Restorative Justice Manual

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TABLE OF CONTENTS

MISSION *and* VISION

The University of San Diego is a Roman Catholic institution committed to advancing academic excellence, expanding liberal and professional knowledge, creating a diverse and inclusive community, and preparing leaders dedicated to ethical conduct and compassionate service.

Inspired by the USD mission statement above, the Restorative Justice (RJ) Program was founded in the fall of 2011 through the conduct office and residential life to address harm and build relationships in the USD community. Through USD's Catholic identity, the restorative justice program is also grounded in the themes of Catholic Social Teachings, including dignity for the human person, rights and responsibilities, social justice, and solidarity. The RJ program creates a space for students to:

- reflect on their thoughts and actions

- develop a strong moral and ethical compass through interactions

- nurture empathy and compassion for themselves and others

- cultivate leadership skills

Universities have begun incorporating the concepts and practices of restorative justice into their current conduct systems as a way to shift focus from legalisms to mission, from punishment to reparation, and from retribution to community healing. At the University of San Diego, we believe that restorative justice aligns with the goals of a campus community and the values of a Catholic institution.

The Division of Student Affairs, through the conduct office and residential life, has fully supported the four main restorative options offered to the USD community, including restorative conferencing, community circles, restorative roommate dialogues, and reentry circles. RJ aligns with the larger Student Affairs vision, which is to "create an inclusive, educational environment which motivates and supports student learning and personal development, serves the University community, and inspires students to make a positive contribution to society." Through RJ we are asking students who have created harm in our community to reflect, learn from their mistakes, and engage with the community in a positive way.

Restorative justice encourages our students to be *enlightened global citizens* in their interactions with family members, friends, and in their work and future careers.

Restorative justice encourages our students to be enlightened global citizens in their interactions with family members, friends, and in their work and future careers. We inspire our students to see the world through a restorative lens, looking at the needs of our communities and identifying our obligations to a world in need. The focus of RJ at USD is that every student and USD community member has the skills and courage to engage in conflict in a constructive way and understands that if the impact of misbehavior involves the community so must the solution.

PRINCIPLES *and* PRACTICE *of* RESTORATIVE JUSTICE

DEFINITIONS

Restorative Justice brings people responsible for harm, impacted parties, and community members together in a face-to-face dialogue to address the harm and provide a space to build trust, hold community members accountable, and start the healing process.

> *"Restorative justice is an approach to criminal offending that emphasizes values of democratic participation, inclusion, and stewardship. Restorative justice encourages dialogue among victims and offenders to construct plans of action that hold offenders accountable and meet victims' needs. "*
>
> *Karp (2004, p. 7)*

> *"Crime is a violation of people and relationships. It creates obligations to make things right. Justice involves the victims, offenders, and community in a search for solutions which promote repair, reconciliation, and reassurance."*
>
> *Howard Zehr*

The International Institute for Restorative Practices fundamental premise is:

> *"People are happier, more cooperative and productive, and more likely to make positive changes when those in positions of authority do things with them, rather than to them or for them."*

Restorative Justice is an inclusive process motivated primarily by a need to address harm, the violation of persons, and relationships.

Harm can take shape in a few different ways:
- Emotional, spiritual, or relational harm
- Physical injury that is deliberately inflicted
- Material damage (harm is caused to the owner of the material in question)
- Adverse effect on another person or other persons

HARM: the violation of persons and relationships
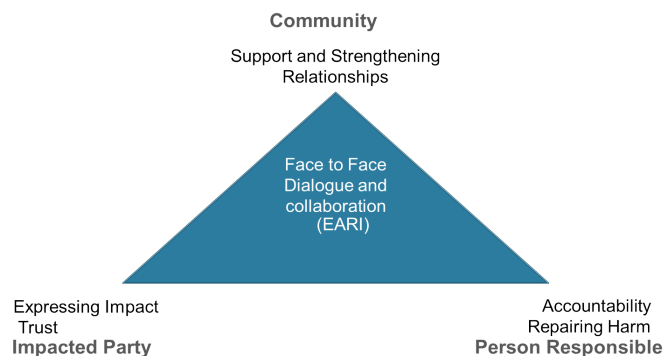
(when we say a person has caused harm to someone or several, we are saying they have wronged, treated unjustly, or violated their rights in some way)

Restorative Justice

Community

Support and Strengthening Relationships

Face to Face Dialogue and collaboration (EARI)

Expressing Impact
Trust
Impacted Party

Accountability
Repairing Harm
Person Responsible

RESTORATIVE JUSTICE THEORY

Although restorative justice principles and practices have been used in indigenous communities around the world for thousands of years, the Western experience of restorative justice began in the 1970s with the Eastern Mennonite communities in the U.S. Their concept of restoration became more prominent with the mass incarceration epidemic that started in the 1980s, where the prison population increased from around 300,000 to over 2 million people within 30 years (*The New Jim Crow*, Michelle Alexander, p. 6). This movement towards mass incarceration pushed restorative principles into the mainstream based on needs that were not being met through the traditional criminal justice system. There was a growing concern for:

> *"legitimate stakeholders- those with a stake or standing in the event or the case- beyond just the government and the offender to include victims and community members" (The Little Book of Restorative Justice, Howard Zehr, p. 13)*

Another component of mass incarceration was the school to prison pipeline, where young people who got in trouble were expelled from school giving them more free time to misbehave, which makes them more susceptible to getting arrested and put in jail. Restorative justice was slowly implemented into grade schools, middle schools, and high schools around the country to proactively keep young people out of prison. The positive impact that restorative justice was having on young people was recognized by colleges and universities in the late 1990s, starting with Skidmore College and the University of Colorado. They began to use restorative principles in their conduct systems in order to keep students engaged in their academic life, create an environment of deeper learning with a focus on student development, and improve campus communities.

The theory of restorative justice rests on three principles: harms and needs, obligations, and engagement (Zehr, 2002).

Harms and Needs:

Harms and needs are what arise from the wrongdoing. Cases addressed at USD have included clear harms such as property damage, theft, and injury as well as more subtle harms such as self-esteem, fear of living in a residence hall, and violations of trust. The Restorative Justice Conference works to give voice to these harms in order to identify the resulting needs. For example, some participants who were left angry or demoralized by the harm needed to know from the offender why they behaved the way they did. Very often, in formal conduct proceedings, the voice of impacted parties is limited, however, restorative justice is inclusive of impacted parties and community members in order to allow them to make their needs known.

