

Restorative Justice Facilitator Code of Conduct and Standards of Training and Practice

MODEL STANDARDS OF CONDUCT FOR RESTORATIVE JUSTICE FACILITATORS

The Model Standards for Restorative Justice Facilitator's Code of Conduct and Standards of Training and Practice was prepared in 2012 by the Colorado Coalition of Restorative Justice Directors, and approved by the Colorado Restorative Justice Council. The document was ratified and adopted by these groups in April of 2012 with one dissenting vote from the DA representative of the State RJ Council. This is a living document (www.rjcolorado.org) and was ratified with intent to distribute, gather and consider broad community feedback as it is recognized that there is still room for improvement. At the 2012 RJ Summit, these groups invite a broader face to face dialogue on this document to further consider amendment, accountability issues and other structural and strategic development.

Restorative justice practices include a variety of practices used to address the harm caused by offenses and wrong-doing. These Standards are designed to serve as fundamental ethical guidelines for persons facilitating restorative justice processes in all practice contexts. They serve three primary goals: to guide the training of facilitators that results in qualified practitioners; to inform the participants in the restorative justice process; and to promote public confidence in restorative justice as a process for repairing the harm of crime, conflict and wrong-doing while addressing the needs and concerns of the victim and other participants in the restorative justice process.

QUOTE HB11- 1032 "Restorative Justice Practices" means practices that emphasize repairing the harm caused to victims and the community by offenses. Restorative justice practices include: victim initiated victim-offender conferences, family group conferences, circles, community conferences, and other similar victim-centered practices. Restorative justice practices are facilitated meetings attended voluntarily by the victim or victim's representatives, the victim's supporters, the offender, and the offender's supporters and may include community members. By engaging the parties to the offense in voluntary dialogue, restorative justice practices provide an opportunity for the offender to accept responsibility for the harm caused to the victim and community, promote victim healing, and enable the participants to agree on consequences to repair the harm, to the extent possible, including but not limited to: apologies, community service, reparation, restoration, and counseling. Restorative justice practices may be used in addition to any other conditions, consequences, or sentence imposed by the court.

Restorative justice practices include but are not limited to: victim-offender conferences, family group conferences, restorative circles of accountability and support, community group conferences, solution circles, peace circles, restorative circles, restorative mediation. These practices may benefit and include harmed parties, people who have done harm and are willing to take responsibility and affected family, community and other directly impacted members.

The use of the term "shall" in a Standard indicates that the facilitator must follow the practice described. The use of the term "should" indicates that the practice described in the standard is highly desirable, but not required, and is to be departed from only for very strong reasons and requires careful use of judgment and discretion.

The use of the term "facilitator" is understood to be inclusive so that it applies to co-facilitator models.

These Standards, unless and until adopted by a court or other regulatory authority do not have the force of law. Nonetheless, the fact that these Standards have been adopted by the respective sponsoring entities, should alert Restorative Justice Facilitators and referring agencies to the fact that the Standards might be viewed as establishing a standard of care for Restorative Justice Facilitators.

STANDARD I. PARTICIPATION

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- A.** A restorative justice facilitator shall conduct a restorative justice practice based on the principle of voluntary participation for all participants. Voluntary participation means that the participants in the restorative justice process have come to the meeting by choice. Whether the face-to-face meeting is requested by the victim, the offender or the referring agency, each participant must at some point make the choice to come of their own free will. If the offender is incarcerated or otherwise involved in the justice system, he/she must still have the choice to participate in the restorative justice process or not participate. If the offender is sentenced to participate in a restorative justice conference, the restorative justice facilitator shall insist that the offender be assessed to determine if he/she is appropriate for a face-to-face meeting with the victim. If the facilitator determines the offender is appropriate, and the victim wants the conference, the facilitator may proceed. If the facilitator determines that the offender is not appropriate, but the victim wants a conference, the facilitator should explore other options (see below). Prior to making a choice, each participant must receive a full explanation of what the restorative justice process is and what their role will be. Participants may choose to withdraw from the process at any time.

- B.** A restorative justice facilitator shall assess the participants in a case to assure that there is very low possibility that the victim could be re-victimized. If the facilitator determines there is a likely possibility that the victim could be re-victimized by a face-to-face meeting with the offender, the facilitator shall explore other restorative ways to meet the needs of the victim, and offer those alternatives to the victim. Examples of other restorative options include but are not limited to: letters of apology, community service or other work requested by the victim, answering victim questions in writing through a third party and offender self-education projects.

