

**BASIC INFORMAL  
RESOLUTION  
TRAINING -  
FACILITATION**

**July 2023**



The Texas A&M University System  
System Ethics and Compliance Office (SECO)  
All Rights Reserved

1


1

FACILITATION TRAINING (BASIC)

**Your Presenters**

<p><b>Rick Olshak</b> Director, Title IX and Student Conduct Compliance The Texas A&amp;M University System</p>	<p><b>Joseph Alfe</b> Informal Resolution Facilitator &amp; Mediator Texas A&amp;M University</p>
---	---

---


The Texas A&M University System 


2

2

FACILITATION TRAINING (BASIC)

# Advisory Notices




The Texas A&M University System 

3


3

FACILITATION TRAINING (BASIC)



# Advisory Notice #1

This training material is provided for public review in accordance with federal law. The material may be utilized only for non-commercial educational and training purposes with the user assuming all risk for utilization of any content herein. Commercial utilization of this material is strictly prohibited.

The Texas A&M University System 

4

4



## **Advisory Notice #2**

The presentation handout is intentionally text-heavy in order to serve as an ongoing resource for all civil rights informal facilitators in The Texas A&M University System. Please annotate the document as needed to better ensure that this material is meaningful for you.



## **Advisory Notice #3**

The presenters are not providing legal advice; the presenters are compliance officers and facilitators and are offering compliance guidance as provided for under System Regulation 08.01.01. System regulations are subject solely to the interpretation of the System Offices.





## **Advisory Notice #4**

The training program includes material under the current System Regulation 08.01.01, previews some of the changes coming under the next regulation and demonstrates areas where we will be transitioning to new practices prior to the implementation of the new regulation.



7



## **Advisory Notice #5**

Please note that the material being addressed in this program may involve explicit language that some may find offensive or triggering. Nothing is done in this training for “shock value” but will be consistent with the real-world language and details that we are confronted with in civil rights compliance work. If you find yourself reacting negatively, please step away to the degree that you need to, and please seek appropriate assistance if necessary.



8

## Ground Rules



## Ground Rules

1. We intend to start and end on time. Please be prompt.
2. There will be a one-hour break for lunch, and ten-minute breaks in both the morning and afternoon.
3. Please minimize distractions (cell phone, email, internet) to focus on the presentation.
4. We will provide opportunities for questions but ask you to keep track of questions that you have and be sure to ask any unanswered questions before the end of the training program.





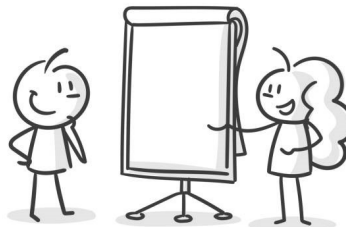
## Ground Rules

5. Each person who will facilitate the informal resolution of civil rights complaints on behalf of a system member or in the System Offices must pass a post-test following the completion of this program.

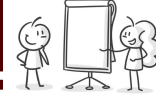


11

## Learning Outcomes



12



## Learning Outcomes

As a result of completing this training, attendees should:

1. Be able to articulate the purpose of the informal resolution process and the role of the facilitator.
2. Be able to articulate and apply listening and questioning skills as needed in the facilitation process.
3. Be able to articulate the expectations of System Regulation 08.01.01 as they relate to the facilitation process.
4. Be able to articulate the five different conflict styles and be able to distinguish between them.

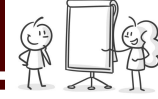


## Learning Outcomes

As a result of completing this training, attendees should:

5. Be able to articulate the five different conflict styles and be able to distinguish between them.
6. Be able to articulate the different types of conflict resolution methods that exist and be able to differentiate between them.
7. Be able to articulate the requirements of the intake process for informal resolution processes.
8. Be able to articulate the sanctioning requirements attached to informal resolution under 08.01.01.





## Learning Outcomes

As a result of completing this training, attendees should:

9. Be able to define BATNAs, WATNAs, and MLATNAs and their potential affect on the facilitation process.
10. Be able to articulate how to develop an agreement between the parties.



## Day One Agenda

1. Introduction
  - Post-Test
2. Conflict and Conflict Styles
3. Conflict Resolution Methods
4. System Regulation 08.01.01 and Informal Resolution
5. Overview of Facilitation in the A&M System Civil Rights Process



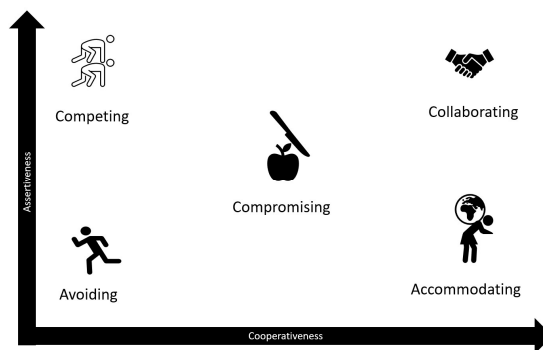




## Introduction of Post-Test

We are providing a twenty-question test that we will be utilizing to test your knowledge following the training program. Please keep this document at hand throughout the training and make notes as needed.

Instructions for completing the post-test will be provided at the end of the training program. In order to serve as an facilitator in the civil rights process, you must score at least an 80% on the post-test.



## Conflict and Conflict Styles





## Conflict and Conflict Resolution

# CONFLICT

When you are in a conflict with another person, what are the emotions that you most often experience?

Please write down three to five emotions that immediately come to mind.



## Conflict and Conflict Resolution

# RELATIONSHIPS

What relationships of value will you hold over the course of your lifetime? Who will they be with?

Please write down three to five relationships.





## Conflict and Conflict Resolution

# CONFLICT RELATIONSHIPS

Look at the list of emotions that we have created. Would you generally describe these as positive or negative emotions?

Look at the list of relationships that we have created. Which of these relationships will never experience conflict?



21



## Conflict and Conflict Resolution

### Lessons about Conflict and Relationships:

1. Conflict exist in every relationship of value.
2. The closer/more important the relationship, the greater the frequency and/or intensity of the conflict.
3. How we view conflict directly affects the quality of our relationships.
4. Conflict can be successfully navigated to improve our relationships.



22



*It's all about perspective...*



How we often view conflict



*It's all about perspective...*



How we should view conflict

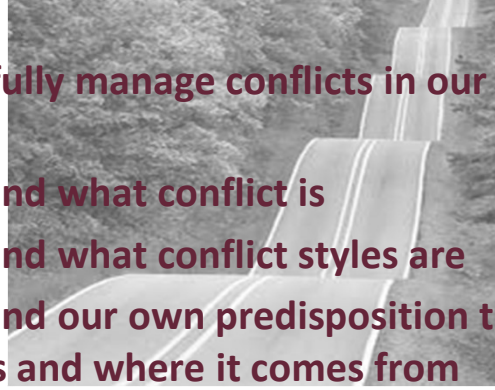




## *It's all about perspective...*

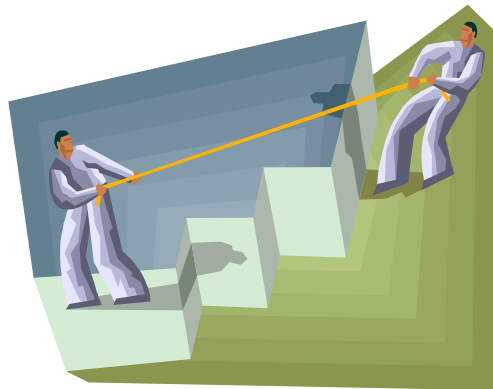
To successfully manage conflicts in our lives, we must:

- Understand what conflict is
- Understand what conflict styles are
- Understand our own predisposition towards conflict is and where it comes from



25

## Conflict



26



## What is Conflict?

**CONFLICT** is an expressed struggle between at least two interdependent parties who perceive incompatible goals, scarce resources, and interference from others in achieving their goals.

(Wilmot & Hocker)



## Let's operationalize this definition...

### Rick's Conflict (House v. Hawai'i)



Interdependent Parties?  
Incompatible Goals?  
Scarce Resources?  
Interference from Others?





