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Difficult Dialogue in the Context of Compliance

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Objectives

- Explore what makes dialogue difficult
- Discuss key points of interaction
- Identify strategies for approaching or initiating difficult dialogue
- Identify strategies for receiving and processing difficult dialogue



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What Makes Dialogue Difficult

- Simply stated: written or spoken conversational exchange between two or more people.
- Communication involves imparting or exchanging information.
- Effective communication is more than exchanging information, it includes awareness of and attending to the **emotions** and **intentions** informing or impeding the information being exchanged.



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Barriers to Effective Communication

- Stress & emotion – whether related to the conversation or not
- Lack of focus – by one or more involved individuals
- Inconsistent or negative body language – intentional or unintentional incongruity between words and actions or conveying negative emotion through body language

Points of communication related to reports of sexual violence are inherently stressful and evoke emotion. Competing demands on individuals' time in a school or work setting can create distractions and be overwhelming.



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Tips for Effective Communication

- Keep stress in check – yours and others'
- Set clear expectations
 - The purpose of the conversation
 - The parameters of exchange
- Practice engaged listening, ask clarifying questions.
 - Listen to the words and emotions, reflect back meaning
 - Pay attention to social and cultural influences
- Pay attention to nonverbal communication – yours and others'



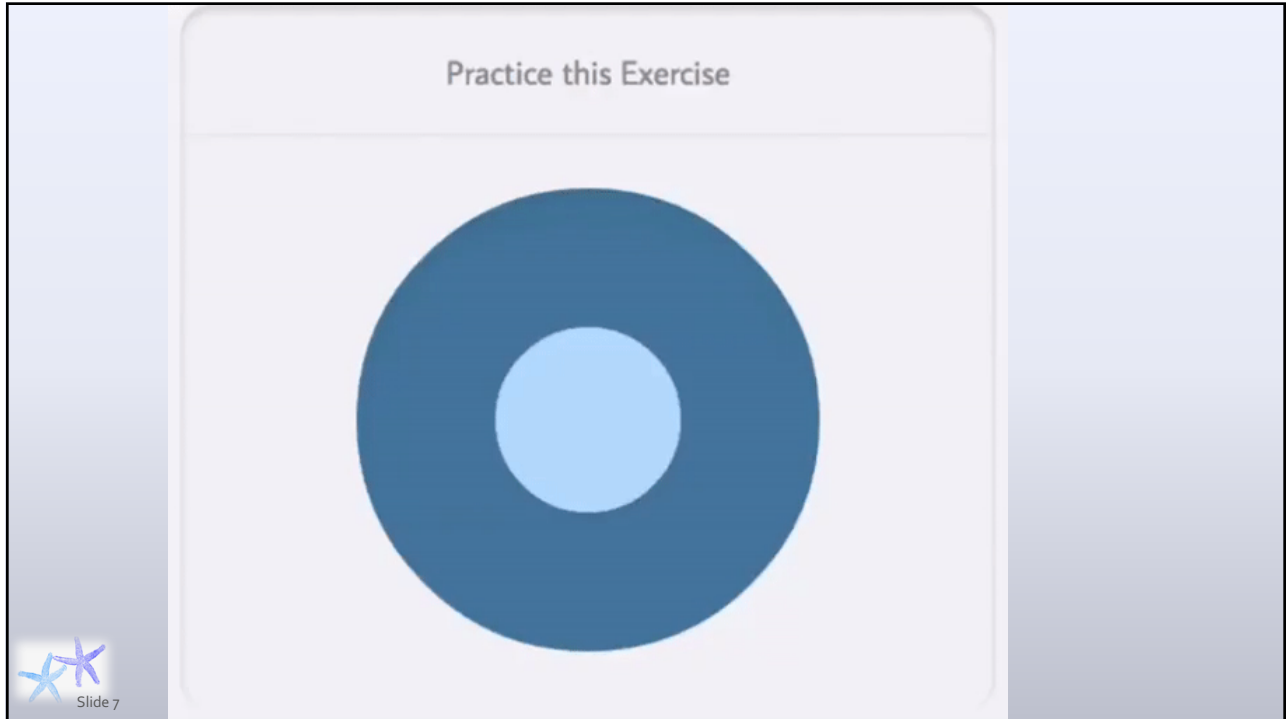
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Tools of Effective Communication

