



Republika e Kosovës  
Republika Kosovo - Republic of Kosovo  
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GUIDE TO MEDIATION  
BETWEEN  
PEERS IN THE SCHOOL CONTEXT

Prishtina, \_\_\_\_ . \_\_\_\_ .2023



**The Republic of Kosovo**  
**Republic of Kosovo - Republic of Kosovo**  
*Government - Vlada - Government*

The Minister of the Ministry of Justice and the Minister of the Ministry of Education, Science, Technology and Innovation, pursuant to Article 44.3 of Administrative Instruction (GRK) No. 01/2021 for the protection and treatment of children as offenders of criminal offences under the age of criminal responsibility and Article 21.5 of Regulation (GRK) No. 21/2013 on the Protocol for the Prevention and Referral of Violence in Pre-University Education Institutions, taking into account the proposal of the Working Group and after a process of cooperation with other relevant local and international partners, issue this:

**GUIDE TO MEDIATION BETWEEN PEERS IN THE SCHOOL  
CONTEXT**

1. The purpose of the Guide to mediation between peers in the school context (the Guide) is to promote and support peer mediation in the school context in Pre-University Education Institutions (PEIs), in order to help:
  - 1.1. preventing the committing of criminal offenses by students in PEIs, especially students/children under the age of criminal responsibility (children who have not reached fourteen (14) years of age);
  - 1.2. ensuring a safe and friendly environment for everyone in PEIs and to respond to situations that may lead to conflicts between peers at school;
  - 1.3. ensuring the raising of students' awareness to resolve conflicts and disputes among themselves, through mediation;
  - 1.4. the return of normal relations between students and their re-integration in school and society;
  - 1.5. preparing students for responsible living in the spirit of understanding, peace, tolerance, gender equality and friendship between peers at school.
2. The guide is addressed to students and teachers, school principals, parents, relatives or other persons who can act as mediators to resolve conflicts and disagreements between peers in PEIs and who spontaneously enter this role.
3. The guide shall enter into force on the day of signature.

Arbërie NAGAVCI

Minister of the Ministry of  
Education, Science, Technology  
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Prishtina, \_\_\_\_ . \_\_\_\_ . 2023

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## Glossary of terminology used in the Guide

- **Violence** - includes but is not limited to intentional acts or actions that a student does to another student, such as: use of physical force, psychological pressure, any action that causes or threatens physical and psychological pain; causing a feeling of fear, personal danger, violation of dignity; physical assault without regard to consequences; insulting, cursing, calling offensive names and other forms of rude disturbance; constant repetition of behaviours with the aim of humiliating the other person; putting the other student in a position to fear for the physical, emotional and economic condition, as well as all types of violence defined in the Regulation on the Protocol for the Prevention and Referral of Violence and the legislation in force;
- **Director** - the highest leader of a PEI;
- **Child** - means every student of PEI under the age of 18, except in cases where the age of majority is reached earlier, in accordance with the legislation to which he is subject;
- **Space in the headquarters and outside the headquarters of the institution**- means the space inside and outside the school, namely the PEI, where educational work takes place, as well as other extracurricular activities;
- **Pre-university education Institution/PEI**- means any school or training institution that offers educational services at levels 0 - preschool education, 1 - primary education, 2 - lower secondary education, 3 - higher secondary education and 4 - postsecondary education;
- **Juvenile Justice Code/Code**- Code no. 06/L-006 of juvenile justice; (Official Gazette, no. 17, 18 October 2018);
- **Convention on the Rights of the Child/Convention**- Convention on the rights of the child approved by the General Assembly of the United Nations Organization on 20 November 1989;
- **Constitution**- Constitution of the Republic of Kosovo;
- **Law on pre-university education**- Law no. 04/L-032 for pre-university education in the Republic of Kosovo (Official Gazette, no. 17, September 16, 2011);
- **Law for child protection** - Law No. 06/L-084 for child protection; (Official Gazette no. 14, July 17, 2019);
- **Law on Mediation** - Law no. 06/L-009 on mediation (Official Gazette no. 14, August 20, 2018);
- **Protection of the child**- means prevention and response to violence, either in spaces at the headquarters or outside the headquarters of the PEI;
- **Teacher**- the qualified person according to the provisions of the Law on pre-university education with academic and professional preparation, employed to provide educational services for students in PEI, which include but are not limited to: Educator, teacher, educator;
- **Mediation**- if the context does not understand otherwise, it means the mediation process between peers in the school context;

- **Mediator** - if the context does not understand otherwise, an impartial and independent third party, which can be a student, teacher, principal, parent or relative, who helps children improve a relationship or resolve a conflict between theirs;
- **At all stages** - includes all procedures in which the child is in contact with the relevant institutions or professionals for the protection of the child;
- **Student** - every child registered in any PEI;
- **Parent** - means the person/persons who gave birth to or adopted the child, both together or alone, married or unmarried, or who recognized the motherhood or paternity of the child born out of wedlock;
- **Centre for Social Work/CSW**- it is a professional public institution at the municipal level, competent for the protection of citizens in social need;
- **Register of cases of violence in PEI**- means the database in which reported cases of violence are registered in the PEI, which is maintained according to the Regulation on the Protocol for the Prevention and Referral of Violence;
- **Regulation on the Protocol for the Prevention and Referral of Violence**- Regulation (GRK) No. 21/2013 on the Protocol for the Prevention and Referral of Violence in Pre-University Education Institutions (20.09.2013);
- **Internal protection network:** Pre-school education – (Director of the Institution, Parents' Council) and Schools (School Director, Parents' Council, School Management Council and Student Council);
- **External protection network:** The relevant Ministry of Education - (Education Inspection Sectors in the Region), Kosovo Parents' Council, the Students' Council at the national level), the relevant Municipal Education Directorate - (the Students' Council and the Parents' Council at the municipal level, the relevant official for Children's Rights), the relevant Directorate for Health and Social Welfare - (Centre for Social Work, Family Medicine Centres, Ministry of Justice - (Kosovo Probation Service, Kosovo Correctional Service, Kosovo Police and other auxiliary mechanisms - (Media, Ombudsperson Institution, non-governmental organizations working on children's rights and issues of school violence);
- **School** - any PEI.
- **Administrative Instruction for the protection and treatment of children as offenders of criminal offences under the age of criminal responsibility**- Administrative Instruction (QRK) no. 01/2021 on the protection and treatment of children as offenders of criminal offences under the age of criminal responsibility (19.01.2021)

## INTRODUCTION

*Children enjoy the right to protection and care necessary for their wellbeing... Every child enjoys the right to be protected from violence, maltreatment and exploitation.*

*(Constitution, Article 50 (1 and 3))*

With the approval of the Administrative Instruction (GRK)-no. 01/2021 on the protection and treatment of children as offenders of criminal offences under the age of criminal responsibility (Hereinafter: Administrative Instruction (GRK) No. 01/2021), in January 2021, progress was made in improving the implementation of children's rights in the child protection system. One of the important issues is the inclusion of Mediation between peers in the school context, so in paragraph 3 of Article 44 (Mediation between peers in the school context) of Administrative Instruction (GRK) No. 01/2021 it is defined as follows:

*"The Ministry of Justice shall, in cooperation with the relevant ministry of education and other relevant local and international partners, promote and support peer mediation and issue relevant guidelines for this process."*

Mediation between peers in the school context is also provided for in paragraph 5 of Article 25 (Procedure for resolving cases of school violence) of Regulation (GRK) No. 21/2013 on the Protocol for the Prevention and Referral of Violence in Pre-University Education Institutions, which defines:

*"The pre-university educational institution in collaboration with other government and non-government institutions creates mechanisms for informal peer to peer mediation as a method of resolving conflict created as a result of violence."*

As a result, based on Article 44 (paragraph 3) of Administrative Instruction (GRK) No. 01/2021 and Article 25 (paragraph 5) of Regulation (GRK) No. 21/2013 on the Protocol for the Prevention and Referral of Violence in Pre-University Education Institutions, the Ministry of Justice in cooperation with the Ministry of Education, Science, Technology and Innovation, and the relevant local and international partners have prepared the Guide for mediation between peers in the school context (Guide), in order to promote and support mediation between peers in pre-university education institutions (PEIs), as a method for resolving disputes and conflicts caused as a result of violence, as well as preventing criminal offences being committed by students, especially students/children under the age of criminal responsibility (children who have not reached fourteen (14) years of age).

Although the mediation between peers in the school context is less formal, it should be taken into account that the students are involved in this process and therefore also for all other processes where the students are involved, including the mediation between peers in the school context, all actions and decisions taken with and for the child must be in accordance with the legislation in force, which includes but is not limited to: the Constitution, the Convention on the Rights of the Child, the Child Protection Law, the Juvenile Justice Code, the Law on

mediation, the Law on pre-university education in the Republic of Kosovo, the Administrative Instruction for the protection and treatment of children as offenders of criminal offences under the age of criminal responsibility, the Regulation on the Protocol for the Prevention and Referral of Violence and relevant legislation in force. As a result, all the issues suggested in this guide are in accordance with the legislation in force.

