



TITLE IX

Session 6: Informal Resolution

Presented by: Liz Lavoie

Agenda & Learning Outcomes

- Regulations Refresher - When can we use Informal Resolutions
- Key Terms
- Conflict Styles
- Identify Models of Informal (conflict) Resolutions
- Group Think
- Future Sessions on Informal Resolutions

Refresher: Informal Resolution



- Allowable at the institutions discretion
- Facilitators conducting informal resolutions must be well trained
- Ability to offer and facilitate informal resolution options, such as mediation, or restorative justice, so long as:
 - Both parties give voluntary, informed, written consent to attempt informal resolution
 - Institution has to agree

Refresher: Informal Resolution Cont'd

- Institutions may not require as a condition of enrollment or continuing enrollment, employment or continuing employment, or enjoyment of any other right, waiver of the right, to a formal investigation and adjudication of formal complaints of Title IX sexual harassment.
- **An informal resolution can only be offered after a formal complaint is filed.**
- At anytime prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to a formal complaint
- **Institutions must not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.**

What is Conflict?

- “Conflict is interaction among parties who are interdependent and perceive incompatibility with one another. It is important to recognize that conflicts can be driven by perceptions, not merely by the objective situation” (Folger, Joseph P., et al., 2009, p. 11).



Key Terms

- **Differentiation** is a key component of conflict resolution. Without a clear understanding of each party's position a successful resolution will be hard to achieve. Once opposing stances or positions are made known – the actual work of the conflict can begin
- **Escalation:** Differentiation can also bring tension/escalation as the position each party holds comes to the surface as individuals personalize the conflict. Instead of addressing the real issue it can spiral out of control as emotions run high – this is more common in interpersonal relationships where the relationship becomes a cycle of arguing and anger

Some Key Terms Cont'd

- In addition, **Avoidance** can also interfere with the conflict resolution. One or both parties could avoid discussion or refuse to approach topics that might cause confrontation
 - This can be harmful to the resolution process leaving one of both parties feeling hurt, angry, or dissatisfied with any outcome
- **Rigidity** can also come into play as differentiation can cause anxiety and fear causing a party to react in a counter-productive way; causing the party to disengage and flee or create further escalation of the conflict

