

Policy for Approval of Restorative Justice Facilitators Nebraska Administrative Office of the Courts and Probation

SECTION I. APPROVAL OF FACILITATORS

A. Authorization

Neb. Rev. Stat. § 25-2918(2), sets forth in part: “The Office [of Dispute Resolution] may adopt and promulgate policies and procedures to carry out the Dispute Resolution Act.” Further, Neb. Rev. Stat. § 25-2912.02, states: “The Office and the approved centers shall strive to conduct restorative justice programs in accordance with best practices, including evidence-based programs, and shall adopt policies and procedures to accomplish this goal.” Therefore, the Office of Dispute Resolution (ODR), performing its duties on behalf of the State Court Administrator, together with the ODR-approved centers are responsible for approving facilitators who meet the standards of practice for facilitating cases under the Dispute Resolution Act. In that regard, the facilitator who has met the criteria shall be known as an “approved restorative justice facilitator.”

In accordance with Neb. Rev. Stat. § 25-2903, the policies adopted herein shall govern the ODR-approved centers and the restorative justice facilitators employed or affiliated with such centers.

B. Definitions

1. **Approved Center.** A center that has applied for and received approval from the director of the Office of Dispute resolution under Neb. Rev. Stat. § 25-2909.
2. **Center of Approval.** The approving center with whom a restorative justice facilitator affiliates and submits relevant documentation for approval.
3. **Restorative Justice Facilitator.** A person trained to facilitate juvenile and adult restorative justice practices as a staff member or affiliate of an approved center.
4. **Restorative Justice.** A practice, program, or service that emphasize repairing the harm caused to victims and the community by persons who have caused the harm or committed an offense, under Neb. Rev. Stat. §§ 25-2903(10) and 25-2912.01.
5. **Dispute Resolution Act.** The provisions of Neb. Rev. Stat. §§ 25-2901 to 25-2921.

C. Application and Approval of Restorative Justice Facilitator

The process for the approval of restorative justice facilitators authorized to practice in accordance to the Dispute Resolution Act includes both application and approval.

1. **Application for Approval.** An interested individual shall submit an application for approval as a restorative justice facilitator based upon the Policy and criteria stated herein. Each respective ODR-approved center shall provide a standardized application form, and each center is responsible for the final approval of their affiliated restorative justice facilitators authorized to practice under the Dispute Resolution Act. If said person is already an approved affiliate of the center, only notification of interest as a restorative justice facilitator, according to the center of approval’s designated procedure, is required as well meeting the requirements outlined in this policy.

2. Approval of Restorative Justice Facilitators
 - a. Consideration for approval as a restorative justice facilitator should include, but is not limited to, the following:
 - i. Meeting the training, educational, and apprenticeship standards for restorative justice facilitators as set forth under Section II of this Policy;
 - ii. Adhering to the *Nebraska Restorative Justice Facilitator Standards of Practice*; and
 - iii. Demonstrating and maintaining an active status as a restorative justice facilitator.
 - b. Disclosure of any prior criminal convictions and professional licensure suspensions or revocations. A child abuse and criminal background check will be conducted.
 - i. If results of the background check raise concerns, the center of approval shall make the final determination.
 - ii. The center director shall maintain documentation to support the final determination.
 - c. Approval may be denied by the center if any of the above criteria is not met.

D. ODR-Approved List of Approved RJ Facilitators

1. Each center shall develop and maintain a *List of Approved Restorative Justice Facilitators* that includes their status and the process(s) they facilitate.

ODR shall oversee the maintenance and distribution of each center's list. The lists shall be made available upon request to all those who may reasonably be expected to have need of it, including the courts, attorneys, and the public. Each center's list will be maintained and regularly updated by the center's staff, and provided to ODR annually as part of each center's annual report.

SECTION II. TRAINING AND EDUCATION

PART I. TRAINING

A. Required Restorative Justice Training

The primary foundation of all restorative justice facilitators, programs, practices, and services is to "do no harm." All practitioners including, but not limited to, facilitators shall hold this motto forth by adhering to trainer guidelines, the *Nebraska Restorative Justice Standards of Practice*, and this *Policy of Approval of Restorative Justice Facilitators*.