Based on the fact that according to the Constitution, "Every person has the right to free basic education" (Article 47.1) and also according to the Constitution, "Every child enjoys the right to be protected from violence, maltreatment and exploitation" (Article 50.3) and considering that the Law on pre-university education (Article 1 (2.5)) defines that one of the goals of education and pre-university training is also the preparation of the student for a responsible life in the spirit of understanding, peace, tolerance, gender equality and in friendship with members of all communities in the Republic of Kosovo, and beyond, as a result the right to education and child protection is the responsibility of the state. Therefore, this Guide aims to support the PEIs and relevant persons, with concrete advice and instructions for the peaceful resolution of conflicts through mediation, to create a safe, non-abusive, attractive and stimulating environment, that ensures wellbeing for students.

This guide has three main components:

- (1) Capacity building of PEIs to deal with mediation in an appropriate way;
- (2) The training of students, teachers, parents and other persons to peacefully resolve disputes and conflicts of students in PEI;
- (3) Raising awareness in the PEI that, through various activities, increase the sensitivity of conflict resolution, prevention of the deepening of conflicts and the creation of environments of uncertainty in school as well as preventing the commission of criminal offenses by children who are students in PEI.

This Guide has been drafted also taking into account the good practices that have been developed in Kosovo so far<sup>1</sup> as well as relevant international standards and practices, always taking into account that these practices adapt to the conditions and context of Kosovo and the relevant legislation in force in Kosovo.

Considering the cooperation and support we had during the drafting of this guide, we take the opportunity to thank Terre des hommes Kosova (TdhK) and all those who contributed to the drafting and finalization of this guide.

We hope that this guide will contribute, however little, to facilitating the process of mediation between peers in the school context.

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<sup>1</sup>This guide also contains material from the Manual of Good Practices for Peaceful Resolution of Conflicts between Peers in Schools, (KEC and ForumZFD) and from the Handbook for Peer Mediation Teams (KEC).



## I. GENERAL KNOWLEDGE ON MEDIATION BETWEEN PEERS IN THE SCHOOL CONTEXT

### 1.1. Conflicts between peers in the school context

Conflict can be defined as a situation in which individuals do not agree or have different needs, interests or values which result in tensions between them.<sup>2</sup> More specifically, "conflict is the fact, what happens and is not perceived equally by both sides,"<sup>3</sup> so "it means a society with tensions, with divisions and involved in violent actions. Seen from such a perspective, conflict is treated as a negative phenomenon that should be avoided."<sup>4</sup> Conflict is part of all spheres of social life and it exists even in schools. Just as in every relationship and interaction of people they are faced with situations and moments and with conflicts and disagreements of various kinds, so "Even among children, especially school age, they are faced with situations where disagreements, objections arise and as a result they come to conflicts, which bring different problems among peers but also their families and the whole society."<sup>5</sup>

PEIs should be a place of socialization, a model of integration and a place for conflict resolution and continuously take steps to prevent any conflict inside or outside the school when students are involved. Conflicts between students, either in spaces in the headquarters or outside the headquarters of the PEI, can lead to violence. "Even though teachers have an essential role in preventing violence in PEI, they cannot stop violence alone. Because the causes of the appearance of violence in the PEI are multi-factorial, therefore, in order to prevent violence, the commitment and multi-dimensional approach of all actors, including the internal and external protection network, is required."<sup>6</sup> Also, it is very important that many of these conflicts in schools can and should be resolved peacefully, they can also be resolved through mediation. In this regard, the PEI, in addition to taking all appropriate measures to protect students from any form of violence, must also undertake effective procedures for prevention and identification, reporting, referral, treatment, including the mediation process.

Whatever the form of violence of a student by another student, it can have consequences in the life and well-being of students in terms of physical, emotional and building their relationships. Therefore, it is very important that in every PEI, students should not be left to face the conflict alone. Measures and actions must be taken so that the student not only feels free to report but also has the support and cooperation of all actors, including the internal and external protection network, and students are taught how to protect themselves and what to do in cases where they face conflicts, both in spaces at the headquarters and outside the headquarters of the PEI.

PEIs should create the culture and system to encourage students to help each other, denounce bad behaviour and at the same time protect students who happened to be in a conflict situation.<sup>7</sup>

<sup>2</sup>See Training Manual: Mediation Law - USAID April 2012, p. 15

<sup>3</sup>See Hajrullah Mustafa: Mediation in the justice system of the Republic of Kosovo and its positive effectiveness, *Opinio Juris*, No. 1/2015, p. 87

<sup>4</sup>Handbook for Peer Mediation Teams, KEC, p. 14. And here, p. 30:

<sup>5</sup>Handbook of the Summary of Good Practices for Peaceful Resolution of Conflicts between Peers in Schools, Prishtina, Kosovo Education Centre (KEC) and ForumZFD, May 2019, pg.8.

<sup>6</sup>Guidelines for the implementation of Regulation (QRK) No. 21/2013 on the Protocol for the Prevention and Referral of Violence in Pre-University Education Institutions, Page 5

<sup>7</sup>See the Handbook of Summary of Good Practices for Peaceful Resolution of Conflicts between Peers in Schools, Prishtina, Kosovo Education Centre (KEC) and ForumZFD, May 2019, pg.8.

The prevention of any conflict inside or outside the school, when students are involved, is a legal obligation of all persons employed in educational institutions, who must take all reasonable steps to ensure that students and staff are not injured or are exposed to offensive words and actions.<sup>8</sup> The protection and safety of students should be a priority for every PEI and should be at the core of all school processes and activities. PEIs are obliged to provide mechanisms to protect students from any kind of violence, social exclusion or insecurity that would harm the wellbeing of students.

The friendly, safe, non-violent and non-discriminatory environment means the creation of a positive climate in the school that directly contributes to the physical, social and emotional development of all students. Furthermore, a positive school climate can lead to reduced absenteeism, serve as a method of preventing negative events, minimize cases of violence, and as a result, students achieve greater academic results.<sup>9</sup>

It should be borne in mind that mediation between peers in the school context is not the only means to resolve conflicts in schools, but it is a means which enables students to become aware that it is possible to live better together and that a conflict can be resolved peacefully. At the same time, mediation between peers in the school context is a tool for preventing the commission of criminal offenses by students in PEI.

To oppose, to refuse the use of violence is more than bravery. The opposite behaviour helps to recycle it. There are many people who choose the first behaviour.<sup>10</sup>

### *1.1.1. Fixing minor conflicts... before they escalate*

During the mediation process between peers in the school context, attention should be paid to "small conflicts", conflicts that are not very visible or "seemingly insignificant". The idea is to prevent and fix all these minor conflicts by resolving tensions and seeking constructive solutions, a win-win agreement. Mediation between peers in the school context can prevent conflicts from escalating, the idea is to mitigate what can cause an avalanche from a snowball. It is also a means of preventing the commission of criminal offences by students in PEI, and a means of improving the school climate in the long term, i.e., it is the treatment of violence at its source. Instead of fighting violence a posteriori, mediation in small conflicts makes it possible to deal with it at the source, improving the atmosphere between students: It should always be borne in mind that if students are taught to resolve conflicts peacefully, they will be kind to each other.

Preventing the escalation of conflicts among students is very important because "With the deepening of the conflict, there is the possibility and risk of its further escalation, making impossible the possibility of dialogue, communication and therefore conflict resolution."<sup>11</sup>

Conflict is not static, but is a dynamic process involving spirals of escalation and de-escalation. The conflict cannot be eliminated or ignored, but ways must be found and worked out to recognize and deal with the conflict, as a result, mediation as early as possible in conflicts

<sup>8</sup>See Article 4, Law no. 04/L-032 for pre-university education in the Republic of Kosovo (Official Gazette, no. 17, September 16, 2011)

<sup>9</sup>See Quick Guide - Transforming schools into child-friendly and non-abusive environments, October 2020, Kosovo Education Centre (KEC)

<sup>10</sup>See Handbook for Peer Mediation Teams, KEC, p. 23

<sup>11</sup>Handbook for Peer Mediation Teams, KEC, p. 14.

between students helps not only to resolve the conflict more easily, but also the consequences of conflicts be smaller. As a result, it prevents violence and the commission of criminal offenses by students.