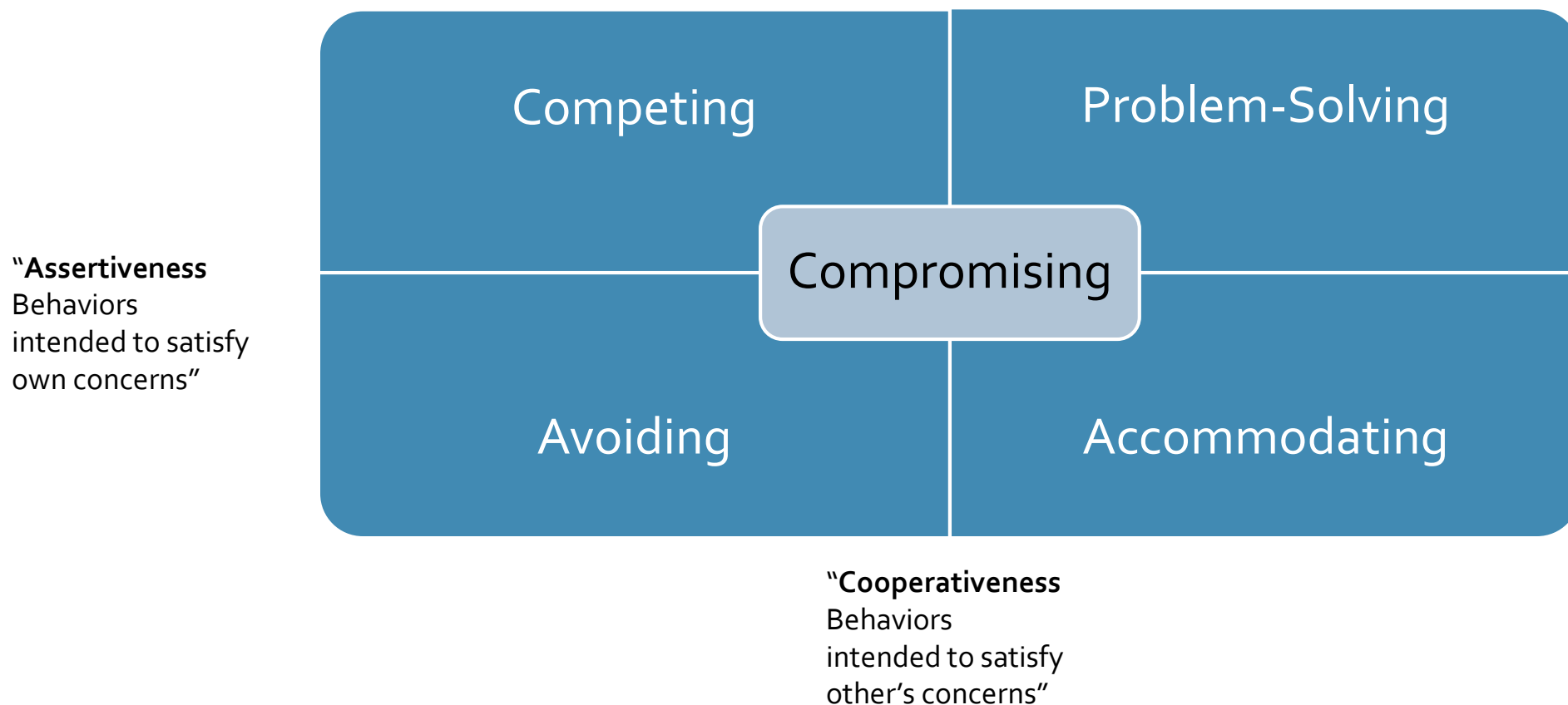
Key Terms Cont'd

- For conflict resolution to be effective - the parties must openly agree and realize that they cannot personalize the other party's views. This is when the integration phase begins. This provides opportunity for each party to find commonalities that they both can agree upon
- Both parties should be ready to move towards integration at the same time; otherwise it can cause escalation of conflict if one is not ready to cooperate.

We are a Party to the Process

- Technically UMS is a party as we must also agree to:
 - Informal Resolution
 - Decorum
 - Ground Rules
 - Outcome is agreeable and reasonable for all