Obligations:

The second principle focuses on the obligations of the offender, given the identified harms and needs. Restorative justice states that offenders have two primary obligations (1) understand the impact of their choices and behavior, and (2) repair the harm to the best extent possible. Obligations focus on accountability to both the impacted party and the community as a whole. This level of accountability helps fulfill our mission for student learning by "building the capacity for evaluating the impact of their behavior on the community" (Karp, 2004, p. 7). Resulting obligations may include an apology, restitution, or service.

Engagement:

The principle of engagement focuses on building community by insisting that all those involved have a role in the process of pursuing justice and repairing the harm caused. We work carefully to create a space where all the community members involved in a particular offense can come together and engage in a safe space to share their experience, apologize if needed, and very often forgive.

PROCEDURAL JUSTICE THEORY:

USD's program utilizes procedural justice theory, which states that if the student offenders feel respected and believe the process was fair, then they will be less likely to repeat the misconduct.

RESTORATIVE PRINCIPLES

1. **Offenses are a violation of relationships.**
   Laws are written to protect safety and fairness in human relationships.

2. **Invite full participation and consensus.**
   Everyone has a voice and expressions of feelings are welcome and encouraged.

3. **Impacted parties have a voice.**
   They have the space to ask questions, get answers, and make decisions that affect the outcome of the offense.

4. **Repair what has been broken.**
   Offenses are seen as harms that need repair. Those responsible, impacted parties, and the community are responsible for coming up with solutions that address all of their needs.

5. **All parties involved have specific needs and obligations.**
   All parties in a situation have needs that can be fulfilled and obligations to one another. Needs of impacted parties created by the harm include sense of safety, repair of injuries, relationship breakdowns, and physical damage. There are also underlying needs of those responsible that created the harm in the first place such as addictions, lack of support, lack of moral or ethical foundation, and lack of social or employment skills. All of these needs must be fulfilled in order to heal the harm, and therefore all parties have an obligation to support each other. The community also plays a key support role in fulfilling societal needs of the impacted parties and person responsible.

6. **Seek full and direct accountability.**
   The person responsible for the harm meets directly with the people they have impacted in order to verbally take responsibility, hear the impact their actions had on others, and find actions that will help make the harm as right as possible.

7. **Reunite what has been divided.**
   Individuals who have been harmed by one another may not ever come back together to discuss or address what happened. Restorative justice gives people the opportunity to reunite and share their questions, fears, anxieties, and any other feelings, and to make a positive plan for the future.

8. **Restorative justice must be a voluntary process.**

   Restorative justice tries to respond to harm at the earliest point possible and with the maximum amount of voluntary cooperation because that will create the most opportunity for healing relationships and learning.

9. **Raise awareness of the dangers and opportunities of harm.**
   The danger is that the community, impacted parties, and those responsible emerge from the offense feeling alienated, damaged, disrespected, less safe, disconnected from each other and society, and disempowered to control their own lives. The opportunity through restorative justice is that responsible parties take accountability for their actions, the harm is repaired to the best extent possible, individuals learn about each other and themselves, and there is a focus on the future which helps individuals feel safer, more empowered, and connected to one another.

10. **Follow up is required.**
    There must be structures in place to follow up with those responsible and impacted parties so that there is full closure and because keeping agreements is the key to building a trusting community.

11. **Strengthen the community in order to prevent further harms.**
    Through restorative justice, parties involved discover the holes and voids within their community that allow for harm and crime to happen. This is an opportunity to address those voids and hold the community accountable for its support to individuals as well. There may be community institutions, such as a faith community, that can teach and establish moral and ethical standards that build up the community.

MODEL CODE *and* RESTORATIVE JUSTICE:

At the University of San Diego, there are primarily two processes that students go through to resolve a violation of the student code. The first is often referred to as the _Model Code_ process, which includes administrative and board hearings. The Model Code is a formal process that prioritizes an objective assessment of the information available in order to make a fair and responsible decision. The second process is _Restorative Justice_, which is a collaborative decision-making process that involves impacted parties and community members as being central to the decision-making process.

Model Code	Restorative Justice Repairing Harm Conference
Third party objective evaluation of responsibility (Hearing Officer)	Collaborative decision making process (Impacted Parties/Community Members/Student Responsible)
Dependence on authority	Direct involvement by participants
Violation of policy	Violation of people and relationships
Stigma of incident permanent	Stigma of incident removable through active accountability
Accountability defined as punishment	Accountability defined as understanding impact & repairing the harm to impacted parties and community members
Little space for apology and forgiveness	Possibility for apology and forgiveness
Impacted party ignored / person responsible passive	Impacted parties rights/needs recognized; Person responsible encouraged to take responsibility
Isolation from community and impact parties	Reintegrating and reducing the risk of repeating the behavior by building positive ties to the community
Retributive sanctions aiming to deter, restrict, & prevent	Restitution as a means of restoring all parties, reconciliation as goal

THREE APPROACHES TO RESOLVING CONFLICT

There are three main approaches to conflict that are illustrated and explained below. The "I" symbols represent the parties in conflict, the "X" represents the facilitators or parties outside the conflict that are invested in its resolution, and the circle represents who is in charge of the outcome.

Coercive Power

- This is where one side has the ability or power to get the outcome they desire causing the other to go along even though the other would prefer not to.

Outside Authority

- This is where a person, or rule, or other source outside of those in the conflict is consulted and makes a decision for the parties directly involved in the conflict.

