

Restorative Justice Approaches to The Informal Resolution of Student Sexual Misconduct

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This article reviews controversies about campus Title IX adjudication and the recent implementation of restorative justice (or RJ) responses to campus sexual harm. The RJ approach focuses on who has been harmed, what their needs are, and how the person who harmed them can meet those needs. Instead of engaging in adjudication, RJ aims to get an individual who caused harm to understand the impact of and take responsibility for their actions. Part I defines the RJ approach, describes various practices, and details the preparation necessary for a structured informal resolution process. Part II explains why RJ approaches have been limited to date for Title IX cases and outlines evolving guidance in this realm. Part III reviews legal considerations, including compliance requirements from the Department of Education's 2020 Final Rule and the implications of the approach for concurrent or subsequent civil or criminal proceedings. Part IV offers three case studies of implementation. Part V summarizes evidence of effectiveness and Part VI concludes. By tracing these essential elements, this article moves beyond the philosophical underpinnings of RJ to offer tools and procedures to consider when adopting RJ for student-on-student sexual misconduct.