

ACR Magazine Article

Title: Restorative Discipline

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Background

Dealing with college students' misconduct is as common for Student Affairs professionals as students going to classes. Most colleges and universities continue to resolve disputes the way they have done it for decades. At most institutions, it would not be surprising to find an elaborate system with various types of punishments and fines to be imposed, some of them quite stiff, for those who violate institutional rules and standards. Depending on the nature of the violation, some discipline may include fines, suspension, and even expulsion. The concern we want to address in this article is not so much about the kind of consequence, but about the process, which is typically combative, punitive and not redemptive in nature, and how we have addressed this concern. This article describes the background and process that led to these changes and concludes with some of the results and observations regarding effectiveness.

Although the goals of our discipline policy at Fresno Pacific University (FPU) were clearly stated in redemptive and restorative terms, our process for responding to conflict, misbehavior, and violations were similar to the process mentioned above. We asked, as do others using this process three basic questions: Was a rule, standard, or policy violated? Who did it? And, what should be their punishment? This paradigm was rarely, if ever questioned?

In 1990 the Center for Peacemaking and Conflict Studies was established at FPU. Over the years we became increasingly concerned about the structures that guide our institutional responses to misbehavior and conflict and the enormous force exerted by these unseen and generally unquestioned structures. What we noticed was that conflict resolution and mediation were generally seen as something that was appropriate and even effective in some selected cases but that the "real discipline system" continued to be based on the three questions mentioned above. A primary Center goal has been to encourage and assist institutions in re-evaluating their goals, reconsidering their processes, and embedding conflict resolution and restorative justice into their structures.

At FPU, already in 1990, there were discussions about the possibility of utilizing mediation as part of the discipline structure and even trainings for student life leaders. For many years occasional referrals were made to the Center for mediation on selected cases that someone in the authority structure thought appropriate. Mediation/Conflict Resolution was seen as something in addition to the "real discipline system." The outcomes of these mediations were generally positive and seen as helping to achieve the stated goals in the discipline plan of redemption and restoration but utilization continued to be an occasional and an exception rather than the primary way of responding to conflict and misbehavior.

Dr. Zenebe Abebe became the new Dean for the Division of Student Life at FPU in 2003. As part of his "getting acquainted" with FPU, he decided to review the student discipline policy.

He asked the Assistant Dean to establish a committee that included students, faculty, and student life personnel to review the policy and make recommendations. Hearing about the policy review committee, Ron Claassen, Director of the Center for Peacemaking and Conflict Studies, encouraged Zenebe to consider the possibility of incorporating Restorative Justice Principles and processes in the student discipline policy. Ron, and later another Center staff member, were invited to be members of the committee.

In the first few meetings, the committee assumed that their task was to make adjustments to the current policy to improve it. After a few meetings of reviewing the current policy, Ron asked for, and was given; the opportunity to present the principles and practices of Restorative Justice along with an overview of the Juvenile Justice model that had been established in New Zealand. The rationale behind this presentation was the observation that most school (Kindergarten through University) discipline policies operate a lot like a criminal justice system. Therefore restorative justice principles and practices, which had developed within the context of the criminal justice system, must be equally relevant to student discipline policy. The presentation included the contrasting lenses of justice developed by Howard Zehr, the Fundamental Principles of Restorative Justice developed by Ron (<http://peace.fresno.edu/docs/rjprinc.html>), the model and results from New Zealand, and an overview of RJ City (<http://www.pficjr.org/programs/rjcity/latest/>), a model in which a fictional jurisdiction works with all crime in the most restorative way possible.

Restorative Justice is contrasted with Retributive Justice by Howard Zehr in his groundbreaking book, *Changing Lenses* (1990). He compares two lenses for justice:

Retributive Justice

Crime is a violation of the state, defined by lawbreaking and guilt. Justice determines blame and administers pain in a contest between the offender and the state directed by systemic rules.

Restorative Justice

Crime is a violation of people and relationships. It creates obligations to make things right. Justice involves the victim, offender, and the community in a search for solutions which promote repair, reconciliation, and reassurance.

The FPU student discipline policy review committee could see that FPU goals were closely aligned with the Restorative Lense but FPU structure operated like the Retributive Lense.

According to Judge Fred McElrea of New Zealand, legislation was passed in 1989 which required that almost all juvenile cases, before being heard by a court, must be given an opportunity to have a Family Group Conference (FGC). An FGC included the offender and several immediate and extended family members if possible, the victim and several support people, some community and faith community representatives, at least one criminal justice official, and was lead by a facilitator. The process in the FGC was to recognize what had happened, to decide on how to make things as right as possible, and to create agreements for a

constructive future. If the FGC came to an agreement (required a unanimous agreement), it was accepted by the court and if agreements were kept, that ended the case. By the end of five years, the number of cases needing to be decided upon by the court had been reduced by 75% and the number of youth being incarcerated had been reduced by nearly 66%. The key to their huge success was their structure change.

