

**A RESTORATIVE APPROACH  
TO GENDER-BASED  
MISCONDUCT**

St. Norbert College

RK Resolution

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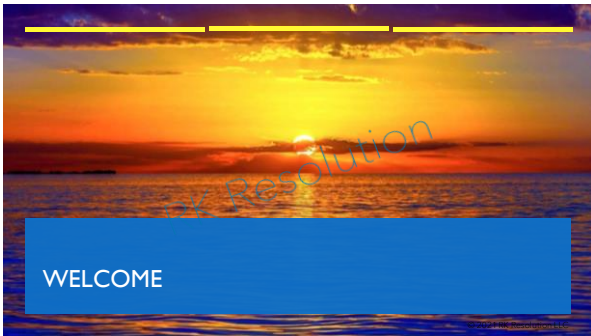
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**WELCOME**

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Possess	Articulate	Acknowledge	Demonstrate
Possess an understanding of restorative justice and restorative principles	Articulate needs and obligations resulting from gender-based misconduct on campus	Acknowledge, be poised to rectify structural deficits to realizing restorative justice	Demonstrate strategies and mechanisms for application, within a social justice paradigm

**LEARNING OUTCOMES**

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# AGENDA

Principles of Restorative Justice	Opportunities for Application
Nature of Gender-based Misconduct	Needs of Parties
Conditions for Participation	Facilitation Considerations
Resolution Agreements	Case Study

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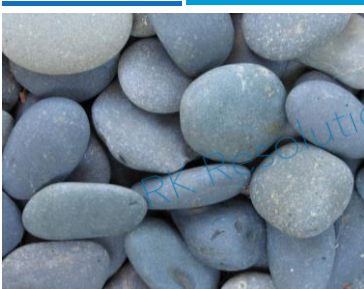
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## TRAINING: RESTORATIVE PRACTICES IN ACTION

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# GENDER-BASED MISCONDUCT

## RESTORATIVE JUSTICE

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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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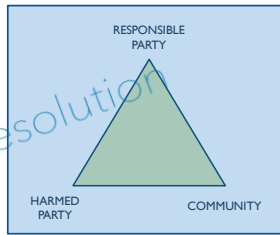
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# RESTORATIVE TRIANGLE



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



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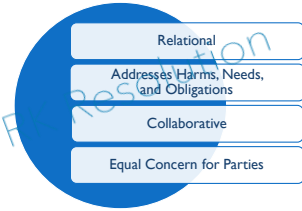
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## RESTORATIVE APPROACH



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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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### RESEARCH & EVIDENCE OF EFFECTIVENESS

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RJ & GBM

- Trauma-informed
- Culturally competent
- Community strengthening

- Not identity-neutral
- Not power-evasive

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## OPPORTUNITIES FOR APPLICATION

Principles of Restorative Justice	<b>Opportunities for Application</b>
Nature of Gender-based Misconduct	Needs of Parties
Conditions for Participation	Facilitation Considerations
Resolution Agreements	Case Study

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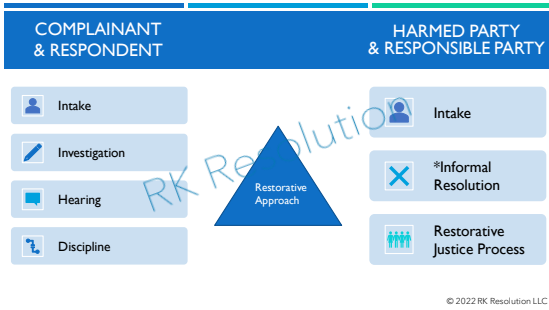
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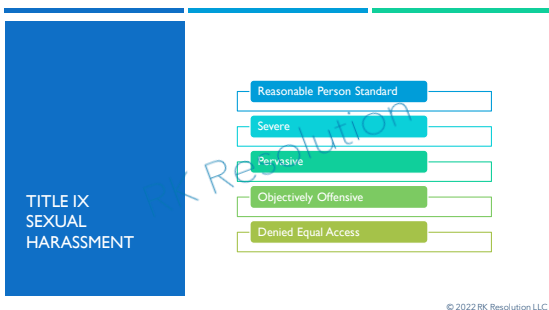
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**TITLE IX**

- Formal Complaint
- Gatekeeping & Dismissal
- NOIA
- Complainant Intake
- Respondent Outreach
- "Informal Resolution"

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**Written notice:**

- Allegations
- Explanation of the IR process
- Consequences of IR process
- Summary of records maintained or could be shared

