RESTORATIVE PRACTICES APPROACH IN SCHOOLS

Empowers students to solve conflicts through:
- Mediations
- Circle work in classrooms and counseling offices
- Small group efforts
- Teacher-to-teacher conflict resolutions
- Teacher-to-Administrator conflict resolutions

TRAUMA

Any experience that leaves a person feeling hopeless, helpless, fearing for their life, survival or their safety. The experience can be real or perceived.
RESTORATIVE QUESTIONS FOR THE COMPLAINANT

- What did you think when you realized what 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?

RESTORATIVE QUESTIONS FOR THE RESPONDENT

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

MEDIATORS – WHO YOU ARE

- Power balancers
- Neutral 3rd party
- No dual roles (therapists, counselors, lawyers, doctors, clergy, etc.)
- Process facilitators
- Communication facilitators
- Option generators
- Clarifiers
- Reality checkers
- Resource expanders

MEDIATORS RESPONSIBILITIES

- Balance the physical setting and the process
- Make the rules of participation understandable and equal to everyone
- Conduct in language easily understandable to all
- Level the playing field/balance of power
- Ensure the fairness of the process for participants
- Create a safe place for dialogue to happen between complainant and respondent

MEDIATORS RESPONSIBILITIES (continued)

- Ensure dignity of the people involved
- Ensure dignity of the issues (so that solutions can be possible)
- Ensure process must not victimize anyone
- Balance your control of the process with the ownership of the process (complainant/respondent have the ownership of the process)
- Safeguard confidentiality of the mediation
MEDIATORS – WHO YOU ARE NOT

A mediator is not:
- A Judge
- An advocate
- A counselor or therapist
- A seeker/finder of truth or blame

Mediators:
- Have no authority over the complainant or respondent
- Have no ability to reward or punish

MEDIATION – WHAT IT IS

- Definition – informal resolution and is a mutual agreement between the complainant and respondent to settle a dispute through compromise.
- Difference between mediation and arbitration
- Mediation is voluntary
- Mediation can be stopped at any time – by the mediator or participants
- Two team members can be present if possible.
- Ground rules for the mediation (set by participants – complainant/respondent)
- Setting for the mediation - Face-to-face/zoom, etc.

MEDIATION IS NOT...

- About truth
- To determine blame or guilt
- To search for right answers
- To create justice
- Fixing people
- Setting them straight, curing them

SETTING UP THE MEDIATION
(BEFORE THE MEDIATION TAKES PLACE)

- How to start preparing for the mediation
- Getting the call from your Title IX Coordinator
- Things to anticipate (as much as possible)
- The first phone call or communication
- Calls to respondent and complainant – what to say
- What the complainant and respondent can anticipate seeing/hearing at the mediation
YOUR ROLE AS A MEDIATOR
Before, During and After the Mediation

BEFORE THE DAY OF THE MEDIATION
- The meetings and calls with the respondent
- The meetings and calls with the complainant
- Setting the stage for the mediation for both participants – what they will see and hear through the mediation.
- Letting the complainant/respondent know what your role is and is not before the mediation.
- Letting the complainant/respondent know that the mediation will allow them to determine their solution to the issue
- Letting the participants know that mediation can be stopped at any time.

YOUR ROLE DURING THE MEDIATION
See slides for mediator responsibilities

YOUR ROLE AFTER THE MEDIATION
• Write up the agreement to be signed by both participants
• Follow up after the mediation

THINGS THAT CAN NEGATIVELY IMPACT YOUR ROLE AS A MEDIATOR
- Words you use (you should, you will, you ought to, I think you would be..., etc.)
- Talking too much
- Adding your personal stories, being flippant or not taking the process seriously
- Giving suggestions or advice
- Solving the problem for the participants
- Finding their solutions – “Here’s a solution I know it will work. I’ve seen it be successful before.”

THINGS THAT CAN NEGATIVELY IMPACT YOUR ROLE AS A MEDIATOR (continued)
- Implicit Bias
- Cognitive Bias – thoughts, beliefs, and ideas about something or someone.
- Affective Bias – emotional reactions to different types of people
- Behavioral Bias – actions toward certain people
THINGS THAT CAN POSITIVELY IMPACT YOUR ROLE AS A MEDIATOR

- Stating confidentiality
- Checking for physical seating safety
- Participants can easily hear each other
- Participants setting ground rules for the mediation (including mediator rules of stopping the mediation, etc. after participants set the ground rules)
- You as a mediator being neutral to both participants

THINGS THAT CAN POSITIVELY IMPACT YOUR ROLE AS A MEDIATOR (continued)

- Opening statements about mediation (what it is and what it is not so all parties hear this at the beginning of the mediation)
- Define when a caucus might be used
- Required reporting (physical abuse, child abuse incapacitated abuse)
- Agreements between complainant and respondent – Mediator types up to sign – using participants own words
- Asking open-ended questions

UNINTERRUPTED TIME

Critical to set this up:
- “Uninterrupted time is your time to state the problem/problems without interruptions from anyone” (including the mediator)
- “If your uninterrupted time or the mediation becomes disrespectful or violent, I will stop the mediation. If at anytime either of you cannot go forward with the mediation, you can stop it.
- Administration then takes it to the next level – whatever that means in protocol.”

ASK QUESTIONS TO GENERATE OPTIONS (some examples)

- What brings you here today?
- What would you like to see happen?
- What is most important to you?
- What do you need to help you decide?
- What do you think the other party needs to hear from you?
- What do you need from the other party?
- If you were in the other party’s shoes, what would you think? How might you feel?
- If you were in the other party’s shoes, what might you want to happen?
ASK QUESTIONS TO GENERATE OPTIONS
(some examples continued)

- Is there anything you want to add?
- What do you want the other person to know about the issue?
- What do you want the other person to hear about this issue?
- Will you say more about...?
- If there is common ground between you, what do you think that might be?

Important to ask the Complainant and the Respondent at the end of the mediation

- How will you deal with rumors about this mediation?
- What will you say to your friends about the mediation?
- What will you say to the other person’s friends about the mediation?
- If a teacher asks you what happened in the mediation, what will you say?
- What will you do when you see each other in the hall, classroom, cafeteria, gym?

REFERENCES

- Jordan Equity and Compliance, New Title IX Regulations, 2021
- Conflict Resolution Program, Department of Communication, Michelle Haws, University of Utah
- Building Skills to Successfully Mediate Title IX Sexual Harassment Cases Welcome & Faculty Introductions Senior Program Manager Rabia Khan Harvey, M.Ed., MSHR rabia@academicimpressions.com 2020
- Title IX Informal Resolution, Works International, Inc. 2020
- Sample Mediator’s Opening Statement by Robert A. Berlin