#### **An intolerant class, ruled by:**

- ✓ the formation of groups, cliques and rebel groups,
- ✓ intolerance to racial and cultural differences,
- ✓ lack of support from classmates leading to loneliness and isolation,
- ✓ anger at the achievements of others,

**...is fertile ground for the creation of hostilities, mistrust and conflicts.**<sup>12</sup>

#### *1.1.2. Reporting conflicts helps mediate faster and easier*

The school must promote and create a system and culture of reporting conflicts and violence between students. Every student, teacher, principal, parent and other employee in the PEI who suspects or knows that there has been conflict or violence against the student, is obliged to immediately report the case. All cases of violence and conflicts presented to the PEI must be immediately reviewed by the director and teachers. The director is obliged to provide, store and analyse the data on violence presented in the PEI that he directs, in the best possible way. The register of cases of violence in PEI is kept according to the instructions of the Information Management System in Education, referring to the Guide for the implementation of the Protocol for the Prevention and Referral of Violence in Pre-University Education Institutions (Regulation GRK-21/2013).

#### *1.1.3. Attitudes to be maintained by PEI with conflicted students*

The types of attitudes that must be maintained by PEI with conflicted students are:

- ✓ **Problem-solving attitude-** The conflict is at the same time a problem that requires a solution. So, whenever a conflict arises in the headquarters space and outside the headquarters of the PEI, the teachers should try to solve it together with all the students and not exclude them from its solution. This would not only bring many ideas, but also strengthen the climate and positive relations in the PEI.
- ✓ **The attitude aimed at reaching compromise-** This attitude seeks to let students know that in life it is difficult to always achieve everything you want. For this reason, it is often good that the conflicting parties reach a compromise between themselves and evaluate the compromise as an achievement. This requires the teacher not only to listen well to the students' requests, but also to enable them to listen and understand each other's requests well.
- ✓ **Attitude aimed at creating peaceful classroom and PEI situations-** Usually for teachers who tend to such situations, most of the children's conflicts are trivial and they try to direct the students' attention to other things.

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<sup>12</sup>Ibid., p. 22

- ✓ **Disregarding attitude-** Such an attitude is based on the idea that it is better for students to learn to predict and judge the consequences of their actions. For this reason, the teacher allows the students to work on their own, having previously defined the limits of this action.<sup>13</sup>

#### 1.1.4. Ways to resolve the conflict

The ways to resolve conflicts may be different and depending on specific situations and conflicts. However, one of the ways that is suggested to be followed in cases of resolving conflicts in a peaceful way contains the following steps:

- ✓ **The first step** aims to help conflicted students better articulate their demands. In this case, questions can be asked, which help conflicted students to express their demands related to the concrete conflict.
- ✓ **The second step** aims to uncover the causes of conflict and help students better define their relationship to conflict. Since conflicts are often caused by students' wrong perceptions about what they are looking for, this step enables their further clarification.
- ✓ **The third step** aims to examine the possibilities offered to satisfy conflicted students. Here one can ask questions such as: What are some of the ways to fulfil our desires? What are some of the ways that the other side can also fulfil her wishes? What do other classmates suggest in this regard?
- ✓ **The fourth step** aims at considering alternative solutions. Questions that can be asked for this purpose can be: Which of the proposed routes is the best? What would be its consequences for conflicted students? Will everyone be happy with them?
- ✓ **The fifth step** aims for the best choice for conflicted students. In addition, at this stage they can be asked not only to approve it, but also to express their responsibility for its consequences.
- ✓ **The sixth step** aims to start the process of examining the practical value of the accepted solution and its lifespan.<sup>14</sup>

The above steps will help teachers and mediators to get to the core of the conflict more quickly and to find its solutions, thus also reaching a solution through mediation.

Below, we are reminding you of some simple tips, suggested by the long practice of handling and resolving conflicts, which should be taken into account in the mediation process and to start the mediation process.

- ✓ The best time to deal with a conflict is when the students involved are relatively calm. Starting a physical battle would deepen the conflict;
- ✓ Remember that even people who threaten or attack others have their weak points, they are also afraid. Before you act, try to know and understand them;
- ✓ Try as much as possible to understand what are the motives that have pushed peers into a fight, what they hope to achieve by getting involved in it and what is the fear that accompanies them;
- ✓ Don't accept violent behaviours, but don't forget your peers, who practice them, are human beings. Try to discover the positive elements of such persons, as this may help you to influence their change;

<sup>13</sup>See, Handbook for Peer Mediation Teams, KEC, p. 14

<sup>14</sup>See, Handbook for Peer Mediation Teams, KEC, p. 25

- ✓ Remember, we have the ability to do both good and bad. There is no shortage of opportunities to do well. It only depends on the decision we make;
- ✓ Imagination is our great gift. It should be used to examine as many alternative positive outcomes to conflicts as possible. This will also help the process of choosing the best alternative and successfully completing the mediation;
- ✓ Respect is very important in social relationships. If we respect others, they will tend to respect us. We will be better able to respect others if we learn to respect ourselves;
- ✓ When both parties are satisfied with the outcome of a dispute, then we are dealing with a winner-takes-all solution. Only respect and positive assessments of possible conflict outcomes can lead to such solutions;
- ✓ Try to understand and evaluate the problem from all possible angles. This will help you understand the full picture of the conflict and provide win-win solutions.<sup>15</sup>

## 1.2. *Mediation between peers in the school context*

In the Republic of Kosovo, the Law on Mediation defines mediation as an extrajudicial activity, that is, it is an alternative method for resolving conflicts between legal subjects, which is developed independently of the judicial system.<sup>16</sup> This procedure is completely voluntary from the point of view of its selection, as an alternative for the resolution of the conflict, in the choice of the mediator and until the acceptance or not of the proposed agreement. Whereas, Mediator is a third and neutral person, licensed by the Ministry of Justice, authorized to mediate between two or more parties aiming to resolve disputes, in accordance with the Law on Mediation, principles, rules and mediation procedures.<sup>17</sup>

In addition to mediation under the Law on Mediation, a special type of mediation is Peer Mediation, which differs from Mediation under the Mediation Law and Peer Mediation in the school context. Peer mediation is a less formal process in which one or more mediators are selected for the parties involved in the dispute, the child offender under the age of criminal responsibility and his or her peer as the injured party help reach a mutually satisfactory solution and resolve the conflict. The goal of mediation between peers is to provide the opportunity to return to normal relationships between peers and to rehabilitate the child and re-integrate him into society. The procedure for mediation between peers is developed according to the principles defined in the Juvenile Justice Code and the provisions of the Law on Mediation and the by-laws for the implementation of this law as well as Administrative Instruction (GRK) no. 01/2021 for the protection and treatment of children as offenders of criminal offences under the age of criminal responsibility. In Peer Mediation, if the State Juvenile Prosecutor or case manager, taking into account the nature of the offense, the circumstances in which the offence was committed and the history of the child, think it will be more appropriate and in the best

<sup>15</sup>See. Ibid., p. 23

<sup>16</sup>See Law No. 06/L-009 on Mediation, Article 3 (1.1)

<sup>17</sup>See Article 22 Law No. 06/L-009 on Mediation, which defines the conditions for mediators as well as their certification and licensing process; Administrative Instruction (MD) No. 03/2019 for the Licensing of Mediators in the Republic of Kosovo and Article 3 (1.2), Code (MD) No. 12/2019 on the Conduct of Mediators in the Republic of Kosovo.

interest of the child, can propose the procedure for mediation. Mediators in this type of mediation are Mediators for minors who are licensed by the Ministry of Justice.<sup>18</sup>

Whereas, Mediation between peers in the school context, is a process of resolving conflicts in everyday life in PEI, in which an impartial and independent third party, which can be students, teachers, form teachers, principals, parents or relatives, tries, by organizing meetings between students, to help them improve a relationship or resolve a conflict between them. The peculiarity of mediation between peers in the school context is that in this process the mediators spontaneously enter this role, so anyone can play this role. Mediation between peers in the school context is a form of education of students and employees of PEI as well as in the acquisition of a culture of dialogue and tolerance, it is a culture based on communication, acceptance of other's differences and the earlier students learn about it, the more resources they will have to manage conflicts throughout their future lives. By learning to resolve conflicts apart from violence, but through dialogue, students develop psychosocial skills capable of changing the school climate. It should be noted that mediation between peers in the school context is not a miracle method, but simply an additional device, within all the tools that exist in the PEI, for resolving conflicts and creating a more peaceful school climate.