- Consider the environment – where do difficult conversations occur?
- Verbal and Nonverbal
- Spoken and Written
 - Congruence – what and how information is delivered
 - Accessibility – how is information received (understandable terminology, legible print, appropriate contrast)
 - Emphasis – order of information shared, balance of information



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Difficult Dialogue Points in Process

- Initial reach-out after receiving complaint
- Insufficient information in report to move forward
- Sufficient information and beginning of investigation
- Party wants interim/supportive measure that is unavailable or unreasonable, given the circumstances
- Party has been unresponsive and investigation is unable to continue without their participation
- Witnesses fail to participate in investigation or fail to provide the evidence the person hoped
- Delay in investigation or in issuance of reports/outcome
 - Delay involving person whose circumstances you may not share with other party

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Difficult Dialogue Points in Process

- Retaliation (information, warning, notice of investigation, findings)
- Finding of investigation (determination/outcome, consequences)
- Response/justification for decision in appeal
- Interim measure that negatively impacts person in some way
- Inability to share investigation information with reporting party, if different than complainant, or relevant unit, organization, or department, except on a need-to-know permissible basis
- Media scrutiny or requests
- Pressure from higher-ups or influential community members to know about your investigations or outcomes



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NOTE: The difficulty in the situations outlined above will vary by your role and the role of others as you interact with your campus community members throughout the stages in your sexual misconduct processes. Converse with care.

Truths of Communication

**LIFE is 10%
WHAT
HAPPENS
to US
and 90%
HOW WE
REACT to IT.**

Learning to pause and respond rather than react is crucial in effective communication.

YOU CAN'T CONTROL SOMEONE ELSE'S BEHAVIOR. YOU CAN ONLY CONTROL YOUR OWN REACTION.

Models for Effective Communication

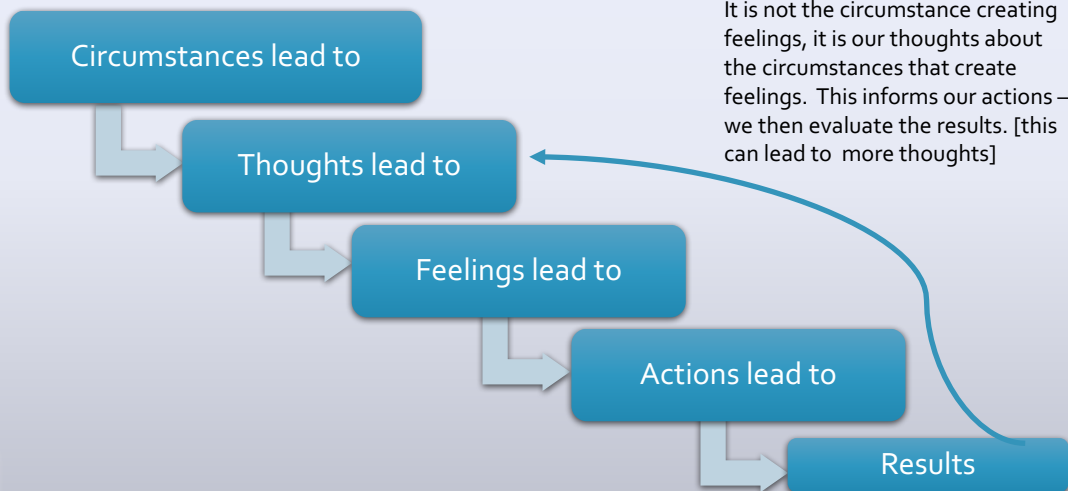
- **Nonviolent Communication:** Marshall Rosenberg's practice to help us think, speak and hear others with a focus on needs. This in turn, empowers us relate to ourselves and one another with compassion.

When we feel reactive it is helpful to pause and consider what might be our unmet needs or values. Helpful questions include, "What might be my unmet needs in this moment?" and "What do I value that is not being honored right now?"



