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## **Party Proposals**

- > Hearing the proposal
  - If unreasonable or will be rejected, discuss ways to modify the proposal.
  - Be subtly evaluative.
- > Communicating a proposal
  - ➤ Avoid criticism of the proposal unless asked or unless you believe your opinion will not hinder further discussions.

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# Techniques for Keeping the Parties Talking

- > Bracketing issues
- Mediator's proposal
- > Time to consider
- > Risks of no agreement
  - Future administrative process
  - · Less control over outcome
  - Time considerations
  - · Emotional considerations
  - Healing

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## Ethical Considerations

- > Conflicts of interest
- Confidentiality
- > Pressuring to reach agreement
- > Subsequent disclosure of information
- ➤ Appearance of impropriety
- Disclosure of background
- > Impartiality
- ➤ Mental competency of a party
- ➤ Autonomy informed consent
- ➤ Honesty
- > Role boundaries
- Privileged communications



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## **Preparing the Agreement**

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## Memorializing the Resolution Agreement

Memorialize the agreed upon resolution in writing signed by both parties.

- ➤ Acknowledgment that the parties are entering into the resolution agreement freely, voluntarily, and because each party believes entering into the agreement is in their best interest.
- Acknowledgement that the parties' participation in the Informal Resolution Process was not required, not a product of coercion, nor was it a condition of continued enrollment or employment, or enjoyment of any other right.
- > Agreement to waive right to appeal.

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### Preparing the Resolution Agreement

- ➤ Provide the agreed terms that may include:
  - Administrative remedies
  - · Corrective or punitive measures for respondent
  - Non-disclosure (confidentiality)
  - Non-disparagement clause (essentially no retaliation)
- ➤ Consequences for breach of the agreement.
- ➤ Institutional record keeping responsibility.
- ➤ Institutional obligation to maintain confidentiality, unless permitted by law.

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## Types of Remedies

Types of remedies, include but are not limited to:

- > Complainant or respondent relocate their housing.
- ➤ Each party is assigned to a different dining hall, workout facility, area of library.
- ➤ Complainant/Respondent withdraws from a class that the parties have together.
- ➤ Respondent writes an apology letter to Complainant acknowledging harm caused.
- > Indefinite mutual no contact order

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## Types of Corrective or Punitive Measures

Types of corrective or punitive measures may include but are not limited to:

- Suspension from extra-curricular activities (athletics, student groups, Greek life, etc.)
- Restriction from campus activities (athletics events, dances, concerts, etc.)
- ➤ Enter counseling or other educational programming relating to alleged misconduct.
- > Temporary withdrawal from the institution (semester, year, etc.)
- > Permanent withdrawal from the institution

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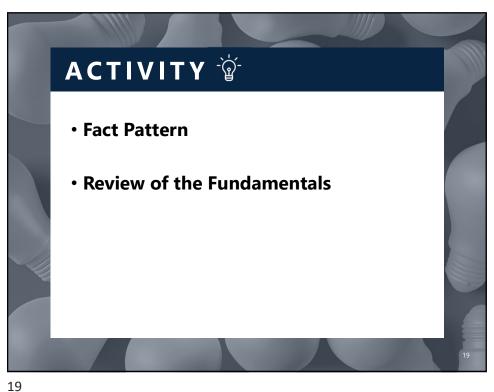
## Failure to Reach Agreement

- ➤ Explain...
  - The inability to reach an agreement does not mean we stop trying.
- ➤ Methods of continuing dialogue
  - Date certain to resume
  - Follow-up phone conferences
  - Meeting with each party
  - Time to think
  - Time to consult others

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#### **Personality Strengths**

Tolerant Thoughtful Practical Collaborative Respectful **Empathetic** Intuitive Self-Aware Creative Non-Judgmental Open-Minded

Credible

#### **Communication Strengths**

Characterize but don't criticize Clarity **Emotional control** Simplicity trumps complexity Facts are foundation to persuasion Eye contact Relaxed tone Avoid negative body language Avoid negative verbal reactions Avoid negative facial expressions



## Questioning Techniques Review

#### Open-ended questions

- > Encourages party to open-up, vent and articulate.
- > Allows story to be told.
- Who, what, when, where, why, how, describe, explain, tell...
  - "Describe what happened after he/she left your room?"
  - "Who was with you?"
  - "Why did you wait until the next afternoon to call?"
  - "Tell me how you felt when you saw him/her earlier?"

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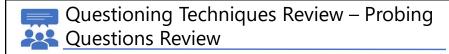


## Questioning Techniques Review (continued)

#### Closed or leading questions.

- Question suggests the answer
  - "You called the Title IX Coordinator two days later."
  - "So, your roommate called him/her to ask if he/she was ok?"
- Confines response
- > Summarizes

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#### Probing questions.

- > Exploring feelings, opinions, thoughts...
  - "How would you feel if we are unable to reach an agreement?"
  - "What is the best result for you today?"
  - "If you couldn't achieve the best result what will you need to feel comfortable about an agreement?"
- ➤ A guide to persuasive discussions with the other party.

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# Thank you!

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