## Conflict

**Beyond the components of conflict, how we communicate about conflict also impacts how successful we are in managing conflict situations.**

**Think about the emotions you listed, and how they affect the way that you manage conflict. When in conflict, are we more focused on communicating our interests and needs, or do we focus instead on using our emotions and trying to justify our positions or actions?**



## Conflict

### The PIN Model of Conflict

#### **POSITIONS**

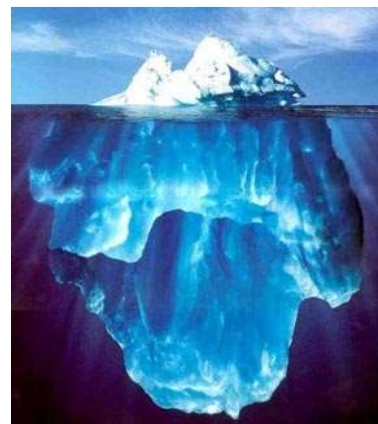
(what we say we want)

#### **INTERESTS**

(what we really want)

#### **NEEDS**

(what we must have)

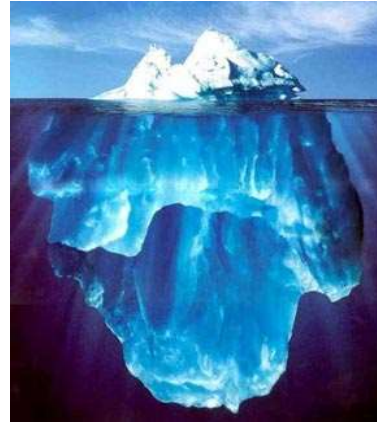




## Applying the PIN Model to Rick's Conflict...

### What does the house represent?

- Stable environment for family
- Shared investment in relationship
- Transition from one life phase to another
- Addressing "limited window" to have children



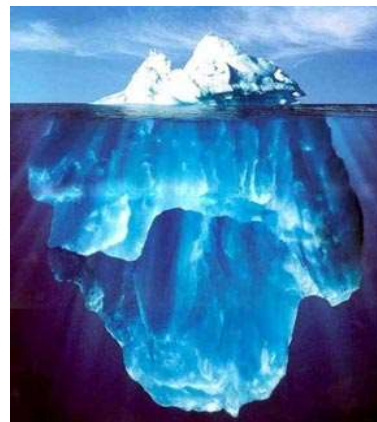
31



## Applying the PIN Model to Rick's Conflict...

### What does Hawai'i represent?

- Enjoyment of current life phase (independence)
- Shared investment in relationship
- Personally held value to travel to new places
- Achieving a long-held personal goal to travel to Hawai'i



32

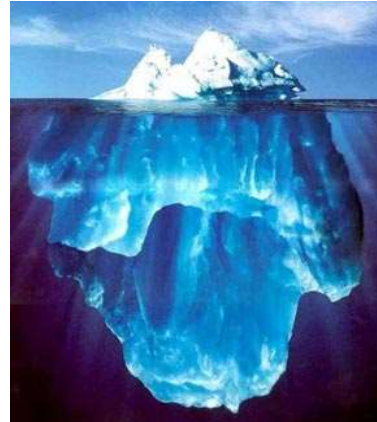




## Applying the PIN Model to Rick's Conflict...

### Incompatible goals

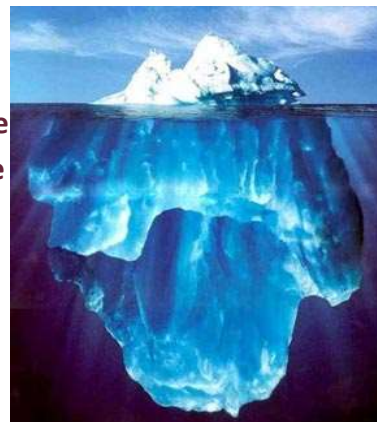
- “I think we should go to Hawai’i, then come back and save for the house.”
- “I think we should buy the house. Hawai’i will always be there.”



## Applying the PIN Model to Rick's Conflict...

### Scarce Resources

- At the time that this decision was being made, we had the money to take a two-week trip to Hawai’i OR to make a downpayment towards buying a house; we did not have money for both.

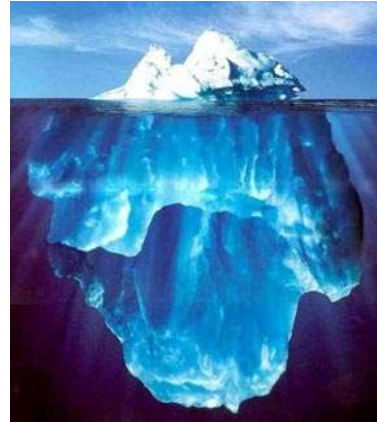




## Applying the PIN Model to Rick's Conflict...

### Interference from others

- “We should take the trip while we still have the freedom to enjoy it.”
- “How can you think like that? A home is more important than any trip.”

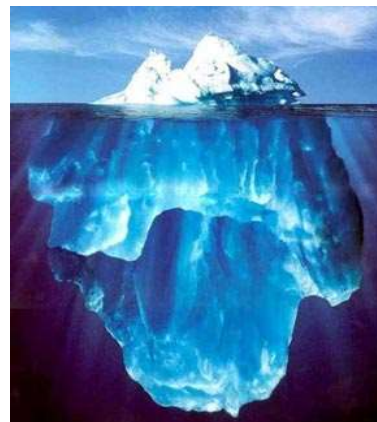


35



## Barriers to Conflict Resolution

- **Visible**
  - Behaviors
  - Positions
- **Not Visible**
  - Perceptions
  - Assumptions
  - Attitudes
  - Beliefs
  - Values



36

## FACILITATION TRAINING (BASIC)

**Conflict Styles**

## Guided Imagery



© 2023 – Richard T. Olshak

The Texas A&amp;M University System



37

## FACILITATION TRAINING (BASIC)

## Guided Imagery

1. Get yourself into a relaxed body position?
2. Put down anything in your hands
3. Relax and close your eyes.



© 2023 – Richard T. Olshak

The Texas A&amp;M University System



38

## FACILITATION TRAINING (BASIC)

Guided Imagery

I'm going to ask you to use your imagination to recreate a typical scene from your childhood. Your scene will be safe and you will be protected as children should be. Pretend that you are going back in time. Back to when you were just five or six years old. As you begin to recognize your childhood surroundings, consider the colors and familiar scenery around you. Where is your imagination taking you? Are you in a family house? The house of a playmate? Outside in your backyard? Maybe you are in school or on a school bus. Perhaps you are on vacation. Let your imagination settle into a familiar childhood setting. Take in the sights and sounds. Imagine the smells around you. Can you find a favorite toy laying nearby? Remember a game that you might have played. What is it? Can you smell a favorite food from the kitchen? Think about how you are feeling. Are you excited? Happy? Scared? As you become more familiar with your childhood setting, take a moment to figure out who is in the scene with you. Are you alone? Perhaps you see family members or friends. What are they doing?

© 2023 – Richard T. Olshak

The Texas A&amp;M University System



39

## FACILITATION TRAINING (BASIC)

Guided Imagery

Now, pretend as a five or six year old, that you have an imaginary friend with you on your journey. This friend has never been to your childhood location before. Your friend is anxious to fit in so that he or she will not be discovered. Show your friend around your chosen location. Help your friend take in the sights and sounds by describing your surroundings to him or her. It is important that your friend fit in in all ways. Your friend needs advice from you as a child on how to handle conflict in your childhood place. What must you tell your friend in order to fit in? Must your friend learn different ways to act with different people? How about in different childhood situations? How must your friend react to conflict in order to fit in? In order to be safe and happy? Once you have successfully helped your imaginary friend understand how to react to conflict in your childhood place, you have done your job. It is now time to come back from your childhood memory. Say goodbye to fond memories or leave behind those that challenged you as a child. They are safe in the past. Take a few minutes to move away from your childhood place and leave your imaginary friend behind.