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Models for Effective Communication



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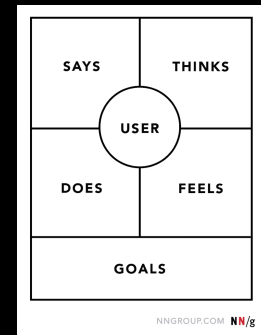
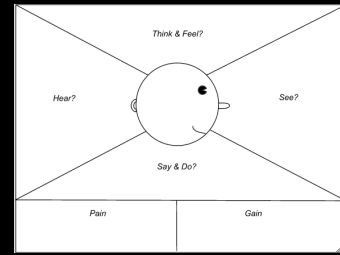
Models for Effective Communication

• Empathy Mapping

- What might the complainant/respondent be thinking and feeling? What are some of their concerns for the conversation?
- What would the person hear if I say something in a particular way? What will the person see while I'm talking?
- What might the person ask during our conversation? How might those questions be impacted by our roles?
- What are some of the user's pain points or fears for the conversation?
- What gains might the person leave with, if the conversation goes well?



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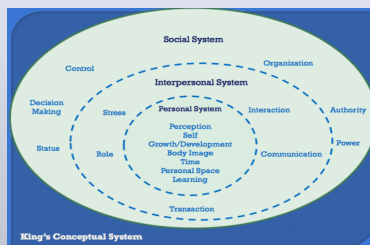
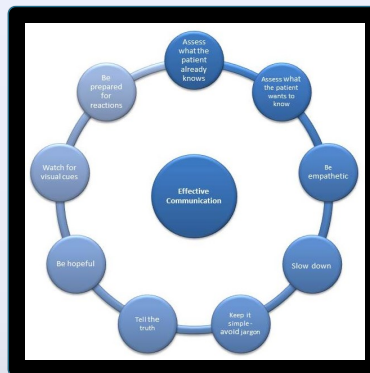


Models for Effective Communication

- Healthcare Models
- Routinely must break bad news
- Aim to influence behavior and deliver protocol
- Acknowledge stress of the situation and conversation
- Aim to communicate with empathy



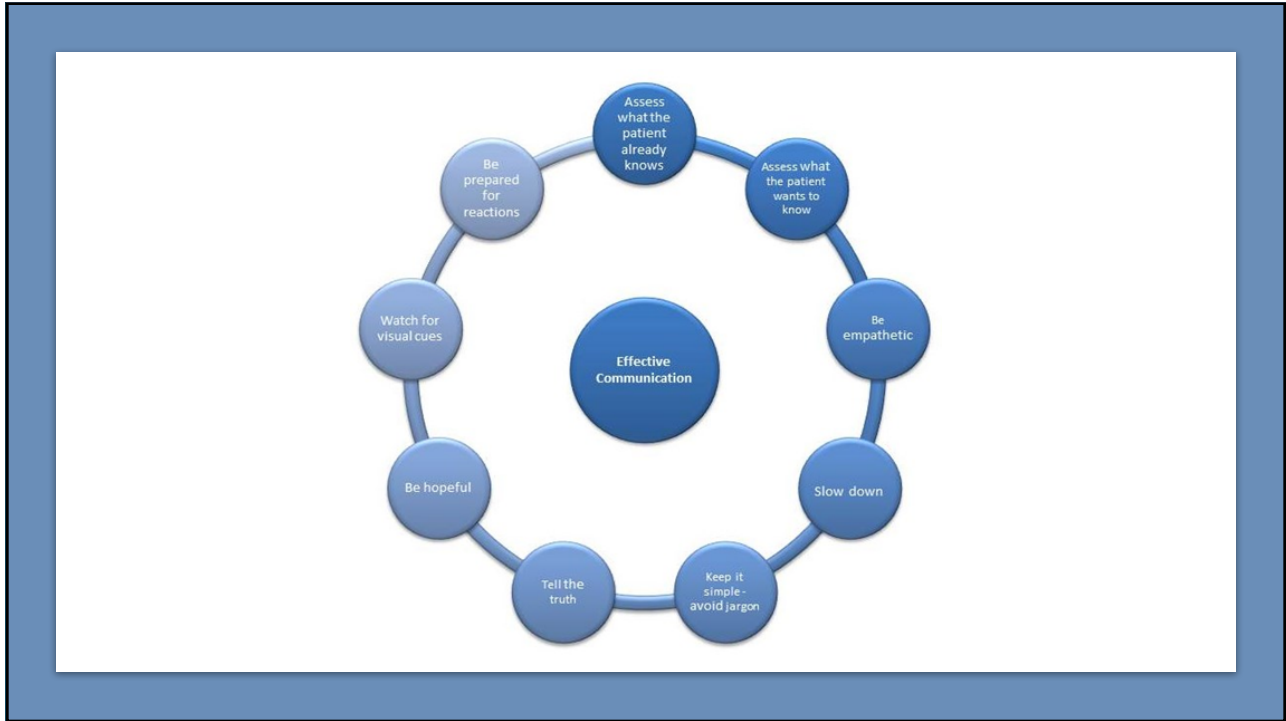
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Goals of the Bad News Interview