STANDARD II. IMPARTIALITY

A. A restorative justice facilitator shall decline to facilitate a restorative justice process if the facilitator cannot conduct it in an impartial manner. Impartiality means freedom from favoritism, bias or prejudice.

B. A restorative justice facilitator shall conduct a restorative justice process in an impartial manner and avoid conduct that gives the appearance of partiality.

- 1.** A restorative justice facilitator should not act with partiality or prejudice based on any participant's personal characteristics, background, values and beliefs, or performance at a restorative justice process, or any other reason.
- 2.** A restorative justice facilitator should neither give nor accept a gift, favor, loan or other item of value that raises a question as to the facilitator's actual or perceived impartiality.
- 3.** A restorative justice facilitator may accept or give minimal gifts or incidental items or services that are provided to facilitate a process or respect cultural norms so long as such practices do not raise questions as to a facilitator's actual or perceived impartiality.
- 4.** If at any time a restorative justice facilitator is unable to conduct a restorative justice process in an impartial manner, the facilitator shall withdraw.

STANDARD III. CONFLICTS OF INTEREST

- A.** A restorative justice facilitator shall avoid a conflict of interest or the appearance of a conflict of interest during and after a restorative justice process. A conflict of interest can arise from involvement by a facilitator with the subject matter of the dispute or from any relationship between a facilitator and any participant in the restorative justice process, whether past or present, personal or professional, that reasonably raises a question of a facilitator's impartiality.
- B.** A restorative justice facilitator shall disclose, as soon as practicable, all actual and potential conflicts of interest that are reasonably known to the facilitator and could reasonably be seen as raising a question about the facilitator's impartiality. After disclosure, if all parties agree, the facilitator may proceed with the restorative justice process.
- C.** If a restorative justice facilitator learns any fact after starting a restorative justice process that raises a question with respect to that facilitator's service creating a potential or actual conflict of interest, the facilitator shall disclose it as quickly as practicable. After disclosure, if all parties agree, the facilitator may proceed with the restorative justice process.

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- D. If a restorative justice facilitator's conflict of interest might reasonably be viewed as undermining the integrity of the restorative justice process, a facilitator shall withdraw from or decline to proceed with the restorative justice process.

STANDARD IV. COMPETENCE

A. A restorative justice facilitator shall facilitate only when the facilitator has the necessary competence to assure a safe and restorative process and to satisfy the reasonable expectations of the participants.

1. Any person may be selected as a restorative justice facilitator, provided that the participants and referring agencies are satisfied with the facilitator's competence and qualifications. Training, experience in restorative justice practices, skills, cultural understandings and other qualities are often necessary for restorative justice facilitator competence. A person who offers to serve as a facilitator creates the expectation that the person is competent to facilitate effectively.
2. A restorative justice facilitator should attend educational programs and related activities to maintain and enhance the facilitator's knowledge and skills related to restorative justice practices and facilitation on a regular basis.
3. A restorative justice facilitator should have available for the participants and referring agencies information relevant to the facilitator's training, education, experience and approach to conducting a restorative justice process.

B. If a restorative justice facilitator, during the course of a restorative justice process, determines that the facilitator cannot conduct the restorative justice process competently, the facilitator shall discuss that determination with the participants and the referring agencies as soon as is practicable and take appropriate steps to address the situation, including, but not limited to, withdrawing or requesting appropriate assistance.

C. If a restorative justice facilitator's ability to conduct a restorative justice process is impaired by drugs, alcohol, medication or otherwise, the facilitator shall not conduct the restorative justice process.

STANDARD V. RESPECT FOR PRIVACY

A. A restorative justice facilitator shall respect the privacy of all participants and information obtained by the facilitator in the restorative justice process, unless otherwise agreed to by the participants or required by applicable law. Facilitators are expected to report to appropriate authorities when there is concern for any participant regarding harm to self, others or a new criminal act.

1. If the participants in a restorative justice process agree that the facilitator may disclose information obtained during the process, the facilitator may do so.
2. If a restorative justice facilitator participates in teaching, research or evaluation of a restorative justice process, the facilitator should protect the anonymity of the participants and abide by their reasonable expectations regarding confidentiality.