Cooperative Resolutions

- This is where the parties in the conflict come to their own agreement about how to resolve it. Sometimes they need assistance from an outside party, but that party is a facilitator only. There is no agreement until the parties in conflict come to their own agreement.
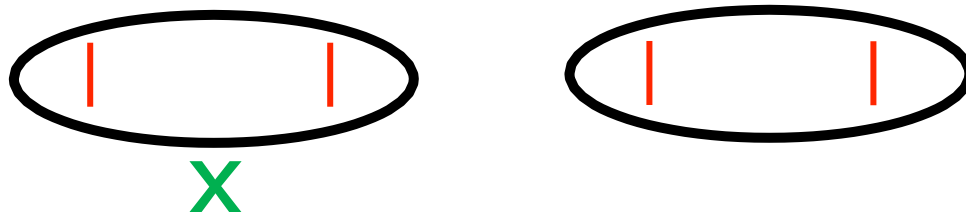
Although experience and research conclude that using Cooperative Resolutions is more efficient with resources and emotional well-being, there are a few main reasons why a cooperative resolution is not reached more often.

1. Parties in conflict lack the skills and strategies.

2. People and organizations lack the format and structure.

3. No one invites, encourages, or helps them.

4. The lens we look through in our culture says that when a person does something wrong, they must be punished.

   Adapted from Ron Claassen, 1998. /Center for Peacemaking and Conflict Studies/Fresno Pacific University.

RESTORATIVE SPECTRUM

The purpose of the continuum is to cultivate and nourish community and address conflict and harms in a way that promotes accountability, healing, and community building. It is important to work restoratively both proactively through building relationships and reactively through holding people accountable, in order to experience the greatest benefit. The restorative spectrum includes not only formal processes such as community circles and restorative conferences, but also more informal skills that inform how we interact with others on a daily basis. These more informal processes are referred to as restorative practices and are found at the proactive end of the spectrum.

Institute for Restorative Practices Restorative Continuum

Informal, less time, proactive --- Formal, more time, reactive

Affective Statements	Affective Questions	Restorative Dialogue	Community Circle	Restorative Conference

Affective Statements:

Structures of communicate that allow people to express their feelings, experiences, and needs in a way that does not blame others and creates open dialogue (see affective statements in "Skills for Success" section).

Affective Questions:

Questions that support people in thinking about how their actions have affected others.

Restorative Dialogue/Repairing Harm Conferences:

Informal or formal dialogue where there are blurred lines between the person responsible and impacted party or there are multiple parties with different perspectives where the focus is on creating understanding but not agreement.

Community Circle:

Structured circles that use a talking piece to focus on community building and sharing information, or to discuss large community issues or harm. The people responsible are usually unknown.

Restorative Conference:

Structured dialogue where the person responsible, impacted parties, and community members are brought together in a face to face dialogue to discuss a specific harm and find ways to make it as right as possible.

RESTORATIVE OPTIONS IN HIGHER EDUCATION

There are many restorative tools and processes that can be used in the university setting. This guide is specific to Conduct and Residential Life processes within Institutions of Higher Education. Addressed below are the five most common methods of implementation that are used in higher education. The goal of all 5 Restorative Processes is for the person responsible to acknowledge responsibility, identify the harm and obligations, and develop a restorative plan agreed upon by the person responsible and impacted parties. Language used in Restorative Judicial Processes is different than the language used in Traditional Judicial Processes so that stigmatization is less likely to occur.[1]

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[1] *Offender: Respondent or Person Responsible*
Victim: Impacted Party, Affected Party, or Harmed Party

Offense: Incident, situation, issue, event, circumstance

Process	Who	What	Uses	Timeframe	Differences	Examples
Restorative Hearing	Respondent, Conduct Officer	Meeting to discuss incident	For Traditional Conduct meetings	30min.-1hr	No victim participation	Any traditional hearing case- Shift from violations and sanctions to harms and obligations
Restorative Board (Also named Community Accountability Board, Integrity Board)	Respondent, Volunteer community members or standing board members (trained students, faculty, and staff)	Community Impact but no specific victims	For Quality of Life violations that impact the whole community	1-2 hrs	Committee facilitation. Educate on what it means to live in community.	Noise violations, MIP, Vandalism, Stealing University Property
Restorative Justice Conference (Also named Victim-Offender Conference, Conferencing Circle)	Respondent, Impacted Parties, Support People, Family Members, Community Members, Facilitator	Facilitator meets with participants before the conference and focus is on the harm	Identifiable impacted parties	1-2 hrs (On average: 2-8 hours of preparation to meet and prepare all participants individually)	Third party facilitation. Focus is on specific victims and offenders.	Abusive Language, Theft, Acts of Dishonesty, Alcohol Poisoning, Hospitalization
Peace Circle (Also named Circle Process, Circle of Understanding, Accountability Circle, Circle Sentencing)	Respondent, Impacted Parties, Community Members, Facilitator	Each person has an opportunity to participate equally	For a large number of participants, Specific questions are posed to all participants	1-2 hrs	Use of a "Talking Piece" for structured dialogue, sit in a circle with no table in the center	Cases with multiple offenders/ victims, topics that affect the whole university community-racism, sexism, alcohol abuse
Restorative Dialogue (Also named Mutual Responsibility Conference)	Respondent/ Impacted Party, Support People, Community Members, Facilitator	Focus is open discussion and apology	Line between impacted parties and respondent is blurred. Both were harmed and both are responsible for harm	30min.-1hr (On average: 1-4 hours of preparation)	Least structured process. Generally does not include a restorative plan	Brawling violations, alcohol violations from social gatherings

USD's Restorative Menu

Community Circles

Best Use: Helps address issues of concern to the larger USD community such as complex social issues, difficult current events, and community building. Some examples of the use of Community Circles include responding to hate crimes and USD Welcome Week community building.

Focus: Creates a space for participants with varying values, experiences, and backgrounds to discuss difficult topics in a safe space. Seeks to create a new understanding of the topic by engaging in a constructive and generative dialogue.

Restorative Dialogues

Best Use: Situations where multiple parties feel that the other has negatively impacted their experience at USD and previous communication efforts have been unsuccessful. These are often conflicts with seemingly very different perspectives such as roommate conflicts, Residential Life room changes, and conflicts between student organizations.

Focus: Creates a safe space where parties are able to explain their perspective and be heard. Seeks to generate increased understanding and agreements in order to best move forward in a positive way.

Restorative Justice Conference

Best Use: Student conduct cases where the student responsible expresses remorse about the impact they had on other community members and desires to apologize and repair to the best extent possible any harm caused. Students often report feeling that the Conference process was very meaningful because they actually took a role in determining the outcomes along with the impacted parties.

