

**Policy Title: Sexual Misconduct: Harassment and Discrimination Policy  
and Grievance Procedures**

**Applicability: Campus-Wide**

**Oversight: Title IX Coordinator**

**Effective Revision Date: August, 2020**

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**Appendix A: Grievance Resolution Procedures for Reports of Policy Violations Against Students**

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## **I. POLICY STATEMENT**

Providence College is committed to maintaining an environment in which all students, staff and faculty are treated with dignity and respect, as created in the image and likeness of God. Sexual misconduct in all forms violates the sanctity of the human body, mind, and spirit and will not be tolerated within our community. Indeed, sexual misconduct is one of the most serious violations of the College's standards of conduct and some forms of sexual misconduct also are violations of criminal law.

Providence College does not discriminate on the basis of sex in its educational programs and activities. This Policy is designed to comply with Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 et seq., which prohibits discrimination on the basis of sex in educational programs and activities, and relevant sections of the Violence Against Women Reauthorization Act, as amended; it also addresses sexual misconduct that is not covered by Title IX .

This Policy applies to all Providence College students and employees (i.e., faculty, staff, administrators), and to all "third parties" (defined for this Policy as visitors, guests, contractors, vendors, and other third parties). As it is defined in this Policy, Providence College prohibits conduct when it is committed by or against students, employees, or third parties under the following circumstances: it occurs on-campus or on property owned or controlled by the College; it occurs in the context of a College educational or employment program or activity; or, it occurs outside the context of a College educational or employment program or activity but has continuing adverse effects on, or creates a hostile environment for, students, employees, or third parties within such context and/or while on-campus.

The College may initiate disciplinary proceedings against a student or employee for conduct directed toward a member of the Providence College community or someone outside the College community. Disciplinary action, up to and including suspension and dismissal, may be taken whether or not criminal charges are filed and without regard to whether the conduct occurred on- or off-campus. Retaliation against a person who files a complaint in good faith, who cooperates in an investigation of a complaint, or who opposes discriminatory practices, is prohibited.

Depending on the circumstances, unwelcome conduct as determined by a reasonable person may not be severe, pervasive, and objectively offensive such that it effectively denies a person equal access to the College's education program or activity (which includes the employment setting); yet, it can have a detrimental impact on a person, or group of persons, and interfere with or limit their access to education programs and activities. Accordingly, the College considers such behavior to be inappropriate and contrary to community behavioral standards and the College's mission. In such instances, the College will take action as warranted, regardless of whether the behavior is unlawful, and such action may include but is not limited to implementation of the appropriate grievance process to resolve the complaint, remediate the conduct's effects, and/or prevent repetition of the conduct.

All students and employees are responsible for being familiar with, and abiding by, the Policy's standards of conduct. Persons who believe they have been subjected to sexual misconduct, harassment, or discrimination are encouraged to report the incident to the Title IX Coordinator so that the College can respond in an equitable and reasonably prompt manner in accordance with our Title IX or non-Title IX Grievance Procedures. For grievance resolution procedures, please see Appendix A (Grievance Resolution Procedures for Reports of Policy Violations Against Students) and Appendix B (Grievance Resolution Procedures for Reports of Policy Violations Against Employees) on the [Providence College Title IX Policies website](#).

The College strongly encourages **anyone** who has information regarding a possible violation of this Policy to report it to the Title IX Coordinator or the Office of Public Safety; generally, employees must report such information to the Title IX Coordinator when the incident involves any student.

## **II. NOTICE OF NON-DISCRIMINATION**

Providence College admits students of any race, color, national and ethnic origin, sex, gender, sexual orientation, gender identity, religion, disability, age, or veteran status, and without regard to genetic information, to all the rights, privileges, programs, and activities generally accorded or made available to students at the College. It does not discriminate on the basis of race, color, national and ethnic origin, sex, gender, sexual orientation, gender identity, religion, disability, age, veteran status, genetic information, or any other applicable legally protected basis, in the administration of its education policies, admission policies, scholarship and loan programs, athletic and other College-administered programs, and employment policies. In accordance with Title IX, it does not discriminate on the basis of sex in its educational programs or activities. Nothing in this Notice shall require Providence College to act in a manner contrary to its Dominican mission and the teaching and tenets of the Catholic Church, and the College reserves the right to take actions designed to ensure and promote its Catholic and Dominican mission.