Ron suggested that FPU could change the structure of its discipline program in a similar way. It could provide the opportunity for a Community Justice Conference (a form of mediation including as many of those impacted by the violation as possible) to all cases and in doing so, align its goals and process.

The students on the committee immediately responded that they thought that this would be a very good improvement and that students would be more likely to accept responsibility in this kind of system. The person from student life who had been responsible for determining guilt and for meting out the punishments could see that this would substantially relieve that horrible weight from his shoulder and provide a redemptive option for those who were willing to accept responsibility. Everyone thought it was more consistent with our goals and yet everyone had serious doubts about it. By consensus, the committee decided to develop a restorative discipline policy.

We looked for university models and found many universities that had mediation programs. In the article "The Power and Potential of Mediation, 2004, Michele A. Goldfarb writes that across the country hundreds of campuses are in the process of adopting mediation programs and integrating them into their student disciplinary and other grievance process. It was clear that there is a movement introducing mediation to resolve conflict on college/university campuses. However, it was less clear if any of college/universities have changed their discipline system to embed restorative justice and conflict resolution directly into their student discipline policy. The Wayne State University web based publication (2004) states that while campus conflict resolution and mediation efforts are growing in popularity, they were still only available on some 12-15% of the campuses nationwide. Of the college/university campuses that we found which had implemented mediation programs, none had replaced their punitive student discipline system with a restorative one that made a mediation process the primary and central process while reserving the authority and coercive processes as their back-up process. Rather, it seemed that most were offering mediation as an option parallel with their old system. And on many campuses, mediation was simply offered as a course and not as a process to deal with student conduct or to deal with discipline.

In 2004, upon the recommendation of the discipline policy review committee and with help from the Center for Peacemaking and Conflict Studies, the Division of Student Life decided to move from a one person authority based discipline process to a community based mediation process as our primary process. We developed a new student discipline policy we call *Restorative Discipline* (see handbook at <http://www.fresno.edu/sharedmedia/studentlife/restorativedisdiscipline.pdf>). Since the University is owned and operated by Mennonite Brethren Churches, we developed a restorative discipline policy that is consistent with the Christian texts:

Matthew 5: 38 – 48

“You have heard that it was said, ‘An eye for an eye and a tooth for a tooth.’ But I say to you...

“You have heard that it was said, ‘You shall love your neighbor and hate your enemy.’ But I say to you, Love[be constructive with] your enemy...

Matthew 18:15-16

“If one of my followers sins against you, go and point out what was wrong. But do it in private, just between the two of you. If that person listens, you have won back a follower. But if that one refuses to listen, take along one or two others....”

The title *Restorative Discipline* was used to highlight the intended purpose. As stated in our handbook goals, we believed that this new process would enhance the academic purpose and atmosphere of the campus educationally, socially, spiritually and developmentally. We were convinced that the process would encourage maturity while providing students with the opportunity to learn from their mistakes. It was designed to provide the opportunity for reconciliation of those who have been injured or estranged and to enable the restoration of an individual to his/her place in the community. We also believed that this process would encourage students to take responsibility by holding them accountable for their own actions including making restitution for damages.

Description of Structure/ Policy

The Restorative Discipline Process is designed to provide students and other community members of the University with two main options (Informal and Formal) to consider when they are in conflict with each other. The informal option encourages students to go to each other directly to resolve issues and repair damages as much as possible. Depending on the personality and maturity of persons involved, this may not be easy to do for some students. The informal option may also include a third person. All resident assistants and many student leaders are trained each year to provide informal mediation. Coaching and informal mediation are also available through the Center for Peacemaking and Conflict Studies. However, in the case of a violation, if an agreement is not reached and conflict is not resolved at this level, a violation report is filed which starts the formal discipline process.

The Formal Option contains up to three steps. The first step of the formal process is to provide an opportunity for Community Justice Conference (CJC) for all cases. The CJC is convened by a graduate assistant who is employed, trained, and supervised by Center for Peacemaking faculty. The convener/facilitator meets with all affected parties and invites them to participate. If the key people and adequate support/accountability persons decide to meet and if all in the conference mutually agree that the violation/injustice has been recognized and plans have been made to make things as right as possible (must include restoring equity, future intentions, and a follow-up plan), and if at the follow-up meeting(s) all agree that the agreements have been kept, then a celebration ends the process. However, if the alleged offender thinks they have been wrongly accused (refuse to accept responsibility) or if the convened group cannot come to agreement, then the case proceeds to the Student Judicial Board (SJB).