Focus: Students responsible for misconduct are provided an opportunity to take responsibility, apologize to those who have been harmed, and work with the other parties involved to identify appropriate ways of repairing the harm.

Harm Impact Circles

Best Use: Students referred to this Alternative Resolution Process through the Office of Ethical Development and Restorative Practices must accept responsibility for their actions and display a willingness to not negatively impact their community in the future. Impact Circles are led by two trained Restorative Justice facilitators and typically last 1.5 hours. Participants should expect to engage in a dialogue about community and the role that they play in shaping our community here at USD.

Focus: Harm Impact Circles create a safe space where parties are able to explain their perspective and be heard. These circles seek to generate increased understanding and agreements for how to best move forward in a positive way.

Reentry Circles

Best Use: When students are returning to the campus community following a suspension. During these circles, the student along with two Facilitators to identify community members that can support them in the circle. The circle supports the student in order to remain at USD and be successful.

Focus: Co-generate a success plan and timeline with the circle facilitators that includes academic goals & related strategies, social goals, identification of campus resources to use and a plan for use/completion, etc.

MYTHS ABOUT RESTORATIVE JUSTICE

Restorative justice is NOT . . .

Soft on offenses

The restorative plans developed from a restorative conference are often times more substantial than the traditional sanctioning process because the person responsible knows the impacted parties personally and is invested in making the situation as right as possible.

Easy

Interacting face to face with those who have been harmed, being vulnerable, and taking full responsibility for your actions is one of the most challenging processes a person can go through. It may be easier to be passive in a retributive system where punishment is being issued to the offender. The other option, which we expect from people responsible going through a restorative process, is to be an active participant by verbally taking responsibility, hearing the impact their actions had on others, and committing to make it right through action.

Primarily about forgiveness & reconciliation

RJ provides an open, supportive space for individuals to have a truthful dialogue about harm. This creates a context where forgiveness and reconciliation are nourished and therefore more possible, but forgiveness and reconciliation are not the focus nor the point of restorative justice.

Not mediation

Mediation encompasses conflicts and disputes in which no one is directly harmed— two people may strongly disagree about a particular issue, but it does not follow that one person has been harmed and the other has not. Also, in a conflict where mediation takes place, parties are assumed to be on an equal or level moral playing field, where responsibility is shared on all sides; this is generally not the case in RJ.

New or a Western development

The newer more Western development began in the 1970's in the Mennonite communities on the East coast, but restorative practices and principles date back to the beginning of human existence. Indigenous communities of particular note include the Maori people of New Zealand, First Nations of Canada, Derecho Maya in Guatemala, and Mato Oput in Uganda.

Intended mostly for minor offenses

Although the outcome and impact may seem greater in less severe cases (i.e. reduced recidivism or more openness to the process), it is almost more essential in higher level cases because the impact of a person's actions is more severe and impacted parties always deserve a voice.

A replacement for the legal system

RJ does not have all of the answers, nor can it fix all individual and societal problems alone. Some form of legal system can be helpful in supporting restorative processes by giving another option for those responsible to be held accountable. Legal systems are a way of being the voice of the larger community we all share, but a more restorative version of our current system could be more effective in holding people accountable and supporting restorative justice.

STUDENT DEVELOPMENT

Restorative justice is particularly relevant for the goals of student development and the campus community for three reasons.

1. **Gen Z:**

   Our current generation of students tend to have a strong connectedness largely attributed to online interactions, global exposure, and desire for community. Restorative justice, with its focus on community engagement, is able to tap into the communitarian impulse of our students in a unique way.

2. **Privilege, Social Justice, and Power:**

   A central value to our campus community is the focus on diversity and inclusion and our goal should be to create practices that assist in the formation of a welcoming environment that supports authentic dialogue and relationships. Restorative justice helps fill this important need by engaging diverse community members is conversations that are generative and constructive.

3. **Goal of Campus Conduct Programs:**

   Traditional conduct processes tend to lean more towards punishment and retribution while muting the voice of those who are impacted by behavior. The focus of any restorative approach is emphasizing the education and development of all those involved for authentic reconciliation and reintegration for community members.

Although there is some overlap between Model Code and Restorative Justice processes, there are significant differences that help to emphasize different learning and development goals. The Model Code process is best suited for incidents that are adversarial or where the student is denying responsibility. The restorative process is better suited for incidents where the offending student takes responsibility for their behavior and expresses a degree of remorse for the impact they have had.

The Council for the Advancement of Standards (CAS) identifies several goals for student development. Connections between these goals and the goals associated with Restorative Justice include the following:

Student Development Goals	Restorative Justice Goals
Leadership	Active Accountability
Ethical Development	Repairing Harm
Interpersonal Competence	Interdependence
Cognitive Complexity	Reflective Thinking
Communicating Effectively	Building Community

Goals and outcomes for the Restorative Conference process have been created for both the students responsible and impacted parties.

Learning Goal 1

Students responsible participating in a restorative justice process will take an active role in identifying how they have harmed others and take steps to repair the harm to the best extent possible.

Learning Outcomes:

1. Students responsible will be able to articulate the diverse viewpoints of impacted parties involved in an incident. *(interdependence, reflective thinking)*

2. Students responsible will identify any harm they have caused and how they will avoid repeating these harms in the future. *(active accountability, repairing harm)*

3. Students responsible will demonstrate an ability to reach agreement with impacted parties on how the harms can be repaired and carry out their agreement. *(interdependence, building community)*

Learning Goal 2

Impacted parties participating in a restorative justice process will be able to talk about the impact that the behavior of those responsible had on them, feel empowered by the process, and have any harms repaired to the best extent possible.

Learning Outcomes:

1. Impacted parties will be able to articulate how the incident harmed them and how the person responsible can repair the harm. (active accountability, reflective thinking, and repairing harm)

2. Impacted parties will report having received an apology from the offender and as a result feel more likely to forgive the offender. (building community, interdependence)

Learning Goal 3

As a result of a Restorative Justice Process, participants will feel as though they have taken an active role in the process, report feeling heard by other participants, and are satisfied with the final outcome.

Learning Outcomes:

1. Participants will report feeling their voice was heard and respected during the process.

2. Participants will report being satisfied with the outcome and if an agreement was reached they are confident it will be completed.