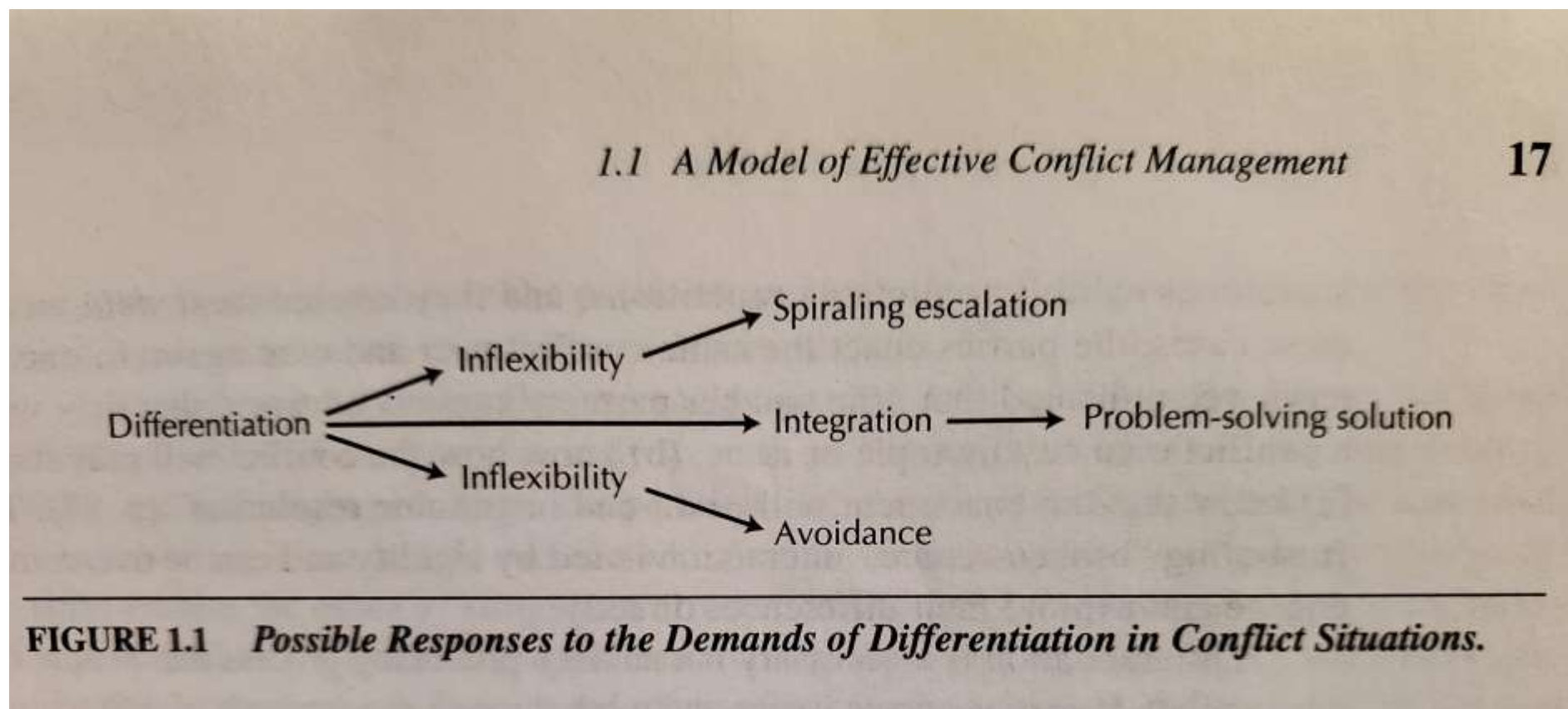
Conflict Style/Interaction – Which One Are You?



Influences on Conflict Interaction



Possible Responses Diagram



"Interaction Symptoms of Escalation or Avoidance Cycles"

20 Chapter 1 • Communication and Conflict

TABLE 1.1 Interaction Symptoms of Escalation or Avoidance Cycles

Symptoms of Avoidance	Symptoms of Escalation
<ul style="list-style-type: none"> • Marked decrease in the parties' commitment to solving the problem ("Why would we care?") • Quick acceptance of a suggested solution • Parties stop themselves from raising controversial aspects of an issue • People "tune out" of the interaction • Unresolved issues keep emerging in the same or different form • Discussion centers on a safe aspect of a broader and more explosive issue • Little sharing of information • Outspoken people are notably quiet • No plans are made to implement a chosen solution • No evaluation is made of evidence that is offered in support of claims 	<ul style="list-style-type: none"> • An issue takes much longer to deal with than was anticipated • Parties repeatedly offer the same argument in support of a position • Parties overinflate the consequences of not reaching agreement • Threats are used to win arguments • Mounting tension is felt • The parties get nowhere but seem to be working feverishly • Name-calling and personal arguments are used • Immediate polarization on issues or the emergence of coalitions • Hostile eye gaze or less-direct eye contact occurs between parties • Sarcastic laughter or humor is used as a form of tension release • Heated disagreements seem pointless or are about trivial issues

Folger, Joseph P., et al. Working through Conflict: Strategies for Relationships, Groups, and Organizations. Pearson Education, 2009.

Managing Conflict

- Normative Model for Conflict Management:
 - Differentiation is an essential precursor to integration
 - Preliminary understanding of each other's issues, interests, and positions
 - Acknowledge the legitimacy of each other's issues, interests, and positions, even if they do not agree with them
 - Realize that the differences cannot be resolved without working together
 - Have some motivation to resolve the conflict, even if that motivation is only the knowledge that the other party will continue to resist and prolong the conflict unless a mutually acceptable resolution is worked out