1. To be eligible for approval as a restorative justice facilitator, the facilitator for an ODR-approved center shall have successfully completed ODR-approved Basic Mediation Training and Basic Restorative Justice Training.

2. All Basic Mediation Trainings and Basic Restorative Justice Trainings approved by ODR prior to the implementation of this Policy shall be considered as approved training under the Dispute Resolution Act.
3. *Recency of Trainings.* To ensure that applicants for approval as restorative justice facilitators are well qualified, those individuals who have successfully completed approved required trainings may need to retake the trainings, or make other accommodations as determined by the center of approval, in order to be eligible for approval as a restorative justice facilitator if the training is more than five years old and the facilitator is not current in continuing facilitator education or has not been actively facilitating. Other accommodations may include successful completion of continuing facilitator education, apprenticing in restorative justice cases with supervisory facilitators, or other relevant actions.
4. *Restorative Justice Trainings Not Pre-approved by ODR.* The center of approval may determine that facilitators who have not taken an ODR-approved training have received the equivalent of the ODR approved training. Such facilitators shall submit information adequate for the center of approval to determine whether the training received is in substantial conformity with approved training. The center of approval may require the facilitator to take parts of an ODR-approved training or make other accommodations if any aspect of the training was lacking (e.g., Nebraska ethics).

B. Core Values of Restorative Justice Training

To be approved by ODR, a training program shall be conducted in accordance with the core values of restorative justice as reflected in the following definition:

Restorative justice is a confidential process in which individuals who have caused harm have an opportunity to make amends to those who were harmed. Restorative justice facilitators adhere to a set of principles, including (1) victim sensitivity and restoration; (2) offender accountability; and (3) community and public safety. Such programs include victim/offender or victim/youth mediation, circles, victim impact panels, and/or group conferencing. During a restorative justice process, a trained facilitator oversees and guides the participants in a balanced process that allows all parties involved to review facts, reflect on feelings, and explore mutually acceptable outcomes.

The content of restorative justice trainings should be based upon evidence-based practices and reputable research.

C. Content of Approved Training Curriculum

An approved *Basic Restorative Justice Training* course curriculum shall include, but not be limited to, a demonstration of a good working knowledge of the following topics:

- Restorative justice principles and values
- Restorative justice philosophy
- Three key stakeholders of restorative justice practices (victim, offender, and community)
 - Role of community and support people in various restorative justice processes
- Victim awareness, resources, and rights
- Trauma-informed care, crisis management, and skill development
- Offender awareness, resources, and rights
- Overview of various restorative justice processes (e.g., victim youth conferencing, circles)
 - Voluntary Process
- Facilitation skill development
 - Practical applications and experiential activities, including role plays with observation and feedback
- Basic restorative justice skills
 - Basic facilitation skills (e.g., active listening, open-ended questions, tone of voice, body language, mutual respect reframing, restorative language, group dynamics)
 - Other skills based on models of various restorative justice processes
- Facilitation and co-facilitation
- Systems training of relevant programs or agencies (e.g., judicial, criminal justice, schools, etc.)
- Assessing appropriateness and preparing for the facilitation
- Role of surrogates and community members
- Cultural awareness and cultural sensitivity (e.g., mental health, diversity, equity, inclusion, disability, language, race, sex, country of origin, sexual orientation, gender identity, etc.)
- Writing agreements and summaries
- Process evaluation and reflection
 - Ethical standards and confidentiality

D. Training Methodology

1. Basic Restorative Justice Training must be a minimum of 16 instructional hours.
2. Basic Restorative Justice Training should include adult learning theory approaches to education, including but not limited to: presentations, group discussions, written and oral exercises, and additional readings.
3. At a minimum, every trainee should take part in at least one continuous role-play acting as a solo or co-facilitator and as a participating party (party who caused harm, party who was harmed, or community member). To accommodate both roles, trainees may rotate roles (i.e., facilitator and participant), within the same role play. A continuous role-play is defined as one beginning with the facilitator's introduction and continuing through to a

resolution, or one that is a minimum of 45 minutes in length. These role-plays are to be conducted under the supervision of a qualified coach – one that is an experienced facilitator and has received training on providing quality feedback. At the conclusion of each role-play, time should be allocated for oral feedback to the group. A coach shall observe no more than one role-play at a time. Trainers must present a role-play facilitation simulation (either live or by video) prior to the participants’ role-play experience as a facilitator.

