Fair Process

RYCNC 2026 Lunch & Learn Series

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Have you heard this before?

- **"That's not fair!"**
- **"Who decided that? "**
- **"Nobody asked me!"**
- **Even if decision makers' intentions are good, the way decisions are made can lead to mistrust and divisive conflict.**

Two Paths to a Youth's Performance

Distributive Justice

- Tradition & Structure
- What you deserve

Procedural Justice

- Fair Process
- Trust & Commitment

Results

- Compulsory cooperation
- Meet expectations

Results

- Voluntary cooperation
- Self-initiated to exceed

Procedural Justice

Yale Law School states: (paraphrased): Extensive research shows that the offender's perception of the encounter with authorities depends less on its *outcome* and more on *whether they felt treated in a "procedurally just" way.*

There are four central features of their interactions with authorities:

1. **Whether they were treated with dignity and respect**
2. **Whether they were given a voice**
3. **Whether the decision-maker was neutral and transparent**
4. **Whether the decision-maker conveyed untrustworthy motives**

Fundamental Hypothesis of Restorative Practices

PEOPLE ARE HAPPIER, MORE COOPERATIVE AND PRODUCTIVE, AND MORE LIKELY TO MAKE POSITIVE CHANGES IN BEHAVIOR WHEN THOSE IN AUTHORITY DO THINGS WITH THEM, RATHER THAN TO THEM OR FOR THEM.

Questions to Ponder

What does it actually look like to act *with* youth rather than *to* or *for* them in a restorative setting?

Can a process appear collaborative but still be experienced as *to* or *for*? What would that look like?

We will revisit these questions later on!

The 3 'E's of Fair Process
1
Engagement
2
Explanation
3
Expectation Clarity

Engagement – would you...

- **Would you ever plan a dinner party without having any clue what your guests like to eat?**
- **Even if you already have some menu items in mind, we assume you'd at least ask about dietary restrictions.**
- **You would want to check about decisions that have an impact on people's lives and health.**

ENGAGEMENT is

Involving individuals in decisions that affect them by listening to their views and genuinely taking their opinions into account.

They are given opportunities to provide input and discuss possible options. Listening is enough for many people.

Engagement works when people are respected, valued, their perspective matters, and stated opinions and ideas are considered during the decision-making process.

Why Engagement Matters

It generates better decisions.

It creates a greater commitment from those involved in executing those decisions.

It communicates respect for them and their ideas.

Engagement – Why We Avoid It

Unfortunately, getting input on decisions can be like cleaning your fridge. You know it's something you should do, but you avoid it because it's time and energy intensive, or you're not sure where to begin, or you're afraid of what you'll find.

Engagement – Why We Avoid It

Let's break down the process (some tips):

1. What is your decision-making mode? How much influence can they have on the final decision?

- **The closer you are to “joint" decision-making, the more your questions should be geared towards brainstorming and problem-solving.**

2. What's really up for discussion (and what's not)? What do you need input on, and what's already been decided (and why)?

3. Are you biased? Are you planning to end up with the same decision as if it were left entirely to you? How much influence will you assert?

Engagement – Why we avoid it (continued)

We are not working to build consensus. That can come later, if a part of the RJ process.

The purpose of fair process isn't to make everyone happy or to arrive at a consensus – it is to create space for authentic, equitable, and inclusive engagement and build clarity about decisions.

Engagement – Why we avoid it (continued)

Assume that disagreement will surface at some point, whether or not it's invited. It's up to you to design the process so that you can get it early.

How best to do that? Acknowledge differences upfront. "I don't expect everyone here to have the same concerns. We'll be better off if I hear where you have a different opinion so we can talk it through."

Include questions that invite pushback and concerns: “What's one thing you could imagine going wrong?”

EXPLANATION is

Explaining the reasoning behind a decision to everyone who has been involved or who is affected by it.

Remember to show appreciation to those who were engaged in this process. This information is ideally presented in person.

Explanation clarity can be explained as, “Here’s what was taken into account.”

Why Explanation Matters

Youth will trust your intentions – even if their own ideas were rejected.

It gives an assurance to youth that their opinions have been considered.

It serves as a powerful feedback loop that enhances learning and builds rapport.

Explanation – What to include

Restate why a decision was needed.

Recap the decision-making process.

Share the criteria or values used to make the decision.

Acknowledge and thank the people who shared input.

Share any anticipated risks or negative impacts and how you plan to mitigate or avoid them.

