

**Henderson County
Victim Offender Conference Program
Confidentiality Agreement**

Communications is the cornerstone of the Restorative Justice process. To achieve this end, the Henderson County Victim Offender Conferencing Program (HCVOC) believes that participants should feel free to discuss issues openly. The confidential nature of HCVOC encourages each party to speak openly about the issues before them.

There are two aspects to confidentiality that are recognized and practiced at HCVOC. First, there is the moral component in which the participants and VOC Coordinators understand that any discussion of the proceedings with those not directly involved in the dispute, and not present at the conference, jeopardize the process by making the other participants less willing to be open and honest. Second, there is a legal component. Under Kentucky Rule of Evidence §408, anything discussed, prepared specifically for, or written during the course of the conference cannot be used later in court as evidence unless specifically agreed to by the parties. Therefore, if the dispute is ever taken to court, which might happen if an agreement is not reached or if one of the parties does not honor the HCVOC Agreement, materials specifically prepared for the conference and statements made during the conference would not be available to either party as evidence. The moral component was established by HCVOC to foster better communication to facilitate the settlement of a dispute. For more information see HCVOC *Participation Agreement* that is incorporated herein. By your agreement hereto, you agree that this conferencing constitutes “settlement negotiations” as used in KRE §408.

The rest of this document outlines some Kentucky laws that apply in all juvenile cases, including Victim Offender Conferences. Each party and VOC Coordinator will be requested to sign a *Confidentiality Agreement* before the start of the mediation session. Please be aware that whether mediation participants sign this Confidentiality Agreement or not, they are bound by all Kentucky Laws on confidentiality. If you have specific legal concerns about Victim Offender Conferences and confidentiality you should consult your attorney.

Relevant Kentucky Revised Statutes and Kentucky Rules of Evidence:

- Declaration of public policy on encouragement of dispute resolution through negotiation and settlement KRS §454.011.
- All juvenile records shall be deemed confidential and shall not be disclosed except to the child, parent, victims, or other person authorized to attend a juvenile court hearing pursuant to KRS §610.070 unless ordered by the court for good cause.
- Evidence of conduct or statement in compromise negotiations is not admissible KRE §408.

- Duty to report adult abuse, neglect or exploitation KRS §209.030 and KRS §209A.030.
- Duty to report dependency, neglect or abuse of a juvenile KRS §620.030.
- Parties have the right to have an attorney present during the HCVOOC process; however mediation is not a judicial proceeding.
- Parties are able to bring witnesses to the conference, however it is strongly discouraged, as the conference process is not a trial. A witness may not be a direct participant in the proceedings, but merely a support to the party.

Although not required by state law, in order to fully inform all parties and to document compliance with Kentucky law, the Henderson County Victim Offender Conferencing Program asks that all parties participating in the conference proceeding sign this statement on the space below, acknowledging that they have read, and intend to abide by the confidentiality rules outlined in the Kentucky Revised Statutes, Kentucky Rules of Evidence and all program documents.

HCVOOC Case # _____

_____ Signature	_____ Date	_____ Signature	_____ Date
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