E. Training Administration

1. **Participant Attendance.** Trainees must demonstrate successful completion of all components of one entire training program. The lead trainer is responsible for ensuring that the integrity of each portion of the program is not compromised. Trainers shall provide written documentation attesting to the trainee’s attendance at the training. Under no circumstances may an individual be excused from attending portions of training without making up the portion missed, as directed by the lead trainer, preferably during the training period. If more than 60 minutes is missed of a single subject matter presentation, the trainee must attend that portion of a future training program or comply with another ODR-approved method.
2. **Training Evaluation.** For all approved trainings, evaluations of the training and trainers shall be collected. Copies of the evaluations and a roster of participants who completed the training shall be submitted to ODR within 30 days of completion of the training.

F. Facilitation Training Program Approval

For a Basic Restorative Justice training program to be considered for approval by ODR, the provider must submit the following information to ODR at least 60 days prior to the training event.

1. Trainers’ Qualifications
2. Student Instructional Materials
3. Program Design (Curriculum and Training Methodology)

The ODR will review the program materials for compliance with the parameters described in subsections (C) and (D) of this section. The ODR will notify the provider, in writing, whether the training has been approved or denied, including a summary of any deficiencies, within 30 days of submission.

PART II. SURROGATE TRAINING

A. Minimum Victim-Surrogate Training

For some restorative justice programs, harmed parties may choose not to participate in the process. In such instances, restorative justice facilitators may solicit the participation of a victim-

surrogate. To be eligible as a victim-surrogate, a surrogate should have participated in a victim-surrogate training. Such training should be a minimum of two (2) hours.

Each center may conduct in-house victim-surrogate trainings.

B. Victim-Surrogate Training Content

A Victim-Surrogate Training should include the topics described below:

1. Introduction to principles of restorative justice and restorative conferencing
2. Volunteer victim or surrogate testimonial
3. Experience and needs of victims and offenders
4. Role of victim-surrogates and substitutes
5. Talking ‘with’ offenders vs. talking ‘to’ them
6. Agreements and reparations
7. Short role-play (minimum 20 minutes) to demonstrate deep listening, silence, and response

C. Surrogate Training Administration

1. Victim-Surrogate Trainers. Victim-surrogate trainers must be an approved restorative justice facilitator who has demonstrated satisfactory skills as a restorative justice facilitator and has been properly trained in victim awareness, victim’s rights, and victim empathy.
2. Continued Training. If after 90 days of initial training or one year from previous facilitation, the trained victim-surrogate has not participated in a restorative justice process, the individual should complete a minimum 0.75 hour truncated refresher training.

PART III. APPRENTICESHIP & MENTORSHIP

A. Required Apprenticeship

1. Apprentice facilitators should participate in restorative justice processes as co-facilitator or assist an experienced facilitator prior to serving as sole facilitator in order to build a body of experience and competency and advance at the supervisory facilitator’s discretion.
2. Such apprenticeship should include co-facilitating at least two (2) supervised restorative facilitations of a given restorative process with the approval of the center director or designee.

B. Approval of Apprenticeships

Apprentices shall submit documentation regarding successful completion of apprenticeship as a part of their application to the approving center for approval as a restorative justice facilitator. Documentation should include:

- Supervisory facilitator assessments (at least two)
- Participants' evaluation of the facilitated cases
- Facilitator's self-reflection forms
- At least one acceptable written plan or summary (when appropriate), as approved by a supervisory facilitator.

C. Supervisory Facilitators

1. Apprenticeships should be offered by a supervisory facilitator who has:
 - a. Successfully completed the training and apprenticeship needed to be an approved restorative justice facilitator;
 - b. Facilitated four (4) cases during the past two years, beyond those required as an apprentice; and
 - c. Demonstrated superior skills as a restorative justice facilitator and have the temperament, skills, and self-awareness to be a supervisory facilitator.
2. It is expected that the supervisory facilitator will provide written and oral feedback to the apprentice facilitator. The feedback should include an assessment of how well the apprentice understood the role of the facilitator and how well the apprentice performed as a facilitator. Both the apprentice's strengths and areas in need of improvement should be included.