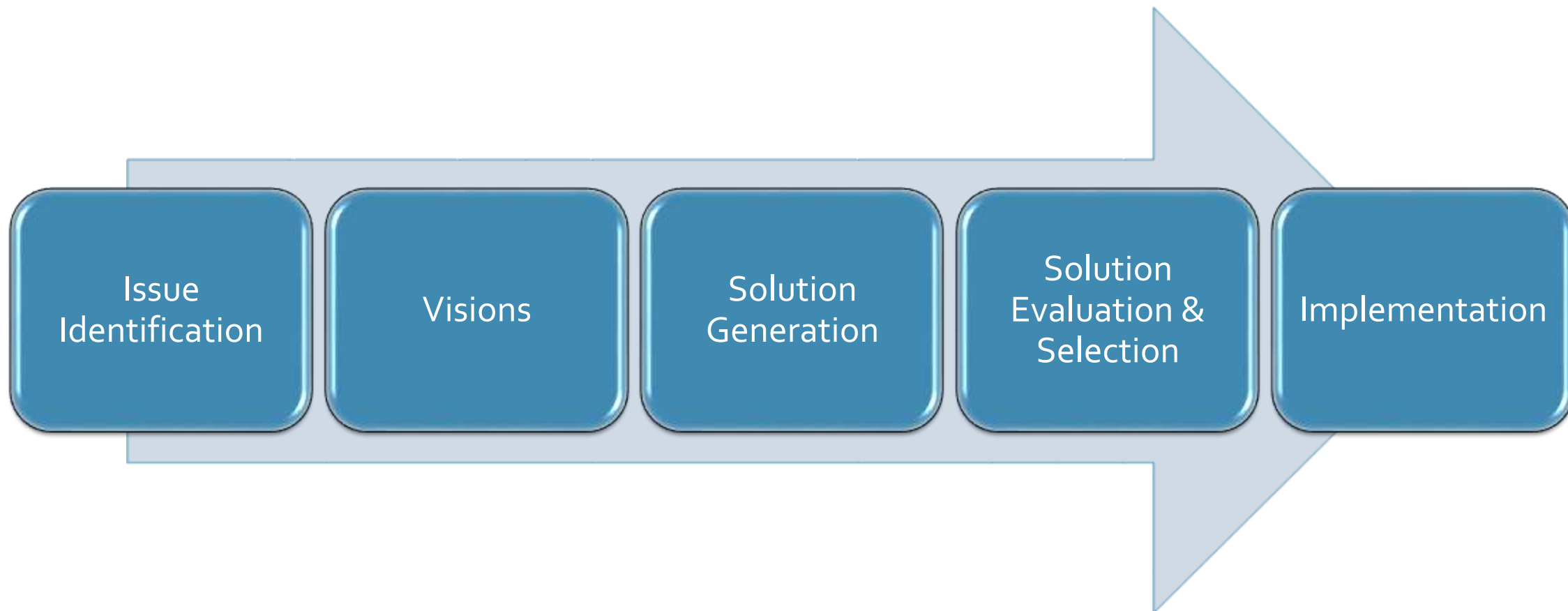
Managing Conflict Cont'd

- Normative Model for Conflict Management:
 - Once the differentiation phase have been successfully met, the integration stage can begin
 - Explore issues and positions; improve understanding and issues; identify underlying problem
 - Find or identify commonalities or bargain what each person can mutually respect and agree upon
 - Search for possible solutions
 - Ideally meet the needs of each party (or something they can live with), while moving towards a solution
 - Commitment to the solution and keeping their promise of achieving the solution