© 2023 – Richard T. Olshak

The Texas A&amp;M University System



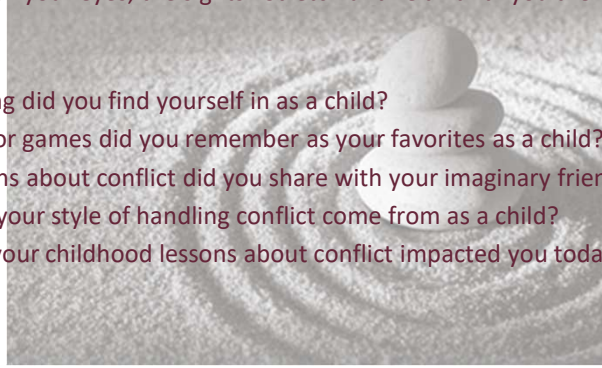
40

## FACILITATION TRAINING (BASIC)

Guided Imagery

Become aware of your present surroundings, the smells, sounds, and finally, when you open your eyes, the sights. Stretch and relax until you are fully present again.

1. What setting did you find yourself in as a child?
2. What toys or games did you remember as your favorites as a child?
3. What lessons about conflict did you share with your imaginary friend?
4. Where did your style of handling conflict come from as a child?
5. How have your childhood lessons about conflict impacted you today?



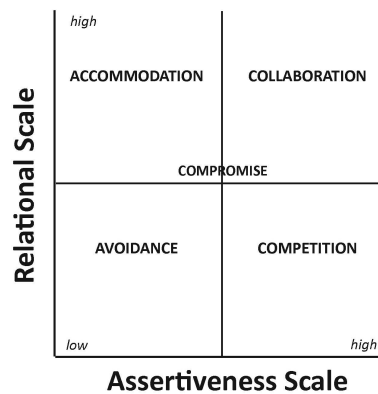
© 2023 – Richard T. Olshak

The Texas A&amp;M University System



41

## FACILITATION TRAINING (BASIC)

Conflict Styles

© 2023 – Richard T. Olshak

The Texas A&amp;M University System



42



## Conflict and Conflict Styles – Individual Assignment

At 11:30 am, we are going to go offline and have you complete the conflict styles inventory found in your participant materials supplement. Please complete and score the instrument, then break for lunch before we resume training at 1:00 pm.

The survey can also be accessed at:

<https://studentlifeguru.files.wordpress.com/2013/08/conflict-questionnaire.pdf>



## Conflict Styles

# AVOIDANCE





## FACILITATION TRAINING (BASIC)

**Avoidance**

What does avoidance look like?

- Ignoring the problem/conflict
- Denial of the problem/conflict
- Evasion of the problem/conflict
- Joking about the problem/conflict



© 2023 – Richard T. Olshak

The Texas A&amp;M University System



45

## FACILITATION TRAINING (BASIC)

**Avoidance**

When should we avoid conflict?

- When the issue or relationship is unimportant
- When there is no chance of a positive outcome
- When risks of confrontation outweigh benefits of resolution
- When other party has significantly greater power
- When one or more parties needs time to “cool down”
- When it is appropriate to let others resolve conflict

© 2023 – Richard T. Olshak

The Texas A&amp;M University System



46



## Avoidance

What are the disadvantages of avoidance?

- Decisions made by default/without input
- Issues likely to remain unresolved
- Loss of influence in a situation or relationship
- Leads to self-doubt and loss of self-esteem
- May be unable to deal with conflicts in the future
- Demonstrates a lack of caring/investment



## Conflict Styles

# ACCOMMODATION





**Accommodation**

What does accommodation look like?

- Giving in or giving up
- Denying one's own needs
- Placing harmony in the relationship over the issues in conflict

**Accommodation**

When should we accommodate in conflict?

- When one is wrong/other is right
- When there is a desire for harmony in the relationship
- When relationship is more important than the dispute
- When losses can be minimized
- When a party needs to “save face”
- When one wants leverage for future conflict





### Accommodation

What are the disadvantages of accommodation?

- Requires party to give something up
- Issues likely to remain unresolved
- Does not generate creative solutions
- Can cause frustration and/or resentment
- Creates a loss of influence in situation/relationship
- Can damage relationships
- Can foster competition over “niceness”



51

### Conflict Styles

# COMPETITION



52

## FACILITATION TRAINING (BASIC)

**Competition**

What does competition look like?

- Hostile remarks or jokes
- Threats and/or coercion
- Denial of own responsibility
- Verbal arguments
- Physical altercations
- Covert actions



© 2023 – Richard T. Olshak

The Texas A&amp;M University System



53

## FACILITATION TRAINING (BASIC)

**Competition**

When should we compete in conflict?

- When immediate and decisive action is necessary
- When the style will be rewarded
- When there is no relationship of value
- When the issue is more important than the relationship
- Where a party needs to prove commitment/strength
- When total victory is desired

© 2023 – Richard T. Olshak

The Texas A&amp;M University System



54



## Competition

What are the disadvantages of competition?

- Strains/damages relationships
- Requires that one/both/all be “losers”
- Conflict may escalate
- Less likely to use constructive approaches later
- May encourage covert actions
- Can lead to stalemates
- Creates resentment and/or desire for revenge



55

## Conflict Styles

# COMPROMISE



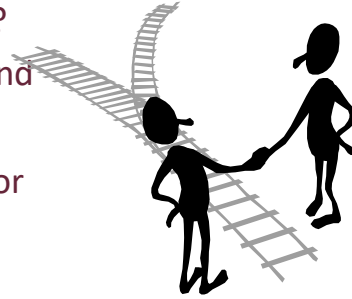
56

## FACILITATION TRAINING (BASIC)

**Compromise**

What does compromise look like?

- Both parties give and take to find a “middle ground”
- Offer a short-term resolution for “peace-keeping”
- Appeals to fair play/fairness



© 2023 – Richard T. Olshak

The Texas A&amp;M University System



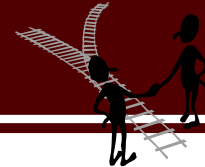
57

## FACILITATION TRAINING (BASIC)

**Compromise**

When should we compromise in conflict?

- When a temporary solution is needed
- When things can be “added up and divided by two” (compromised easily without major losses)
- When parties are of equal power
- When parties wish to save time and energy
- When doing so “seems fair” to all parties



© 2023 – Richard T. Olshak

The Texas A&amp;M University System



58



## Compromise

What are the disadvantages of compromise?

- Leaves underlying issues unresolved
- Not everything can be compromised
- Issue may become a recurring problem
- Parties required to give something up
- One/both/all parties may not be completely satisfied
- Becomes an easy way out of creative conflict resolution
- Leads to “position padding”



## Conflict Styles

# COLLABORATION



## FACILITATION TRAINING (BASIC)

**Collaboration**

What does collaboration look like?

- Open and honest dialogue that is positive and constructive
- Willingness to listen to another view
- Emotions dealt with properly
- Seeking input from other party
- Willingness to accept responsibility for one's actions
- Giving ground without "giving in" (reason v. compromise)



© 2023 – Richard T. Olshak

The Texas A&amp;M University System



61

## FACILITATION TRAINING (BASIC)

**Collaboration**

When should we collaborate in conflict?

- When relationship is important
- When a mutually satisfying outcome is sought
- When both views/sides are too important to compromise
- When underlying issues need to be addressed
- When new and creative solutions are desired

© 2023 – Richard T. Olshak

The Texas A&amp;M University System



62



## Collaboration

What are the disadvantages of collaboration?

- Takes more time and energy
- Requires both parties to be committed to the process
- Can make a party seem unreasonable if they later decide against collaboration
- A collaborative party may appear weak to an aggressive/competitive party



63



## Conflict

Let's apply the styles...