Based on the Regulation on the Protocol for the Prevention and Referral of Violence, to prevent and react to cases of violence, every educational institution is suggested to develop plans and action plans and define objectives, measures and systematic activities that contribute to the prevention of all types of violence. In this direction, it is the obligation of the PEI to ensure the raising of the students' awareness to resolve disputes among themselves through informal mediation by peers.<sup>19</sup> In this spirit, this Guide should also be seen and implemented, which "besides the school management, the students should gradually become familiar with the mediation project. In advance, a number of preparatory and informative activities should be carried out to debate and better understand the concepts of mediation and the approach of peaceful conflict resolution and the benefits of peer mediation activities."<sup>20</sup>

### *1.3. Principles of mediation between peers in the school context*

Mediation between peers in the school context is a process that involves several actions related to the child. As a result of the principles defined in the Law on child protection, as well as other legal acts that regulate issues related to child protection, Administrative Instruction (GRK) No. 01/2021 for the Protection and Treatment of Children as Offenders of Criminal Offenses under the Age of Criminal Responsibility, Regulation on the Protocol for the Prevention and Referral of Violence, Administrative Instruction (GRK) No. 02/2021 on the implementation of child-friendly justice in criminal, civil and administrative proceedings, including the Law on Mediation as well as the Law on pre-university education, they have an effect and should be appropriately applied also in the mediation process between peers in the school context. The

<sup>18</sup>See Chapter II- Mediation (articles 9-11) Code no. 06/L-006 of juvenile justice (Official Gazette, no. 17, October 18, 2018), Chapter VI- Mediation between peers (Articles 37-44), Administrative Instruction (QRK) no. 01/2021 on the protection and treatment of children committing criminal offenses under the age of criminal responsibility (January 19, 2021); Chapter III - Referral of juvenile cases in the mediation procedure (Articles 18-25), Regulation of the Prosecution Council of Kosovo No. 04/2019 for the procedure of mediation of cases by the prosecution

<sup>19</sup>See Article 6 (1.3) and Article 9 (1.8). QRK Regulation - No. 21/2013 on the Protocol for the Prevention and Referral of Violence in Pre-University Education Institutions  
<sup>20</sup>Handbook of Summary of Good Practices for Peaceful Resolution of Conflicts between Peers in Schools, Prishtina, Kosovo Education Centre (KEC) and ForumZFD, May 2019, pp. 13 and 14.

principles defined in these acts complement each other and include but are not limited to the following principles: The best interest of the child; Expression of will; Equality of the parties; The child's right to be heard and to express views and concerns; Impartiality and independence, The child's right to be treated with dignity and sensitivity and Privacy and confidentiality. The application of these principles is essential for the success of the mediation process between peers in the school context, because the non-application of these principles violates the mediation procedure and therefore the achievement of a solution or agreement.

Despite the fact that in the mediation between peers in the school context it is that in this process the mediators spontaneously enter this role, that is, everyone can play this role, the mediators must respect these principles, which in a way constitute the rights and duties of the mediators, which in a way are also a guarantee of the effectiveness and sustainability of the mediation process.

### *1.3.1. The best interest of the child*

*All actions related to children, whether undertaken by public or private institutions, shall be in the best interest of children. (Constitution, Article 50.4)*

All measures, actions and decisions concerning students involved in the mediation procedure between peers in the school context, at all stages, undertaken by the parties involved, must be in the best interest of the child and the best interests of the child must be the overriding consideration, in combination with other rights of the child.

In order to ensure the best interest of the children in the process of mediation between peers in the school context, care should be taken at least that:

- ✓ sustainability should be a key goal, to ensure the stability of children's personal relationships and the environment and to guarantee the continuity of children's education;
- ✓ all measures and actions are taken and implemented promptly and without unreasonable delay;
- ✓ implement a comprehensive approach that takes into account all the interests of the child, including psychological, physical well-being, legal, social and economic interests;
- ✓ the student's views and opinions are given due weight, depending on his age and ability to understand;
- ✓ student rights, including but not limited to the right to dignity and equal treatment, must be respected at all times;
- ✓ to take into account the student's individuality, age, maturity, stage of development, mother tongue, gender, identity, state of health and special abilities in order to protect the student from any physical or psychological harm.<sup>21</sup>

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<sup>21</sup>See Article 5, Law no. 06/L-084 on child protection (Official Gazette, No. 14, July 17, 2019); See Article 6 and Article 7, Administrative Instruction (QRK) No. 02/2021 for the implementation of child-friendly justice in criminal, civil and administrative proceedings, and Article 5, Administrative Instruction (QRK) No. 01/2021 for the Protection and Treatment of Children Committing Criminal Offenses under the Age of Criminal Responsibility.

### 1.3.2. *Expression of will*

The mediation process between peers in the school context takes place with the full and free will of the students.<sup>22</sup> Students are free to decide on the development of the mediation process.<sup>23</sup> Also, students are not obliged to reach an agreement through mediation, without their free will.<sup>24</sup> The mediator must take care throughout the mediation process that the students with their full and free will participate and give direction to each stage of the procedure or departure from the mediation process.<sup>25</sup>

### 1.3.3. *Equality*

In the mediation process between peers in the school context, students are equal and every student has the same rights recognized by the legislation in force, to guarantee them without any kind of difference. All students must be treated equally at all stages of mediation. Students must be taught to respect and appreciate the differences between people, as well as to understand prejudice, its causes and ways of acting and showing it.

### 1.3.4. *The right to be heard and to express views and concerns*

During the mediation process, in all actions and decisions related to the student, taken by all parties involved, they have the obligation to guarantee the student, who is capable of having his own views, the right to express these views freely, on any matter that concerns him, evaluating them in accordance with his age and degree of maturity, either directly or through a representative or an appropriate body, in accordance with the rules of procedure of the legislation in force.<sup>26</sup> In order to be heard and to express views and concerns in the mediation process, it must be ensured that students:

- ✓ adequate information is provided, in a way and language that students can understand, about the mediation process, the importance and possible effect of their participation in this process;
- ✓ the right to express their views is guaranteed;
- ✓ opinion is taken on the issues presented;
- ✓ due consideration is given to their views and concerns, paying attention to what they say on any issue that concerns them.<sup>27</sup>

The biggest mistakes that are made in many cases in conflicts between students, is when we think we know the attitudes of the students, without communicating effectively with the students. Great care must be taken not to make communication difficult. Conflict is further complicated by communication dysfunction and can thus start a vicious circle within which communication deterioration and conflict escalation feed each other.<sup>28</sup>

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<sup>22</sup>See Article 4, Law No. 06/L-009 for Mediation and Article 4.1, Code (MD) No. 12/2019 on the Conduct of Mediators in the Republic of Kosovo,

<sup>23</sup>See *ibid.*, Article 12.2.

<sup>24</sup>See Law No. 06/L-009 for Mediation, Article 9.7.

<sup>25</sup>See Article 4.2, Code (MD) No. 12/2019 of the Conduct of Mediators.

<sup>26</sup>See Article 12, Convention, Article 12.

<sup>27</sup>See Article 7, Law no. 06/L-084 for the protection of the child and Article 16 and Article 17, Administrative Instruction (QRK) - No. 02/2021 for the implementation of child-friendly justice in criminal, civil and administrative proceedings.

<sup>28</sup>See and compare, Handbook for Peer Mediation Teams, KEC, p. 16.



### *1.3.5. Impartiality and independence*

The mediator, during the development of the mediation process between peers in the school context, must remain completely independent and impartial and must offer his/her service, only in those matters where they can remain independent and impartial, otherwise they should refuse mediation, notify the parties that they are unable to continue mediation and withdraw from the relevant case. At the same time, the mediator/s must treat all parties in the procedure equally, avoiding any kind of bias.<sup>29</sup>

### *1.3.6. The child's right to be treated with dignity and sensitivity*

Human dignity is inviolable and is the basis of all basic human rights and freedoms, it is defined in Article 23 of the Constitution. Therefore, the individual dignity, special needs, interests and private life of students must be respected and protected, at all stages of the mediation process between peers in the school context, and each student in the procedure must be treated: as an individual with needs, desires and individual feelings, and in a careful and sensitive manner throughout the mediation process.

In order to ensure treatment with dignity and sensitivity in the mediation process between peers in the school context, consideration should be given to fostering an adapted approach and a multidisciplinary approach for students, respecting their right to be treated with dignity, sensitivity and special care.<sup>30</sup>

### *1.3.7. Privacy and Confidentiality*

The child is guaranteed the right to privacy, respect for private life, family, home, correspondence and must be protected from malicious, arbitrary, and illegal interventions that affect the morals and dignity of the child.<sup>31</sup>

The mediation process between peers in the school context is confidential in nature, mediation meetings are non-public and no minutes are kept during them and they should not be recorded. The mediator, students as parties and other participants in this process, are obliged to maintain confidentiality and any information known in the mediation procedure.<sup>32</sup>

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<sup>29</sup>See Article 6, Law No. 06/L-009 for Mediation, and Article 3 (1.3 and 1.4) and Article 5, Code (MD) No. 12/2019 of the Conduct of Mediators,

<sup>30</sup>See Article 12 and Article 13, Administrative Instruction (QRK) - No. 02/2021 for the implementation of child-friendly justice in criminal, civil and administrative proceedings.

<sup>31</sup>Article 39, Law no. 06/L-084 for child protection.