The College's Equal Opportunity/Affirmative Action Officer, and ADA/Section 504 Coordinator is the Senior Associate Vice President for Human Resources (Mirlen Mal, Harkins 302, 401.865.2430, [mmal@providence.edu](mailto:mmal@providence.edu)). The Title IX Coordinator (Rachel Andoscia, Slavin 102, 401.865.1029, [randosci@providence.edu](mailto:randosci@providence.edu)) is assisted by deputy coordinators, including members of the faculty and the administration (<http://www.providence.edu/sexual-harassment>). Inquiries regarding ADA/Section 504 issues for students may be directed to the Office of Academic Services (Jonathan Gomes, Library 229, 401.865.2470, [jgomes3@providence.edu](mailto:jgomes3@providence.edu)) and the Dean of Students Office (Tiffany Gaffney, Slavin 201, 401.865.2191, [tgaffnel@providence.edu](mailto:tgaffnel@providence.edu))

### **III. REPORTING AND PRIVACY**

#### **A. Reporting to the College**

**1) Introduction.** We strongly encourage students and employees to report sexual misconduct, harassment, or discrimination to the Title IX Coordinator, Rachel Andoscia (Slavin 102, 401.865.1029, [randosci@providence.edu](mailto:randosci@providence.edu)). We also recognize that individuals have certain rights to protect their own privacy. This section of the Policy provides relevant information about disclosure options and their implications.

There is no time limit for filing a report with the College; however, the more time that passes between the incident and the report, the more difficult it may be to thoroughly investigate the report because witnesses may not be available, memories may have faded, respondents may no longer be affiliated with the College, and/or other key information is no longer obtainable.

**2) Student Resources.** Students can get help and talk about their experience in a confidential manner with both on-campus and off-campus resources, but students should be aware that confidentiality protections associated with on-campus resources vary and depend upon an employee's job description:

a. **On-Campus Confidential Disclosures – Two Levels.** Employees who are licensed or pastoral counselors in the College's Personal Counseling Center ("PCC") or the Chaplain's Office are not required to report what students have disclosed to them about an incident to the Title IX Coordinator; student conversations with these employees are privileged and confidential communications. Professionals working in the College's Student Health Center and the PC/Day One Advocate generally are not required to reveal identifiable information about incidents; student conversations with these employees are confidential communications. Employees in the Student Health Center and the PC/Day One Advocate, however, will provide the Title IX Coordinator with a limited report (nature, date, time, and general location of the incident, if known). Beyond the weekday hours of operation students can reach a crisis counselor by calling the Personal Counseling Center (401-865-2343) and pressing option 2. After hours students can reach a Chaplain on-call by calling 401-865-1333. An answering service will contact a chaplain to return your call. Students also can leave a message for the PC/Day One Advocate (401-280-0564) who will respond as soon as possible.

b. **Mandated Reporters.** All faculty, staff, and administrators who are not in the “confidential disclosure” categories described in the above section are mandated reporters. Mandated reporters who become aware of a claim or report of sexual misconduct, which includes *quid pro quo* sexual harassment, sexual harassment that creates a hostile environment (which may include behavior defined as “sexual exploitation”, or “complicity”), or attempted or actual sexual assault, intimate partner violence (i.e., dating or domestic violence), stalking, that is allegedly perpetrated by a student, an employee, a contractor or sub-contracted employee, a volunteer, or a user of College facilities, against a student, are obligated to report the incident to the Title IX Coordinator or the Office of Public Safety at the earliest possible time and within twenty-four (24) hours after receipt of the information. Persons who are mandated reporters include but are not limited to residence life staff (administrators, hall directors, and resident assistants), public safety officers and staff, deans, work-study supervisors, faculty, staff, and athletics coaches and administrators. Please refer to the College’s *Mandatory Reporting of Sexual Misconduct Policy* (available [here](#)) for additional information.

Other circumstances, including, but not limited to, reports involving minors, behavior that poses a direct threat to the student or others, and receipt of a subpoena in a criminal or civil case, can trigger an employee’s duty to timely disclose confidential information about an incident, including the identity of the student involved, irrespective of the above categories.<sup>1</sup>

If students disclose a situation through a public awareness event such as “Take Back the Night,” candlelight vigils, protests, or other public events, the information students provide will not trigger a mandated report and will not result in an investigation. The College may use the information students provides to inform the need for additional education and prevention efforts. If, however, an “official with authority” to take corrective measures is present at an event of this type, the information disclosed will require a mandated report to the Title IX Coordinator and other appropriate officials.

c. **Off-Campus Confidential Disclosures.** Students who wish to speak with a confidential resource not affiliated with the College may disclose and/or receive confidential, trauma-informed counseling support from [Day One: The Sexual Assault and Trauma Resource Center](#). Conversations with Day One advocates are privileged and confidential; they will not report what students have disclosed to them about an incident to the College or to local law enforcement unless legally obligated to do so.

