



Title VI Counsel and Coordinators Summit

April 2026



Welcome

SERVING CLIENTS SINCE 1850

Welcome to Cullen and Dykman's 2026 Title VI Counsel and Coordinators Summit

Thursday, April 30, 2026, 10 AM – 1 PM

One Battery Park Plaza, New York, NY and virtually, via ZOOM

Description

The 2026 Summit brings together higher education leaders and practitioners to discuss current Title VI developments, effective and equitable discrimination investigations, practical compliance strategies and alternative resolution considerations.

Agenda Overview

9:30 AM **Welcome Breakfast**

10:00 AM **2026 Legal Update**

Nicole Donatich, Partner Cullen and Dykman, LLP

10:30 AM **Equitable & Effective Discrimination Investigations**

Alyssa-Rae McGinn, Vice President, Dan Schorr, LLC

11:00 AM **Investigative Report Writing 101**

Jessica Morak, Executive Director of Institutional Equity, Chief Diversity Officer, Title IX Coordinator, CUNY Graduate Center

Nicole Donatich, Partner Cullen and Dykman, LLP

11:30 AM **Panel Discussion by Title IV Practitioners**

Sandy Araj, Deputy Title VI Coordinator, NYU

Kelly Hendricken, Managing Counsel for Student Affairs, SUNY

David Krieger, Title VI Coordinator, NYU

Moderator: Leanne Tyler, Title VI Investigator, NYU

12:30 PM **Alternative Resolution Considerations**

Andres A. Ramirez, Founder, Andres A. Ramirez Mediation

Moderator: Joy Purcell, Deputy Title VI Coordinator, NYU

1:00 PM **Networking Lunch**

CLE

For those seeking CLE credit, Cullen and Dykman LLP has been certified by the New York State Continuing Legal Education Board as an Accredited Provider of continuing legal education. CLE credit will be available for New York attorneys. This is a nontransitional program, and not suitable for newly admitted attorneys. CLE materials will be shared by email prior to the event.

Index of CLE Materials

- A.B. 5448-B, 2025-2026 Leg., Reg. Sess. (N.Y. 2025).
- *Doe et al. v. Northwestern University*, No. 1:24-cv-04125 (N.D. Ill. Mar. 3, 2026)
- Investigative Report Template
- U.S. Dep't of Educ., Office for C.R., Dear Colleague Letter: Protecting Students from Discrimination, Such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics (May 7, 2024).
- U.S. Dep't of Health & Hum. Servs., Office for C.R., Notice of Violation to Harvard University (June 30, 2025).
- U.S. Dep't of Health & Hum. Servs., Office for C.R. & U.S. Dep't of Educ., Office for C.R., Joint Notice of Violation: Columbia University (May 22, 2025).
- Archer, Deborah N. and Schottenfeld, Joe, *Civil Rights Administration* (April 12, 2026). 78 Stanford Law Review 1.
- Jennifer K. Robbennolt, *Apologies and Legal Settlement: An Empirical Examination*, 102 Mich. L. Rev. 460 (2003).
- Ellie Vilendrer, *Trauma-Informed Strategies for Mediating Sex Abuse Cases*, Law360 (Oct. 3, 2025).



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Speaker Bios

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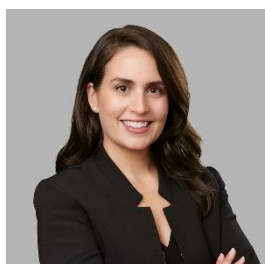
Speaker Bios



Sandy Araj

DEPUTY TITLE VI COORDINATOR AT NYU

Sandy Araj is currently a Deputy Title VI Coordinator and Senior Investigator at NYU. In this role, she is responsible for overseeing the University's response to reported incidents of discrimination and harassment on the basis of race, color and national origin (including shared ancestry and ethnic characteristics.) Prior to joining NYU in September 2025, Sandy was a Senior Attorney at the U.S. Department of Education, Office for Civil Rights where she investigated and mediated complaints brought under Title VI, Title IX, Title II of the ADA, Section 504, and the Age Discrimination Act. Sandy previously was a Litigation Associate at Stroock, Stroock & Lavan and Shearman & Sterling. Sandy earned a J.D. from New York University School of Law and a B.A. from New York University.



Nicole Donatich

PARTNER AT CULLEN AND DYKMAN LLP

Nicole A. Donatich is a partner in the firm's Higher Education practice group and regularly advises higher education institutions on Title VI and Title IX matters. Nicole possesses extensive experience representing universities and colleges in a wide array of legal matters, including those arising under federal, state, and city non-discrimination laws, as well as arbitrations of grievances and disciplinary cases governed by labor contracts. She also regularly advises higher education institutions on a broad spectrum of employee and student-related concerns, encompassing labor and employment issues, collective bargaining agreements, student and employee discipline, government compliance, and litigation.

During her career, Nicole has held pivotal roles at prestigious institutions such as The City University of New York and Columbia University, where her legal acumen and guidance proved instrumental in successfully navigating complex challenges. Her background as a former prosecutor adds a unique dimension to her investigative and litigation experience. Nicole graduated *magna cum laude* from Rutgers University School of Law.



Kelly Hendricksen

MANAGING COUNSEL FOR STUDENT AFFAIRS AT SUNY

Kelly Hendricksen is Managing Counsel for the Student Affairs Practice Group in the State University of New York's (SUNY) Office of General Counsel, which she joined in 2018. Kelly's portfolio includes legal and compliance-related civil rights work, defending clients before federal and state administrative agencies, and technical assistance on legislation. Kelly has led efforts to coordinate response from the student affairs legal perspective for 29 State-operated campuses in one of the largest University Systems in the country. Prior to joining SUNY, Kelly worked in the New York State Senate as the Director and Counsel of the Senate Higher Education Committee for the Chairman, Senator Kenneth P. LaValle, where she was responsible for the higher education policy portfolio and assisted in negotiating the Higher Education portion of the New York State budget. Kelly focused on legislation that affected all public and private higher education institutions in New York, and the licensed professions. Kelly received her Juris Doctor from Albany Law School and was a member of the Government Law Review. Kelly graduated from SUNY Geneseo and received a Bachelor of Arts in English and Psychology. She is admitted to practice in the State of New York.