- First** • Gathering information from the patient
- Second** • Provide intelligible information in accordance with the patient's needs and desires
- Third** • support the patient by employing skills to reduce the emotional impact and isolation experienced by the recipient of bad news.
- Fourth** develop a strategy in the form of a treatment plan with the input and cooperation of the patient

S	Setting up	-Arrange for privacy. - involve significant others, sit down, make connection and establish rapport with the patient, manage time constraints and interruptions.	-What time would you and your family members for a chat about your diagnosis?
P	Perception of condition/seriousness	-Determine what the patient knows about the medical condition. - Listen to the patient's level of comprehension, accept denial but do not confront at this stage.	-How do you understand your news diagnosis?
I	Invitation from the patient to give information	-Ask patient if s/he wishes to know the details of the medical condition, accept patient's right not to know. -Offer to answer questions later if s/he wishes	-Would you like me to explain exactly what your diagnosis means?
K	Knowledge: giving medical facts	-Use language intelligible to patient -Consider educational level, socio-economic background, current emotional state, give information in small chunks -Check if patient understand what you have said, respond to patient's reactions as they occur, give any positive aspect first	-When we discussed your chest x-ray, how a small visible mass, this is clearly an indication of cancer. Is this of making sense to you?
E	Explore emotions and sympathize	-Prepare to give an empathetic response -Identify emotion expressed by the patient -Identify cause/source of emotion, give the patient time to express their feelings.	-Has your diagnosis come as a shock to you? Explain to me how you are feeling?
S	Strategy and summary	-Close the interview. -Ask whether they want to clarify something else. -Offer agenda for the next meeting	-Has this all made sense to you? Have you any more questions? What do you wish to arrange our next meeting?



S	Setting up	-Arrange for privacy. - Involve significant others, sit down, make connection and establish rapport with the patient, manage time constraints and interruptions.	-What time would suit you and your family members for a chat about your diagnosis?
P	Perception of condition/seriousness	-Determine what the patient knows about the medical condition. - Listen to the patient's level of comprehension, accept denial but do not confront at this stage	-Explain to me what you understand of your recent diagnosis?
I	Invitation from the patient to give information	-Ask patient if s/he wishes to know the details of the medical condition, accept patient's right not to know. -Offer to answer questions later if s/he wishes	-Would you like me to explain exactly what your diagnosis means?
K	Knowledge: giving medical facts	-Use language intelligible to patient -Consider educational level, socio-economic background, current emotional state, give information in small chunks -Check if patient understand what you have said, respond to patient's reactions as they occur, give any positive aspect first	-When we examined your chest x-ray we saw a small visible mass, this is usually an indication of cancer, is this all making sense to you?
E	Explore emotions and sympathize	-Prepare to give an empathetic response -Identify emotion expressed by the patient -Identify cause/source of emotion, give the patient time to express their feelings	-Has your diagnosis come as a shock to you? Explain to me how you are feeling?
S	Strategy and summary	-Close the interview. -Ask whether they want to clarify something else. -Offer agenda for the next meeting	-Has this all made sense to you? Have you anymore questions? When do you wish to arrange our next meeting?

Title IX Regulation and Guidance

- Each school must designate and authorize at least one employee to coordinate its efforts to comply with its Title IX responsibilities, which employee must be referred to as the “Title IX Coordinator”
 - Internal constituents
 - General Counsel (others with advising authority)
 - Athletics or Organizational Leaders
 - Partners in the Process
 - External constituents
 - Parents
 - Advisors – whether attorneys or other otherwise
 - Roommates / neighbors