### **3) Employee Resources.** Employees can get help and talk about their experience in a confidential manner with off-campus resources.

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<sup>1</sup> See, for example, the College’s [Child Abuse or Neglect Reporting Policy](#), which supersedes disclosure restrictions. Additionally, Campus Security Authorities have a duty to disclose certain information to the Chief of the Office of Public Safety, who will maintain a Crime Log and statistics, and determine whether to issue a Timely Warning–Crime Alert to the community pursuant to the Jeanne Clery Act, as amended.

a. **Off-Campus Confidential Disclosures.** Employees may disclose and/or receive confidential, trauma-informed counseling support from Day One: The Sexual Assault and Trauma Resource Center or the New Directions Employee Assistance Plan (login code: providencecollege). Conversations with Day One and/or the New Directions Employee Assistance Plan advocates and counselors are privileged and confidential; they will not report what employees have disclosed to them about an incident to the College or to local law enforcement unless legally obligated to do so (this is rare). Victims of domestic violence may seek help for themselves and their families by calling the state-wide, 24-hour helpline.

#### 4) Student and Employee Reporters.

a. **Student Reporters.** All students (reporters) and those who become aware of an incident) are strongly encouraged to report incidents of sexual misconduct to the Title IX Coordinator. Information about supportive measures and the grievance resolution process – including formal complaints and alternative resolutions (also referred to as informal resolutions) – will be reviewed and discussed with the student. Grievance information and procedures for investigating and resolving claims of sexual misconduct against students are provided in Appendix A (available [here](#)). If there are conflicts between the grievance resolution procedures outlined in Appendix A and those outlined in the Student Handbook, Appendix A will be applied to resolve complaints brought under this Policy. The College does not limit the time frame for making a complaint under this Policy, although a delay may impact the College’s ability to take certain actions.

b. **No Policy Deterrent to Reporting.** The health and safety of every member of the College community is of utmost importance. Providence College recognizes that individuals who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that an incident of violence occurs, including but not limited to, sexual assault, dating violence, domestic violence, or stalking, may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Providence College strongly encourages reports of violence to institution officials. A bystander acting in good faith, or a reporting individual acting in good faith, who discloses any incident of violence to College officials or law enforcement normally will not be subject to a code of conduct charge for violations of alcohol and/or drug use policies, or student guest policies, occurring at or near the time of the commission of the incident of violence.

c. **Employee Reporters.** All employees (faculty, staff, and administrators), except for those employees designated as confidential resources in this Policy (and in the *Mandatory Reporting Policy*), who become aware of a claim or report of sexual harassment allegedly perpetrated by a student, an employee, a contracted or sub-contracted employee, a volunteer, or a user of College facilities, against a student, are mandated reporters. As described previously in this Policy, mandated reporters are obligated to report the incident to a Title IX Coordinator or the Office of Public Safety at the earliest possible time and within twenty-four (24) hours after receipt of the information.

d. **Supervisor Duty.** All supervisors, directors, managers, and human resources professionals have a responsibility to report to the Title IX Coordinator all relevant details about an incident involving conduct covered under this Policy where either the complainant or the respondent is an employee. Reporting is required when supervisors, directors, managers, and human resource professionals know (by virtue of a direct or indirect disclosure), or should have known, of such conduct. For academic faculty, supervisors include department chairs, program directors, deans, and other administrators in academic affairs. Reports should be made in a timely manner and within twenty-four (24) hours. Grievance information and procedures for resolving allegations of sexual misconduct against employees are provided in Appendix B (available [here](#)). If there are conflicts between the grievance resolution procedures outlined in Appendix B and those outlined in any other College Handbook, Appendix B will be applied to resolve complaints brought under and covered by this Policy.

e. **Employee Complaints.** Employees who have experienced sexual harassment or discrimination are encouraged to file a report with the Title IX Coordinator. Information about supportive measures and the grievance resolution process – including formal complaints and alternative resolution (also referred to as informal resolutions) – will be reviewed and discussed with the employee. In addition to notifying the Title IX Coordinator, complainants who are employees may decide to provide notification of the complaint to their supervisor, and/or to the Office of Human Resources, although they are not obligated to do so. Employee grievance information and procedures for investigating and resolving claims of sexual misconduct against employees are provided in Appendix B (available [here](#)). If there are conflicts between the grievance resolution procedures outlined in Appendix B and those outlined in other College publications or Handbooks, Appendix B will be applied to resolve complaints brought under this Policy. The College does not limit the time frame for making a complaint under this Policy, although a delay may impact the College's ability to take certain actions.