David Krieger

TITLE VI COORDINATOR AT NYU

David Krieger is NYU's Inaugural Title VI Coordinator and Director of Programs. He is also a Senior Advisor to the President. As Title VI Coordinator, David is responsible for overseeing the University's response to reported incidents of discrimination and harassment on the basis of race, color and national origin (including shared ancestry and ethnic characteristics.)

Prior to joining NYU in March 2025, David served as a Senior Attorney at the United States Department of Education, Office for Civil Rights New York Regional Office since 2012, where he investigated and mediated complaints brought under the federal statutes enforced by OCR, including Title VI. After October 7, 2023, David was charged with developing and co-leading OCR's national training program regarding Title VI shared ancestry discrimination in schools.

David previously was a labor and employment associate at the law firms Jones Day and K&L Gates. He graduated *magna cum laude* from the Benjamin N. Cardozo School of Law and with a bachelor's degree from the University of Maryland.



Alyssa-Rae McGinn

VP AT DAN SCHORR, LLC

Alyssa-Rae McGinn, Vice President of Dan Schorr, LLC, has extensive experience serving as an investigator, decision maker, hearing chair, mediator/informal resolution facilitator, and interim Title IX and Title VI Coordinator, with particular expertise in applying regulatory requirements and best practices in complex matters of sexual misconduct and identity-based harassment at educational institutions. Alyssa-Rae balances a compassionate understanding of the difficulty parties face being involved in such matters with the importance of remaining compliant with relevant law and policy.

Alyssa-Rae was previously a Senior Associate at Ankura, where she and Dan Schorr established the firm's Title IX and Civil Rights Investigations practice and grew it to assist institutions nationwide. Prior to Ankura, Alyssa-Rae was an Associate Director in Kroll's Business Investigations & Intelligence practice, where she co-founded the Women's Network at Kroll.

Alyssa-Rae holds a Juris Doctor from Syracuse University and Master of Arts and Bachelor of Arts degrees in English from St. John's University. Alyssa-Rae is certified by ATIXA as a Civil Rights Investigator and Hearing Officer/Chair, and by the Federal Mediation and Conciliation Service and MetroWest Mediation Services as a Mediator. She is a pre-approved Sexual Misconduct Investigator for the United Educators ProResponse Expert Services Benefit.



Jessica Morak

EXEC. DIRECTOR OF INSTITUTIONAL EQUITY AND CDO AT CUNY GRADUATE CENTER

Jessica Morak is the Executive Director of Institutional Equity and Chief Diversity Officer at the CUNY Graduate Center, where she leads the Title IX, equal opportunity, and compliance efforts for multiple institutions. She previously served as an Associate General Counsel in CUNY's Office of the General Counsel, advising on employment, student affairs, and sexual misconduct matters, and helped to implement CUNY's Policy on Sexual Misconduct. Before joining CUNY, Jessica was a Staff Attorney at Sanctuary for Families, where she represented survivors of sexual violence, intimate partner violence, sex trafficking, and cyber sexual abuse. She founded and led the Campus Advocates Project, an innovative initiative supporting student survivors navigating Title IX, civil, and criminal systems. She has extensive experience serving as an attorney-advisor in Title IX hearings and training institutions on trauma-informed approaches and technology-facilitated abuse. Jessica began her career as an Assistant District Attorney in the Bronx, prosecuting child abuse and sex crimes. She is a former co-chair of the New York Cyber Sexual Abuse Task Force and a recipient of the 2020 Lydia Martinez Multidisciplinary Collaboration Award. She holds a J.D. from Cardozo School of Law.



Joy Purcell

DEPUTY TITLE VI COORDINATOR AT NYU

Joy Purcell joined New York University as a Deputy Title VI Coordinator and Senior Investigator in the fall 2025 semester. At NYU Joy oversees the University's response to reported incidents of discrimination and harassment on the basis of race, color and national origin (including shared ancestry) through both informal resolution and formal investigation.

Prior to joining NYU, Joy served the nation's students and educators as a Senior Attorney in the New York regional office of the U.S. Department of Education, Office for Civil Rights for 11+ years. Joy began her career as a legal services attorney in Washington, D.C. representing parents and caregivers of children with special needs in education, health care, and housing discrimination cases.

Joy received her J.D., magna cum laude, from the University of Miami School of Law and a B.A., magna cum laude, in Politics and Latin American Studies from New York University.



Andres A. Ramirez

FOUNDER | NATIONAL MEDIATOR | INFORMAL RESOLUTION
FACILITATOR
AT ANDRES A. RAMIREZ MEDIATION

Andres Ramirez is a nationally recognized mediator and former National Mediation Expert for the U.S. Department of Education's Office for Civil Rights. For over 25 years, Andres has mediated more than 1,000 complex, emotionally charged disputes involving Title VI, Title IX, disability discrimination, racial harassment, antisemitism, sexual misconduct, and employment conflict. He was routinely called upon to handle some of OCR's most sensitive and high-stakes matters nationwide and trained mediators across the country in advanced resolution strategies.

Through Andres A. Ramirez Mediation LLC, Andres now provides private mediation, facilitation, and training services nationwide, with a focus on civil rights, higher education, workplace, and ADA-related disputes. His practice includes mediation of employment and institutional conflicts, Title VI and Title IX informal resolution, workplace and team-based facilitation, disability and accommodation matters, and practical conflict resolution training for institutions and professionals. He helps institutions and parties navigate difficult conflict with clarity, empathy, and practical problem-solving.