<sup>32</sup>See Article 7, Law No. 06/L-009 for Mediation, Article 12.8; Regulation No. 04/2019 for the Mediation Procedure of Court Cases; Article 12, Regulation No. 04/2019 for the Mediation Procedure of Cases by the Prosecutor's Office, Code (MD) No. 12/2019 on the Conduct of Mediators, Article 10, Article 18 and Article 19, Administrative Instruction (QRK) - No. 02/2021 for the implementation of child-friendly justice in criminal, civil and administrative proceedings.

#### 1.4. *Participants in the mediation process between peers in the school context*

##### 1.4.1. *Students - parties involved in the mediation process*

In the mediation process between peers in the school context, two or more students involved in the conflict and one or more persons in the capacity of mediator/s participate.

##### 1.4.2. *Mediators in the school context*

The mediator in the school context is the third, impartial person who is not directly involved in the conflict or dispute but intervenes and mediates between students to help them seek an outcome that addresses their concerns appropriately, in order to resolving disputes and conflicts, in accordance with the principles of mediation.

Everyone can be a mediator in the school context, so it can be students, it can be teachers, it can be school principals, it can be parents or relatives.

Each of them can in certain cases help to resolve a conflict, depending on the cases and situations. Everyone can and should play a role of reconciliation between children who are in conflict. Everyone's obligation is not to stand as a spectator of conflicts but to try and reconcile. This spirit must be kept and each teacher has the obligation to carry this spirit to the students and to take care that these are implemented. It is important to discuss mediation, its benefits and advantages as a curricular and extracurricular topic. Especially in the standard lessons of custodial and civic education, issues of mediation and improving the climate of cooperation should be discussed by providing tools and avenues for reflection and discussion in the classroom on topics such as: kindness, self-esteem, respecting differences, rejecting bullying, mitigating conflicts and rumours. But also, other mechanisms in PEI can and should play a role in the process of creating a friendly climate in the school and help in the mediation process.

In order to inform all parties in the school, it is preferable for teachers to address mediation topics.

Spreading the culture of mediation helps students to have a non-violent and constructive approach. In this calmer climate, students gain responsibility and maturity: they gain self-confidence, critical thinking and improve their communication skills, and respect for differences develops. This change in mentality enables them to open up to a culture of tolerance and debate, to engage in collective projects and to learn about civic expression. Introducing students to mediation and, for some, training in mediation is a real investment in education. Improving the school climate helps to calm students and thus increase their chances of success. In addition, it is very important that every school has mediators better prepared for this process and where there will be an address for each child that can be turned to for help but also for other students who can present these cases. In these cases, it is important that the mediators are recognized by the students and that these mediators become public and notify each one. It is therefore necessary to ensure that a team of school students and teachers have adequate preparation and skills to play the role of mediator.

It should be borne in mind that the PEI, among other things, has the obligation to ensure the implementation of the internal rules that define the duties and responsibilities of each individual within the nursery/kindergarten/school. Likewise, these institutions should cooperate with the Parents' Council and the Students' Council in concrete initiatives and actions for the prevention

and referral of cases of violence, as well as cooperate on various projects with non-governmental organizations that develop programs against violence in all relationships. within educational institutions.<sup>33</sup>

Institutions dealing with the prevention and response to violent acts in pre-university education institutions,<sup>34</sup> there are also institutions that must play an important role and can be active participants in the mediation procedure, which are obliged to undertake measures and actions to prevent any situation that leads to the violation of children's rights or the violation of the well-being of students. This category includes: Internal protection network and External protection network.<sup>35</sup>

The resolution of conflicts between peers, through mediation, requires a commitment and involvement, first of all, of the internal protection network.

In cases where the resolution of disagreements and conflicts between peers in the school context, it is not possible to create the internal protective network, in case of repetition and tendency of escalation of violence by the same student, or in the most serious cases of violence and conflict, then the director requests help and involvement from the external protection network, according to the relevant mandates defined in the applicable legislation.

#### 1.4.3. Educator, teacher, professor

Teachers can and should play a continuous role in preventing conflicts, promoting a friendly climate in classrooms and schools, and can even be mediators in many cases in conflicts between children. For this purpose, teachers cooperate and inform the form teacher/teachers of the class.

#### 1.4.4. Form teacher

Form teachers have an obligation to take care of students' behaviour at school and must play a continuous role in promoting the implementation of school rules, including the promotion of mediation. Form teachers must play a continuous role as a mediator and influence the maintenance of a friendly climate for students. At the same time, in the hours of custody, they should continuously pay attention to the children's behaviour and relationships and promote open dialogue about the various problems and fights in the classroom and at school. In this regard, they seek the opinions and proposals of the Head of the class. For this purpose, the form teachers cooperate and inform the director.

#### 1.4.5. Head of the class

The president and the members of the class leadership have the obligation to take care of a friendly environment in the class and in the school. They should continuously try to be part of the prevention and reconciliation of various conflicts between students of the class and students

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<sup>33</sup>See Article 9, Regulation of GRK - No. 21/2013 on the Protocol for the Prevention and Referral of Violence in Pre-University Education Institutions (20.09.2013)

<sup>34</sup>See Law No. 04/L-032 on pre-university education and Regulation of GRK - No. 21/2013 on the Protocol for the Prevention and Referral of Violence in Pre-University Education Institutions (20.09.2013)

<sup>35</sup>See Article 4, Regulation of GRK - No. 21/2013 on the Protocol for the Prevention and Referral of Violence in Pre-University Education Institutions (20.09.2013)

of other classes. Principals should cooperate closely with the Form teacher and teachers and inform and ask for help as needed in resolving various conflicts between students.

#### 1.4.6. School Director

The principal of the school has executive responsibility in the general management and administration of the institution, which includes but is not limited to assigning disciplinary measures to students and for discipline and other matters of education.<sup>36</sup> In various reported cases of school violence, the principal should cooperate closely with form teachers and teachers and discuss peaceful solutions. According to the cases, the director also appoints the case manager. The director can also be a mediator in cases where he/she considers that it is in the best interest of the child, his/her intervention in different conflict resolution.

#### 1.4.7. Manager/case manager assigned by the director

The manager/responsible for the case assigned by the director should aim not only to investigate the case of violence or conflict but also to find the option of reconciliation and mediate in cases where it is in the best interest of the child. The case manager/responsible for this purpose cooperates with the class form teacher/teachers and informs the director.

#### 1.4.8. Governing council

The governing council of public educational and training institutions, in the implementation of its powers and duties, in the drafting of school rules to promote good behaviour and discipline of students, and to promote the concept of healthy schools and the elimination of violence including even the rights and obligations of students, which are always based on the legislation in force, must take measures and actions to implement mediation between peers.<sup>37</sup> The principal and form teachers cooperate with the Governing Council and propose, as necessary, the implementation of mediation between peers in the school context. In certain cases, when it is in the best interest of the child, the governing council can propose mediators, who will resolve certain conflicts of students. The Governing Council in close cooperation with the Parents' Council and the Students' Council analyse the data on the violence presented within the institution where it operates, and recommend taking further measures and actions, including taking measures for a peaceful solution through mediation.

#### 1.4.9. Parents council

Every educational or training institution must have a parents' council. The parents' council is elected by secret ballot of all the parents of students studying in that institution. Parents, in addition to representation in the Parents' Council, have the right to present their complaints to the director of the educational and training institution, the municipality and the Ministry

<sup>36</sup>See Article 20, Law No. 04/L-032 on pre-university education in the Republic of Kosovo

<sup>37</sup>See Ibid., Article 17 and Article 22, Law No. 04/L-032 on pre-university education in the Republic of Kosovo

regarding the quality of teaching and the school environment.<sup>38</sup> Parents have a big role in the mediation process between peers. In any case when they assess and when it is in the best interest of the child, they can participate or propose parents who can help and can be mediators.

#### 1.4.10. Student Council

Considering that the role of the Student Council is to work to improve the learning environment, working conditions and interests related to the health, safety and well-being of students and to be represented on the Governing Council.<sup>39</sup> The Student Council can also play a role in the mediation process between peers.

#### 1.4.11. Other professional and support services

Other professional and support services in schools such as: teacher, psychologist, secretary or administrator,<sup>40</sup> and other support services in schools, can and should give their contribution in mediation between students and can also be mediators in certain cases. For this purpose, they cooperate and inform the class teacher and the school director.

### 1.5. *Mediation "from, for, with and between students/children"*

The peculiarity of the mediation process between peers in the school context is that the students themselves are mediators. In these cases, we are dealing with mediation: "from, for, with and between students". Every school should build the system so that among the students there are Mediators who can also establish Clubs/Teams for mediation between peers. Mediator students are selected voluntarily and after passing any training or testing that can be organized by the school. The best solution is to have a full inclusion and to have at least one student in a class, always taking into account the selection in terms of gender equality and from among the communities (in those cases where there are such).