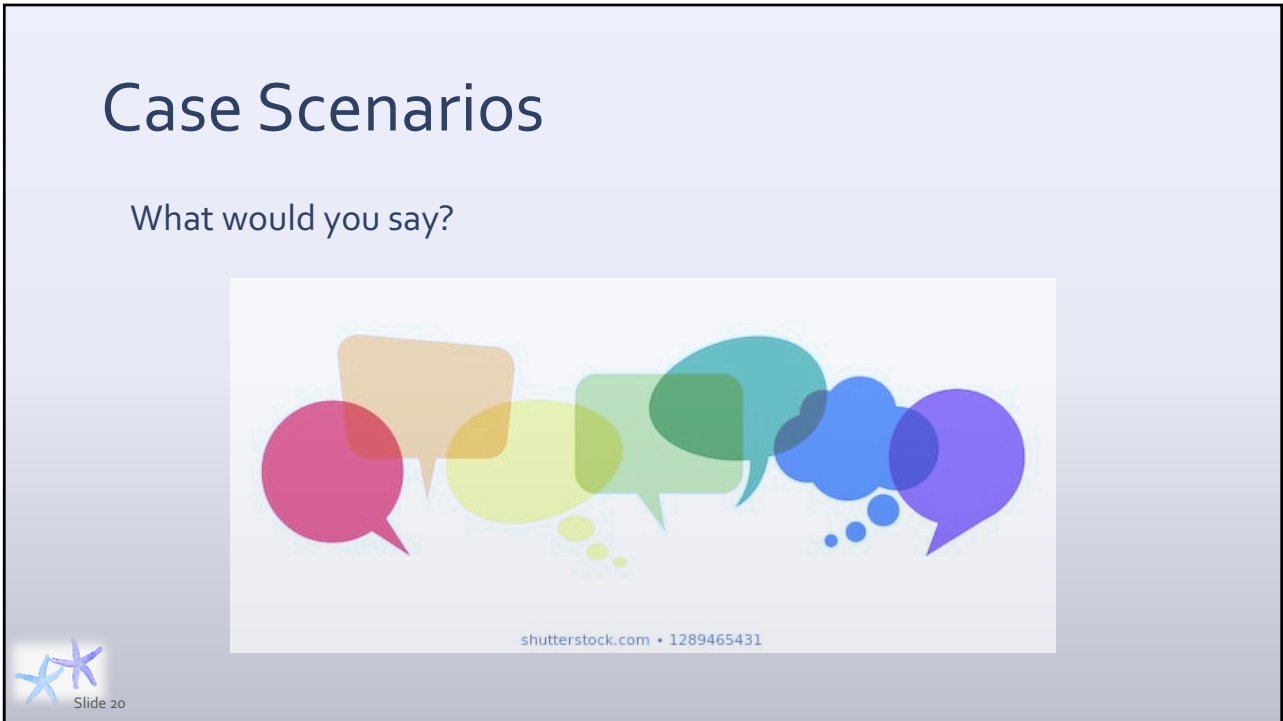
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Points of Difficult Dialogue Across Process

- The final regulations obligate recipients to respond promptly and supportively to persons alleged to be victimized by sexual harassment, resolve allegations of sexual harassment promptly and accurately under a predictable, fair grievance process that provides due process protections to alleged victims and alleged perpetrators of sexual harassment, and effectively implement remedies for victims.
- Intake:
 - describing supportive measures
 - explaining “filing a complaint”
- Decision points:
 - whether information resolution is an options
 - whether formal investigation is to commence
 - Participation requirements, inclusion or exclusion of information
 - Outcome & consequences
 - Appeal process



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Case Scenarios

What would you say?

Tanya, a woman undergraduate student, recently disclosed to a trusted faculty member that she experienced sexual assault a few weeks ago, off-campus, following a night of drinking with fellow students. The faculty member has shared this limited information with your office. You reach out to Tanya, who comes in and decides to participate in an investigation. Tanya is unable to recall any information about the night in question after leaving a party in a friend's residence hall, but she insists that her friends witnessed her leaving with a male student whose name she does not currently know but believes, with some investigating, may come to light. She provides the names of these potential witnesses. You reach out to them. All but one declines to participate. The student witness who does participate tells you they saw Tanya drinking alcohol and socializing with other students, but that did not see her leave. Your investigation is yielding little. What do you tell Tanya?