His secret, what he calls his "cheat code," is simple: he asks participants to trade stories about their favorite meals. Suddenly, people stop being adversaries and become what they have always been: human beings with opinions about food. It is a surprisingly effective way to build trust.



Leanne Tyler

SENIOR TITLE VI INVESTIGATOR AT NYU

Leanne Tyler is a Senior Title VI Investigator at NYU where she supports the Title VI Office in responding to concerns regarding discrimination and harassment based on race, color, and national origin (including shared ancestry). Prior to this role, she served as a Deputy Title VI Coordinator and Associate Director in the Office of Institutional Equity and Accessibility at Yale University where she responded to staff and faculty concerns of discrimination and harassment based on protected characteristics, including race, color, and national origin. Prior to joining higher education, Leanne worked as a Compliance Team Attorney with the U.S. Department of Education's Office for Civil Rights where she investigated complaints under the federal statutes enforced by OCR, including Title VI.

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Agenda:

- 2026 Legal Update
- Effective and Equitable Title VI Investigations
- Investigative Report Writing 101
- Panel Discussion by Title VI Practitioners
- Alternative Resolution Considerations

2026 Legal Update



Nicole A. Donatich

Partner

Cullen and Dykman LLP

Please refer to the CLE materials for the full biographies of each speaker.

2026 Legal Update

- New York's Title VI Coordinator Law
- OCR Resolutions and Executive Action
- Notable Settlements and Lawsuits

New York Title VI Coordinator Law

- On August 26, 2025, Governor Hochul signed into law S4559B / Assembly Bill A5448B.
- The law amends the New York Education Law by adding new Section 6436-a to Article 129-A.

New York Title VI Coordinator Law – Key Deadlines

- **August 26, 2026:** The law becomes effective, one year from enactment.
- **November 24, 2026 (90 days after effective date):** Deadline for each institution to appoint a Title VI Coordinator.
- **Academic Year 2026–2027:** Annual training obligations for all students and employees begin.

Title VI Coordinator — Role & Duties

- Appoint a Title VI Coordinator to serve as the central point of contact for compliance.
- Obligations upon receiving a discrimination or harassment complaint:
 - Offer supportive measures,
 - Notify the complainant of policies and procedures, and
 - Ensure a process for investigation and resolution.
- Recordkeeping Obligations: Related to assessments, actions taken, and trainings.
- Annual Notification Requirement

Title VI Coordinator – Training Requirements

- Institutions must deliver annual training to all students and employees to ensure compliance.
- The New York State Division of Human Rights is directed to coordinate with institutions to develop a model training, though institutions may use their own equivalents.
- Title VI Coordinators and their designees must also undergo specialized training on their responsibilities under both federal and state law.

Looking Ahead

- Federal regulations on the horizon?
- More discussion on this later – stay tuned!

Executive Action & OCR Enforcement

- Executive Order: “Additional Measures to Combat Anti-Semitism.” (January 29, 2025)
- Dear Colleague Letter (February 14, 2025) (no longer enforceable)
- Notable OCR Activity:
 - On March 10, 2025 – Warning letters to 60 institutions under investigation for Title VI violations related to antisemitic discrimination and harassment
 - On March 14, 2025, OCR announced 52 additional investigations into universities for alleged use of racial preferences in violation of Title VI

Executive Action & OCR Enforcement

- **The Ph.D. Project – 31 Resolution Agreements (February 19, 2026)**
- On February 19, 2026: Resolution agreements with 31 colleges and universities to end their partnerships with The Ph.D. Project, an organization OCR found to unlawfully limit eligibility based on race.

Notable Settlements

- Columbia University – \$221 Million Settlement (July 2025)
- Cornell University – \$60 Million Settlement (November 2025)
- Harvard University — Federal Funding Restored by Court Order (September 2025)

Doe v. Northwestern University (N.D. Ill., Mar. 3, 2026)

- The court ruled that Jewish students failed to state a claim under Title VI of the Civil Rights Act of 1964 against Northwestern University for its response to antisemitic incidents following the October 7, 2023 Hamas attack on Israel.
- The plaintiffs alleged:
 - A hostile educational environment claim, and
 - An intentional discrimination claim.
- The Court granted Northwestern's motion to dismiss both Title VI claims, with leave for plaintiffs to amend.

Effective and Equitable Title VI Investigations



Alyssa-Rae McGinn

VP

Dan Schorr, LLC

Please refer to the CLE materials for the full biographies of each speaker.



Effective and Equitable Title VI Investigations

Cullen and Dykman Title VI Counsel and Coordinators Summit

April 30, 2026

DAN SCHORR, LLC

OUR SERVICES

- Title IX, Civil Rights, and Misconduct Investigations
- Decision Makers and Hearing Officers
- Hearing and Process Advisors
- Trainings
- Policy and Program Reviews
- Interim Title IX Coordinator Coverage
- Mediations and Informal Resolution Facilitation
- Expert Witness Testimony

[MORE INFO AT DANSCHORRLLC.COM](https://danschorrllc.com)

ALYSSA-RAE MCGINN

Vice President

Boston



Alyssa-Rae McGinn, Vice President of Dan Schorr, LLC, has extensive experience serving as an investigator, decision maker, hearing chair, mediator/informal resolution facilitator, and interim Title IX and Title VI Coordinator, with particular expertise in applying regulatory requirements and best practices in complex matters of sexual misconduct and identity-based harassment at educational institutions. Alyssa-Rae balances a compassionate understanding of the difficulty parties face being involved in such matters with the importance of remaining compliant with relevant law and policy.