Rick's Conflict (House v. Hawai'i)



Let's try:


- Avoidance
- Accommodation
- Competition
- Compromise
- Collaboration




64



FACILITATION TRAINING (BASIC)



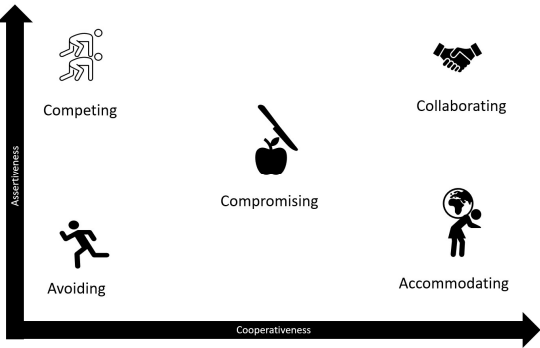
# Conflict and Conflict Styles



The Texas A&M University System 65

65


FACILITATION TRAINING (BASIC)



# Conflict Resolution Methods

© 2023 – Richard T. Olshak

The Texas A&M University System



66

66

## Conflict Resolution

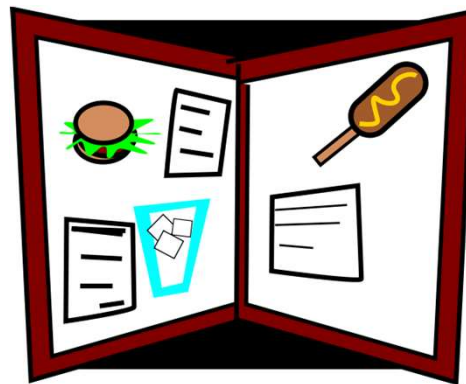
CONFLICT RESOLUTION is a group of processes by which parties seek to address the conditions of a conflict for the purpose of achieving a satisfying outcome. As with conflict styles, the processes we utilize reflect varying degrees of assertiveness and commitment to maintaining and improving relationships.

There is an entire range of options for resolving disputes and conflicts, known as the Conflict Resolution Menu (CR Menu).



## Conflict Resolution

The “CR Menu”



# Conflict Resolution

## The "CR Menu"



- Discussion
- Negotiation
- **Facilitation and Shuttle Facilitation**
- **Conflict Coaching**
- **Mediation**
- **Restorative Practices**



- Administrative Action
- Legislative Action
- Arbitration
- Litigation
- Adjudication (informal)
- Adjudication (formal)

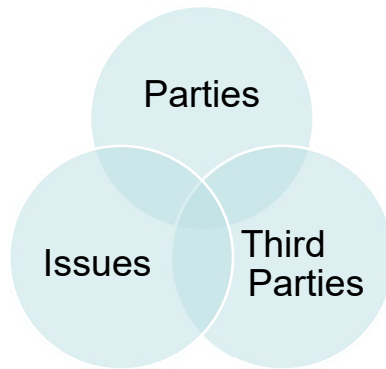
© 2023 – Richard T. Olshak

The Texas A&M University System



# Conflict Resolution

## The "CR Menu" – How to Choose



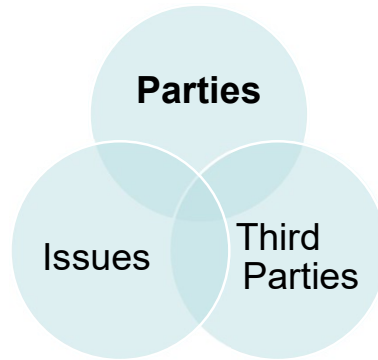
© 2023 – Richard T. Olshak

The Texas A&M University System



# Conflict Resolution

The "CR Menu" – How to Choose



### Who are the parties?

- Conflict styles
- Needs
- Beliefs/Values
- Relationship
- Desired Outcomes

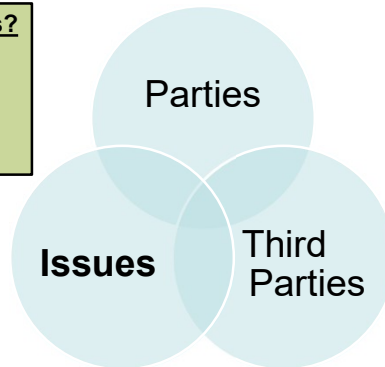


# Conflict Resolution

The "CR Menu" – How to Choose

### What are the issues?

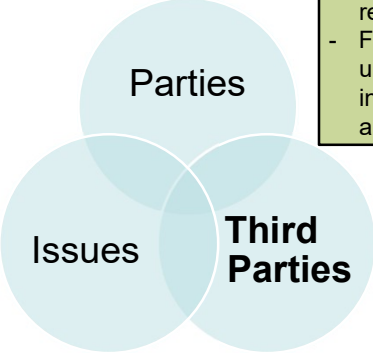
- Definable
- Shared
- Subject to Party control/influence



FACILITATION TRAINING (BASIC)

## Conflict Resolution

The "CR Menu" – How to Choose




**Are there third parties?**

- Other parties to conflict
- Institutional values and requirements
- Federal/State Law, unions, other parties with investment in conflict and/or outcome

© 2023 – Richard T. Olshak

The Texas A&M University System

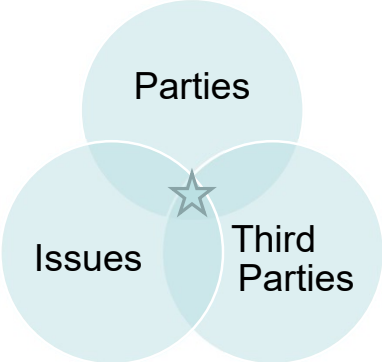


73

FACILITATION TRAINING (BASIC)


## Conflict Resolution

The "CR Menu" – How to Choose



© 2023 – Richard T. Olshak

The Texas A&M University System



74



## System Regulation 08.01.01 and Informal Resolution

© 2023 – Richard T. Olshak

The Texas A&amp;M University System



75

75



### Informal Resolution: Practice

- May be initiated and pursued at any time in the process prior to an adjudicatory decision
- Conditions of the Process:
  - o Voluntary (Complainant, Respondent, Member)
  - o Private (may not be provided to formal process)
  - o Can revert to the formal process at any time – decision may be made by the complainant, respondent, member, or facilitator
  - o Facilitation, Mediation, and Restorative Practices are the processes that we utilize; Mediation may not be used to resolve complaints of sexual assault and/or sex-based violence

The Texas A&amp;M University System



76

76

## Four Selected Conflict Resolution Methods

- o Degrees of formality and structure



- o All of these methods are voluntary methods of conflict resolution that require parties who are acting in good faith

© 2023 – Richard T. Olshak

The Texas A&M University System



77

## FACILITATION TRAINING (BASIC)



## Informal Resolution: Practice

### Overview of the Process

#### Reporting & Intake

1. Closure
2. Supportive Measures
3. Emergency Actions
4. **Informal Resolution**
5. Formal Resolution

#### Investigation

1. Dismissal / Closure
2. **Informal Resolution**
3. Adjudication

#### Adjudication

1. **Informal Resolution**
2. Decision
3. Appeal

**Post-Adjudication:** Informal Resolution can be utilized to complement the formal resolution process once a case has been adjudicated.

The Texas A&M University System



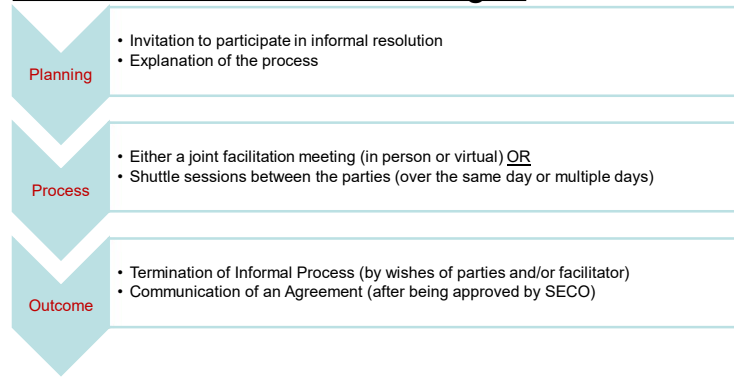
78

78



## Informal Resolution: Practice

### Overview of Facilitation Stages



## Informal Resolution: Practice

### Current A&M System Regulation 08.01.01

4.6.1 At any time prior to the determination of a final decision, the parties may seek informal resolution to resolve the complaint. The following conditions apply to informal resolution:

(a) Informal resolution is a voluntary process. No party may be compelled to participate in informal resolution. The system member, in consultation with SECO, must agree to allow an informal resolution to move forward and must obtain the parties' voluntary, written consent to the informal resolution process.

(b) Prior to an informal resolution, the parties will be provided with: (a) written notice of the allegations; (b) the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations; and (c) the consequences of withdrawing from the informal process and resuming the formal process, and including the records that will be maintained or could be shared.