It is very important that with student mediators many conflicts between students can be resolved. In particular, they can contribute to the resolution of small daily conflicts between peers, and help create a better climate at school. They are a tool to fight, at the source, conflicts. This method of solving conflicts by the students themselves is a system of education to live together, based on listening, understanding each other's feelings and finding an agreement satisfactory to the students.

### 1.6. *Duties of mediators*

In the process of mediation between peers in the school context, the main role of the mediator is to facilitate the voluntary resolution of the conflict or dispute and should offer the opportunity to the parties to explore all possibilities for its resolution. The mediator can propose options for resolving the conflict or dispute, but not the resolution itself.<sup>41</sup> In order for peer mediation

<sup>38</sup>See Article 19, Law No. 04/L-032 on pre-university education in the Republic of Kosovo

<sup>39</sup>See Ibid., Article 18.

<sup>40</sup>See Ibid., Article 21.

<sup>41</sup>See and compare Code (MD) No. 12/2019 on the Conduct of Mediators, Article 7.1

to be successful in the school context, it is very important that mediators meet the following requirements:

- ✓ to apply the principles of mediation;
- ✓ be impartial and independent;
- ✓ be acceptable to both parties;
- ✓ treat the problem seriously without judging the students;
- ✓ to emphasize what unites the students involved in the conflict, rather than what separates them;
- ✓ during the negotiation process make clear and concise statements;
- ✓ aim to prevent conflict situations and manage conflict situations, thus focusing on needs and not on positions that can lead students to conflict;
- ✓ should be flexible to the options that students present as possibilities for conflict resolution and provide guidance to help students involved in the mediation process;
- ✓ meet students in conflict and try to bring solutions by themselves. It is the approach "with them/them-for them/them";
- ✓ contribute effectively to the effort to develop mediation meetings by creating a positive atmosphere to build trust among students and facilitate dialogue between students;
- ✓ to plan the mediation sessions and try not to make them last too long;
- ✓ to ensure that each student is given the opportunity to express their thoughts or comments;
- ✓ in the case of co-mediation, the mediators should define their roles in advance and coordinate together;
- ✓ provide individual or collective support to ensure that the mediation process will be successful.

As a result, the necessary qualities of the mediator are: the ability to communicate, calmness, sensitivity, impartiality, discretion (the mediation must be confidential to encourage the creation of trusting relationships between the participants in the mediation process).

### 1.7. Advantages/Impacts of Mediation

Mediation between peers in the school context:

- ✓ Prevents students from committing criminal offenses, manages and reduces violence, conflicts and harassment between students;
- ✓ Prevents, manages and reduces violence, conflicts and harassment between students;
- ✓ It helps to create a calmer climate in the school;
- ✓ It is at the service of the students' well-being and success;
- ✓ It influences students to gain self-confidence and feel better at school;
- ✓ Helps prevent school dropouts;
- ✓ It helps in regular attendance at school;
- ✓ It helps to acquire a culture of dialogue and tolerance,
- ✓ It contributes to the acceptance of differences and respect for the dignity of the other and their learning to "live better together".

## II. PHASES OF THE MEDIATION PROCESS BETWEEN PEERS IN THE SCHOOL CONTEXT

### 2.1. *Initiating the mediation process - Referral to mediation*

The mediation process can be initiated by the parties or by students, teachers, school principals, parents or relatives, and other persons. As a result, we have two types of mediation processes between peers in the school context:

(1) Mediation process with self-initiation of the parties - Processes initiated by the students themselves, and

(2) Referred Mediation Process - Mediation processes initiated by other persons.

All cases of violence presented at the school must be immediately examined by the PEI, always taking into account the best interest of the child. The PEI should from the beginning consider the possibility and consider that the case be referred to mediation.

When the PEI becomes aware that the child needs protection and treatment from professional services according to the mandate defined by law and refers the case of violence to the Centre for Social Work, also in these cases, the Case Manager from the CPS, within the deadline of thirty (30) days from the day of acceptance of the case, must notify the director of the PEI in writing about the actions taken to help the child. The manager in cooperation with the PEI should consider the possibility and refer the case to informal mediation.<sup>42</sup>

In this direction, it should be considered which cases should be referred to mediation and what and how would be the possibility of involvement and engagement of parents and the community to contribute to the resolution of the conflict. This is very important, because "School and family are two interconnected systems and mutual cooperation brings many benefits to students, teachers and society."<sup>43</sup>

### 2.2. *The agreement of the parties for the conduct of mediation*

The students involved in the conflict, with their free will, must agree to the development of the mediation process. As a first step, they must agree to resolve their conflict or dispute through mediation.<sup>44</sup> After agreeing to start the mediation process and before the mediation process begins, the mediator is obliged to inform the parties about the principles and rules of the agreement,<sup>45</sup> including but not limited to:

- ✓ The right of the parties to decide about the mediation process;
- ✓ The right of the mediator and the parties to terminate or terminate the mediation;
- ✓ Maintaining the confidentiality of communications and documents.<sup>46</sup>

<sup>42</sup>See Article 23, Regulation of GRK - No. 21/2013 on the Protocol for the Prevention and Referral of Violence in Pre-University Education Institutions (20.09.2013)

<sup>43</sup>See, Handbook of Summary of Good Practices for Peaceful Resolution of Conflicts between Peers in Schools, Prishtina, Kosovo Education Centre (KEC) and ForumZFD, May 2019, p. 22.

<sup>44</sup>See and compare Law No. 06/L-009 on Mediation, Article 12.

<sup>45</sup>See and compare *Ibid.*, Article 11.1.

<sup>46</sup>See Code (MD) No. 12/2019 on the Conduct of Mediators, Article 13.1

In the mediation procedure, the rights and obligations of the mediator and the parties must be specified before the start of the procedure, as a result, the parties involved must adhere to them until the end of the procedure and after it.<sup>47</sup>

### 2.3. Mediation meetings

Students involved in a conflict or dispute verbally consent to the initiation of the mediation process. After the consent for the initiation of the mediation process, the mediator/s in agreement with the students, will determine the time and manner of conducting the mediation meetings.<sup>48</sup>

Mediation meetings are meetings between mediators and students, with the aim of resolving conflicts or disputes. Peer mediation meetings are non-public and no minutes are kept during their holding and they should not be recorded.<sup>49</sup>

Schools are suggested to provide protected, safe and attractive school environments where students can communicate freely about their concerns, support each other and learn new experiences. To enable the effective work of mediators/teams/mediation clubs it is important that the school designates a space/classroom where mediators can meet to coordinate their activities and conduct the mediation meeting. It is suggested that the space be suitable, easily accessible, identifiable, equipped with material tools that promote the peaceful resolution of conflicts, well maintained and ensure confidentiality in the development of activities. Creating such spaces and using them in order to bring students together to discuss different aspects that concern them, makes them aware of democratic values, human potentials and equal opportunities that help each student develop tolerance, appreciation and valuing the experiences of each individual.<sup>50</sup>

Mediation meetings take place according to the following stages:

- ✓ Before starting the mediation process, the mediator informs the students about the mediation process and their role in the mediation;
- ✓ The mediator explains to the students in conflict, the rules they will follow during the process, the way they will communicate, the time they will have available, etc.;
- ✓ After that, the floor is given to the students in conflict (initially the students as the injured party) to explain what happened and why they were in conflict. During this phase, the facilitator listens more and can ask open-ended questions to encourage students to talk;
- ✓ If the mediator notices that the parties are quite conflicted and the process stalls because they argue again in his presence, then the mediator stops the process and sets up a meeting for another day with each party separately. If the parties in the special meetings show willingness to sit back at the discussion table, then he restarts the process with both parties together;
- ✓ The mediator also selects (invites) other people from the family or social circle of the conflicting parties, who can serve as facilitators in resolving the conflict;

<sup>47</sup>See Law No. 06/L-009 for Mediation, Article 24

<sup>48</sup>See and compare, *Ibid.*, Article 12.50

<sup>49</sup>*Ibid.*, Article 12.

<sup>50</sup>Handbook of the Summary of Good Practices for Peaceful Resolution of Conflicts between Peers in Schools, Prishtina, Kosovo Education Centre (KEC) and ForumZFD, May 2019, p. 19.