**5) Third-Party Respondents.** When the respondent is not a member of the College community (student or employee), the College's ability to take appropriate corrective action will be determined by the nature of the relationship of that third party with the College. The Title IX Coordinator will determine the appropriate action to take consistent with this Policy (including the Policy Statement) and with legal mandates and federal guidance.

**6) Anonymous Reporting Options.** Any person may report sexual misconduct (i.e., any of the behaviors defined in this Policy) that occurs on, near, or off-campus, or as part of a College educational program or activity, to the Silent Witness Program via the Web page of the Office of Public Safety (available [here](#)). Reporters may identify themselves or remain anonymous. When reporters who identify themselves request that their identity be protected as part of any investigation, the College will make every reasonable effort to honor that request and to maintain the level of privacy requested. When reporters remain anonymous, the ability of the College to respond to the report or to pursue appropriate action against the accused person(s) may be negatively affected.

Any person can provide information about sexual misconduct, including but not limited to a sexual assault or relationship violence, to the Office of Public Safety using email or a mobile device ([PC@tipnow.org](mailto:PC@tipnow.org) or 401. 281.9933). The TipNow email and text messaging system sends an anonymous, timely message to the College's Office of Public Safety.

**7) Federal Statistical Reporting Obligations.** College officials with significant responsibility for student and campus activities are Campus Security Authorities (CSAs) who have a duty to report sexual offenses (as defined in this Policy) to the Office of Public Safety. CSAs include the following categories of employees: safety and security; student affairs staff; academic affairs administrators and deans; residence life; student health; athletic administrators and team coaches; human resources; faculty advisors and moderators to clubs, organizations, and other types of College-sponsored student groups; and, faculty and staff who lead and/or supervise short- or long-term College-sponsored trips. Personally-identifiable information is kept confidential (unless a student agrees to release it); the type, date, time, and general location (on or near campus) of the incident is released for publication in the College's Annual Security and Fire Safety Report pursuant to the Jeanne Clery Act, as amended. The Annual Security and Fire Safety Report helps to provide the community with information about the nature and extent of campus crime and about promoting safety. Additionally, statistical crime data are reported to the federal government.

**8) Federal Timely Warning Reporting Obligations.** When the College receives a credible report of a crime constituting a sexual offense from a member of the campus community, or a local police department, that occurred on campus or on public property immediately adjacent to campus (as defined by the Clery Act), and the circumstances surrounding that report pose a serious or ongoing threat to the campus community, the College will issue a Timely Warning-Crime Alert to heighten safety awareness to aid in the prevention of similar crimes. Personally-identifiable information about the alleged victim will not be released in the Timely Warning-Crime Alert.

### **B. Reporting to the Police**

Students and employees are encouraged (or required based on the circumstances) to report sexual offenses, including sexual assault, relationship violence, and stalking, not only to the Title IX Coordinator and/or the Office of Public Safety, but also to law enforcement authorities. The decision to file a criminal complaint is a deeply personal choice. Students and employees often make this decision based on the circumstances surrounding the incident and the circumstances in their life at the time of the incident. Some students and employees discover that participating in a proceeding to hold the accused accountable helps them to regain some measure of control lost by virtue of the assault, and to protect themselves and others from future harm.



There are trained professionals on-campus and off-campus who can explain criminal proceedings and support students and employees through the process. As part of the Intake Meeting with a member of the Title IX Office, students and employees will be given the opportunity to speak with a Law Enforcement Advocate. The Office of Public Safety and/or the PC/Day One Advocate will assist anyone wishing to file a criminal complaint. Students and employees do not need to file a criminal complaint in order to file a formal complaint of harassment or discrimination with the College, and the College may find an accused person responsible for violating this Policy regardless of the status or outcome of criminal proceedings, if any.

#### **IV. SUPPORTIVE MEASURES**

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complaining party or the responding party before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment.