SHAME AND REINTEGRATION INTO COMMUNITY

Understanding the role of shame in addressing student behavior and community development is essential to restorative justice. Shame can be a powerful deterrent to repeating behaviors but not all practices of shaming promote learning and reintegration into the community. Practices known as "disintegrative shaming" serve to stigmatize or label the offender as "bad" or not belonging to the community. When this happens the student can feel that they personally have been rejected rather than their damaging behavior.

> **Disintegrative shaming serves to stigmatize or label the offender as "bad" or not belonging to the community.**

When we use or allow practices that produce disintegrative shaming we undermine our goals of student development and community building for three reasons.

- It fails to separate the behavior of the person responsible from all of who they are as a person. By not recognizing that they are more than their behavior, we assume they are likely to repeat the behavior and are not willing to repair the damage their behavior created.

- It tends to create more distance between the person responsible and the impacted parties, thereby polarizing the community and making active accountability more difficult.

- It drives the person responsible away from the community and creates an adversarial environment where the student is less likely to experience active accountability and reintegration into the community.

APOLOGIES

Expression of an apology between the offender and impacted party is probably the most common outcome of a restorative process. In fact, it is not uncommon for a sincere apology to be the only outcome impacted parties desire. Unfortunately, we currently have poor role models in our society for what a sincere apology entails. Therefore, this becomes an important area of student development and community building.

During the pre-conference stage, facilitators may spend a significant amount of time with the offender role-playing the apology. We do this while understanding that we cannot truly have a full understanding of what the apology should entail until we hear from impacted parties how they were affected by the behavior. Students are also asked to write out their apology in advance in order to make sure they cover each of the elements of a sincere apology.

APOLOGY LETTER FORMAT

Date

Dear (Name),

1st Paragraph

> WHAT HAPPENED: Be specific about what you personally did, not about what others
> did. Be honest about how your thoughts and feelings at the time as well as what your
> thoughts and feelings were right after the incident. Avoid expressions that deny,
> displace, or minimize responsibility.

2nd Paragraph

> REFLECTION: Write about how you feel now after you have thought about the incident
> and your behavior. What have you learned as a result? What have you done since the
> incident that might demonstrate you have learned and regret the behavior? Why did
> what occur matter?

3rd Paragraph:

> FUTURE STEPS: Write about the changes you are making for the future. Talk about
> some personal, school, family, friendship, work, service/involvement, or other goals you
> plan to pursue. Tell how you are going to keep this from happening again in the
> future, and how you want your friends, family, and community to help you.

4th Paragraph:

> APOLOGY: Write your apology here. This is about your personal thoughts and/or feelings
> that you have about the person/office/community that you have impacted. This is the
> place to say you are: "sorry for what happened," and regret what you did because it
> caused them so much trouble or hurt them. You can use whatever words you think
> might best express that you can see how your actions negatively affected another
> person. Close with any final positive words or hopes you might have for their future
> and yours.

Respectfully,

(Sign your name here)

PRINT Your Full (First & Last) Name Here

FORGIVENESS

Restorative processes value the perspectives and voices of those who are directly impacted by the student responsible's behavior and therefore forgiveness is sometimes, but not always, an outcome of the process. Forgiveness can indicate a level of trust, reconciliation, and community building between the offender and impacted party. Facilitators often find themselves discussing with the impacted party their willingness to forgive and reconcile with the offender. As a result, there are some important considerations to understand about what forgiveness is and is not.

Forgiveness **is something we do for ourselves in order to release negative emotions of hate, anger, and resentment.**

Forgiveness is not about or done for the offending student. Forgiveness is a step towards a personal development that promotes balance, peace, compassion, and harmony in our lives.

In his workbook titled, *"Your Personal Guide to Forgiveness,"* Azim Khamisa lists what forgiveness is and what it is not in the following ways.

Forgiveness is:

- A gift you give to yourself

- A choice

- Choosing to let go of the past and move on to begin a brighter future

- Breaking the cycle of hatred, resentment, anger and pain

- A transforming experience that fosters more positive emotions and less negative thoughts about others as well as oneself

Benefits to forgiveness:

- Enhanced capacity to trust

- Profoundly reduces stress

- Freedom from the control of events of the past

- Improved physical health

- Enhancing existing interpersonal relationships

- Decreased levels of anger and hostility

- Improved ability to control anger

- More capacity for love and joy

- A calm disposition

Myths of Forgiveness:

- Forgive and Forget

- Forgiveness removes consequences

- Forgiveness is acting as though it did not happen

- Forgiveness is a quick fix

- Forgiveness is a sign of weakness

- Forgiveness is an event

- Forgiveness is pardoning, condoning, or excusing the behavior

- Forgiveness removes consequences

Ultimately, forgiveness is not a prerequisite for a successful restorative conference. Facilitators should work to make explicit an impacted party's desire to forgive or not as well as prepare the responsible student for the reality that an impacted party may not be ready to forgive.

RESTORATIVE JUSTICE AS A CORE STARTING PLACE FOR STUDENT DEVELOPMENT

Effectively addressing student behavior and conflict involves a number of processes that range from less to more formal. In the area of student conduct, there are multiple adjudication processes to address misbehavior. At USD we see restorative justice as complimentary to our conduct processes, not as a replacement. Restorative justice practices engage students in an ethical dialogue about what happened and the harmfulness of their behavior.

For most students, a restorative approach has the greatest chance of helping them to examine and reflect upon their behavior, develop new insights into the impact they have had, and understand the

At USD we see restorative justice as complimentary to our conduct processes and not as a replacement.

consequences of repeating the behavior in the future. If this approach does not work then there are other options that help to deter or restrict the student, but these options are reserved for when the student cannot be persuaded through rational or moral appeal.

