

Restorative Justice as the Rx for Mistreatment in Academic Medicine: Applications to Consider for Learners, Faculty, and Staff

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Abstract

The mistreatment of learners is an ongoing issue at U.S. medical schools. According to responses to the 2017 Association of American Medical Colleges Graduation Questionnaire, 39.3% of medical students nationally reported being mistreated. Many articles have been published on the topic of mistreatment at medical schools over the last 20 years. These articles have focused primarily on the definition of mistreatment, the impact of mistreatment, and initiatives put into place to help mitigate the problem.

To date, very little attention has been paid to repairing the harm caused by mistreatment and rebuilding community trust. Academic medicine is in need of new forums of interaction to achieve more positive learning and workplace environments.

The authors discuss restorative justice practices and the potential applications that they may have in academic medicine learning and workplace environments to serve vulnerable students, faculty, and staff who are targets of mistreatment.

Restorative justice practices are used to convene groups of people to engage in substantive dialogue about consequential issues that impede community functioning. This process can help a group identify and gain mutual understanding of the personal and collective harm that has occurred, create the conditions that incentivize offenders to admit responsibility rather than deny or minimize the harm, and explore and define a set of problem-solving steps to address the harm and rebuild community trust.

Editor's Note: This New Conversations contribution is part of the journal's ongoing conversation on social justice, health disparities, and meeting the needs of our most vulnerable and underserved populations.

The mistreatment of learners is an ongoing issue at U.S. medical schools.¹ Reports have demonstrated a greater association between students who are mistreated and substance/chemical abuse, mental health disorders, burnout, suicidality, and marginalization.² In

2012, the Association of American Medical Colleges revised the questions on mistreatment included in its Graduation Questionnaire. According to responses to the 2017 Graduation Questionnaire, 39.3% of medical students nationally reported being mistreated. Medical students have identified the offenders as clerkship faculty in the clinical setting (13.3%), residents (9.8%), nurses (3.8%), and others.³ The reported incidence of mistreatment varies by institution and year (e.g., 42.1% [2013], 39.9% [2014], 38.7% [2015], 38.1% [2016]).

to approaches to mitigate mistreatment by holding the offenders accountable, how to repair the harm caused by mistreatment, and how to rebuild community trust. Acosta and Cunningham⁵ introduced the idea of using restorative justice practices as one approach to mitigating mistreatment at our academic medical centers. Much has been published on the different ways restorative justice practices have been used on college and university campuses across the United States.⁶ However, restorative justice has not yet made its way to our health professions schools.

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Many articles have been published on the topic of mistreatment at medical schools over the last 20 years. These articles have focused primarily on the definition of mistreatment, the impact of mistreatment, and initiatives put into place to help mitigate the problem; they have described anonymous surveys that monitor, track, and report incidents; programs educating faculty, residents, and students on what constitutes mistreatment and what does not; and stronger policy development and implementation efforts.^{1,2} Unfortunately, as Fried and colleagues⁴ reported, after 13 years of their best efforts at one medical school, no significant decline in learner mistreatment was achieved.

To date, very little attention in the academic medicine literature has been paid

In this Invited Commentary, we discuss restorative justice practices and the potential applications that they may have in academic medicine learning and workplace environments to serve vulnerable students, faculty, and staff who are targets of mistreatment.

What Is Restorative Justice?

At the core of restorative justice is a collaborative decision-making process that includes victims, offenders, and others seeking to hold offenders accountable by having them (1) accept and acknowledge responsibility for their offenses, (2) to the best of their ability repair the harm they caused to victims and communities, and (3) work to reduce the risk of repeating their offense by building positive social ties

to the community.⁶ The restorative justice movement began in the criminal justice system but has since expanded to other settings including schools, workplaces, and other community spaces. Restorative justice practices are used to convene groups of people to engage in substantive dialogue about consequential issues that impede community functioning. For example, higher education institutions have applied these practices to address individual incidents of misconduct as well as broader campus issues like racial bias and sexual harassment.⁷ Whether there is concern about an individual incident of misconduct or a hostile climate, restorative justice practices can help a group identify and gain mutual understanding of the personal and collective harm that has occurred, create the conditions that incentivize offenders to admit responsibility rather than deny or minimize the harm, and explore and define a set of problem-solving steps to address the harm and rebuild community trust.