A disclosure of sexual harassment or discrimination by a student for the purpose of seeking supportive measures can be made to a confidential resource (e.g., Personal Counseling Center, Student Health Center, PC/Day One Advocate, Chaplain), or to a Title IX coordinator/assistant/deputy coordinator. The reporter does not have to file any type of complaint in order to speak with a Title IX coordinator/deputy coordinator about the provision of supportive measures. Depending on the specific circumstances, supportive measures taken on an interim basis may be modified; they also may be effective on a temporary or long-term basis. The College will maintain the privacy of any supportive measures to the extent practicable. Types of supportive measures that may be requested by and provided to students include medical and mental health services and referrals, academic accommodations (such as extensions of deadlines or other course-related adjustments), modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties (referred to as a "No-Contact Directive"), changes in work or housing locations, leaves of absence (with a referral to the Office of Financial Aid to address any impact on federal aid), increased security and monitoring of certain areas of campus, and other similar measures. Students and employees may use the Violence Against Women Act (VAWA) Visa and Immigration Resources for visa and immigration information as the College does not provide these legal services. (More information is available from the U.S. Citizenship and Immigration Services at [uscis.gov](https://uscis.gov).) The Office of Public Safety can help a complaining party to file an external complaint with law enforcement authorities.

Supportive measures for employees may include measures to support work effectiveness or health. These measures may involve reasonable workplace adjustments and/or referral to the Employee Assistance Program. Requests should be made to the Title IX coordinator/deputy coordinator, who will consult with other College officials as necessary. The College will maintain the privacy of any supportive measures to the extent practicable.

## **V. RETALIATION**

Upon receipt of a report of misconduct pursuant to this Policy, the College will not charge, nor will the College interfere with any right or privilege secured by Title IX by charging, an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment. For example, a student who reports a sexual assault, and who has consumed alcohol in violation of the law and/or College policy at the time of the reported assault, will not be charged with the alcohol violation; otherwise, the anticipation of an alcohol-related charge may serve as a deterrent and thereby interfere with the student's right or privilege to report.

The College will not make unauthorized disclosures of the identity of the individual who submits a report or a formal complaint, or the identity of the individual who is reported to be the perpetrator of sex discrimination, the responding party, or a witness; however, some information can and will be disclosed as part of the grievance resolution processes, and pursuant to the Family Educational Rights and Privacy Act, as amended (FERPA). Claims of retaliation may be filed with the Title IX Coordinator and/or to an employee with authority to take corrective action ([see HERE for more information](#)).

## **VI. OTHER RECOMMENDED ACTIONS FOLLOWING AN INCIDENT**

Students and employees who experience sexual assault or relationship violence have several options after an incident. Students and employees are encouraged to seek medical attention immediately. Any hospital emergency room is able to care for the immediate needs of all victims of sexual assault, including women, men, and transgender individuals; however, whenever possible, victims are encouraged to go to a hospital with a Sexual Assault Nurse Examiner (SANE) Program. SANE Programs have specially trained nurses who conduct examinations and collect evidence. In Rhode Island, Women & Infants Hospital and Hasbro Children's Hospital have SANE Programs. Other RI hospitals may have SANE-trained nurses on staff or available to them. Individuals do not have to provide health insurance information to the hospital and the hospital cannot refuse treatment. Individuals who do not want their insurance company to be billed should indicate to the hospital receptionist/clerk that they are "self-pay" and do not want to use insurance for the visit. There is no charge for sexual assault evidence collection (referred to as a "Rape Kit.") Medical attention is critical so that any injuries (including internal injuries) or infections that may have resulted from the incident can be treated. Getting a medical examination does not mean that persons need to file criminal charges; however, a medical exam will help to preserve evidence if they choose to press charges at some point. Students and employees are advised to preserve and record evidence, as follows: do not wash anything (body, hair, clothing), and do not comb hair, change clothes, douche or use the toilet; bring an extra set of clothing to the hospital (or bring the clothing worn at the time of the incident to the hospital in a paper bag); make notes to create a description of the assailant, where the assault occurred, and a description and direction of travel of any vehicle involved.