Creating Shared Attitudes & Decorum

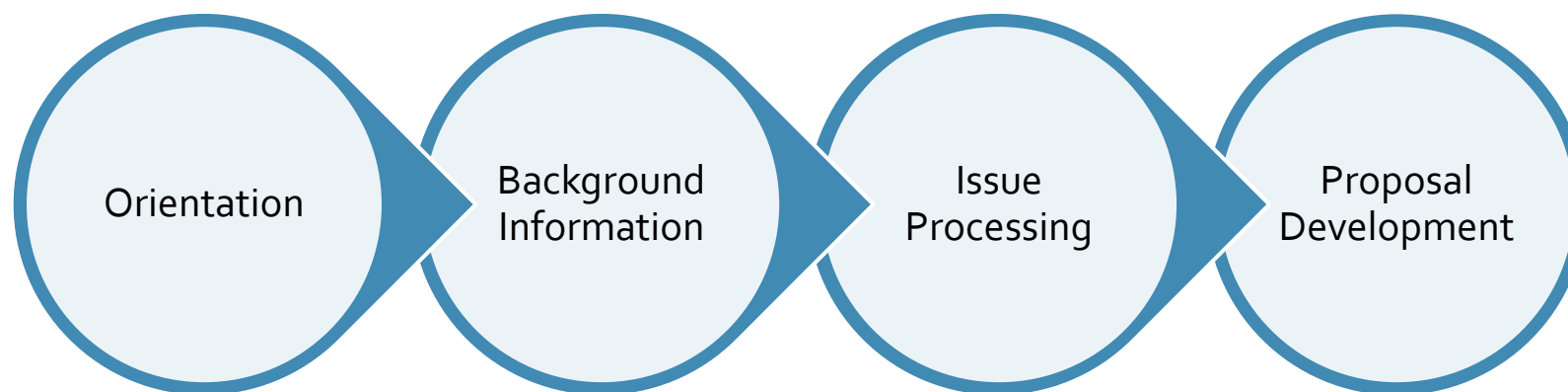
- Be clear and logical, avoid arguing your point
- This is not about winning or losing, it's about agreeing to alternative solutions
- Don't avoid the conflict or become complacent, discuss it in a logical & objective way
- Explore viewpoints
- Open your mind to viewpoints and see them as organic or productive discussion points
- Explore resolution with suspect; determine if similar outcomes would occur as rightful solutions or reasonable agreements
- See the process as a collaborative not as an I process
- Be respectful, avoid insults, and disrespect

Strategy for Managing Conflicts - Issue Identification:



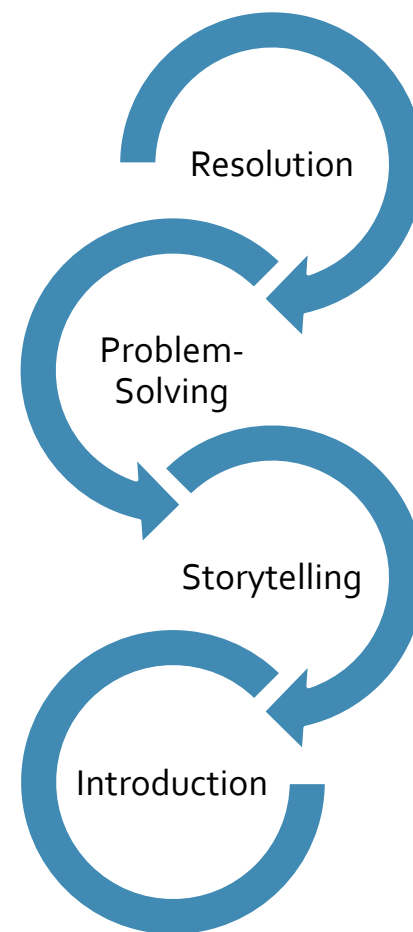
Other Models for Third Party Resolutions

- Model 1 (Donohue, 1991)



Other Models for Third Party Resolutions

- Model 2 (Domenici & Littlejohn, 2001)



Let's Process Our Approach

- How will you mention this
- What types of cases for you are a big NO for you
- How will you approach the responding party especially if they are defensive that you sent the NOIA
 - How can you not take this defensiveness as personal
- Will you have one or two people with you
- How do you manage other issues – EX: “they only mediate things, they don't help”