(if relevant) Share when you might revisit the decision.

Let's hear from you...

WHAT IS THE DIFFERENCE BETWEEN EXPLAINING A DECISION AND JUSTIFYING IT?

SCENARIO: THE PARENT FEELS THE AGREEMENT IS TOO LENIENT. WHAT WOULD MAKE THE EXPLANATION FEEL FAIR TO THEM?

EXPECTATION OF CLARITY is

Making sure that everyone clearly understands a decision and what is expected of them in the future.

Also explained are the consequences of not meeting expectations. What will happen if they choose not to comply is clearly spelled out.

Expectation of clarity can be described as, “This is how we’re moving forward.”

Why Expectation of Clarity Matters

It minimizes arguments or endless discussions.

It enables youth to focus on the task you have given them.'

Youth should know up front by what standards they will be evaluated and the consequences for noncompliance.

Let's hear from you...

HOW HAVE UNCLEAR EXPLANATIONS LEAD TO CONFLICT OR FAILURE FOR YOU?

SCENARIO: A YOUTH FAILS TO COMPLETE AN ASSIGNMENT AND SAYS THEY WERE CONFUSED ABOUT WHAT WAS REQUIRED.

WHAT WOULD YOU SAY?

WHAT COULD HAVE BEEN DONE DIFFERENTLY?

> *"Individuals are most likely to trust and cooperate freely with systems – whether they themselves win or lose by those systems – when fair process is observed."*

BEST PRACTICES: Being Aware of Power Dynamics

Power dynamics are all around us.

We may not be aware of the power they hold in a simple conversation.

Using that power can be very one-sided.

We may actually be marginalizing those around us without knowing it.

BEST PRACTICES: Listening to Young Voices

ONE KEY WAY POWER IS MANIFEST IS THROUGH A PERSON'S VOICE.

HOW DO YOU WELCOME THE YOUTH'S VOICE? THEIR IDEAS?

HOW DO YOU REDIRECT WHEN THE PARENT CONTINUES TO SPEAK FOR THE YOUTH?

BEST PRACTICES: Fair Process is not Decision by Consensus

Fair process does not set out to achieve harmony or to win people's support through compromises that accommodate every individual's opinions, needs, or interests.

While fair process gives every idea a chance, the merit of the ideas - and not consensus – is what drives the decision making.

Achieving fair process does not mean that program people forfeit their prerogative to make decisions and establish policies and procedures. Fair process pursues the best ideas regardless of the source.

BEST PRACTICES: Fair Process vs. Fair Outcomes

- Most people think of themselves as fair, but if you ask them what it means to be fair with the Youth in their programs, they will describe the outcome, the youth's achievements, and their successes.

- They will confuse Fair Process with Fair Outcomes.

BEST PRACTICES: Fair Process vs. Fair Outcomes

DO YOU EVER SUBSTITUTE DIRECT TWO-WAY COMMUNICATION WITH EMAIL AND TEXT, THUS AVOIDING CHALLENGES TO YOUR IDEAS OR AUTHORITY? WHY? WHEN?

DO YOU BELIEVE THAT YOUTH ARE ONLY CONCERNED WITH WHAT'S BEST FOR THEMSELVES? WHY? WHY NOT?

(THERE IS AMPLE EVIDENCE TO SHOW THAT WHEN THE PROCESS IS PERCEIVED TO BE FAIR, MOST PEOPLE WILL ACCEPT OUTCOMES THAT ARE NOT WHOLLY IN THEIR FAVOR.)

Youth's Perception Matters

Accountability is achieved when a youth understands and takes responsibility for how their actions affect others and themselves.

Youth that perceive the system as unfair will be less likely to have positive responses to RJ intervention and this can lead to recidivism.

When youth feel like they are part of a fair, inclusive process, they are more likely to engage in programs that can hold them accountable.

Revisiting our questions:

WHAT DOES IT ACTUALLY LOOK LIKE TO ACT WITH YOUTH RATHER THAN TO OR FOR THEM IN A RESTORATIVE SETTING?

CAN A PROCESS APPEAR COLLABORATIVE BUT STILL BE EXPERIENCED AS TO OR FOR? WHAT WOULD THAT LOOK LIKE?

Wrapping It Up

Practicing Fair Process means being clear about who the decision-maker is, inviting input from those that will be impacted (and being explicit about how it will be used), explaining the decision, and outlining expectations once a decision has been made.

This results in stronger relationships, smoother implementation, and better overall outcomes.