The second step of the formal process involves the Student Judicial Board and as mentioned, is utilized only when a case cannot be resolved cooperatively through the Community Justice Conference. The SJB made up of students, faculty and staff, attempt to resolve the situation through a deliberative judicial process. The SJB's first responsibility is deciding on responsibility. If judged responsible, the offender has another opportunity to enter a CJC or to have the SJB make that decision. If the SJB makes the decision, they are also guided by restorative justice principles and will decide on consequences that are respectful, intended to address the needs and obligations created by the offense, to restore individuals and relationships as much as possible, and to re-integrate the person into their place in the community as much as possible.

The third and final formal step allows a student to appeal a Student Judicial Board decision to the Dean of Students.

Implementation and Evaluation

The implementation process began by providing all University faculty, staff, and administration at least a one hour introduction/training. Residence life staff, director of safety, and those serving on the Student Judicial Board received additional training. For example, all Resident Directors, the Director of Resident Life and Housing, the Assistant Dean of Student Development Programs, who oversees the discipline system, the Dean of Students and the Director of Safety, participated in a week-long Basic Institute in Conflict and Management and Mediation. All resident assistants (undergraduate students) and many other student leaders attend a one unit conflict resolution class. The graduate assistant, who is the case manager and often the mediator for the CJC process is a graduate student in the Peacemaking and Conflict Studies MA program.

There is a monthly meeting of a team (the Dean of Students and his staff meets with faculty from the Center for Peacemaking and Conflict Studies and the Director of Campus Safety) to review how things are going, what worked and what didn't, challenges and ideas for improving the process. Although we have the system in place, we see this as an ongoing process to address issues that were not anticipated, to work out implementation challenges, to discern where we can improve our system and learn from mistakes and successes we experience, and to monitor and evaluate case flow, progress and goals.

Results and Observations

Now into the second year of the program, the process is working pretty much as planned. One significant observation is that more conflicts and misbehaviors are being addressed at the informal level through direct discussion, student led mediation, and resident director led mediation.

In the school year 2005-06 there were 19 formal violation reports filed, the mechanism that initiates the formal option. Of those, 18 were resolved in the Community Justice Conference (a form of mediation) process. Only one case proceeded to the Student Judicial Board.

Following are some observations from some of the staff who are central to the implementation of the Restorative Discipline process:

“My initial skepticism to Restorative Discipline was that I thought it was going to be soft and let people who had really done something wrong off the hook. What I have seen is that in most cases dealing with situations in a restorative way leads to greater ownership, accountability, and change as an offender. I now look forward to discipline situations knowing that there is great potential to come out with improved relationships and both victims and offenders who have grown.” Dave Obwald – Resident Director

"One of the most interesting things that I have noticed is that the more serious the case the better the outcome has been. When it is a more serious case, the student seems to be more willing to make things right. When it is not as serious, we have to deal with more apathy. They are more engaged when it is a serious violation." Jason Ekk – Graduate Assistant and CJC Case Manager/Mediator

“In a community that values group processing, to have one person wielding so much power just did not fit our culture, let alone the pressure of determining guilt and innocence and becoming the personification of campus discipline. Who wants to be known as ‘Judge Dread?’ It was time for a change in how we operated our student discipline process. Adopting principles and concepts from the field of restorative justice has allowed us to create a new process that fits our community ethos of group decision making and support.” Don Sparks – Assistant Dean of Students

Conclusion

One lesson for us has been an increased recognition of the power of structure and how important it is to be sure that the structure is consistent with the goals. Another lesson for us is that our students are capable of resolving many of their own conflicts and misbehaviors when given the opportunity, tools, and structures. We cannot expect more from students without providing these and modeling them ourselves.

Short Biography of the Authors

Zenebe Abebe, Ph.D., is the Dean for the Division of Student Life and Psychology professor at Fresno Pacific University. He has been at Fresno Pacific for 4 years now and prior to that, he was VP for Multicultural Education at another institution for over 11 years. He earned his Ph.D. from Southern Illinois University in Higher Education Administration-Specialized in International Studies and Student Development.

Ron Claassen, MA, DMin. is Co-Founder (1990) and Director of the Center for Peacemaking and Conflict Studies at Fresno Pacific University. Ron is a member of the Fresno Pacific University faculty and devotes 80% of his time to teaching in the Master of Arts in Conflict and Peacemaking Program and 20% to community training, consultation, and intervention. Ron is also the founder and former director (1982-1999) of the Fresno County Victim Offender Reconciliation Program, the first VORP in California. Ron has extensive experience in mediation and restorative justice as a practitioner, trainer, and developer of models and theory.