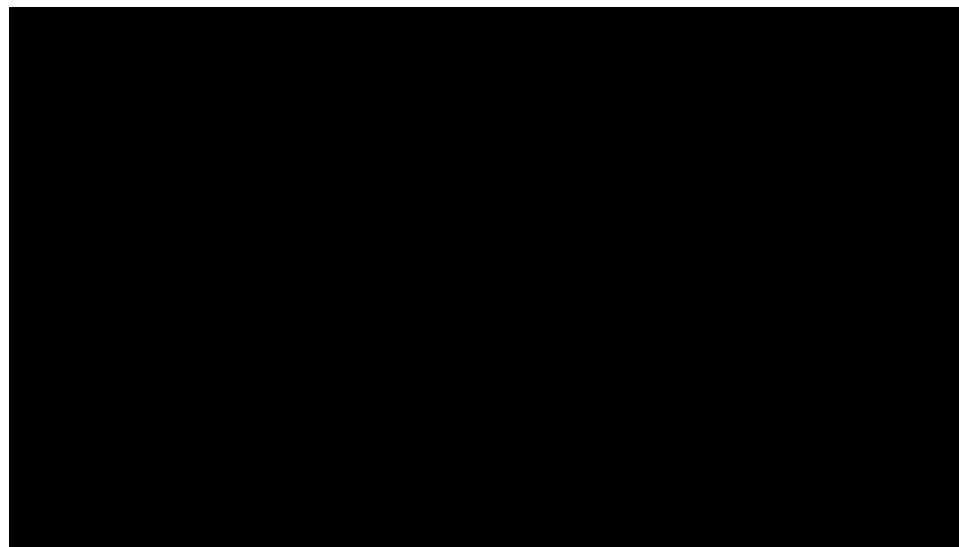
Decorum – Clear Direction

- Clear that this is not a competition of who is right or wrong
- Clear that this is not an “all for one” session
- Clear that everyone agrees and can the process can stop at anytime
- Clear expectations:
 - No aggressive tones
 - No standing up towering over someone
 - No physical actions PERIOD
 - Breaks are okay to take if you need a moment
 - No recordings or pictures
 - No required
 - Private – can’t be used against the other person if switched to a formal complaint
 - What else

