Restorative Justice

The Restorative Process

In certain cases, misconduct has a significant impact on others in the community. Rather than using traditional adversarial procedures asserting authority over a student who caused harm, restorative processes may be utilized to give the impacted parties greater voice in the resolution. Where the Dean of Students deems appropriate, the University will practice Restorative Justice in the Conduct System.

"Restorative Justice is a philosophical approach that embraces the reparation of harm, healing of trauma, reconciliation of interpersonal conflict, reduction of social inequality, and reintegration of people who have been marginalized and outcast. RJ embraces community empowerment and participation, multipartial facilitation, active accountability, and social support. A central practice of restorative justice is a collaborative decision-making process that includes harmed parties, offenders, and others who are seeking to hold offenders accountable by having them: Accept and acknowledge responsibility for their offenses; to the best of their ability, repair the harm they caused to harmed parties and the community; and work to rebuild trust by showing understanding of the harm, addressing personal issues, and building positive social connections."

David Karp, University of San Diego, The Little Book of Restorative Justices for Colleges and Universities

Six Core Questions of Restorative Justice

1. Who has been harmed?

The fundamental starting point of restorative justice is a *preferential option for the vulnerable*. In systems that focus on dealing with the accused, those harmed often are enlisted to help with building the case or educating those responsible for causing the harm, while otherwise being left to find their own way to recovery. Restorative justice flips those priorities, calling on offenders to contribute to recovery by making amends for the damage they have caused.

2. What are their needs?

Restorative justice recognizes that harmful behaviors are wrong because they violate people and relationships, and that the dignity of the person needs to be at the center of a justice response. Restorative justice honors the *dignity* of those harmed by giving them meaningful voice and by inviting them to determine what they need in order to recover—including to recover the dignity of feeling safe in the world as a person worthy of respectful treatment. Restorative justice also honors the dignity of those responsible by giving them meaningful voice and by believing in, and fostering as needed, their capacity to make amends and behave more responsibly. Restorative justice sees both parties as whole and capable persons, for whom the harm in question is something to be integrated, not permanently defining.

3. Whose obligations are these?

Restorative justice recognizes that *rights and responsibilities* are interwoven, that living justly in community requires being accountable for how our choices affect other people. Thus, someone who has caused harm to another has a primary obligation to help repair it and may be the only one who can provide what is needed

(such as an explanation of why they made the choice they did). Yet restorative justice recognizes that some needs are best met by people other than the one responsible (such as accompaniment or counseling to help restore a sense of safety), and that the *common good* depends on community members' sharing responsibility for ensuring that justice needs are met.

4. Who has a stake in this situation?

Restorative justice assumes that people have a right to *participation* in processes that affect them. As such, restorative justice seeks to include all the perspectives important for understanding an injustice and for deciding what justice calls for in that circumstance. Restorative justice offers meaningful voice to the people holding those perspectives, including those harmed, those responsible, and others who have been touched by the harm or would be affected by how it is redressed. Restorative justice invites people to share their stories in their own terms and to hear others' stories with respect, together seeking a shared narrative of what happened, why, and how best to move forward.

5. What are the causes?

Restorative justice asks not only what happened but also why it did. If there were conditions—in a person, in the environment, or both—that allowed or encouraged the harmful behavior, the *common good* depends on minimizing if not correcting those conditions. If this harm is traceable to unmet needs rising out of previous harms, then restorative justice calls for meeting those needs too, even belatedly. Therefore, many restorative practices are dedicated to strengthening communities by fostering connection and mutual responsibility and by collaboratively affirming positive community norms and standards. Further, tending to causes can serve the *dignity of the person* harmed, especially when it clarifies that he or she was not to blame for what happened. It also can serve the *dignity of the person* responsible, especially when it clarifies that the harmful action was influenced by more than evil intention.

6. What is the appropriate process to involve stakeholders in an effort to put things right and address underlying causes?

Restorative justice expresses a deep commitment to *subsidiarity*, the principle that higher-level associations should not take on what lower-level associations could do for themselves. In other words, those closest to a situation should have *participation* in, if not power over, decisions that will affect them. Higher level associations such as educational institutions may have a legitimate interest in how injustices are handled on their campuses; an institution may be one of the stakeholders sharing power in decisions to be made in response to injustice, or at least may have a responsibility to review lower-level processes and ensure that new harm is not done. But this can be a supportive role, ensuring that stakeholders have appropriate and meaningful involvement in the effort to put things right.