## Informal Resolution: Practice

### Current A&M System Regulation 08.01.01

(c) Once a party agrees to participate in informal resolution, they may withdraw from the process at any time prior to a final agreement and resume the formal grievance process. Information shared in the informal resolution process may not be introduced into the formal process without independent evidence.

(d) Once a final agreement is established through informal resolution, the complaint may not return to the formal complaint process unless one or both parties fails to abide by any conditions established in the agreement.

(e) Informal resolution options include mediation, restorative conferences, shuttle facilitation, and other forms of facilitated dialogue. Each member must work in consultation with SECO in developing informal resolution programs and the conditions for their use.



## Informal Resolution: Practice

### Current A&M System Regulation 08.01.01

(f) Mediation may not be used to resolve complaints of rape, statutory rape, dating violence, domestic violence, or any case in which imminent threats of harm may exist.

(g) Members may not offer an informal resolution process in sex-based complaints unless a formal complaint is filed and may not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.





## Informal Resolution: Practice

### Proposed A&M System Regulation 08.01.01

4.2.8 Informal Resolution – At any time in the process prior to the issuance of a decision letter from a formal hearing or a decision letter from a designated administrator, the parties may choose to resolve a complaint informally. Conditions for informal resolution include:

- (a) Participation in the informal resolution process shall be voluntary by the complainant(s) and the respondent(s). The member, in consultation with SECO, may agree to allow an informal resolution to move forward and shall obtain the parties' voluntary, written consent to the informal resolution process.
- (b) Once a party agrees to participate in informal resolution, they may withdraw from the process at any time prior to a final agreement and resume the formal grievance process. Information shared in the informal resolution process may not be introduced into the formal process without independent evidence.



83



## Informal Resolution: Practice

### Proposed A&M System Regulation 08.01.01

(c) Any resolution shall be agreed upon by the complainant(s), respondent(s), and the member. The member's interests shall be represented by someone who has oversight of the system regulation(s) or member rule(s) alleged to have been violated (e.g., student conduct, human resources, Title IX Coordinator).

(d) When informal resolution is attempted by the parties and the member following the filing of a complaint, the member shall provide the following information to the parties prior to the informal resolution:

- 1) A Notice of Allegations;
- 2) The requirements of the informal resolution process;
- 3) That parties may withdraw from the informal resolution process at any time prior to a signed and approved agreement;



84



## Informal Resolution: Practice

### Proposed A&M System Regulation 08.01.01

- 4) That parties agreeing to an informal resolution at the conclusion of the process would serve to resolve the complaint and preclude the parties from returning to the formal process;
- 5) Any conditions attached to the informal resolution of a complaint, such as sanctioning requirements;
- 6) What records will be maintained and under what conditions those records may be shared;
- 7) That, when applicable, the informal resolution facilitator may serve as a witness to the conditions surrounding the informal resolution process, without disclosing the substance of the process; and
- 8) The informal resolution facilitator shall not serve as an investigator or decision-maker in the member's formal process addressing the same or a related complaint.



85



## Informal Resolution: Practice

### Proposed A&M System Regulation 08.01.01

- (e) Once a final agreement is established through informal resolution, the complaint may not return to the formal complaint process unless one or both parties substantively fail to abide by any conditions established in the agreement.
- (f) Final agreements in which a respondent is accepting responsibility for a violation of sex-based misconduct under this regulation shall include a finding of fact and shall include sanctions consistent with sanctioning requirements outlined in this regulation.
- (g) Final agreements in which the parties agree to a member rule violation shall specifically note the member rule violated and shall include sanctions consistent with sanctioning expectations outlined in this regulation.
- (h) Final agreements in which a complainant agrees to withdraw their complaint may include agreements between the parties that are subject to enforcement by the member. These agreements are not considered sanctions.



86



## Informal Resolution: Practice

### Proposed A&M System Regulation 08.01.01

(i) Final agreements between parties may involve restitution for damages done, treatment resulting from harm caused, and contributions to non-profit organizations, but may not include punitive monetary settlements.

(j) Final agreements reached in cases involving employee respondents are subject to the review and approval of the System Director of Equal Opportunity and Diversity before they are considered resolved. Final agreements reached involving student or third-party respondents are subject to the review and approval of the System Director of Title IX Compliance before they are considered resolved.

(k) Informal resolution options include facilitation (including shuttle facilitation), mediation, restorative practices, and other forms of facilitated dialogue. Each member shall work in consultation with SECO in developing informal resolution programs and the conditions for their use. Mediation may not be used to resolve complaints of nonconsensual penetration, dating violence, domestic violence, or any case in which imminent and/or ongoing threats of future harm may exist.



## Informal Resolution: Practice

### Proposed A&M System Regulation 08.01.01

(l) Members may not offer or facilitate an informal resolution process to resolve allegations that an employee sexually discriminated against a student.





## Overview of Facilitation in the A&M System Civil Rights Process



## What is Facilitation?

- Facilitation is a process in which the disputants participate in a direct conversation regarding the conflict with the assistance of a trained facilitator(s)
- The facilitator should be as unknown to the parties and the dispute as possible and should have no vested interest in the outcome (focus is on the process)
- Focus can be on broader issues surrounding the behavior, but there is a specific focus on resolving the allegations, provided all parties (Complainant, Respondent, Member) all agree on the findings and the outcome





## What is Shuttle Facilitation?

- Shuttle Facilitation is the same as Facilitation but without direct face-to-face conversations between the disputants
- The **danger** of shuttle facilitation is that, without the disputants communicating directly with one another, they are relying on the facilitator to accurately convey information as well as their interests; it is critical that the facilitator ensure that what they are communicating accurately represents the interests of each disputant



91

## What's in it for the Parties?

### Complainant

- Less Re-trauma
- Safety
- Empowerment
- Opportunity to Resolve Quickly
- Wider Range of Options

### Respondent

- Certainty of Outcome
- Opportunity to Resolve Quickly
- Opportunity to Negotiate Agreement Language
- Disposition of Case, Pending Criminal or Conduct Cases
- Wider Range of Options

### Institution

- Reduces Liability
- Quicker Disposition
- Reduces Case Manager/Investigator Caseload
- High Satisfaction Rate
- Branding/Marketing Opportunity



92



## Conditions for Facilitation

- Voluntary participation by all parties
- Good faith exercised by all parties
- Privacy
- Safety
- Self-Determination
- Qualified Facilitator (trained, experienced, multi-party, non-directive, and not invested in parties, content, or outcome)



93



## Prohibitions for Facilitation

- Foreseeable imminent threat of harm to any party/third party
- Cases in which there is a student complainant and an employee respondent (sex-based)
- Cases involving minors



94



### Types of facilitated agreements

1. Civil Rights Resolution
2. Member Rules Resolution
3. Voluntary Resolution



95



### Civil Rights Resolution

1. The parties (Complainant, Respondent, Member) agree on a resolution that involves the acceptance of one or more civil rights violations on the part of the respondent
2. A finding establishes the specific portions of the regulation for which the respondent is accepting responsibility
3. Sanctions are developed (and included as a part of the agreement) that are consistent with sanctioning mandates found under System Regulation 08.01.01
4. Once the parties agree on a final resolution, the agreement is submitted to SECO for review; once approved the agreement is communicated to the parties and goes into effect



96





## Member Rules Resolution

1. The parties (Complainant, Respondent, Member) agree on a resolution that involves the acceptance of one or more published member rules on the part of the respondent
2. A finding establishes the specific portions of the published rules for which the respondent is accepting responsibility
3. Sanctions are developed (and included as a part of the agreement) that are consistent with sanctioning mandates found under System Regulation 08.01.01
4. Once the parties agree on a final resolution, the agreement is submitted to SECO for review; once approved the agreement is communicated to the parties and goes into effect



97



## Voluntary Resolution

1. The parties (Complainant, Respondent, Member) agree on a resolution that involves the acceptance of responsibility by the respondent for causing harm to the complainant
2. Outcomes are developed (and included as a part of the agreement) that are satisfactory to all parties; these outcomes are enforceable by the member as they pertain to any relationship between the member and the respondent (outcomes should not be referred to as sanctions)
3. The complainant agrees that the resolution and outcomes satisfy their interests, and they voluntarily withdraw their complaint
4. Once the parties agree on a final resolution, the agreement is submitted to SECO for review; once approved the agreement is communicated to the parties and goes into effect