B. A facilitator who meets with any persons in private session during a restorative justice process shall not convey directly or indirectly to any other person, any information that was obtained during that private session without the consent of the disclosing person.

C. A facilitator shall promote understanding among the participants to the extent to which the participants will maintain confidentiality of information they obtain in a restorative justice process.

D. Depending on the circumstance of a restorative justice process, the participants may have varying expectations regarding confidentiality that a facilitator should address. The parties may make their own rules with respect to confidentiality, or the accepted practice of a restorative justice facilitator or institution may dictate a particular set of expectations.

STANDARD VI. QUALITY OF THE PROCESS

A. A restorative justice facilitator shall conduct a restorative justice process in accordance with these Standards and in a manner that promotes: repairing the harm caused by the incident; meeting the needs and concerns of the victim; creating a safe space for all

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participants; accountability on the part of the offender; honest and meaningful dialogue for all participants; and healing and understanding for all participants.

1. A restorative justice facilitator should agree to facilitate a process only when the facilitator is prepared to commit the attention essential to an effective restorative justice process.
2. A restorative justice facilitator should only accept cases when the facilitator can satisfy the reasonable expectation of the participants and referring agencies concerning the timing of a restorative justice process.
3. A restorative justice facilitator should promote honesty and candor between and among all participants, and a facilitator shall not knowingly misrepresent any material fact or circumstance in the course of a restorative justice process.
4. The restorative justice facilitator should provide a means whereby participants can give feedback about the process to the appropriate agencies and/or individuals who can use the information to inform the facilitator and improve the process.
5. A restorative justice facilitator should provide a process for filing of grievances to someone, other than themselves, for all participants in the restorative justice process.
6. A restorative justice facilitator should assess and monitor risk to involved parties and make determination of the safety and integrity of the process. The facilitator shall not hold a restorative justice process involving a victim and offender, if the facilitator determines there is significant probability that any participant may be victimized by the process.
7. If a victim requests a restorative justice process, and the restorative justice facilitator determines that the offender is not appropriate for a face-to-face meeting with the victim, the facilitator should not hold the meeting. In this case, the facilitator may recommend other restorative measures, short of a face-to-face meeting, to be taken. (e.g.: letters of apology, victim-requested service or projects, offender answering victim questions in writing and through a third party)
8. If an offender or referring agency requests a restorative justice face-to-face meeting between victim and offender, a restorative justice facilitator should only hold the meeting after careful preparation, and after determining that the offender is appropriate and the victim is willing and prepared to participate.
9. If an offender is appropriate and the victim is unwilling or unable to attend but is willing for the conference to take place, the restorative justice facilitator should move forward with the conference with a surrogate representing the victim. The victim then can request, through the surrogate, for answers to questions or make suggestions for any contract item to repair harm. The surrogate must be either personally appointed by the victim, or selected by the restorative justice facilitator and have training in restorative justice and victim issues.
10. If a participant appears to have difficulty comprehending the process, issues, or options, or has difficulty participating in a restorative justice process, the facilitator should explore the circumstances and potential accommodations, modifications or adjustments that would make possible the participant's capacity to comprehend and voluntarily participate. The facilitator should regard the American Disabilities Act standards (ADA) for guidance in these situations.

B. If a restorative justice facilitator believes that participant conduct, including that of the facilitator, jeopardizes conducting a restorative justice process consistent with these Standards, a facilitator shall take appropriate steps including, if necessary, postponing, withdrawing from or terminating the restorative justice process.

STANDARD VII. ADVERTISING AND SOLICITATION

A. A restorative justice facilitator shall be truthful and not misleading when advertising, soliciting or otherwise communicating the facilitator's qualifications, experience, services and fees.

1. A restorative justice facilitator should not include any promises as to outcome in communications, including business cards, stationery, or computer-based communications.
2. A restorative justice facilitator should only claim to meet the restorative justice facilitator qualifications of a governmental entity or private organization if that entity or organization has a recognized procedure for qualifying restorative justice facilitators and it grants such status to the facilitator.

B. A restorative justice facilitator shall not solicit in a manner that gives an appearance of partiality for or against a participant or otherwise undermines the integrity of the process.

C. A restorative justice facilitator shall not communicate to others, in promotional materials or through other forms of communication, the names of persons served without their permission.