In some circumstances, students and employees may need safety-related assistance. For students, the Residence Life staff can assist and serve to connect you to the Office of Public Safety and/or local police as needed. Residence Life staff are available 24/7. For employees, the Office of Public Safety and/or local police can assist and are available 24/7. Beyond the normal hours of operation, when the Personal Counseling Center and Chaplain's Office are closed, students may still reach confidential resources. To talk to a crisis counselor call the regular number for the PCC (401-865-2343) and press "2" when you hear the recorded greeting. To reach a chaplain after-hours, call the Confidential Resources Answering Service (401-865-1333) and a chaplain will return the call. Students also can contact the Day One Sexual Assault & Trauma Resource Center 24 Hour Helpline (1.800.494.8100) or leave a message for the PC/Day One Advocate (401-280-0564).

## **VII. DEFINITION OF KEY TERMS**

This Policy prohibits all forms of "sexual misconduct," a broad category of behavior more specifically defined in this section of the Policy. Sexual misconduct can occur between or among peers, and it can be directed to persons of a different or same sex as that of the harasser. Sexual misconduct can be carried out by and perpetrated against Providence College students, students from other colleges, employees, or third parties.

- 1) **"Actual Knowledge" by an employee with authority to take corrective action.** When the Title IX Coordinator, or other "officials with authority" listed in this Policy, become aware of a report of sexual harassment by any person, such "actual knowledge" constitutes official notice to the College. Employees designated by the College as "officials with authority" are those who have authority to institute corrective measures on the College's behalf. The mere obligation to report sexual harassment pursuant to the College's *Mandatory Reporting Policy* does not qualify an employee (or volunteer, independent contractor, or agent of the College) as one who has authority to institute corrective measures on behalf of the College.
- 2) **Education Program or Activity.** Education program or activity includes locations, events, or circumstances over which the College exercises substantial control over both the respondent and the context in which the sexual harassment occurs.
- 3) **Employee.** Generally, an individual hired by the College to perform assigned duties. (If there is a question as to the predominant category of either or both parties, the Title IX Coordinator will determine which procedures apply based on the facts and circumstances. For example, if the responding party is a full-time employee but not a full-time student, Appendix B will apply.)

- 4) **Formal Complaint.** A formal complaint is a document filed by a complainant or signed by the Title IX Coordinator claiming sexual harassment against a respondent and requesting that the College investigate the claim. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the College's education program or activity. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. The formal complaint must include the name of the alleged harasser (if known), and a description of the incident(s) with reasonable specificity, including date(s) and place(s). The formal complaint must include the complainant's physical or digital signature, or should otherwise indicate intent to file.
- 5) **Member of the College Community or Applicant to become a member.** This is a person who is a student or employee applicant when the alleged conduct occurs, or a current student or employee. A person's status in the particular situation shall be determined by the Title IX Coordinator.
- 6) **Reporter.** Any person who informs the Title IX Coordinator of a suspected violation of this Policy is a reporter. This person does not have to be the alleged victim and may report the conduct anonymously. A reporter may be a witness to the conduct, a person to whom an alleged victim or an accused person tells about the conduct, or a person who otherwise learns about the conduct.
- 7) **Reporting Party or Complainant.** This is the person who is alleged to be the victim of conduct that could constitute sexual harassment. When referenced together in grievance resolution procedures, the complaining and responding persons may be referred to as the "parties."
- 8) **Responding Party or Respondent.** This is the person (or student club, organization, team, or group) who had been reported to be the perpetrator of conduct that could constitute sexual harassment.
- 9) **Student.** All persons (other than administrators, staff, or faculty) who pay an acceptance fee, register, or take a course, whether or not for credit, either on a full-time or part-time basis, at the College. Persons approved to study in a domestic or foreign program, are students. For purposes of this Policy, the following persons are students: persons registered for courses but withdraw after allegedly violating the Code; persons who are not officially enrolled for a particular term/semester but have a continuing relationship with the College; and, persons who have been accepted to the College and are participants in new/transfer student orientation. If there is a question as to the predominant category of the parties, the Title IX Coordinator will determine which procedures apply based on the facts and circumstances.