- ✓ The mediator guides the parties to show each other their interests and rights, as well as the conditions to get out of the conflict.;
- ✓ The mediator does not give ready solutions and does not make suggestions. From the explanations of the parties, he notes if there are common meeting points, where these interests and rights can be matched. It only facilitates the parties to reach the agreement.<sup>51</sup>

#### 2.4. *Agreement in the mediation procedure*

The mediation agreement is an agreement reached by the parties and the mediator for the resolution of the dispute between the parties in the mediation procedure.<sup>52</sup>

Usually, peer mediation agreements in the school context are oral agreements and do not need to be in written form. However, in certain situations of more serious conflicts and when it is the will of the parties in conflict and or when it is estimated that it is in the best interest of the child, these agreements can also be made in written form. In these cases, the agreement must be clear and must include all the points on which the parties have agreed. The mediator is obliged to draw up the written agreement for the mediated settlement and before the parties or their representatives sign it, to make sure that the will of the parties in the agreement has been accurately and fairly reflected and reads the same out loud to confirm that the parties have no objections to the drafted text. Then, the mediator asks the parties to provide comments before the signing process is initiated, and only after the parties agree with the content of the agreement is the agreement finalized and signed by the parties and the mediator."<sup>53</sup> The mediator does not keep the written agreement reached in mediation between the parties and sends the agreement to the school director, who keeps this agreement and after the end of the education of the students, the signatory of the agreement destroys these agreements. The parties are not provided with the agreement for the mediated solution and in case of dispute, they can request from the director the confirmation of the previously reached agreement for the resolved dispute.<sup>54</sup>

In cases where an agreement is reached regarding the mediation process, Appendix 4 of this Guide is used: Form of Agreement reached in mediation between peers in the school context.

#### 2.5. *Closing and Termination of the Mediation Process*

The mediator stops the mediation procedure if he/she notices that among the students there are flaws in the expression of the free will of the parties.

Mediation between students ends in the following cases:

- ✓ when agreement is reached between peers;
- ✓ when the party gives up (withdraws) from the mediation;
- ✓ when the mediator determines that continuing the mediation would not be productive;

<sup>51</sup>See Handbook for Peer Mediation Teams, KEC, p. 27.

<sup>52</sup>See Law No. 06/L-009 on Mediation, Article 3 (1.6)

<sup>53</sup> See: Law No. 06/L-009 on mediation, Article 3 (1.6) and Article 14; Administrative Instruction (MoJ) No. 05/2021 on the determination of the mediation procedure of the self-initiation of cases and cases referred by the administrative body, Article 10; Regulation (KJC) no. 04/2019 on the mediation procedure of court cases, Article 13; Regulation (KPC) No. 04/2019 for the procedure of mediation of cases by the prosecution, Article 13

<sup>54</sup>See and compare Administrative Instruction (MoJ) No. 03/2021 on the Determination of the Self-initiated Mediation Procedure of Cases and Cases Referred by the Administrative Body, Article 13.2

✓ when the parties do not reach agreement on the resolution of their context or dispute. The agreement concluded in the mediation procedure is binding only for students who are in dispute or dispute.<sup>55</sup>

In cases of closing or termination of mediation, the school director is notified, according to Annex 3 of this Guidelines.

### III. PROFESSIONAL TRAINING AND PROMOTION OF PEER MEDIATION IN THE SCHOOL CONTEXT

#### 3.1. *Ability to mediate between peers in the school context*

School-based professional development should also be part of peer mediation training in the school context.

PEIs organize mediation trainings to enrich mediators with new knowledge about mediation practice. Such an obligation of the PEI derives from the Law on child protection (Article 63), according to which the PEI, within their responsibilities and obligations, are obliged to implement educational programs that raise awareness of child protection and care and the teaching tools used and applicable school curricula at all levels should be oriented towards the protection and care of the child, and this should be done with the inclusion of the child protection perspective and the elimination of negative stereotypes, gender, prejudices and other practices that are contrary to the principles defined in this Law and the development of guidelines for the protection of children from harmful information and materials. In this spirit, mediation trainings should also be developed, which simultaneously raise awareness of child protection and care.

##### 3.1.1. *Selection of students as mediators*

It is of particular importance that schools are involved in order voluntary and pledge to support the implementation of mediation. In this context it is also decisive and indisputable that students, teachers and other persons in the PEI, who will be involved as mediators, are also involved independently and voluntarily without any single imposition from anyone and are selected objectively. Because such an approach of involving students, teachers and other persons in PEI, will affect their integrity in the mediation process, impartiality, reliability and efficiency. Due to the complexity of the actions in the mediation process, it is recommended to include students of grades higher than the fifth grade. Therefore, a selection from all grade levels. Also, there should be a diversity of students in terms of gender, communities (if the school has different communities), socio-economic status of the family as well as academic achievements at school (so not only exemplary and "privileged" students). Also, an important segment of the project are the support groups, i.e., students who will not be directly involved in the mediation process but who will help this process by participating in informing other

<sup>55</sup>See: Law No. 06/L-009 for Mediation, Article 14; Law No. 04/L-139 on the Enforcement Procedure, Articles 22, 23, 25 as well as the Guide with Mediation Agreement Models, USAID, April 2021

students about this activity through campaigns designed in the school, identification of cases and their referral to mediation groups. Support groups can also be formed in classrooms as separate parallels of larger schools, especially in rural areas.<sup>56</sup>

The formation of mediation teams/clubs should be formalized, specifying the roles and responsibilities of the formed teams/clubs, the time and manner of coordination meetings as well as the action plan.<sup>57</sup>

### *3.1.2. Preparation and capacity building for mediation and peaceful resolution of conflicts*

The strengthening of school-based activities should also be implemented with special activities for the organization of mediation training as well as for the preparation of a number of students and school staff, for general principles and techniques of mediation between students. The trainings are recommended to be repeated every year and to include mediation groups in these trainings. Conducting trainings and seminars on conflict prevention helps teachers, school staff and students develop skills for managing different conflict situations. Every year a number of students finish school and need to be filled/trained with new mediators. It is suggested to include teachers, parents as well as members of the school management council (or members from the community around the school) in the training in order to create a culture of joint work to address and manage conflicts from the school itself, as well as raise awareness of response and reporting in terms of protection and safety in the school. The organization of periodic counselling sessions with parents and students can influence the increase of awareness of all actors in the school.<sup>58</sup>

Conflicts between students in the school/class can often escalate when students or teachers do not know how to deal with them. Considering the great influence that the teacher's behaviour has in the classroom, it is very important to develop the skills to prevent and resolve conflicts at school, which, among other things, aim to develop the skills of teachers and students:

- ✓ to manage conflicts;
- ✓ to establish understanding in the school environment;
- ✓ to assess, in the school environment and beyond, behaviours and attitudes that help prevent or peacefully resolve conflicts;
- ✓ to create a sense of community in the classroom, as an important factor not only for mitigating conflicts, but also for dealing with them in a creative and constructive way.
- ✓ on how to teach students to work together, trust, help and share everything with each other;
- ✓ for the acquisition of knowledge, skills, habits and attitudes necessary for creative and peaceful handling and resolution of conflicts between peers in the school environment;
- ✓ to teach students how to control themselves, when they express their feelings, not to be aggressive and destructive, especially, in cases where they express their anger and concern.

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<sup>56</sup> Handbook of the Summary of Good Practices for Peaceful Resolution of Conflicts between Peers in Schools, Prishtina, Kosovo Education Centre (KEC) and ForumZFD, May 2019, p.15.

<sup>57</sup>See Ibid., p. 16.

<sup>58</sup>See Ibid., p. 17.

- ✓ to teach students to handle conflicts in the most effective and constructive way.<sup>59</sup>

### 3.1.3. *Appointment and certification of students for mediation*

At the end of the training, it is important that the students are certified for the training with a formal certification ceremony, as well as define their role in the school, taking care not to violate their integrity and the time they dedicate to this activity, not to affect the learning process and other mandatory educational activities. Also, the composition of the mediation team should be known to all members of the school, it can be placed as a poster (information letter) that reflects who the team members are and their function.<sup>60</sup>

The school prepares and distributes certificates to students, teachers and other persons who are certified as mediators. All these persons certified as mediators between peers in the school context, as well as persons who participate as mediators in this process, must sign the Declaration under oath, according to Annex 2 of this Guidelines.

### 3.2. *Promoting mediation between peers in the school context*

During the drafting of the annual calendar of extra-curricular school activities, the PEI should also include promotional activities for mediation between peers in the school context. Extra-curricular activities should be considered as an important part of social inclusion but also the activation of all students without distinction to be beneficiaries and active participants in these activities. Extracurricular activities led by mediator and support students can be developed with different work methodologies, such as: lectures, debates, artistic activities with the theme of anti-violence; with imagined cases (simulation of fictitious cases); role playing, dramatization, social games, competitive activities, theatrical performances, exhibitions with artistic works and others. In addition, various awareness-raising activities can be carried out in cooperation with non-governmental organizations<sup>61</sup>.