98



## All Resolutions

1. All cases are subject to return to the formal complaint resolution process if agreements are not met by the respondent
2. Agreements should include “safety nets” that provide for the application of the informal resolution if there are difficulties with the implementation and/or maintenance of the agreement



## **Website Resources for Informal Resolution (in progress)**

1. 5A-1: Chart C: Informal Resolution Process
2. 5A-2: Notice of Informal Resolution Process
3. 5A-3: Informal Resolution (Facilitation) Opening Statement
4. 5A-4: Informal Resolution (Facilitation) Closing Statement
5. 5A-5: Informal Resolution (Mediation) Opening Statement
6. 5A-6: Informal Resolution (Mediation) Closing Statement
7. 5A-7: Informal Resolution (Restorative) Opening Statement
8. 5A-8: Informal Resolution (Restorative) Closing Statement
9. 5A-9: Notice of Informal Resolution Process Closure (no agreement, required)
10. 5A-10: Informal Resolution Process Agreement – Civil Rights Resolution (required)
11. 5A-11: Informal Resolution Process Agreement Form – Student Conduct Resolution (required)
12. 5A-12: Informal Resolution Process Agreement Form – Employee Resolution (required)





### Website Resources for Informal Resolution (in progress)

13. 5A-13: Informal Resolution Process Agreement Form – Voluntary Party Agreement (required)
14. 5A-14: Informal Resolution Agreement – No-Civil Rights (required)
15. 5A-15: Facilitator Case Report (required)
16. 5A-16: Disputant Evaluation of Informal Resolution Process
17. 5A-17: Documentation of Educational Intervention



101



### Homework (for two LUCKY volunteers)

We will begin tomorrow with a demonstration of a facilitation. To do so, we are requesting two volunteers; one to serve as a complainant and one to serve as a respondent in a sex-based case involving two former dating partners who are working together on a class project. The allegation is that the respondent is stalking the complainant.


Once we have selected two volunteers, role play scripts will be immediately emailed to our volunteers.




102

FACILITATION TRAINING (BASIC)


SEE YOU TOMORROW!




The Texas A&M University System  103

103

FACILITATION TRAINING (BASIC)



The Texas A&M University System  104

104



## Day Two Agenda

1. Sample Facilitation
  - a. Followed by Processing
2. Facilitation: The Skill Base
  - a. Active and Intentional Listening
  - b. Questioning,
  - c. BATNAs, WATNAs, and MLATNAs
3. Facilitation: Navigating the Process
  - a. Exploring the Texas A&M University approach



105



## Sample Facilitation

### The Story:

It is early March. The Complainant and Respondent dated throughout the fall semester and into the spring. About six weeks ago, Complainant and Respondent got into an argument; Complainant told Respondent that they wanted to end the relationship. According to the complaint, Respondent indicated a lack of willingness to end the relationship. Since that time, Complainant alleges that the Respondent has been stalking the Complainant. To complicate matters, the two share a history class and have been assigned to present a group project together. It is too late to switch groups (each group has four students) and the project is worth thirty percent of the final grade. The two have agreed to an attempt at informal resolution prior to an investigation.



106



## Sample Facilitation

Let's process what we observed.

1. Does the process look the way you thought it would?
2. Did anything about the process surprise you? What and how?
3. What questions do you have for the facilitator?
4. What questions do you have for the parties?
5. What do you think of the process, the outcome, and how the outcome was arrived at?



107



## Facilitation: The Skill Base



108



## Active and Intentional Listening



109



## Active Listening

- What is ACTIVE listening?
  - Both nonverbal and verbal in nature
  - Physically attending to the party



110



## Active Listening

- Physically attending:
  - Body Posture
  - Eye Contact
  - Verbal and nonverbal acknowledgements
  - Validation through empathy
  - Appropriate/proportional expression of emotions
  - Being “present” – paying attention (listening to hear the story rather than simply waiting to speak)
  - Minimizing distracting behaviors



111



## Active Listening

- What is ACTIVE listening?
  - Both nonverbal and verbal in nature
  - Physically attending to the party
  - Restating



112





## Active Listening

- Restating:
  - Let's the speaker know you are listening
  - Allows you to confirm you are hearing their perspective accurately
  - Helps create a dialogue rather than a monologue, further engaging the speaker to continue sharing
  - Do only periodically, as pauses and breaks in the telling of their perspective permit



113



## Active Listening

- What is ACTIVE listening?
  - Both nonverbal and verbal in nature
  - Physically attending to the party
  - Restating
  - Mirroring



114



## Active Listening

- Mirroring:
  - Helps establish rapport
  - Match posture, voice tone, movement
  - Matching metaphors
  - Be careful not to mimic
  - Don't mirror negative behaviors



115



## Active Listening

- What is ACTIVE listening?
  - Both nonverbal and verbal in nature
  - Physically attending to the party
  - Restating
  - Mirroring
  - Reframing



116



## Active Listening

- Reframing:
  - Restating what someone says while also removing negative (toxic) language and seeking to promote resolution; a difficult skill because we generally do not speak this way
  - Reframing = Restating + Deescalating
  - Looking for an opportunity to seek definitions or turn “mental tables”
  - Be careful not to use reframing to minimize the affects of a situation



117



## Intentional Listening

- To be an INTENTIONAL listener, we must:
  - Eliminating outside distractions
  - Always stay on task / be present
  - Remember where we are in the process, trusting that we are not ready to move to the next step of the process until we have completed this one (we are not in a rush)
  - Continually checking in with the party / demonstrating empathy



118



## Listening Tips

- Stay Focused on the Party
- Maintain open body posture, Routinely offer eye contact
- Remain cognizant of your own listening “quirks”
- Minimize external distractions
- Provide uninterrupted time for perspective sharing whenever it is yielding relevant information or serving a positive purpose
- Restate and validate as appropriate
- Note words and terms in need of further definition
- Stay emotionally uninvolved with the content
- Utilize positive silence (be patient)



119



## Listening



120



## Questioning



121



## The Role of Questioning

- When **INVESTIGATING** a complaint, we ask questions for the purpose of seeking out all relevant inculpatory and exculpatory evidence in order to aid an adjudicator in reaching a decision as to whether there have been violations of system regulations and/or member rules.



122



## The Role of Questioning

- When **ADJUDICATING** a complaint, we ask questions for the purpose of seeking out relevant inculpatory and exculpatory evidence beyond what is included in the investigation report to aid us in reaching a decision as to whether there have been violations of system regulations and/or member rules.



123



## The Role of Questioning

- When **FACILITATING** a complaint, we ask questions for the purpose of determining what a party's interests and needs are, and to determine whether a resolution can be crafted that addresses the allegations that have been made to the satisfaction of both/all parties, as well as providing for a set of outcomes that both/all parties find to be acceptable.
- In Facilitation, the facilitator is not trying to corroborate facts, analyze evidence, determine what happened, or in any way pass judgment on the parties. The mindset of a facilitator is a sharp contrast from that of an investigator or adjudicator.



124



## Facilitation: Key Process Questions

At outset of process:

1. What are you seeking to gain out of this process?
2. Have you thought about any specific outcomes? What would they look like?



125



## Facilitation: Key Process Questions

Based on Party Positions, explore Interests and Needs:

1. What are your primary needs in this situation? What do you have to have?
2. What will (party position) accomplish?
3. Is that what you are seeking?



126



## Facilitation: Key Process Questions

To Create a Finding:

1. What degree of acceptance of responsibility (or acknowledgement of harm) must you have from the respondent?



127



## Facilitation: Key Process Questions

To Create Outcomes:

1. What type of outcome do you want to see come from this process?
2. Outcomes can include:
  - a. Restorative Components (benefit the complainant)
  - b. Educational Components (benefit the respondent/community)
  - c. Punitive Components (provide consequence)



128





## Questioning







129



## BATNAs, WATNAs, and MLANTAs




130

 I win You lose	 I win You win
 I lose You lose	 I lose You win





BATNAs, WATNAs, and MLATNAs

- **BATNA** – Best Alternative to a Negotiated Agreement
  - If we are unable to achieve a resolution, what is the best outcome that I could expect?
    - Helps party determine commitment to resolution; if the best alternative to a negotiated agreement is better than any outcomes that could come as a result of negotiation, then what motivation exists for negotiation/dispute resolution?
    - When might someone determine that their best alternative is better than a negotiated agreement?