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GENERAL GUIDANCE

- Be fair and objective
- Do not discuss opinions or conclusions
- Words matter – stay professional
- Listen, listen, listen!
- Protect privacy and confidentiality, where applicable
- Be prompt, but take the needed time
- Treat all parties equally
- **Follow policy and local, state, and federal law**

PLANNING THE INVESTIGATION

- Who will conduct the investigation?
- What is the scope of the investigation?
- What are the key fact issues?
- Who needs to be interviewed?
- In what order?
- What evidence needs to be collected?

INTERVIEWING BASICS

- Be **transparent**
- Be **kind**
- Be **comfortable**
- Be aware that interviewees may be reluctant, uncomfortable, or even afraid
- Be prepared, but flexible – have a real conversation
- “How do you know that?”
- Clarify facts and discrepancies
- Ask for relevant names, especially potential witnesses
- Ask for relevant documents
- **Treat all parties equally**

IDENTIFYING DISCREPANCIES

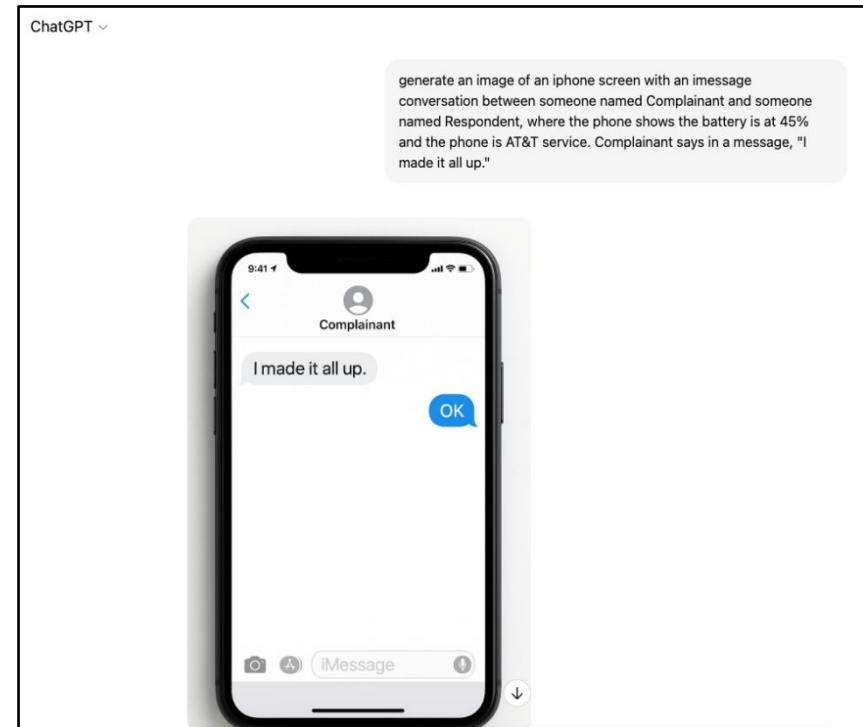
- Do your homework before the interview
- Listen for statements that do not track with the interviewee's own account and with other evidence
- Use common sense and your own experience
- If you were on the other side, what issues, gaps, or statements would you point to in making your case?

ASKING THE HARD QUESTIONS

- Wait to confront with adverse evidence
- **“Let’s go back through that slowly:”** Return to parts of their story that require clarification or are disputed by other evidence
- When asking the hard questions:
 - Phrase your questions so that they are respectful of the story you’ve heard
 - Don’t be accusatory
 - Explain the motivation for your question
- Let them know that as an investigator, you are trying to figure out what doesn’t track and why

OBTAINING EVIDENCE

- Instruct parties and witnesses to preserve evidence
- Go to the source and get primary documentation when possible
- Get the full document or conversation
- Deleted items may still exist
- Be aware of fakes and edits
- Collect both direct and circumstantial evidence
- Include *all* relevant evidence
- Think creatively about evidence types



DOCUMENTING THE INVESTIGATION

- It is important to clearly and carefully document all investigative steps
 - Communication with parties and witnesses
 - Interview summaries/transcripts
 - Evidence requested and collected
- Ultimately, all information collected will be included in an investigative report, which should include:
 - Procedural history
 - Relevant policy provisions
 - Fair and objective representation of all evidence
 - If applicable, determinations of responsibility and rationale for those determinations

THE TITLE IX AND CIVIL RIGHTS

PODCAST



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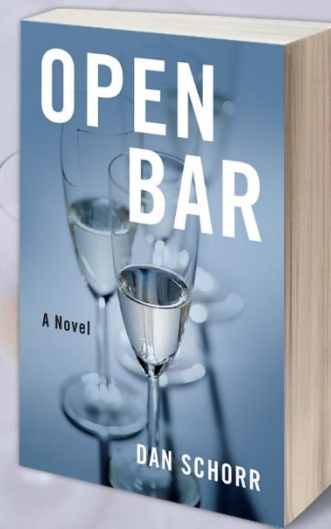
WEEKLY EPISODES
AVAILABLE ON ALL
STREAMING SERVICES

DAN SCHORR, LLC

AVAILABLE NOW

"Dan Schorr taps his years of real-world experience investigating sexual misconduct allegations to deliver a suspenseful, propulsive, and heart-wrenching novel – *Open Bar*."

—Gretchen Carlson, Journalist, co-founder Lift Our Voices, Female Empowerment Advocate, Author



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Investigative Report Writing 101



Jessica Morak

Exec. Director of Institutional Equity and CDO

CUNY Graduate Center



Nicole A. Donatich

Partner

Cullen and Dykman LLP

Please refer to the CLE materials for the full biographies of each speaker.

What Are We Cooking With Today?

- Fundamentals for Effective Report Writing
- Making it Digestible
- Food For Thought – Is AI the New KitchenAid?
- Take Home Goody Bag – Sample Investigative Report Template

Planning for an Effective Investigative Report – Things to Consider

- What Should Inform Your Report Contents?
- What is your Role as Investigator?