Alternative - extracurricular activities to sensitize and activate students at school, as well as to promote the approach of peaceful solutions to conflicts through art, role-playing, dramatization and debates can be as follows:

- ✓ Realization of creative workshops with students for students' rights, through visual arts exhibitions, theatrical performances, short film projection and literary classes;
- ✓ trainings and activities that promote communication, diversity and mutual assistance;
- ✓ "Imagine a day", the activity of students in two groups with good and bad behaviour; debate after such activity;
- ✓ Realization of artistic exhibitions in the field of peaceful resolution of conflicts;
- ✓ Compilation and distribution of posters, brochures and leaflets for mediation as well as other forms of information and promotion of mediation between peers;
- ✓ Compilation of the logo for mediation groups, identification with selected colours, t-shirts, hats or other identification signs for mediators;

<sup>59</sup>See Handbook for Peer Mediation Teams, KEC, p. 21-23

<sup>60</sup> Handbook of Summary of Good Practices for Peaceful Resolution of Conflicts between Peers in Schools, Prishtina, Kosovo Education Centre (KEC) and ForumZFD, May 2019, p.18.

<sup>61</sup>Ibid., p. 24.

- ✓ Promotion of mediation through photos: "My right to live without violence";
- ✓ Organization of promotional activities on the International Day for Children's Rights as well as on the Mediation Day in the Republic of Kosovo (September 26);
- ✓ Working table with the representatives of the Educational Directorates of the Municipalities for the promotion of the concept: "For a friendly school";
- ✓ Drawing up the school's action plan for mediation between peers in the school context and the peaceful resolution of conflicts;
- ✓ Creation of Mediation Clubs/Teams within each school;
- ✓ Creating a space within the school that is dedicated to peer mediation;
- ✓ Continuous monitoring and evaluation of Mediation Clubs/Teams;
- ✓ Award for the best mediation in the school, in the municipality and in Kosovo.<sup>62</sup>

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<sup>62</sup>See, Handbook of Summary of Good Practices of Peaceful Resolution of Conflicts between Peers in Schools, Pristina, Kosovo Education Centre (KEC) and ForumZFD, May 2019, See Good practices implemented in schools and supported by NGOs, p. 27-55.

Annex 1: Ten (10) principles in the mediation process between peers in the school context

1. **Best interest of the child** - All activities and actions undertaken in the mediation process between peers in the school context must be in the best interest of the students;
2. **free will** - The mediation process between peers in the school context takes place with the free will of the students, expressed orally or in writing;
3. **Impartiality and independence** - The mediator during the mediation process between peers in the school context must remain completely independent and impartial, otherwise he must refuse the mediation, notify the students that he is unable to continue the mediation and withdraw from the relevant case;
4. **Equality** - In the mediation process between peers in the school context, the parties are equal and all students must be treated equally at all stages;
5. **Privacy and Confidentiality** - The process of mediation between peers in the school context is confidential in nature. Mediators and students are not allowed to use the information they learn during the mediation process;
6. **The right of students to be heard and to express their views and concerns** - During the mediation process, students are guaranteed the right to freely express their views and concerns, on any issue that concerns them, evaluating them in accordance with their age and level of maturity;
7. **The student's right to be treated with dignity and sensitivity** - The individual dignity, special needs, interests and private life of the student must be respected and protected, in all stages of the mediation process between peers in the school context;
8. **Proposing the possibility of resolving the dispute, but not the resolution itself** - The main role of the mediator in the mediation process between peers in the school context is to facilitate the resolution of the conflict and may propose options for resolving the dispute, but not the resolution itself;
9. **Integrity** - The mediator must behave in an honest, dignified manner and have high moral integrity;
10. **Conflict of interest** - The mediator must avoid conflict of interest throughout the mediation process.

Annex 2: Statement of oath of mediator between peers in the school context

<b>School</b>	
<b>Municipality:</b>	
<b>Statement of oath of mediator between peers in the school context</b>	

I, \_\_\_\_\_, declare under oath that I will carry out my duties as a mediator and at the same time maintain the confidentiality of the mediator's work between peers in the school context.

**In addition,**

I declare that I have read and understood the Guidelines for peer mediation in the school context and will apply it during the work process of the peer mediator in the school context together with ten (10) principles in the mediation procedure between peers in the school context.

<b>Name and surname:</b>	<b>Signature:</b>

Place: \_\_\_\_\_

Date: \_\_\_\_ . \_\_\_\_ . 2023.

Annex 3: Standard Mediation Report Form

<b>School</b>	
<b>Municipality:</b>	
<b>REPORT ON THE PROCESS OF MEDIATION BETWEEN PEERS IN THE SCHOOL CONTEXT</b>	
<b>For:</b>	Director of PEI
<b>Mediator(s):</b>	(Enter name and surname and signature)
<b>Mediation date/s:</b>	
<b>Students involved in the conflict:</b>	(Enter name and surname and classes)
<b>Brief description of what the conflict was about</b>	
<b>How mediation ends:</b> <i>(Fill in one of the following ways with "X")</i>	
<b>The agreement has been reached</b>	
<b>Mediation has been terminated</b> <i>(In this case, in the column "Brief description of what the conflict was about", briefly describe the reasons for the interruption)</i>	
<b>No agreement has been reached</b>	
<b>Attached Agreement:</b>	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Date of sending the report:</b>	



Annex 4: Form of Agreement reached in mediation between peers in the school context

<b>School</b>		
<b>Municipality:</b>		
<b>AGREEMENT REACHED IN MEDIATION BETWEEN PEERS IN THE SCHOOL CONTEXT</b>		
<b>Student "A"</b> Name/Surname: Class:		<b>Student "B"</b> Name/Surname: Class:
<b>The following agreement was reached:</b>		
<i>(Use extra sheets if needed)</i>		
<i>Example: The Mediation Meeting started on _____._____ at --:-- min. in the presence of the aforementioned students and the mediator.</i>		
<i>First, the mediator informs the students about the principles of mediation, then the mediation process began.</i>		
<i>In the beginning, the injured party NNNNN took the floor, who described the incident. Then the party NNNN took the floor, who described the event that happened</i>		
<i>They then reached the following agreement:</i>		
.....		
<i>The agreement in this Mediation session was reached with the free and complete will of all students without any pressure, violence, fraud or threats and that they do not contest any of the points of this agreement.</i>		
<i>The parties consider this case closed in the Mediation procedure.</i>		
<b>Signature of the parties and their representatives:</b>		
<b>Student "A"</b>		<b>Student "B"</b>
<b>Mediator</b>	_____ (Signature)	

## RESOURCE LIST

1. *Constitution of the Republic of Kosovo;*
2. *Convention on the Rights of the Child, Adopted by the General Assembly of the United Nations Organization on November 20, 1989;*
3. *Law No. 06/L-009 on Mediation (Official Gazette, No. 14, August 20, 2018);*
4. *Law No. 06/L-084 on Child Protection (Official Gazette, No. 14, July 17, 2019);*
5. *Law No. 04/L-032 on pre-university education in the Republic of Kosovo (Official Gazette, no. 17, September 16, 2011);*
6. *Code No. 06/L-006 of Juvenile Justice (Official Gazette, No. 17, October 18, 2018);*
7. *Regulation (GRK) No. 21/2013 on the Protocol for the Prevention and Referral of Violence in Pre-University Education Institutions;*
8. *Administrative Instruction (GRK) No. 01/2021 for the Protection and Treatment of Children Committing Criminal Offenses under the Age of Criminal Responsibility;*
9. *Administrative Instruction (GRK) No. 02/2021 for the implementation of child-friendly justice in criminal, civil and administrative proceedings;*
10. *Administrative Instruction (MoJ) No. 05/2021 on the Determination of the Self-initiated Mediation Procedure of Cases and Cases Referred by the Administrative Body;*
11. *Administrative Instruction (MoJ) No. 04/2021 for the Fee of Mediators in the Republic of Kosovo;*
12. *Code (MD) No. 12/2019 on the Conduct of Mediators in the Republic of Kosovo;*
13. *Administrative instruction (MoJ) No. 03/2019 for the Licensing of Mediators in the Republic of Kosovo;*
14. *Regulation No. 04/2019 for the Mediation Procedure of Court Cases;*
15. *Regulation No. 04/2019 for the Mediation Procedure of Cases by the Prosecutor's Office;*
16. *Besim M. Kajtazi: Summary of legislation on mediation in the Republic of Kosovo, Shkrola, Prishtina, April 2022;*
17. *Guidelines for the implementation of Regulation (GRK) No. 21/2013 on the Protocol for the Prevention and Referral of Violence in Pre-University Education Institutions October, 2015;*
18. *Handbook of Summary of Good Practices for Peaceful Resolution of Conflicts between Peers in Schools, Prishtina, Kosovo Education Centre (KEC) and Forum ZFD, May 2019;*
19. *Handbook - Mediation in Kosovo - Processes and Skills, Partners-Kosova Centre for Conflict Management, Laina Reynolds Levy, PhD, Partners for Democratic Change, March, 2011;*
20. *Hajrullah Mustafa: Mediation in the justice system of the Republic of Kosovo and its positive effectiveness, Opinio Juris, No. 1/2015;*
21. *Training manual: Mediation Law - USAID April 2012.*