The Texas A&M University System




131

 I win You lose	 I win You win
 I lose You lose	 I lose You win





BATNAs, WATNAs, and MLATNAs

- **WATNA** – Worst Alternative to a Negotiated Agreement
  - If we are unable to achieve a resolution, what is the worst outcome that I could expect?
    - Helps party envision the consequences of failing to engage in dispute resolution efforts; can often serve to motivate a disputant to reconsider positions that may not address underlying needs if they perceive failure to be an unacceptable outcome

The Texas A&M University System




132


 I win You lose	 It's a deal! I win You win
 I lose You lose	 I lose You win

## BATNAs, WATNAs, and MLATNAs


- **MLATNA** – Most Likely Alternative to a Negotiated Agreement
  - If we are unable to achieve a resolution, what is the most probable outcome that I could expect?
    - Helps party envision the consequences of failing to engage in dispute resolution efforts and to consider whether the status quo (the formal process) is acceptable; like WATNAs, can often serve to motivate a disputant to reconsider positions that may not address underlying needs if they perceive failure to be an unacceptable outcome


The Texas A&M University System 

133

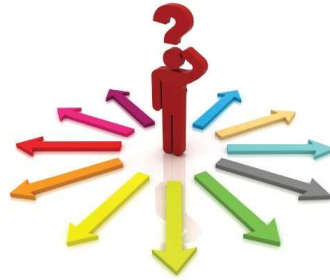
FACILITATION TRAINING (BASIC) 

## BATNAs, WATNAs, and MLANTAs



The Texas A&M University System  134

134



# Facilitation: Navigating the Process



135

## Let's explore the Texas A&M University approach...

### How We Do It A Step-By-Step Guide



136

## FACILITATION TRAINING (BASIC)

Let's explore the Texas A&M University approach...

To Shuttle or Not  
to Shuttle

Live or Remote?

### Format of IR

- Safety
- Re-Trauma Concerns
- Safe Space/Confidentiality
- More Efficient Communication
- Improved Interaction With Advisors – Lessens Adversarial Stance
- Better Control of Emotional Response
- Encourages Participation

© 2023 – Joseph Alfe

The Texas A&amp;M University System



137

137

## FACILITATION TRAINING (BASIC)

Let's explore the Texas A&M University approach...

### Logistics



**Set-Up & Scheduling**

- Doodle Poll



**Zoom, etc.**

- Know How to Use



**Assistant**

- Scheduling.
- Sanction Tracking

© 2023 – Joseph Alfe

The Texas A&amp;M University System



138

138

## Let's explore the Texas A&M University approach...



### Step One

#### The Pre-Session Meeting

(Parties are in Individual Meeting Rooms)

##### 1: Start With The Respondent.

- Brief Hello
- Explanation of Shuttle Process
- Acknowledge Advisor
- Address Fear of Equality
- Thank Them For Their Patience



139

## Let's explore the Texas A&M University approach...

### 2: Move to Complainant

Introduce Yourself

Thank Them For Participating

Ask How to Address

Acknowledge Advisor

Express Hope of Resolution



140

Let's explore the Texas A&M University approach...

3: Express Empathy

Empathy Is Not Apology

- Perspective Shift
- I'm So Sorry You've Had To Experience This

Validation

- What You Have To Say Is Important
- You Are Heard

Safety/Retaining Control

- The Respondent Cannot See or Hear You (Choice)
- I Won't Share Context Information Unless Given Permission

Define The Goal of Informal Resolution

- To Feel Safe Enough to Access Your Guaranteed Educational Benefits



Let's explore the Texas A&M University approach...

4: Explain The Process

- How Shuttle Works
- Option to End Session At Any Time
- Be Respectful
- Being Heard
- Ask if Private Time /Break is Needed
- Defer to Attorney/Advisor For Advice
- Encourage Questions



Let's explore the Texas A&M University approach...

5: Differences: Formal vs. Informal



143

Let's explore the Texas A&M University approach...

6: Describe The Agreement Process




144




FACILITATION TRAINING (BASIC)

Let's explore the Texas A&M University approach...

**7: Explain the Two Objectives**



- Level of Responsibility
- Outcome
- The 2+2=Success Formula

© 2023 – Joseph Alfe The Texas A&M University System  145


145

FACILITATION TRAINING (BASIC)

Let's explore the Texas A&M University approach...

**8: The 2+2=Success Formula: Part 1**  
**Ask These 2 Questions**

- 1  
Is a Punitive or Restorative Outcome Desired? (or both)
- 2  
What Does a Successful Resolution Look Like to You?

© 2023 – Joseph Alfe The Texas A&M University System  146

146

Let's explore the Texas A&M University approach...

The 2+2=Success Formula: Part Two  
Ask 2 More Questions to Define Success



147

Let's explore the Texas A&M University approach...

**9: Move Back to Respondent -  
Repeat Sub-Steps 1 Through 6**



148

## FACILITATION TRAINING (BASIC)

Let's explore the Texas A&M University approach...



## Step Two

# Facilitation

- Switch Back to Complainant
- Describe Negotiation Process
- Re-Check Goal of IR (Safety to Access Education)
- Re-Check 2+2 Directive

© 2023 – Joseph Alfe

The Texas A&amp;M University System



149

149

## FACILITATION TRAINING (BASIC)

Let's explore the Texas A&M University approach...

## 1. Describe Negotiation Process

- Issue Spotting/Peeling the Onion
  - Affect Labeling
- Wants vs. Needs (Remember Goal of IR)
- Firm or Flexible? (Driven by 2+2 Formula)
- Remember Both Parties Must Agree
  - BATNA (Best Alternative)
  - WATNA (Worst Alternative)
- Strategy
  - Rate Each Provision's Importance
  - Give Aways
- Confidentiality (Ask What Can Be Shared)



© 2023 – Joseph Alfe

The Texas A&amp;M University System

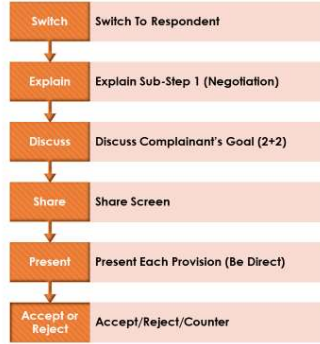


150

150

Let's explore the Texas A&M University approach...

**2: The Offer Process**  
Once Complainant Has Agreed to a Proposal



Let's explore the Texas A&M University approach...

**What Should The Facilitator's Role Be?**



FACILITATION TRAINING (BASIC)

Let's explore the Texas A&M University approach...

-  Share Screen to Show Agreement Draft language
-  Reaffirm No Advocacy/Equal Rights
-  Be Respectful
-  Do you speak Lawyer?
-  Always Direct Party to Defer to Attorney/Advisor For Advice
-  Reinforce Non-Adversarial Process

**Attorney Advisors:  
Special Considerations**



© 2023 – Joseph Alfe

The Texas A&M University System



153

153

FACILITATION TRAINING (BASIC)

Let's explore the Texas A&M University approach...

**Attorney Advisors:  
Special Considerations:  
Criminal Concerns**



© 2023 – Joseph Alfe

The Texas A&M University System

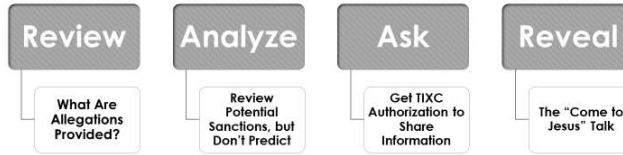


154

154

Let's explore the Texas A&M University approach...

Attorney Advisors: Special Considerations: Do They Have The Facts?



Let's explore the Texas A&M University approach...

Attorney Advisors: Special Considerations: The Risk/Benefit Analysis

- Review The Benefits of Informal Resolution
- Ability to Control Language
- Case Permanently Closed
- Avoid Uncertainty of Formal Hearing/Level of Sanction
- Possibility of Creative Solutions
- Level of Responsibility (TIX or Other)
- Time and Cost
- Are You Willing to Gamble?
- Respondent Should Defer to Advisor for Advice, Not Facilitator
- Encourage Private Advisor Caucus
- Get Authorization to Share With Other Party/Advisor





Let's explore the Texas A&M University approach...