D. Approval of Supervisory Facilitators

1. Facilitators who wish to be supervisory facilitators for the purposes of the Dispute Resolution Act shall apply with the affiliate ODR-approved center. The center shall make the determination for approval based on co-facilitator and party feedback.
2. Facilitators serving as supervisory facilitators affiliated with the ODR-approved centers at the date of adoption of this Policy are deemed supervisory facilitators as defined herein. The ODR-approved centers shall submit names of supervisory facilitators and relevant information to ODR upon request.

PART IV. CONTINUING FACILITATOR EDUCATION

A. Restorative Justice Continuing Facilitator Education (CFE)

1. Facilitators should attend a minimum of two in-service training programs or workshops per two-year period. Each in-service training should be a minimum of one hour in length. Such trainings may address restorative justice theory and practice, facilitation skills, cultural sensitivity, trauma and victimization, juvenile justice, updates of restorative

justice and specialized areas of restorative justice facilitation, and any other topic enumerated in Sec. II, Part I. C. of this policy. ODR and centers may offer such programs or designate an acceptable offering.

It is the responsibility of the center directors and facilitators to keep abreast of current techniques, issues, and concerns in the field of restorative justice facilitation.

B. Reporting of CFEs

Approved restorative justice facilitators shall maintain documentation of their CFEs to be made available to their approving center on request.

SECTION III. FACILITATOR STATUS and GRIEVANCE PROCESS

PART I. APPROVED RESTORATIVE JUSTICE FACILITATOR STATUS

A. Active Status

1. Each individual approved as a restorative justice facilitator shall adhere to the *Nebraska Restorative Justice Facilitator Standards of Practice* and comply with this Policy to maintain an active approved status. The facilitator's status shall be reflected on their approving center's list of approved restorative justice facilitators.
2. As part of the annual reports required by the Dispute Resolution Act, each approved center shall include a listing of their active approved facilitators and their respective specialty areas(s), and supervisory status.

B. Inactive Status

1. An approved restorative justice facilitator's active status may be treated as inactive when:
 - a) the facilitator notifies the center of approval, in writing, that they are relinquishing their approved restorative justice facilitator status;
 - b) the facilitator fails to maintain or update the continuing education requirements;
or
 - c) the facilitator has not facilitated at least two restorative justice processes in the immediately preceding two years.
 - i. For the purpose of experience, a facilitation may include prehearing conferences, family group conferences, expedited family group conferences, child welfare mediation, permanency prehearing conferences, termination of parental rights prehearing conferences, juvenile victim-offender dialogue, victim youth conferencing, victim-offender mediation, youth or community dialogue, panels, circles, and truancy mediation.

Once a facilitator's approved status becomes inactive, the center of approval will remove the facilitator's name, contact, and other information from their list of approved restorative justice facilitators.

2. The center of approval will inform the approved restorative justice facilitator in writing, within ten business days, of its decision to place an approved restorative justice facilitator on inactive status.
3. An approved restorative justice facilitator whose active status has become inactive shall no longer facilitate any matter referred to a restorative justice process within the context of the Dispute Resolution Act, unless the facilitator is seeking reactivation and is facilitating the required number of cases, as determined by the center of approval, and under the direction of a supervisory facilitator (see #4).
4. A restorative justice facilitator whose status has become inactive may apply to an ODR-approved center for reactivation. If the facilitator's status became inactive because the facilitator had failed to maintain or update the continuing education requirements, the facilitator will need to complete the required CFE and submit required information to the center of approval. If the facilitator's status become inactive because the facilitator voluntarily relinquished the approved facilitator status or because the facilitator had not facilitated at least two restorative justice processes in the immediately preceding two years, the facilitator will need to attend at least two in-service trainings for relevant continuing education requirements within the two year period immediately preceding the application for reactivation and participate in at least one supervised restorative justice facilitation. Additional actions may be required by the center of approval.

