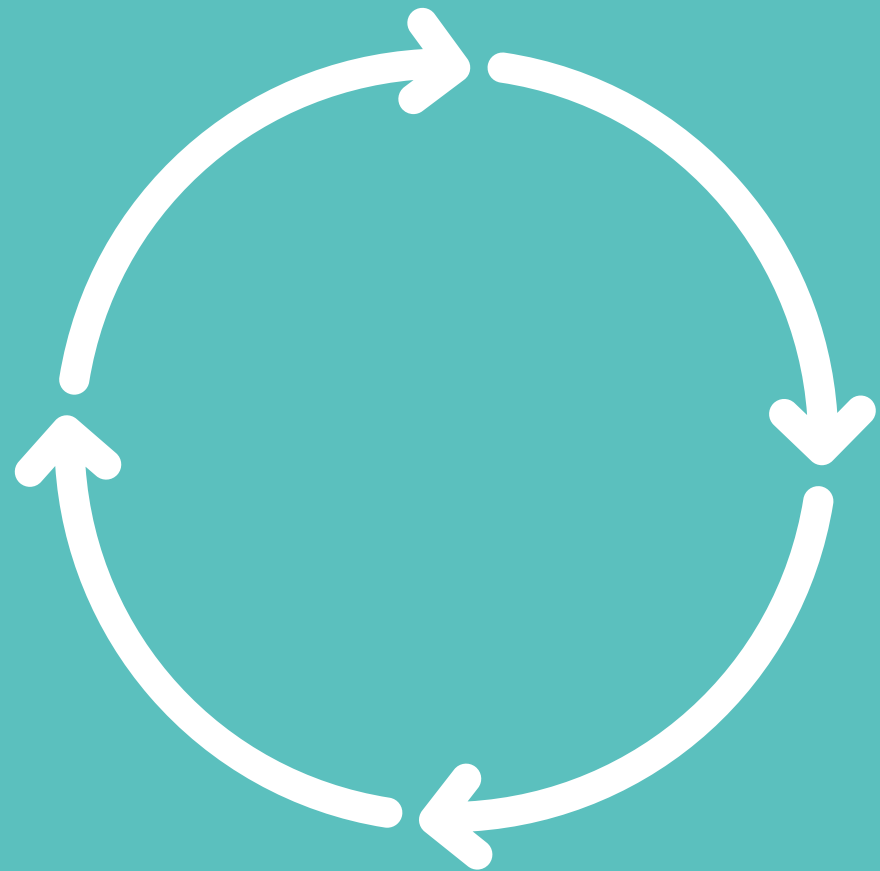
Who was
harmed?

What was
the impact of
the harm?

Who is
responsible
for repairing
the harm?

What is
needed to
repair the
harm?

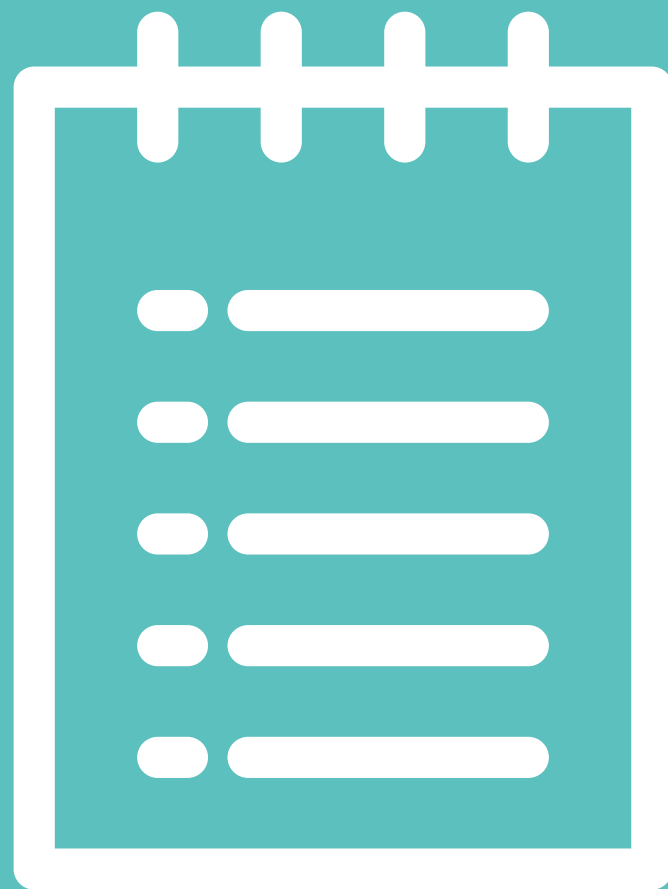
RESTORATIVE JUSTICE PRACTICES



GROUP "CIRCLES"

- Involves multiple stakeholders
- Allows individuals to share impact of harm
- Creates connections