Planning for an Effective Investigative Report – Things to Consider (Cont.)

- Who is the intended audience?
- Who else may see it?

It's A Classic for a Reason

- Introduction
- Procedural History/Case Timeline
- Allegations
- Witness List
- Exhibit List
- Factual Summary
- Analysis & Findings

Structure of a Discrimination Report – Factual Summary

- Organization:
 - Chronologically
 - By incident/allegation
- What if...

Structure of a Discrimination Report – Analysis

- Credibility Assessment:
 - Factors: Consistency, Corroboration, Bias or Incentive to Lie, Reasonable and Logical Details, Demeanor
- Factual Findings – More than just witness summaries!
- Analysis
 - Step One: Did the conduct occur as alleged?
 - Step Two: Does that conduct constitute a policy violation?

AI and Investigative Report Writing—The New Kitchen Aid?

- Check with Your Judges First
- What Are We Making With It?
- Ethical Uses
- But Watch it Closely!

Panel Discussion by Title VI Practitioners



Sandy Araj
Deputy Title VI Coordinator
NYU



Kelly Hendricken
Managing Counsel for
Student Affairs
SUNY



David Krieger
Title VI Coordinator
NYU



Leanne Tyler
Senior Title VI Investigator
NYU

Please refer to the CLE materials for the full biographies of each speaker.

Alternative Resolution Considerations



Joy Purcell

Deputy Title VI Coordinator

NYU



Andres A. Ramirez

Founder | National Mediator | Informal Resolution Facilitator

Andres A. Ramirez Mediation

Please refer to the CLE materials for the full biographies of each speaker.



Alternative Resolution Considerations

Conversation with
Andres Ramirez & Joy Purcell

Andres A. Ramirez Mediation LLC



About Andres



Andres Ramirez is a nationally recognized mediator and former National Mediation Expert for the U.S. Department of Education's Office for Civil Rights. For over 25 years, Andres has mediated more than 1,000 complex, emotionally charged disputes involving Title VI, Title IX, disability discrimination, racial harassment, antisemitism, sexual misconduct, and employment conflict. He was routinely called upon to handle some of OCR's most sensitive and high-profile matters nationwide and trained mediators across the country in advanced resolution strategies.

Through Andres A. Ramirez Mediation LLC, Andres now provides private mediation, facilitation, and training services nationwide, with a focus on civil rights, higher education, workplace, and ADA-related disputes. His practice includes mediation of employment and institutional conflicts, Title VI and Title IX informal resolution, workplace and team-based facilitation, disability and accommodation matters, and practical conflict resolution training for institutions and professionals. He helps institutions and parties navigate difficult conflict with clarity, empathy, and practical problem-solving.

His secret, what he calls his "cheat code," is simple: he asks participants to trade stories about their favorite meals. Suddenly, people stop being adversaries and become what they have always been: human beings with opinions about food. It is a surprisingly effective way to build trust.



About Joy



- Joy Purcell is a Deputy Title VI Coordinator and Senior Investigator at New York University where she helps manage NYU's response to reported incidents of discrimination on the bases of race, color, and national origin (including shared ancestry and ethnic characteristics). As a trained mediator and impartial investigator, Joy resolves complaints through both informal resolution and formal investigation.
- Prior to joining NYU, Joy was a Senior Attorney in the New York regional office of the U.S. Department of Education, Office for Civil Rights (OCR) for more than a decade. At OCR she resolved hundreds of complex complaints arising under various federal civil rights statutes, including Title VI, Title IX, Section 504, and Title II through informal resolution, mediation, and investigation. Joy began her career in Washington, D.C. as a legal services attorney litigating civil rights cases on behalf of individuals living in poverty.
- Joy received her J.D., magna cum laude from the University of Miami School of Law and a B.A., magna cum laude, in Politics and Latin American Studies from New York University.

Why does this Conversation Matter Now?

- Federal civil rights enforcement under strain, increasing pressure on institutions
- More visible, high stakes Title VI conflicts
- More harm caused by delay, confusion, and silence
- Greater need for fair, structured resolution options
- The parties control the outcome rather than an outside entity



What can Title VI Learn from Title IX?

- Title VI → Section 504 → Title IX
- Build System that is voluntary, well-explained, and appropriate
- Create a clearer informal resolution structure
- Use supportive measures early and strategically





REFLECTION

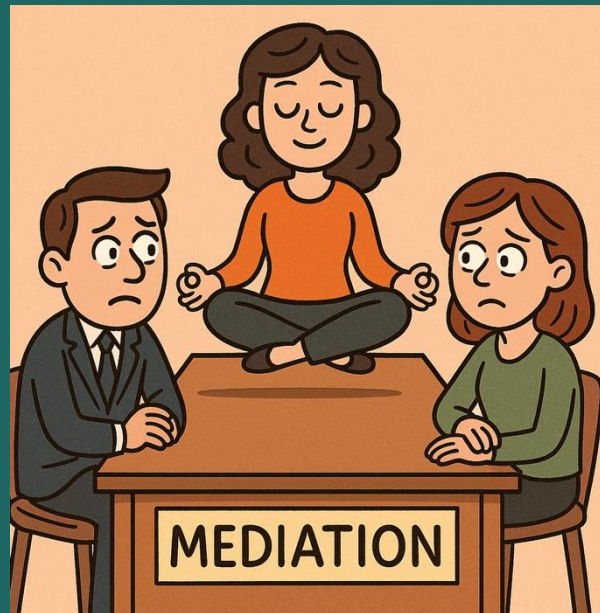
**Which process gives the parties the best chance to be heard, solve the problem, and move forward in any particular case?
Investigation or Informal Resolution**