David Karp (www.campusrj.com) illustrates this approach in the below diagram.
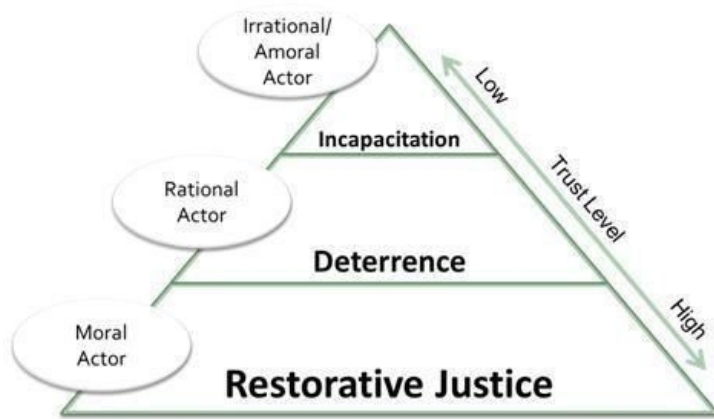
The level of trust the community has for the person responsible's ability to behave in ways that are considered moral and rational determine the appropriateness of a particular process. If the community believes that the person responsible is moral and there is trust in the person responsible then a restorative justice process is an appropriate course of action. It may also be that a complimentary blend of outcomes that are both restorative and a deterrent are appropriate.

Restorative Justice	Deterrence	Incapacitation
Restitution	Fine	No Contact Letter
Apology	Parent notification	Probation
Community involvement	Probation	Suspension
Substance abuse education	Loss of a privilege	Expulsion

TIMELINE

Each restorative justice referral is unique and there are a number of factors that impact the length of time between referral and conference. The goal is always to be as timely and efficient as possible while ensuring that an educational and thoughtful process is created. Factors such as the person responsible and impacted party readiness, parallel adjudication processes, party response time, and busy schedules can slow the pace of completing a conference. Facilitators are encouraged to maintain weekly communication with the referring hearing officer and discuss any ongoing challenges. What follows are general guidelines to help facilitate a timely and consistent process using a 2 week time frame.

Days 1 -2:

Within 48 hours of being notified of a referral, facilitators make contact with the responsible student to schedule a pre-conference or pre-circle meeting

Days 3-5:

Hold pre-conference or pre-circle meeting with the person responsible to prepare for and identify impacted parties. This meeting should be held within 5 business days of receiving the referral.

Days 6-9:

Contact impacted parties to complete pre-meetings. Co-facilitators may use their professional judgment about whether it is appropriate to divide up meeting with impacted parties or not. In the case of more serious impact, it is advised that both facilitators meet with the impacted party together.

Days 10-14:

Schedule and complete the restorative practice. Complete follow-up steps.

CHALLENGES TO A TIMELY PROCESS

1. **Student Responsible is not responding:**

Upon referral the student is informed that the facilitator will contact them within the next two business days and that it is their responsibility to immediately respond to any phone calls or emails regarding this process. If the student is not responding after reasonable attempts are made, notify the Hearing Officer for assistance. They will work with you to contact the student and determine the best way of moving forward.

2. **The student responsible is not ready for the conference:**

As facilitators go through the pre-conference steps they may feel that the student responsible is not ready to go forward. It is not uncommon for facilitators to decide that a 2nd or even 3rd pre-conference is necessary in order to help the student be ready to take full responsibility. Because we do not want to be irresponsible in exposing impacted parties to a further harm, use your good judgment and training to make a decision about when the offender is ready for the conference (see pre-conference Step 9). Keep the Hearing Officer informed of any challenges.

3. **RA Participation as Impacted Parties:**

Participation in a restorative conference is always voluntary. When RAs are considered impacted parties in an incident, they should not be contacted in the same way that we might contact a professional colleague (CD, DPS, etc.). This includes informal contact through email or passing conversations. Contact with RAs should be sensitive to the potential harm the RA experienced as well as the influence and power-dynamic of supervisory relationships. Despite their leadership role and training, RAs are students too and require the same sensitivity in addressing impact or the harm as we give any other impacted party.

4. **Not using a Co-Facilitator:**

USD uses a co-facilitator model for all Restorative Conferences (see section on Role of Facilitator); however, facilitators may use their judgment to divide up work appropriately. This typically includes meeting with impacted parties or addressing logistical tasks. Both facilitators should be present for the Person Responsible Pre-Conference and the actual Restorative Conference.

5. **Ending the process early:**

There are times when a referral cannot go to a conference. This typically involves the person responsible's or impacted party's readiness and/or willingness to engage with the process. If this is a possibility, the facilitator should consult with the Hearing Officer. The expectation is that when a referral does not go to a conference the student responsible verbalizes this decision and is prompted to take responsibility by acknowledging that going to conference is not a viable option for them. The student is then referred back to the Hearing Officer.

FACILITATOR ROLE

1. To facilitate

The facilitator creates a space for open dialogue and helps to identify ideas for moving forward after the conference. The facilitator keeps the discussion moving by handling conflicts that come up in a way that does not harden positions. The focus is on phrasing and rephrasing areas of possible agreement and clarifying understanding.

2. To clarify wants and needs

The facilitator helps all parties identify their underlying feelings and needs, realizing that individuals acting from anger, pain, and a desire to punish may demand inappropriate outcomes. The facilitator helps parties voice underlying needs in order to identify an outcome that is truly healing to them.

3. To keep the restorative process intact

The facilitator leads and protects the conference structure by sharing the structure with all participants and holding to the structure. The facilitator assures a safe space for all participants by emphasizing and enforcing ground rules throughout the process.

4. To be an invested community member

The facilitator is also a community member who cares about the individuals participating in the conference and may have a personal relationship with some or all participants. Therefore, it is important that the facilitator is thoughtful about these relationships. It is recognized that being "impartial" is not possible or desirable given our small community, so we ask that facilitators strive to be "equally partial."

CO-FACILITATION MODEL

It is helpful to have a co-facilitator model when possible in order to have extra support in the conference process. At USD, one facilitator serves as the Lead Facilitator and sets ground rules, explaining the process, and telling individuals when it is their time to participate. The Co-Facilitator is the support person by taking notes, filling in where the Lead Facilitator forgot something, asking other challenging questions, etc.

Advantages of Co-facilitation for Participants

- Co-facilitation can better represent the diversity of the participants and make them feel more comfortable (gender differences, age differences, different ethnicities, etc.).
- Participants have the benefit of the combined skills of two facilitators and a more comprehensive and balanced experience.
- Facilitator bias and shortcoming are less likely to surface with a partner.