Utilization and Outcomes of Restorative Justice Practices on College and University Campuses

Figure 1 outlines a restorative justice approach used at higher education institutions. At the base of the pyramid, Tier I restorative justice practices, primarily community-building circles, are used to develop interpersonal communication skills and mutual

understanding across key stakeholders, often bridging significant social divides or dimensions of social privilege. Tier II practices, such as restorative conferences, allow stakeholders to respond to individual incidents of harm or misconduct. Although restorative justice practices may reduce the need for more punitive measures, such as suspension or loss of specific privileges, when those are applied, Tier III practices, such as circles of support and accountability, can be used to ameliorate a difficult reintegration process for the offender.

For example, Dalhousie University in Canada recently used a restorative justice process in response to a highly public and controversial sexual harassment complaint in its dentistry program. Four female students filed a sexual harassment complaint about a private Facebook group maintained by several male members of their class and about the general climate and culture of the program.⁸ The restorative justice response to these complaints was unique in that it focused not only on the immediate incident and offenders but also sought to identify and respond to the broader culture that made the misconduct possible. While the Dalhousie process did include a restorative dialogue that involved the offenders and the harmed parties of this specific incident, it also included significant investigation

into the related campus climate and culture. Multiple restorative dialogues were facilitated to address these issues, including ones with the harmed parties, the university president, other administrators, other students in the class, and members of the provincial dental association.

With sensitivity to safety and to prepare the male students for participation in the restorative dialogues, the facilitators at Dalhousie arranged for the men to be educated about sexual harassment; rape culture; the intersectionality of gender, sexuality, race, and culture; power and privilege; human rights; and bystander intervention. Throughout these preparation sessions, individual meetings, and the restorative dialogues, the participants came to a full understanding of what happened and the significance of the incident and its aftermath. As the restorative justice process concluded, the Dalhousie dentistry community was able to commit to plans of action to address the climate and culture that the process revealed and begin rebuilding community trust.

Potential Opportunities to Use Restorative Justice Practices at Medical Schools and Academic Medical Centers

In health professions settings, there are many potential opportunities to apply restorative justice practices in the same way colleges and universities have. For example, the Learning Climate Committee at the University of California, Davis School of Medicine in collaboration with the Office for Equity, Diversity, and Inclusion adopted a restorative justice approach to address learner mistreatment cases. Both the main campus and the health sciences campus have a cadre of over 50 staff and faculty who have been trained (by the Project on Restorative Justice, Skidmore College, Saratoga Springs, New York [see www.SkidmoreRJ.org]; and by the Restorative Justice Center, University of California, Berkeley, Berkeley, California [see rjcenterberkeley.org]) as restorative justice facilitators.

Restorative justice practices also can be used to mitigate the mistreatment of faculty and staff in the workplace. Human resources departments are beginning to employ restorative justice practices to address and defuse mistreatment and abrasive behavior that is identified before