Methods of Informal Resolution

- Mediation between the parties (in-person, videoconference, shuttle)
- Training and/or educational outreach to respondents
- “Reporting back” to the complainant regarding steps taken by the institution

“Peace is not the absence of conflict, but the ability to cope with it.” – Mahatma Gandhi





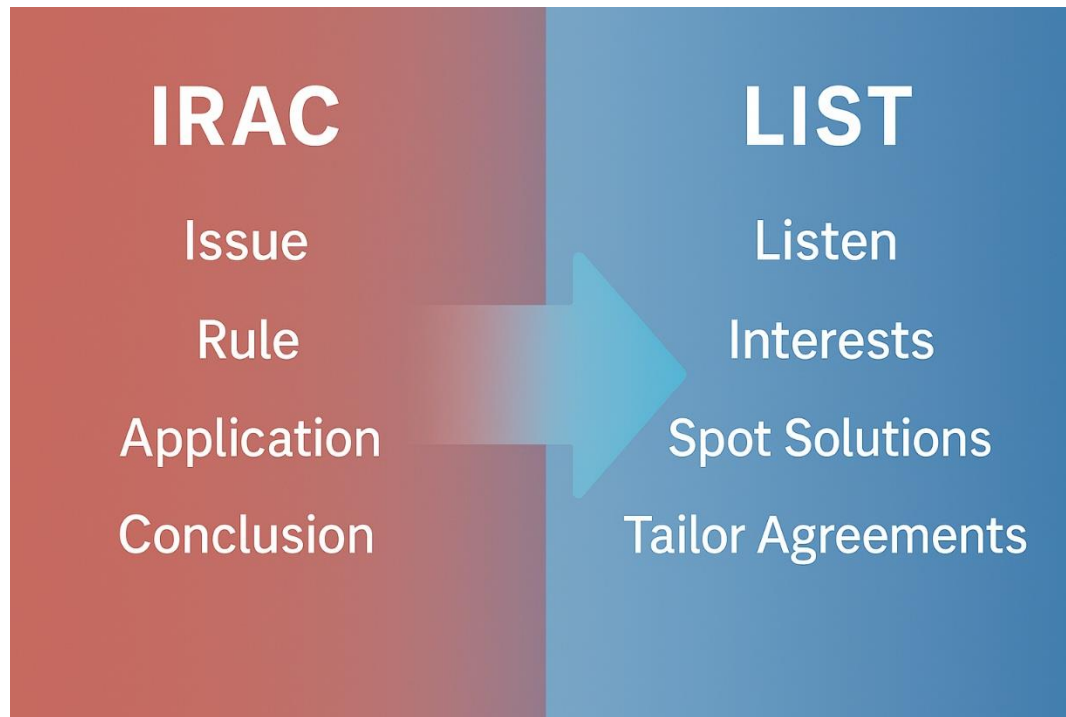
Rethinking Conflict

- Conflict is the space between competing stories that both feel true.
- Conflict is the difference between what someone expected and what they experienced.
- Conflict is a plea for recognition, disguised as a legal claim.
- Conflict is an opportunity to collaborate for positive change and an invitation to improve or repair relationships.





IRAC vs LIST





IRAC vs. LIST

IRAC (Investigation Mindset)

- Issue – Spot the Legal question
- Rule – Apply the law or policy
- Application – Argue facts under the rule
- Conclusion – Push for legal outcome

LIST

- Listen – Hear the human story
- Interests – Understand Needs & Motivations
- Solutions – Explore interest-based options
- Tailor Agreements – Customize to meet real-world goals

Active Listening

Active Listening

What **Not** to Say... and What **To** Say Instead

- | | | |
|---|--|---|
| <p>❌ Don't say: "Yeah, I know exactly what you mean"</p> <p>➡ Because: It assumes their experience is the same as yours instead of checking</p> <p>✅ Say: "It sounds like you're saying X - did I get that right?"</p> | <p>❌ Don't say: "I think you're overthinking it"</p> <p>➡ Because: It dismisses their concerns rather than acknowledging their perspective</p> <p>✅ Say: "Help me see why you're saying that"</p> | <p>❌ Don't say: "That doesn't make any sense"</p> <p>➡ Because: It comes across as dismissive instead of encouraging further explanation</p> <p>✅ Say: "Can you help me understand that better?"</p> |
| <p>❌ Don't say: "I already know where you're going with this"</p> <p>➡ Because: It cuts them off and assumes their point instead of letting them make it</p> <p>✅ Say: "Go ahead - I want to hear the full story"</p> |  <p>© George Stern</p> | <p>❌ Don't say: "You shouldn't feel that way"</p> <p>➡ Because: It implies their emotions are wrong instead of acknowledging their experience</p> <p>✅ Say: "Thank you for sharing - how did that impact you?"</p> |
| <p>❌ Don't say: "I don't know why you told me that"</p> <p>➡ Because: It breaks trust and discourages future openness</p> <p>✅ Say: "Thanks for trusting me with this"</p> | <p>❌ Don't say: "I don't have time for the full story"</p> <p>➡ Because: It signals impatience and makes them feel like a burden</p> <p>✅ Say: "I'd love to hear more details on that"</p> | <p>❌ Don't say: "I don't think that's relevant"</p> <p>➡ Because: It dismisses their thoughts and discourages exploration</p> <p>✅ Say: "That's interesting - what led you to that?"</p> |
| <p>❌ Don't say: "I know exactly what you should do"</p> <p>➡ Because: It assumes authority over their situation instead of letting them say needs</p> <p>✅ Say: "What do you need most right now?"</p> | <p>❌ Don't say: "Oh, that reminds me of a time when I..."</p> <p>➡ Because: It shifts focus to you instead of keeping the attention on them</p> <p>✅ Say: "What happened next?"</p> | <p>❌ Don't say: "I think the real issue is..."</p> <p>➡ Because: It takes control of the conversation instead of letting them express their priorities</p> <p>✅ Say: "What's the most important part for you?"</p> |



Listening Between the Lines

Reading the Unspoken

- Emotional data isn't merely verbal
- Students may overexplain because they feel ignored.
- Administrators may feel attacked
- Advocates may be combative because they've seen to many broken promises





Listening Between the Lines

The Mediator's Role

- Filter emotional content without dismissing it.
- Translate passion into concrete, negotiable needs
- Reframe anger as unmet expectations
- Validate emotion without agreeing with the position.