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STANDARD VIII. FEES AND OTHER CHARGES

A. A restorative justice facilitator shall provide each participant and/or referring agency true and complete information about fees, expenses and any other actual or potential charges that may be incurred in connection with a restorative justice process.

B. A restorative justice facilitator shall not charge fees in a manner that impairs a facilitator's impartiality.

1. A restorative justice facilitator should not enter into a fee agreement which is contingent upon the result or any outcomes of the restorative justice process.

STANDARD IX. ADVANCEMENT OF RESTORATIVE JUSTICE PRACTICES

A. A restorative justice facilitator should act in a manner that advances the practice of restorative justice. A facilitator promotes this Standard by engaging in some or all of the following:

1. Fostering diversity within the field of restorative justice.
2. Striving to make restorative justice more accessible
3. Participating in research when given the opportunity, including obtaining participant feedback when appropriate.
4. Participating in outreach and education efforts to assist the public in developing an improved understanding of, and appreciation for, restorative justice.
5. Assisting newer restorative justice facilitators through training, mentoring and networking.

B. A restorative justice facilitator should demonstrate respect for differing points of view within the field, seek to learn from other restorative justice practitioners and work together with other practitioners to improve the profession and better serve victims, offenders and their communities.

RESTORATIVE JUSTICE FACILITATOR STANDARDS OF TRAINING AND PRACTICE

The Colorado Restorative Justice Council ratified and posted a set of Trainer Guidelines (www.rjcolorado.org) upon which these Standards were developed.

The primary dictum of all restorative justice facilitators, programs and practices is to **"do no harm"**. All practitioners including but not limited to facilitators shall hold this dictum forth by adhering to trainer guidelines, the Standards of Conduct and the following Standards of Training and Practice.

It is recommended that the following be documented and retained to verify the facilitator's level of experience and expertise.

STANDARD OF TRAINING

All facilitators shall receive restorative justice training in order to declare themselves a restorative justice facilitator. Training and relative competency shall include but is not limited to:

- A working knowledge of restorative justice principles and values
- A working knowledge of restorative justice philosophy and history
- An understanding of the three key stakeholders of restorative justice practices (victim, offender and community)
- Victim Awareness, Resources and Rights
- Recognition of trauma, crisis management and skill development to handle these circumstances in pre-process and as they arise in the restorative justice process
- Offender Awareness, Resources and Rights
- Training for facilitation skill development must include practical applications and experiential activities, including role plays. Every participant must be given the opportunity to practice and observe facilitation skills and receive feedback.
- An understanding that all restorative justice practices must be voluntary and why
- Demonstration of a good working knowledge of a wide range of restorative practices

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- Demonstration of the relative design or configuration of the participants in those models of restorative justice processes the facilitator will practice
- Demonstration restorative justice skills based on models the facilitator practices
- Preparation for the process (pre-conferencing)
- Facilitation and Co-facilitation
- Role of Community and support people
- Basic Facilitation skills (e.g. active listening, open questions, tone of voice, body language, mutual respect reframing, restorative language, group dynamics)
- An understanding of and commitment to confidentiality
- Systems training relative to the context the facilitator will be working within and program or agency specific orientation (e.g. Judicial, Criminal justice, Schools, Etc.)
- Agreement writing
- Cultural Awareness (e.g. mental health, disability, cultural, language, race, sex, origin, sexual orientation, gender identity...)
- An understanding of the use of evaluations for program, process and self improvement

Mentorship and Facilitator Development:

(It is recognized that there are regions of the state for which this best practice may be difficult. However, it is recommended that an effort be made to seek similar support from experienced programs or practitioners.)

- Facilitators should participate in restorative justice processes as a community member prior to becoming a restorative justice facilitator
- Facilitators should participate in restorative justice processes as Co-facilitator or assist an “experienced” facilitator prior to serving as facilitator in order to build a body of experience and competency and advance at supervisor’s discretion
- Facilitators should facilitate restorative justice processes with an experienced facilitator supervising and providing feedback to learn and adjust practice to a level of competency acceptable to the program, agency or clients
- Facilitators practicing without supervision should debrief and evaluate afterward with experienced practitioners or program personnel
- Facilitation experiences should include practice in writing agreements, all pre-conferencing, and in reviewing evaluations

* Additional training and experience shall be acquired and standards adhered to in order to qualify to facilitate high-risk cases (e.g. cases involving death, violent crime, domestic violence etc...)