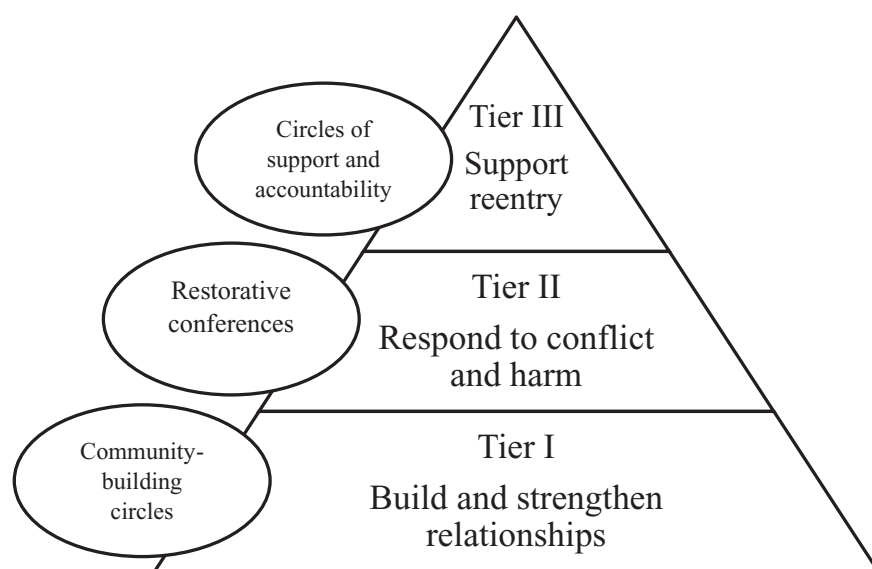


Figure 1 Continuum of restorative justice practices used at higher education institutions. Tier I practices, including community-building circles, are used to develop interpersonal communication skills and mutual understanding across key stakeholders. Tier II practices, including restorative conferences, allow stakeholders to respond to individual incidents of harm or misconduct. Tier III practices, including circles of support and accountability, are used to ameliorate difficult reintegration processes for offenders.

it escalates. For example, the St. Louis College of Pharmacy has a policy and a Bias Incident Response Team that believes restorative justice is consistent with its mission to ensure a safe and inclusive environment and create a pathway for social justice and personal change.⁹

Restorative justice also offers a new approach to addressing the problems of sexual harassment and assault, which supports survivors in healing from the trauma of victimization while creating a space for offenders to be accountable for their actions and take steps to reduce their risk of repeating the offense. For example, the work of the Campus PRISM (Promoting Restorative Initiatives on Sexual Misconduct) Project¹⁰ has created meaningful forums for the examination of hostile campus climates and the development of community-building interventions.

Employing circles of support and accountability is a restorative justice practice that is designed to formally welcome back incarcerated offenders into the community and to establish a support system for them as they transition back into their family and community life.¹¹ The objective of this process is the development of a life management plan that will serve as a guide for returning offenders on their road to a successful and productive life. In a similar manner, medical students returning from academic and nonacademic leave could use these reentry circles as they transition back into their medical school community. Providing intentional and coordinated support and a road map for these students to follow could be instrumental to their future success. The same process could be used for those health care providers returning from medical leave for disruptive behavior in the workplace after their remediation. The process provides the opportunity for the impacted members of the community to express their true feelings to the returning health care provider regarding the impact he or she had on the staff, how best to repair the harm that occurred, and what conditional support will be provided with the hopes of rebuilding community trust.

Restorative Justice Certification Training

Much like mediation, restorative justice facilitation requires skills-based training. Poor implementation can do more harm

than good. Some institutions rely on the professionally trained staff at their conflict resolution centers or create restorative justice coordinator positions. Others rely on a pool of well-trained volunteer facilitators who can be faculty, staff, or students. Facilitator training begins with a three-day practice-based introduction to restorative justice, followed by a supervised apprenticeship that includes graduated facilitation from minor to more serious cases. Organizations such as the National Association of Community and Restorative Justice serve as clearinghouses for training opportunities, and some campus institutes specialize in university-based training such as the University of Texas at Austin Institute for Restorative Justice and Restorative Dialogue; the Skidmore College Project on Restorative Justice; and the University of California, Berkeley Center for Restorative Justice.

Conclusion

Restorative justice is one approach that medical schools and academic medical centers should consider as a strategy to address mistreatment in the learning and workplace environments. Any form of mistreatment has a negative effect on the culture and climate of the institution. The lessons learned and the successful outcomes at higher education institutions that adopted restorative justice practices should help guide our efforts. Although institutional policies and procedures have empowered students, faculty, and staff to hold offenders accountable for their abrasive behavior, they do not yet provide an effective means to bridge the hierarchical gaps that often exist between offenders and those they harm, such as between faculty and the students who are dependent on them. We are in desperate need of new forums of interaction so that we can achieve more positive learning and workplace environments. Restorative justice practices can help a group identify and gain mutual understanding of the personal and collective harm that has occurred, create the conditions that incentivize offenders to admit responsibility rather than deny or minimize the harm, and explore and define a set of problem-solving steps to address the harm and rebuild community trust.

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