STRATEGIC EMPATHY: LISTENING THAT MOVES THE NEEDLE

- Validate without agreeing
- Make space for the story, even if it's flawed
- Never tell someone they're wrong. "Seems like you have a reason for saying that."
- Show you're listening for *meaning*, not just words
- Empathy builds trust that logic alone cannot

Strategic Empathy In Action

- Introduction to People and Stories
- Catharsis
- Genuine Act of Contrition
- More Ears Mean More Possibilities
- Strategic Use of Joint Session During Mediation
 - Discussion of Technical Solutions
 - Opposing Counsel Address Each Other Directly





Strategic Empathy in Action

Reframing Moments

- I can see how this has taken a toll.
- You've carried a lot of this alone.
- It sounds like you're saying XXX. Is that right?
- That moment really mattered, didn't it?

Strategic Empathy

Speak With Emotional Intelligence

© George Stern

"We'll get through this together"

Stand with others when the going gets rough

"Here's what I heard you say"

Listen actively and confirm understanding

"Let's put our heads together"

Work collaboratively with others

"Tell me more about your concerns"

Lead with mutual respect and seek common ground

"Let's talk about this"

Lean into conflict, looking for a path forward

"I was wrong"

Role model ownership and growth

"Thank you"

Give appreciation liberally



"I'm sorry"

Recognize when you've caused hurt and own it

"Let's take a breather"

Notice charged situations and take a step back

"I'm proud of my effort"

Prioritize self-love, not external validation

"Great job!"

Praise others frequently

"I'd love your input"

Ask for feedback regularly

"How are you feeling?"

Check in on others when you sense something's up

"Walk me through what happened"

Seek to understand, not blame

"We better change course"

Be adaptable when circumstances change

"Here's why I made that decision"

Work to bring others along - even when difficult

"How was your kid's birthday?"

See and care about others as human beings

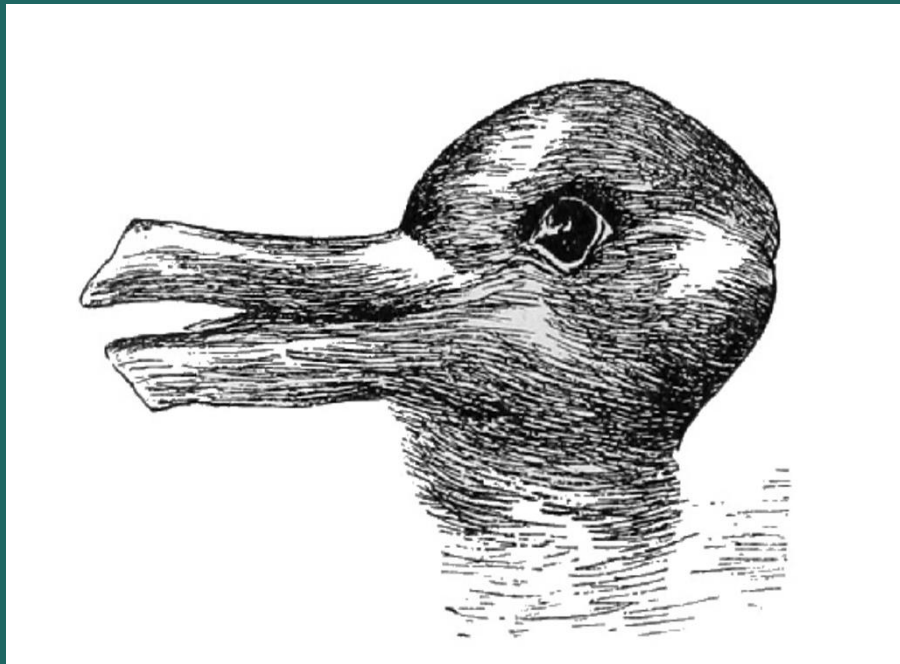
"I feel..."

Work to see and name your feelings

"How can I help?"

Offer support often

“If you change the way you look at things, the things you look at change.”



Why Apologize?

“While a monetary settlement may adequately restore financial losses resulting from an injury, an apology may be a better mechanism for restoring less tangible damage, expressing the proper relative moral positions of the parties, assuring the injured party that the offender will not reoffend, or achieving restorative justice.”

Jennifer K. Robbennolt, Apologies and Legal Settlement: An Empirical Examination, 102 MICH. L. REV. 460 (2003) at 511.



Strategic Apology

Five Elements of an Apology

1. Acknowledge the offense
2. Express regret
3. Take responsibility
4. Offer to make amends
5. Ask for forgiveness

Strategic Apology

1. Acknowledge the Experience (not necessarily the facts).
2. Validate the Person's Emotions.
3. Express Regret Without Accepting Blame.
4. Take Relational or Institutional Responsibility.
5. Affirm the Desire to Repair or Prevent Future Harm.



Strategic Apology in Action

Acknowledge the Experience

- I'm sorry that happened to you.
- I can see how that was painful.
- It wasn't our intention to cause harm, but I understand how it felt that way.

Validate the Person's Emotions

- You deserved a timely response.
- No one should feel dismissed or unsupported.
- I can see how that added to your frustration.
- I regret you felt that way.