STANDARDS OF PRACTICE

Background Checks

All facilitators shall have a Colorado Bureau of Investigation background check on record with the program or agency they serve and meet acceptable standards of that organization. If a facilitator operates independently of a program or agency they should provide clients with accurate criminal history upon request.

The Space

Facilitators should:

- Maintain quality control of the setting for restorative justice practice- The setting in which a restorative justice process takes place should assure the safety, confidentiality and relative comfort of all participants. (Safety protocol may need to be considered based on the type of setting, process and participants)
- In the event there are non-participants in the space when a restorative justice process takes place the facilitators shall obtain consent from all participants before the process begins
- Facilitators should maintain an atmosphere of mutual respect for all participants

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Evaluation & Quality Control:

General:

- Ensure regular feedback from participants in restorative justice processes and utilize this feedback to improve their practices and the procedures and policies of the program or agency they serve
- Facilitation should be done in pairs
- Have regular evaluations by peers or more experienced facilitators, program or agency personnel
- Understand and articulate the laws and guiding principles of restorative justice and be able to use restorative language effectively in the process
- Meet regularly with other practitioners to debrief and share tools for success
- Pursue ongoing professional development in the field of restorative justice
- Provide evidence of their work and ongoing development as a practitioner
- Register as a restorative justice facilitator/practitioner (with the State Directory as soon as practicable).

Restorative Justice Facilitator Standards for High Risk Victim/Offender Dialogue

The following standards for facilitators of high risk victim/offender dialogue are to be considered as an addition (adopted Aug 2015) to the "Restorative Justice Facilitator Code of Conduct and Standards of Training and Practice" originally adopted by the Colorado Restorative Justice Council in 2012. Understanding the HRVOD requires additional skills, knowledge and practice for a facilitator, this document is intended to address specific issues, needs and concerns of the parties involved in cases of HRVOD.

Cases of high-risk victim/offender must be victim initiated. The facilitator process is victim centered and offender sensitive.

Cases of high risk victim/offender dialogue (HRVOD) include, but are not limited to, the following crimes of violence: Murder in the first degree, Murder in the second degree, Manslaughter, Criminally negligent homicide, Vehicular assault, Assault in the first degree, Assault in the second degree, Assault in the third degree, Vehicular homicide, Menacing, First degree kidnapping, Second degree kidnapping, Robbery, Aggravated robbery and Child abuse.

Offenders with multiple charges may be considered for HRVOD when the request is victim initiated. Cases that involve domestic violence and sexual assault may be considered when victim initiated.

In the event an HRVOD is considered for a crime other than those listed above, the council encourages the use of principles attached to this document.

Prior to accepting an HRVOD a facilitator should have successfully completed a 40 hour HRVOD training along with any applicable agency specific training.

Understanding that victims may not always wish to meet face-to-face with the person who committed a violent crime, options may include, but are not limited to the following:

*A victim may wish to ask questions of the offender. If the offender is willing to participate, the facilitator will work with the victim in understanding their needs and clarifying the questions that will best meet those needs. The questions can be given to an offender by the facilitator who will then share the results with the victim.

*A victim may wish to write a statement. If the offender is willing to receive a statement, the facilitator will work with the victim to ensure the statements accurately reflects what he/she would like to say. The facilitator will share the statement with the offender and share the results with the victim.

*A victim may appoint a representative of his/her choice to participate in the HRVOD. The facilitator would work with both the victim and his/her appointed representative in preparing for the dialogue.

*An offender of a similar crime may be selected to meet with a victim who initiated the request.

Any surrogate should be chosen by the victim, at the request of the victim and have been fully prepared by the facilitator.

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Results of meetings with an offender and a facilitator in the above instances may be videotaped, audiotaped or written out at the victim's request and in accordance with agency policy.

HRVOD cases ideally require a minimum of 4 preparation meetings, 1-3 hours each, scheduled 2-4 weeks apart with both the victim and offender or as victim needs or preferences indicate.

Depending upon the referring agency, a restorative justice facilitator for an HRVOD case may or may not receive a payment for their services.

Co facilitation of HROD cases is recommended whenever possible.

HRVOD facilitators should pursue continuing education in issues specific to understanding the dynamics of criminogenic needs and trauma.

As a restorative justice facilitator in the state of Colorado these are the standards by which one shall abide.