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Institutional Betrayal & Institutional Courage

- The term "Institutional Betrayal" refers to wrongdoings perpetrated by an institution upon individuals dependent on that institution, including failure to prevent or respond supportively to wrongdoings by individuals (e.g. sexual assault) committed within the context of the institution.
- "Institutional courage" is an institution's commitment to seek the truth and engage in moral action, despite unpleasantness, risk, and short-term cost. It is a pledge to protect and care for those who depend on the institution. It is a compass oriented to the common good of individuals, the institution, and the world. It is a force that transforms institutions into more accountable, equitable, healthy places for everyone.



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Institutional Betrayal & Institutional Courage

Recently launched Center for Institutional Courage (institutionalcourage.org)

Their Ten Principles for Institutions

1. Comply with criminal laws and civil rights codes.
2. Respond sensitively to victim disclosures.
3. Bear witness, be accountable and apologize.
4. Cherish your whistleblowers.
5. Engage in a self-study.
6. Conduct anonymous surveys.
7. Make sure leadership is educated about research on sexual violence and related trauma.
8. Be transparent about data and policy.
9. Use the power of your company to address the societal problem.
10. Commit resources to steps 1 through 9.



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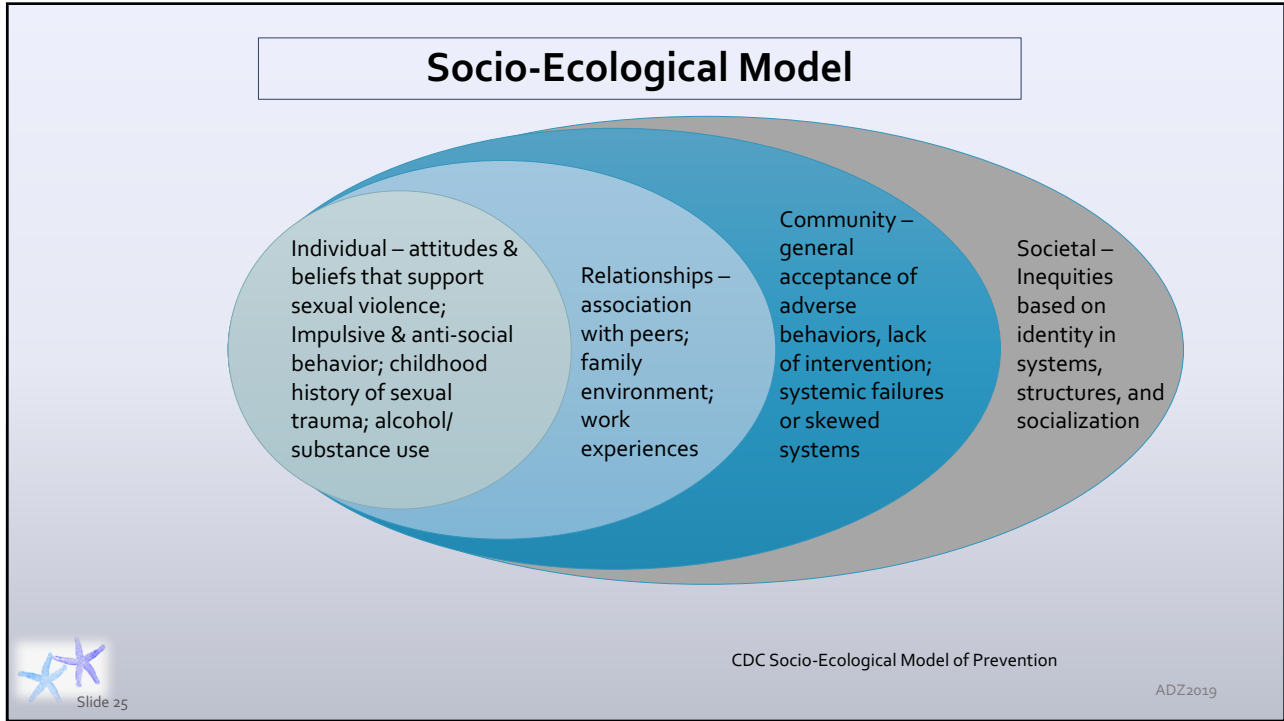
Communication Tools to Consider

What and how information is shared will convey a message

- Policy and Process Documents and Links
- Resource Information and Links to Information
- Tutorial or tips for use of technology in the process
- Flowchart or timeline information
- Contact information



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