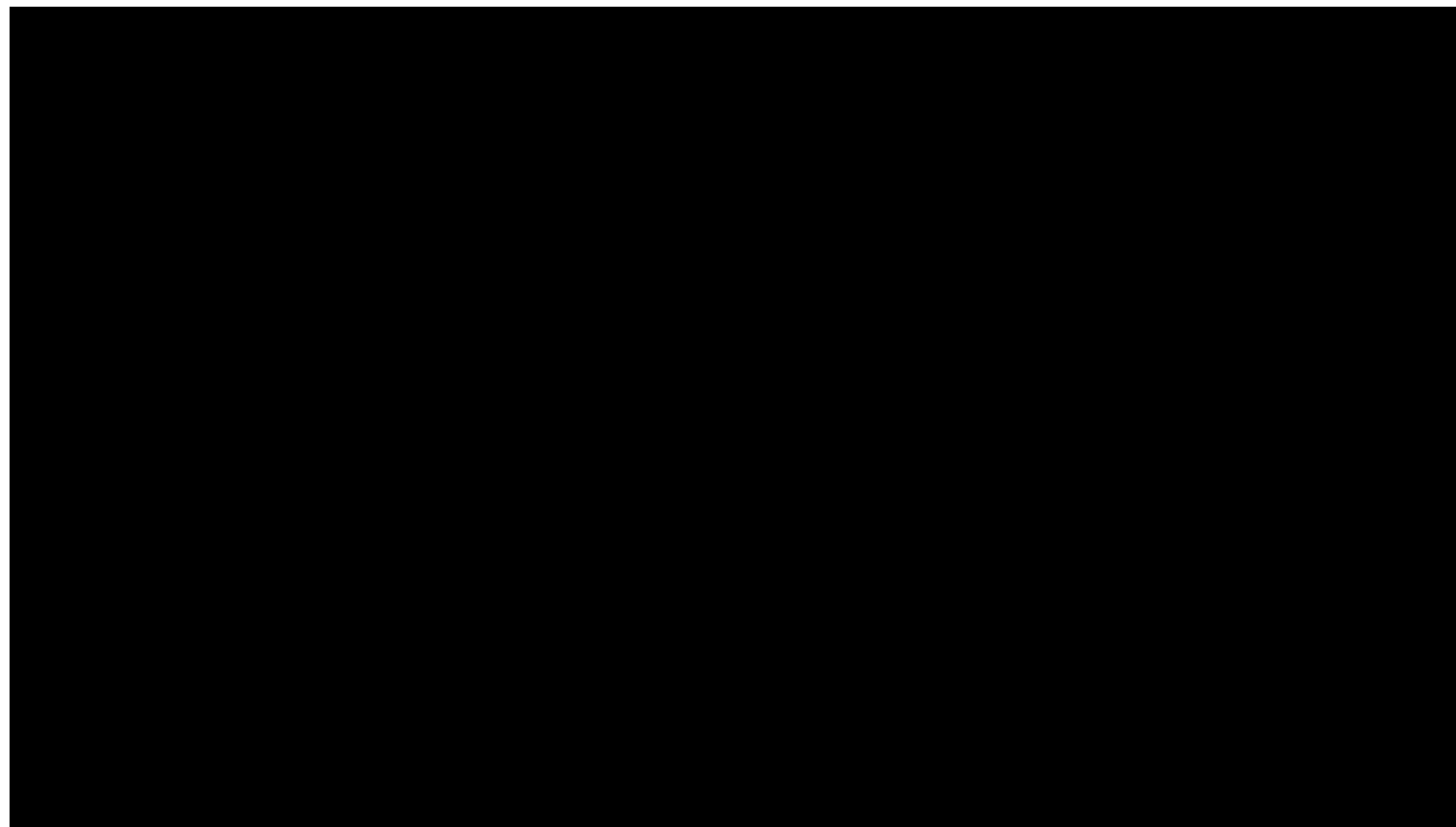
Redirecting

- In the pre-hearing meeting you should have asked how you will tell
- Reiterating ground rules
- Offering a break
- Taking a moment to unpack what is being said
- Let silence be, don't interrupt it
- Acknowledge the courage and stress of the moment

Be Prepared to Redirect



Watch a Pro



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Ground Rules –Pre-meeting with Parties (separately)

- Using I statements and not blaming words
- It's okay to have feelings (including tears)
- It's okay to take a moment and have time to gather your thoughts
- Should they write a statement or no
- How will you know their cues
- We are not “unpacking” the whole house, just the suitcase
- What are each persons goals
- “Virtual baton”
- Who will talk first
- Where will it happen at
- What if there is not an reasonable solution for all

Pre-meeting

- Ground rules and decorum
- Goals they hope to achieve
- Review expectations process/future meetings
- Protection order modification
- Who will be there
- Opportunity to cancel process and so do we
- Establish emotional boundaries (and when to take a break)
- Advisors or their role
- Private not to be brought up in a formal complaint
- Contact methods if need to contact
- Date, time, location of meeting
- How do you want to be treated in this meeting
- Deal breakers of informal resolution

Decorum

- No yelling
- No interrupting, one person speaks at a time
- Respecting University Officials and everyone in the process
- No non-verbal confrontational indicators
- How everyone wants to be addressed: name, pronoun, Advisor, etc
- No physicality, must remain seated during informal resolution

Ground Rules

- Limiting discussion – no button pushing
- What subjects are off limits
- Just talking about the relevant topic
- No recording on phones or having anyone on personal phone
- If via Zoom or technology based – be in a private space during meeting
- Verbal acknowledgement that there are no other uninvited/unknown parties in attendance
- Two people from institution
- Respect what the mediator says
- Both parties do best respect outcome if resolved, if they can't contact us
- Institution types of formal arrangement, if met, and provide to each party

Free Webinar

- August 7th at 12:00pm & August 12th at 3:00pm
- See the link that Nina sent on Friday, July 31, 2020 to register.



WEBINAR

Informal Resolution
and Restorative Practices
Under New Title IX
Regulations

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CONTINUING AND
DISTANCE EDUCATION

The banner features a circular seal on the left with a green maple leaf in the center. The seal contains the text "LEGAL ISSUES IN HIGHER EDUCATION" at the top and "THE UNIVERSITY OF VERMONT" at the bottom. A white ribbon across the leaf reads "30th ANNIVERSARY".