**Obtain:**

- Voluntary, written consent for participation from Complainant and Respondent

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**NATURE OF GBM**

**NEEDS OF PARTIES**

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**SEXUAL AND GENDER-BASED MISCONDUCT**

- As compared to other types of victimization
- Identity and cultural considerations
- Role of trauma

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**Harm** → **Needs** → **Obligations**

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**Harm**

- Types of harm
- Responses to victimization
- How trauma manifests itself

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TRAUMA-  
INFORMED  
RESPONSES

- Prioritize physical and emotional safety
- Promote recovery and healing
- Empower
  - Control
  - True choice
  - Give voice
- Provide predictability and transparency
- Culturally conscious

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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

RESPONSIBLE PARTIES

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## SEXUAL MISCONDUCT ON CAMPUS



Rapisarda, S. S., Shields, R. T., & Tabachnick, J. (2020)



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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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Dialogue in circle is not a substitute for qualified assessment and treatment.



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RESTORATIVE JUSTICE IS A COMMUNITY APPROACH

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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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COMMUNITY REPRESENTATION

- Articulate broader harm
- Voice needs for repair
- Share community resources
- Provide reintegration support
- Acknowledge demands for and promote community change

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CONDITIONS FOR PARTICIPATION

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FACILITATION CONSIDERATIONS



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PRE-CONFERENCEING

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



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SCENARIO:

THE PHOTO

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Corrine dated Max for a few months last year before he graduated. While they were together, she sent a few photos to him of herself partially nude, at his request. This year, back on campus from summer 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 she hears about it, she is not able to find anything online.

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

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### TRANSPARENCY OF PROCESS

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

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**SUPPORT PERSONS**

- Friend
- Family
- Attorney
- Advocate

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**USING SURROGATES**

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**CONSIDERATIONS**

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**ADDITIONAL SAFETY CONSIDERATIONS**

- Physical Safety
- Emotional and Psychological Safety

- Physical location of circle
- Virtual circles
- Considerations re. law enforcement

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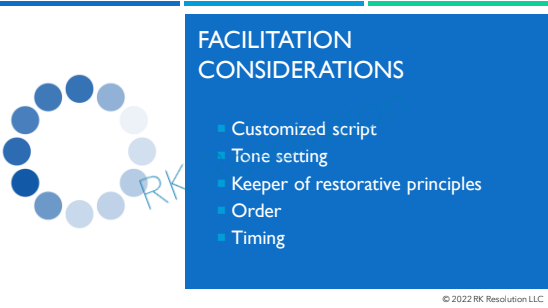
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**FACILITATION CONSIDERATIONS**

- Customized script
- Tone setting
- Keeper of restorative principles
- Order
- Timing

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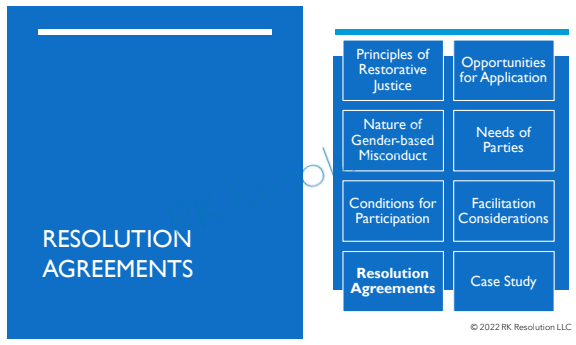
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**RESOLUTION AGREEMENTS**

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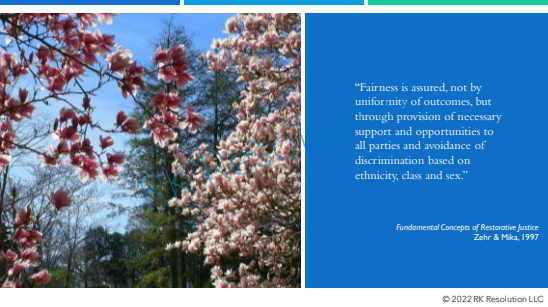
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"Fairness is assured, not by uniformity of outcomes, but through provision of necessary support and opportunities to all parties and avoidance of discrimination based on ethnicity, class and sex."

Fundamental Concepts of Restorative Justice  
Zehr & Mika, 1997

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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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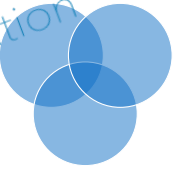
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**POTENTIAL ITEMS**

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



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# SCENARIO: THE LAB

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Raul and Althea are both working in Dr. Johnson's lab. Raul is a 5<sup>th</sup> 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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## RESTORATIVE JUSTICE ASKS...

(Adapted from Pranis, 1997)

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