Strategic Apology in Action

Take Relational Responsibility

- We could have done more to communicate during this process.
- We didn't respond the way we should have.
- "We didn't get it right" goes further than "sorry."

Affirm a Desire to Repair

- We're committed to doing better and learned from this.
- We appreciate you bringing this forward. It gives us a chance to grow.
- Moving forward, we're taking steps to ensure others don't feel this way.



APOLOGIES CHANGE TRAJECTORY OF CONFLICT

What's one time you saw an apology change the dynamic, even if it didn't solve the issue?

De-Escalation Without Compromise

Communication Do's and Don'ts

© George Stern

Active Listening Do: Focus on what they're saying, make eye contact, repeat it back Don't: Interrupt, plan your response, or be distracted		Authenticity Do: Be yourself - let your guard down, be vulnerable, share openly Don't: Copy someone else's style to the point of it being unnatural	
Simplicity Do: Be clear and to the point Don't: Think jargon, acronyms, or complex words sound smart		Positivity Do: Frame things positively Don't: Confuse direct with mean - you can be truthful and kind	
Empathy Do: Work to see the other side and understand their feelings Don't: Think of communication as a one-way street		Avoiding Judgment Do: Ask what, not why - "why did you do that" vs. "what made you..." Don't: Let your tone or phrasing make people defensive	
Clarification Do: Ask follow-up questions until you're crystal clear Don't: Make assumptions about what people are saying		Preparation Do: Plan your communication in advance whenever possible Don't: Overestimate your ability to wing it	
Single Topic Do: Focus on one point at a time Don't: Go off on tangents or raise multiple issues at once		Repetition Do: Overcommunicate important points in different ways Don't: Assume once is enough	
Body Language Do: Use appropriate tone and expressions, and face the person Don't: Think words alone will work - they're often least important		Illustration Do: Use stories and visuals to make your point Don't: Rely only on facts and raw data - they're far less effective	
Adaptability Do: Pick the right communication channel for message & audience Don't: Resort to written when in-person is necessary		Questions Do: Ask open-ended questions to encourage dialogue and learning Don't: Assume people will share everything on their own	
Headline Do: Lead with the conclusion and then back it up Don't: Keep people guessing		Honesty Do: Be direct and transparent Don't: Hide the truth or beat around the bush - it'll backfire	



De-escalation Phrases

- **“Sounds like you have a reason for saying that.”**
- **“Before we problem-solve, I want to make sure I have this right. . .”**
- **“Let’s take a breath before we dig into solutions. This feels charged.”**
- **“I want us to figure out what’s possible moving forward.”**
- **“What do you love about this program/university/class/job/etc?”**
- **“How am I/University/Institution supposed to make that happen?”**
- **Or, merely remain calm. You model the behavior you want to elicit**



Reframing Inflammatory Language

How to Disagree Without Damaging Relationships

"That's an interesting point - can I share another angle?" Shows curiosity while inviting dialogue	"Can you walk me through your thinking a bit more?" Indicates you value understanding before responding	"I think we're aiming for the same outcome, but I'd take a different path" Highlights shared intent
"I agree with you on X - where we might differ is on Y" Starts with common ground to reduce defensiveness	 © George Stern	"What if we looked at it this way instead?" Keeps an exploratory tone and positions your disagreement simply as thoroughness
"Let's test both ideas and see what works best" Makes it about outcomes, not egos		"Can I challenge that assumption for a moment?" Frames disagreement as critical thinking
"I understand your concern, but my experience has been different" Grounds your view in personal insight	"I'm not sure I agree - can we walk through the reasoning together?" Invites collaboration rather than confrontation	"I think we may be prioritizing different things - can we align on that first?" Focuses on clarity and common goals
"I hear what you're saying, but I have a different take on this" Acknowledges their view before stating your own	"That's a fair point - my only concern is..." Validates their perspective while introducing a new consideration	"I'm not sure that's the best approach - can I explain my thinking?" Opens space for rationale, not rejection

Using Impasse Strategically

- Cooling off → brain re-regulation → better thinking
- Silence
- Break Time
- Switching to Practical Next Steps when Tempers Flare
- Sample Phrases:
 - “Let’s pause here.”
 - “I’d like to check in separately.”
 - “So where are we eating today?”



5 PILLARS OF TRAUMA-INFORMED MEDIATION

1. Active Listening – Validation, connection, and safety
2. Safety – Emotional and Physical
3. Transparency – Explain your role and the process
4. Empowerment – Restore Agency
5. Connection – Focus on Relationship more than positions.



Closing Takeaways

Andres

- Clear, consistent, credible process
- Normalize emotion without losing structure
- Use a trusted neutral when trust breaks down

Joy

- Formalize and document the response.
- Acknowledge the impact of the incident.
- Remove your blinders– assess the overall environment.



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Suggested Reading List

1. Civil Rights Administration by Deborah Archer & Joseph Schottenfeld – Stanford Law Review
2. Jennifer K. Robbennolt, Apologies and Legal Settlement: An Empirical Examination, 102 MICH. L. REV. 460 (2003)
3. Fisher, Ury, and Patton – Getting to Yes
4. Stone, Patton, and Heen – Difficult Conversations – How to Discuss What Matters Most
5. Chris Voss – Never Split the Difference: Negotiating as if Your Life Depended on It (2016)
6. George Stern – Infographics on leadershipsgs.com
7. Brené Brown [What is Empathy?](#) – Bouldercrest.org
8. Ellie Vilendrer - 4 Trauma-Informed Strategies For Mediating Sex Abuse Cases (October 3, 2025)
9. Marshall Rosenberg – Nonviolent Communication: A Language of Life (2015)



Thank you.

Disclaimers

- This is a general overview of the law. No content within this presentation constitutes legal advice. Nothing herein creates an attorney-client relationship between the presenters and attendees.