Step Three

**Closure:**  
**Getting The Agreement Signed**



Let's explore the Texas A&M University approach...

**1. Finalizing The Agreement**



## FACILITATION TRAINING (BASIC)

## Let's explore the Texas A&amp;M University approach...

## 2. Signing The Agreement



End Session

© 2023 – Joseph Alfe

The Texas A&amp;M University System



159

159

## FACILITATION TRAINING (BASIC)

## Let's explore the Texas A&amp;M University approach...

Step Four:  
Housekeeping

- Send Notice to Parties/Advisors of Approved Agreement
- Develop a Checklist
- Notify Partner Departments re Sanctions/Deliverables
- Create and Update Sanction Tracker
- Update Case Log
- Notify Team Of Agreement/No Agreement
- Save All Correspondence to File
- Case Closure
- Update IR Log



© 2023 – Joseph Alfe

The Texas A&amp;M University System



160

160





# The Texas A&M Approach



161

SEE YOU TOMORROW!



162

## FACILITATION TRAINING (BASIC)



The Texas A&amp;M University System



163

163

## FACILITATION TRAINING (BASIC)



## Day Three Agenda

1. Impasse
2. The Intake Process
3. Role of the Advisor
4. Role Play Opportunity
5. Terminating a Facilitation
6. Creating an Agreement
7. Role Play Opportunity
8. The Outtake Process
9. Post-Test Link

The Texas A&amp;M University System



164

164



## Managing Impasse



165



## Impasse

What does Impasse look like?

- An inability to make progress towards an agreement
- Positions are being continually restated
- The facilitator senses frustration coming from one or both disputants
- The disputants stop constructive engagement
- The facilitator feels “stuck” in the process
- “Wall versus Logjam”



166



## Impasse

How do we manage Impasse?

- Trust in the process
- Reinforce progress that has been made
- Restatement / Reframing / Validation
- Explore Positions, Interests, and Needs
- Explore BATNAs, WATNAs, and MLATNAs
- Take a break
- Termination



167



## Impasse



168



## The Intake Process



169



## Intake

### Chronology of Intake

- Request is made for Informal Resolution
- If approved, reach out to 2<sup>nd</sup> disputant to provide invitation
- If accepted, send Notice of Informal Resolution
- Conduct intake meeting (can be done as a separate meeting or as a part of Facilitation/Shuttle Facilitation process) to review the conditions of Informal Resolution



170



## Intake

### Chronology of Intake

- Review conditions of Informal Resolution
  - Voluntary
  - Private
  - Prohibition Against Retaliation
  - Ability to withdraw at any time prior to a signed agreement
  - Role of the Facilitator
  - Review of IR process (formal v. informal)

When done as a part of the Facilitation session, this information is condensed into an Opening Statement that carries the introductory tasks reviewed yesterday as a part of the TAMU process.



171



## Intake



172



## Role of the Advisor



173



## Role of the Advisor

- Non-participatory in nature; may ask process questions but may not represent the advisee in any manner for the purpose of engaging in the Facilitation process
- Advisor should focus on helping explain the process to the advisee, advise them on their participation on the process, and offering emotional support to their advisee
- Advisor may prompt advisee to request breaks and/or private conversations during the facilitation process



174



## Role of the Advisor



175



## Role Play #1



176





## Role Play #1

- We need:
  - 1 Facilitator
  - 1 Complainant
  - 1 Respondent



177



## Role Play #1

- Scenario:
  - Complainant files a formal complaint alleging that the Respondent sexually assaulted her at party in the Respondent's dorm room. Complainant alleges she was incapacitated when the Respondent violently assaulted her. Complainant provides the sexual assault nurse's examination (SANE) report from the hospital that indicates contusions throughout the inside of her vagina and that the Complainant's tampon needed to be extracted from her cervix. Complainant signs a waiver allowing the SANE report to be used as evidence in the case. When the initial complaint was filed, the Respondent claimed the intercourse with the Complainant was consensual.
  - The formal investigation is underway and the complainant and two witnesses have been interviewed. The investigators are scheduling an interview with the Respondent when the Respondent asks for informal resolution. The Complainant agrees to give the process a try.



178



## Terminating a Facilitation



179



## Terminating a Facilitation

- In the event one (or more) of the parties is seeking to withdraw from the informal resolution process, the facilitator communicates this decision to all parties and pauses the informal resolution process.
- The case is then immediately referred back to the formal resolution process accompanied by a written explanation of why the case is being referred back (Facilitator Case Report)
- Any other requests (supportive measures, emergency actions, counter complaints, withdrawal of complaint, etc.) are to be referred back to the civil rights officer assigning the case



180



## Terminating a Facilitation

- In the event that the facilitator has determined that conditions are not appropriate for informal resolution, the facilitator communicates this decision to all parties and pauses the informal resolution process.
- The case is then immediately referred back to the formal resolution process accompanied by a written explanation of why the case is being referred back (Facilitator Case Report)
- Any other requests (supportive measures, emergency actions, counter complaints, withdrawal of complaint, etc.) are to be referred back to the civil rights officer assigning the case



## Terminating a Facilitation

- While being direct and clear with the parties, do not be accusatory or negative when terminating a facilitation. Do your best to end on a positive note, recognizing that this may simply not be the right time, place, or case to resolve through facilitation. Thank people for their willingness to participate and express hope for a positive outcome. Never argue with the parties about a decision to terminate.





# Terminating a Facilitation



# Creating an Agreement





## Creating an Agreement

- Establish the level of responsibility attached to the agreement(civil rights, member rules, or withdrawal of complaint).
  - Civil Rights cases must include a specific finding (short but clear statement) as to what is being determined, and what portion of the regulation applies to the finding
  - Member Rules cases must include a specific reference to a member rule but require no other statement of finding
  - Withdrawal of Complaint cases do not require any finding



## Creating an Agreement

- Establish the outcomes attached to the agreement(civil rights, member rules, or withdrawal of complaint).
  - Civil Rights and Member Rules cases must include sanctions consistent with sanctioning expectations found in System Regulation 08.01.01
  - Withdrawal of Complaint cases will have outcomes established by the parties, but these outcomes are not to be referred to as sanctions





## Creating an Agreement

- Establish a plan of implementation for each sanction and establish clear expectations for what is to be done, as well as when it is to be completed by
- Encourage Safety Nets - Plan "A" is great, but do we need a Plan "B" or even a Plan "C"?
- Are the parties open to returning to informal resolution if there are issues with implementation? If so, note this
- Address expectations of privacy, including the relationship between the civil rights complaint and any other processes that may be taking place simultaneously
- Address expectations of non-disparagement



## Creating an Agreement

- Separate the agreement into individual numbered points; do not write a narrative
- Use names of parties or use Complainant/Respondent; if using names keep the playing field level
- Do not include any language that is subject to interpretation; if the agreement needs to be subjected to enforcement, clarity is key
- "Acknowledgement of Harm" statements may be written into the agreement, most often as a prelude to the numbered agreements





## Creating an Agreement



## Role Play #2





## Role Play #1

- We need:
  - 1 Facilitator
  - 1 Complainant
  - 1 Respondent
  
- We will be using the same fact pattern from the first role play, but with different participants



191



## The Outtake Process



192





## The Outtake Process

- Complete the process of formalizing/finalizing the agreement and providing necessary documentation
- Facilitator Case Report is to be completed by the facilitator and submitted to the civil rights officer
- The disputants should be sent a link to the Disputant Evaluation of Informal Resolution Process and asked to voluntarily complete this instrument
- Do not engage in any external communications with the parties or advisors about any matters related to the case; all concerns should be directed to the civil rights officer



193



## Outtake Process



194

## Post-Test –



## Post Test –

Investigators must pass the post-test (minimum score of **80%**) in order to be eligible to conduct civil rights investigations.

The post-test must be completed by July 20, 2023.

Post-test link:

[https://tamusofficeofit.iad1.qualtrics.com/jfe/form/SV\\_41nN00qIYGZqZek](https://tamusofficeofit.iad1.qualtrics.com/jfe/form/SV_41nN00qIYGZqZek)



Final Q&A –