Advantages of Co-facilitation for Facilitators

- Having a partner eases the workload and responsibility of larger cases with multiple parties and perspectives.

- It is easier to find a balance of tasks that resonate with each facilitator. For example, a more structured, task oriented facilitator is paired with a facilitator that likes holding people's emotions in a space.

- Co-facilitation allows for mentoring, giving feedback after the conference, and learning new skills and techniques from one another. It holds each facilitator accountable to learning and growing with each case.

- It is less likely that a facilitator will be accused of favoritism when another facilitator is present.

- You can help each other out! If a facilitator gets off track or doesn't know where to go a particular situation, there is another facilitator with a fresh perspective who can intervene.

Disadvantages of Co-facilitation

- Participants have to discuss their private, painful, complicated matters with additional person.

- Participants may witness a division between facilitators on a particular topic or process.

- Facilitators can experience complications in scheduling sessions.

- Dividing responsibilities between facilitators can be awkward and challenging depending on facilitation styles and personal experiences.

SKILLS *for* SUCCESS

ACTIVE LISTENING

The core of effective facilitation is active and empathetic listening. That means hearing not only the words that are said but trying also to understand the assumptions and feelings behind the words. It means listening without judgment and trying to understand WHAT the person is saying and WHY they are saying it without thinking about whether you agree or disagree. If you are able to listen in this way, it can create an environment in which participants are able to express themselves more fully.

Non-Active Listening	Active Listening
Give the other person your version	Repeat back to them, in your own words, your understanding of their meaning
Introduce new topics to get off the subject if it's uncomfortable	Let the speaker take the lead. Ensure them that you want to hear and understand them
Think about what you are going to say next while the other person is talking	Concentrate fully on what the other person is saying
If you don't understand what they are saying, pretend you understand to make them feel comfortable and you not feel foolish	Ask for clarification when you don't understand
Don't let them correct you. Keep pushing your own perception of what happened	Keep trying to understand their perspective
Reassure: "That's not so bad…"	Let them come to their own answer; your answer may not be theirs. Don't give advice.
Agree with generalizations: "Yes, it is terrible; there is nothing you can do."	Reflect back so they know you understand, and so they can hear and understand themselves.
Dismiss their feelings: "You'll feel better over time"; "It's not the end of the world."	Support their feelings: "You can't think of anything that can fix this"; "You feel that there is no way you can face them"
Fill silences	Allow silences. Breathe.

Adapted from YouCan Peacebuilders Conflict Resolution Guide, 2001

Tips for Facilitators:

- Be present! Sometimes our minds can wonder, and we forget to focus on what is being said. It is important to remind ourselves to focus on the moment.
- Watch for non-verbal responses and tone of voice: they tell you about feelings.
- Watch your own body posture. Be open. Show interest. Make sure that your facial expressions are appropriate. Eye contact is important.
- Listen for content. Read between the lines to hear the fears and concerns underlying what is being expressed.

AFFECTIVE STATEMENTS

"In an effective response, the wronged person lets the wrong-doer know how he/she feels about the incident." – O'Connell, Wachtel, (Real Justice Conferencing Handbook)

Affective statements are personal expressions of feelings in response to specific positive or negative behaviors of others, and 'I statements' that humanize the person making them, immediately changing the dynamic between the people involved and making it possible to improve relationships in the community. Affective statements show that the offender is part of a larger caring community and that impacted parties want them to understand their impact and restore their relationship (IIRP article about affective statements in schools).

Affective Statement Formula

I feel_____when _____ and what I need is _____.

    (name the feeling)   (describe the situation)   (share needs)

Affective statements are one of the most useful tools in the restorative toolbox. These statements can be woven into our daily interactions with our students, colleagues and friends in order to create stronger and more authentic relationships. Affective statements allow everyone to have a voice in a non-threatening way that allows for open and respectful dialogue.

Examples of positive and negative affective statements:

"I feel invisible when my thoughts and opinions are not recognized during meetings and I need a physical or verbal acknowledgement such as a head nod or saying, 'I hear you.'"

"I feel safe when Public Safety periodically patrols our parking structure and what I need is for Public Safety to commit to doing at least 2 walk throughs of our parking garage every night."

"I feel sad when derogatory language is used in my presence and I need a safe space to acknowledge when that language is being used so that we can all become more aware and support each other."

"I feel frustrated when quiet hours are not respected and what I need is community members to respect these hours so that I have adequate time to sleep and study."

"I feel happy when our staff has opportunities to gather socially outside of our staff meetings and what I need is more structured social time together so we can connect and enjoy being around each other."

ASKING GOOD QUESTIONS

The ability to ask good questions is essential to effective facilitation. Asking questions is a way to bring out greater analysis and opinions from your participants without speaking for them. Asking the right questions is very important so that the responses are more in-depth and have more information, not less.

There are 4 types of questions you can ask to help elicit dialogue and encourage thinking:

1. **Open-ended questions:**

   Could you tell me more about how that impacted your ability to work? What lead you to that perspective?

2. **Probing questions:**

   What is it about this that concerns you most? Please tell me more about how you feel about what happened.

3. **Points of clarification:**

   What did you mean when you said…?

4. **Justifying questions:**

   Earlier you said＿＿＿, and I thought I just heard you say＿＿＿＿. Can you tell me how you think you would want to address this?

Tips for Facilitators:

- Ask questions to help push the conversation to enable participants to think not only about WHAT they believe, but WHY they hold that belief, how they feel about it, and how that relates both to what happened.

- Help participants recognize the assumptions they are making about what happened, about the other person(s) involved, etc.

- Enable participants to connect new ideas and concepts.

- Make questions as concise and to the point as possible.

BUILDING EMPATHY

"Empathy is really the opposite of spiritual meanness. It' s the capacity to understand that every war is both won and lost. And that someone else's pain is as meaningful as your own."
-Barbara Kingsolver

Empathy is the ability to understand and share the feelings of another. Empathy is about being able to place yourself in another's shoes while having a firm understanding that their feelings are not your own. Showing empathy and recognizing the other person's emotions will help you to validate how the other person is feeling and what they are saying. This validation will help facilitate the foundations of trust, understanding and connection between you and the speaker.