If a facilitator's status became inactive for a period of five years or longer, the facilitator must reapply to be a restorative justice facilitator, including completing the training and apprenticeship requirements of this Policy. The facilitator may request adjustment of this requirement from the center of approval.

C. Removal for Cause

1. An approved restorative justice facilitator may be removed for cause from the list of approved restorative justice facilitators when it is established that the facilitator:
 - a) has failed to faithfully observe the *Nebraska Restorative Justice Facilitator Standards of Practice*;
 - b) has engaged in misconduct and/or a new law violation other than a traffic violation showing an unfitness to serve as an approved restorative justice facilitator; o r
 - c) does not otherwise meet the policy requirements as a restorative justice facilitator.
2. The center of approval will inform the approved restorative justice facilitator in writing within 10 business days of its decision to remove the facilitator for cause.

3. An approved restorative justice facilitator whose approved status has been removed for cause shall not facilitate any matter referred to a restorative justice process within the context of the Dispute Resolution Act, unless or until an approved status has been reinstated, or working under a supervisory facilitator through the reactivation process.

D. Facilitator Status Reconsideration and Appeal

1. An approved restorative justice facilitator who disagrees with the determination of status, including inactive status or removal for cause, may file a written request for reconsideration to the center of approval within 15 business days of the determination. The Executive Director of the center of approval will meet with the facilitator in person, telephonically, or via video conference to attempt to achieve resolution within 10 business days of receipt of the written notice. As part of the reconsideration of active status, the center of approval may require that the facilitator meet certain standards, comply with certain education requirements, participate in additional training or mentorship, or other relevant actions.
2. If resolution is not achieved, the facilitator may submit a request that a third party facilitator assist with resolution. If a facilitated resolution is not achieved, the facilitator may submit a written appeal to the center of approval's Board of Directors within 10 business days of the facilitated process. The Board of Directors may offer a hearing time to the facilitator to present his or her case. The Board's decision is final in the matter.

PART II. GRIEVANCE PROCESS FOR FACILITATION PARTIES

Approved restorative justice facilitators shall provide facilitation parties with information as to how to make a complaint or grievance regarding facilitator or facilitation process, which shall include information about informal and formal grievance processes described below.

A. Grievance Process

1. Aggrieved parties shall follow the grievance process of the center with whom the facilitator is affiliated with.

B. Formal Written Complaint

1. If at the conclusion of the center's grievance process, the grievant disagrees with the final determination, a formal complaint may be filed with the ODR within 15 days of the determination.
2. When a formal complaint is made to ODR against an approved restorative justice facilitator or facilitation process, it will be reviewed and investigated by ODR to determine whether the allegations are in violation of this Policy or the *Nebraska Restorative Justice Facilitator Standards of Practice*.

3. If, after investigation, ODR finds that the allegations in a formal complaint do not violate the *Nebraska Restorative Justice Facilitator Standards of Practice* or this Policy, ODR shall dismiss the complaint, and will inform the facilitator and the grievant in writing of its decision.
4. If, after investigation ODR finds that the allegations in a formal complaint do constitute a violation of the *Restorative Justice Facilitator Standards of Practice* or this Policy, ODR will inform the facilitator, grievant, and center in writing within 10 days of its decision:
 - a) To remove approval status for cause or to place on inactive status the approved restorative justice facilitator or remove the facilitator from the center of approval's list of restorative justice facilitators; or
 - b) Of any other action taken. Other action may require that the facilitator:
 - i. meet certain standards;
 - ii. comply with certain education requirements; or
 - iii. participate in additional training or apprenticeship.
5. If either party disagrees with the determination of the formal complaint, they may file a written request for reconsideration to ODR within 15 days of the determination. ODR will meet with the parties in person, telephonic, or video conference to attempt to achieve resolution within 10 days of receipt of the written notice.
6. If resolution is not achieved, either party may submit a written appeal to the Advisory Council on Dispute Resolution within 10 days of receiving notification by ODR. If either party disagrees with the decision of the Advisory Council on Dispute Resolution, they may file a written appeal to the State Court Administrator within 10 days of receiving notification by the Advisory Council on Dispute Resolution. The State Court Administrator shall review materials submitted and may offer a hearing to the parties. The State Court Administrator's decision is final in the manner.