RESTORATIVE JUSTICE PRACTICES



IMPACT STATEMENTS

- Creates empowerment
- Can provide closure

RESTORATIVE JUSTICE PRACTICES



COMPLAINANT/ RESPONDENT DIALOGUES

- Questions are answered
- Leads to understanding

THE PROCESS FOR COMPLAINANT-RESPONDENT DIALOGUE

Follow regulatory requirements for informal resolutions, ensure there is informed consent from both parties

Present restorative justice dialogue with other options, such as formal hearing and mediation, so the parties have choices

THE PROCESS FOR COMPLAINANT-RESPONDENT DIALOGUE

Conduct a pre-dialogue session with each party – a critical step to be conducted by a trained facilitator

**THE
DIALOGUE
MEETING**
conducted by a
trained facilitator

If an agreement is reached, document the agreement, implementation, provide follow up

PREPARATION FOR DIALOGUE



- Advisor and facilitator meet separately and privately with each of the parties
- Talk about how the dialogue will typically unfold
- Listen to the stories – What happened?
- Is the Respondent willing to accept responsibility for their actions?
- Review and discuss each of the “harm” questions - help them to think broadly in answering the questions

PREPARATION FOR DIALOGUE

- What do you need/want to come out of the dialogue?
- What do you think the other party needs?
- What if they say . . . ?
- What if they ask you . . . ?
- What do you want to say to them?
- What do you want to ask them?
- If an apology may be involved, what will that sound like?
- What ideas do you have to repair the harm? What would you like to see happen?

KEY CONSIDERATIONS

Throughout the preparation, the advisor and facilitator assess each party for any concerns around emotional and physical safety

Is the Respondent going to accept responsibility?

Are the parties going to be able to communicate effectively and sincerely?

WHEN IS THE USE OF RESTORATIVE JUSTICE INAPPROPRIATE?

- The cornerstones of emotional and physical safety for the parties cannot be guaranteed
- There is a greater concern for campus safety
- It is clear the Respondent will not take responsibility

CASE STUDY 1 - ETHAN AND ABBY

Ethan (he/him/his) and Abby (she/her/hers) (both Juniors) are cheerleaders and were friendly colleagues. They traveled by bus with the football team to away games.

On the way home two weeks ago, everyone on the bus was drinking “punch” from a huge orange cooler. It was spiked with three kinds of hard alcohol. After an hour or so, Abby had fallen asleep on Ethan’s shoulder. She woke up suddenly because his hand was inside her sweater. She told him to stop but he pushed her against the window. Ethan tried to kiss her while putting his hand on her inner thigh. Abby shoved him away and went to sit in the front of the bus.

When Ethan was contacted by the Title IX office, he admitted what had happened and said he was very sorry. He explained that he had been very drunk and misunderstood Abby putting her head on his shoulder.



CASE STUDY 1 - ETHAN AND ABBY

In considering IR in this case:

- As fellow cheerleaders, they will likely have continuing contact.
- Ethan has admitted the behavior and is remorseful.
- IR provides the opportunity to talk about what happened, the harm caused, who is responsible for repairing the harm, and how to repair the harm.
- IR can allow the parties to decide the outcome that works best for them and their relationships with their teammates and friends.



CASE STUDY 2- LOGAN AND CHLOE

Logan (he/him/his) a Sophomore) and Chloe (she/her/hers) a Freshman) had been in a consensual sexual relationship.

After they broke up, Chloe leaked some nude photos of Logan on TikTok.

She described Logan's preferred sexual practices, including group sex. She provided Logan's contact info.

Logan did not know about nor approve of any of this. His family, friends and the college community could have access to Chloe's posts.

When he confronted her about it, she told him she was doing him a favor. A friend told him that someone had posted one of the photos with his contact information in a freshman residence hall.

When the Title IX office contacted Chloe, she denied that the online postings were done by her. She then stated she and Logan had talked about posting for partners on TikTok and she thought he was okay with it. She denied putting up the photo/information in the residence hall.



CASE STUDY 2- LOGAN AND CHLOE

In considering IR in this case:

- Clearly, there is harm to Logan, and perhaps family, friends.
- Chloe has denied posting the pictures. Is she willing to accept some responsibility/contribution for causing harm?
- What's the nature of the parties' relationship post breakup? Are able to meet and talk safely (emotionally and physically) or are there potential threats to safety?
- A review of the investigative report, if any, may be helpful to understand the current status of their relationship.
- Careful screening is in order.



BENEFITS OF RESTORATIVE JUSTICE



1

Through facilitated dialogue, the parties get their questions answered

2

Provides a “safe” space for communication

3

Avoids “re-victimizing” the Complainant

BENEFITS OF RESTORATIVE JUSTICE



4

Builds awareness of the impact of one's actions, including the "ripple effect"

5

Allows the parties to have control over the outcomes

6

Outcomes can be whatever the parties agree to so long as the solution is legal and not violative of policy or regulations



QUESTIONS