A key foundation to engaging in an empathetic conversation is to have one speaker and one listener. Allow the speaker to tell their story with as much detail and emotion as they feel comfortable sharing. Allow yourself to listen as if your only job is to listen and try to understand. Be fully present and listen actively. After hearing the person tell their story, you should be able to answer the following questions:

- What was their perception of the occurrence?
- What was troubling about this occurrence?
- What were the emotions that they felt at the time of the occurrence?
- What emotions are being expressed in this moment?
- What do their need from you (which is often just to be empathetic)?

When you respond to the speaker, respond with how their narrative affected you emotionally:

"Wow, I can tell that this experience really challenged you."

"Thank you for sharing, I see that it was a very frustrating day for you."

Reflecting the person's feelings back to them encourages them to continue talking about their emotions. Giving the person space to identify their emotions is a key piece of building empathy.

5 steps to cultivate empathy:[2]

WATCH & LISTEN: What is the other person saying, and what is their body language?

REMEMBER: When did you feel the same way?

IMAGINE: How does the other person feel? And how would you feel in that situation?

ASK: Ask what the person is feeling.

SHOW YOU CARE: Let them know that you care through your words and actions.

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[2] From edutopia.org

BUILDING RAPPORT

"Rapport is the ability to enter someone else's world, to make him feel that you understand him, that you have a strong common bond."
-Tony Robbins

Building rapport is a skill that is useful in any context, but it is essential for restorative processes. Below are a few key steps to building rapport.

1. ### Find a common ground
   Try your best to find something that you have in common. A good way to do this is to ask open ended questions and actively listen for commonalities. It is important to be sincere in this process and find something that you can bond over. It is helpful to show genuine interest in the person's life, hobbies and interests.

2. ### Be empathetic
   Really try your best to place yourself in that person's shoes and see things from their perspective. This helps you connect with the person on their level. As the listener, it will help you to have authentic reactions and responses to further build your connection with the speaker.

3. ### Use mirroring
   Adjust your body language to match that of the person talking to you. You can also mirror their tone of voice, volume and speech patterns. It is important to not match everything the person is saying or doing but instead to make them feel comfortable.

4. ### Don't forget the basics of good communication
   Keep in mind the basics of good communication as they are helpful in building good rapport. Things like shaking hands, using their name in conversation, looking the person in the eye, smiling, asking open ended questions, being sincere and facing the person with open body language are all components to healthy communication.

Questions for building rapport with students when you meet for the first time:

- How are your classes? Favorite class this semester?
- Have you decided on a major? Why did you choose it?
- How was your weekend?
- Where do you call home?
- Why did you choose USD (or your college/university)?
- What's your favorite thing to do off campus?
- Are you involved in any clubs, sports or student organizations? Tell me more about that. What are you doing this semester with them?

The goal of building rapport should be making the student feel comfortable and connected with you as the facilitator. The better you do this, the easier your entire facilitation will go, and the student is much more likely to be open and honest with you about their experience.

PARAPHRASING

Paraphrasing builds on good active listening skills by taking them one step further. Paraphrasing focuses on listening first and then reflecting back the speaker's message by focusing on the facts and the feelings expressed in what was shared. Usually, the fact is clearly stated by the speaker, but it takes some reading between the lines and emotional competency. This skill will help check that you have heard the speaker correctly; therefore, accuracy is important. It gives the speaker an opportunity to clarify their statement and get in touch with what feelings they have attached to the experience they are sharing.

Examples for statements to restate fact:

- "So you're saying that…."
- "You believe that…."
- "The problem is…"

Examples for statements that capture feeling:

- "You feel that…"
- "Your reaction is…"
- "And that makes you feel…"

Paraphrasing is key to building rapport with the speaker and ensuring that they feel heard and correctly understood. More importantly, as a facilitator, paraphrasing helps you really focus on what the speaker is actually expressing to you and make sure that you are understanding it as clearly as possible.

Guidelines for Paraphrasing[3]

1. Be attentive and offer your perception of what the speaker has said.
2. Avoid telling, informing or defining for the student.
3. Be respectful- do not judge, dismiss or use sarcasm.
4. Use your own words; repeating verbatim is not paraphrasing and may seem like mimicry.
5. Listen to the depth of feeling expressed by the speaker and match the level in your response.
6. Do not add to what the speaker said; evaluate it or interpret it.
7. Be congruent and don't pretend you understand. You might say something like "I want to understand. Let me check with you…"
8. Be brief and direct in your response.
9. Keep your voice tone level. Paraphrasing in a shocked or disbelieving tone of voice is unlikely to communicate either acceptance or empathy.

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[3] From Integrative Counseling Skills in Action by Culley and Bond

REFLECTING

It is important to provide opportunity for parties involved to reflect on the incident in a way that is meaningful and honors their experience. The reflective process is especially important in helping make sure that all people have a clear idea of what they are going to say in the Conference.

As a facilitator, it is important to make sure that each person has taken the proper steps to prepare themselves for the restorative process and has considered all of the angles of the situation. You would not want a student to go into a conference having not thoroughly reflected on their experience.

When a student is reflecting on their experience in person, be sure to leave space for their response. If there is a pause in conversation, give them a minute or two to think and continue speaking rather than jumping right in with your response. Ask open ended probing questions to encourage them to really consider the incident, how it has impacted them and what the potential outcomes could be.

A good practice is to encourage the students involved to write down notes during their pre-conference meeting and add to those notes prior to coming to the conference. Included in these notes should be an outline of what happened in the situation, how they've felt about it and their thoughts on what could be done to repair the harm that has been caused.

A technique to consider to encourage reflection in your preconference meetings is a What?/So What?/ Now What? style of conversation. It is a basic way to promote discussion that begins with reviewing the details of the experience and moves toward critical thinking, problem solving, and creating an action plan.

What?
- Descriptive
- Facts: What happened and with whom?
- Substance of group interaction

So what?
- Shift from descriptive to interpretive
- Meaning of experience for each participant
- Feelings involved and lessons learned
- Why?

Now what?
- Contextual-- seeing this situation's place in the big picture
- Applying lessons learned/insights gained for new situations

  Setting future goals, creating an action plan