- 10) **Title IX Coordinator.** This is the person designated by the College in accordance with Title IX who is authorized to coordinate the College's Title IX obligations. The Coordinator, who is assisted by an Assistant and Deputies, receives and acts upon reports of sex discrimination, including sexual harassment, from any person. The Coordinator's contact information (telephone number, email and office addresses) is prominently displayed on the College's website, in its [Notice of Non-Discrimination](#), in this Policy, and in designated College publications. Title IX Regulations require the Title IX Coordinator (or designee) to take certain action after receiving a report of conduct that, if substantiated, would constitute a violation of Title IX. That action is outlined in the grievance procedures, Appendices A and B. If the reported conduct would not constitute a violation of Title IX, but, if substantiated, would constitute a non-Title IX violation of this Policy, the Title IX Coordinator (or designee) will take appropriate steps under the circumstances. The Title IX Coordinator has discretion to amend procedures as necessary to promote an equitable and impartial grievance process, and/or to protect the integrity of the College's response to reports and complaints of sexual harassment and discrimination.
- 11) **Title IX of the Education Amendments of 1972.** Title IX is a federal law that protects people from discrimination based on sex in education programs or activities at institutions that receive Federal financial assistance. Title IX states: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." Title IX prohibits sex discrimination, including sexual and gender-based harassment, and sexual offenses as described in the Jeanne Clery Act and VAWA amendments to the Act. On May 19, 2020, the U.S. Secretary of Education published a Final Rule (34 CFR 106), effective on August 14, 2020, that directs educational institutions about how to address and respond to sexual harassment under Title IX. The Department of Education's Office for Civil Rights is charged with monitoring compliance with Title IX.

## **VIII. POLICY DEFINITIONS**

### **A. Violations: Title IX Definition of Sexual Harassment**

**Sexual harassment is conduct on the basis of sex that satisfies one or more of the following:**

- 1) Quid pro quo harassment occurs when a College employee conditions the provision of an aid, benefit, or service offered by the College on an individual's participation in unwelcome sexual conduct;

- 2) Sexual Harassment that is unwelcome conduct (verbal, physical, written/electronic, and/or visual) on the basis of sex that is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity ("sexual exploitation" or "complicity" that meets this definition may constitute sexual harassment under Title IX<sup>2</sup>); or
- 3) "Sexual Assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v); "Dating Violence" as defined in 34 U.S.C. 12291(a)(10); "Domestic Violence" as defined in 34 U.S.C. 12291(a)(8); or "Stalking" as defined in 34 U.S.C. 12291(a)(30).

a. **Sexual Assault means** an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, as defined below.

A **Sex Offense** is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

**Types of Sex Offenses:**

- **Rape** – The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
- **Sodomy** – Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
- **Sexual Assault with an Object** – To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
- **Fondling** – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age, or because of his/her temporary or permanent mental or physical incapacity;
- **Incest** – Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law;
- **Statutory Rape** – Non-forcible sexual intercourse with a person who is under the statutory age of consent (age 16 in Rhode Island).

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<sup>2</sup> Sexual exploitation is an act attempted or committed by a person for sexual gratification, financial gain, or other advancement through the abuse or exploitation of another person's sexuality. Examples include, but are not limited to: non-consensual observation or photographing of individuals who are undressing or engaging in sexual acts; non-consensual use of electronic or other devices to make an audio or video record of sexual activity; prostituting another person; allowing others to observe a personal consensual sexual act without the prior knowledge and consent of all involved parties; and, knowingly exposing an individual to a sexually transmitted infection without their knowledge.

b. **Dating Violence** – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where the existence of such a relationship is determined based on consideration of the following factors: the length, type, and frequency of interaction between the persons involved in the relationship.

c. **Domestic Violence** – Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies under VAWA, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

d. **Stalking on account of sex.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or, suffer substantial emotional distress. ("Cyberstalking" may constitute Stalking as defined in this Policy.)

#### **B. Other Violations: Retaliation; False Reports and False Statements**

- 1) **Retaliation – Title IX.** Retaliatory acts, or attempts to retaliate, against anyone who has reported in good faith sexual misconduct or discrimination, who has assisted, testified, is expected to participate, refuses to participate, or has participated in any manner, in an investigation or grievance process pursuant to this Policy, or who otherwise supports the report, are prohibited. Retaliation includes intimidation, verbal or physical threats, coercion, or discrimination. When evidence of retaliatory behavior exists, appropriate disciplinary action will be taken. Evidence of retaliation may exist even when there is a finding of "not responsible" on the underlying formal complaint. Retaliation does not include good-faith actions lawfully pursued in response to a report of a Policy violation.

During a formal complaint process under the Title IX Regulations, no party or witness can be compelled to testify, or to appear at a meeting or hearing; therefore, the College cannot interfere with this right, or any privilege secured by Title IX, by compelling testimony or appearance, or by charging an individual with a code of conduct violation for refusing to testify or appear in a Title IX matter as referenced in this Policy and its grievance resolution procedures.

- 2) **Making a Materially False Statement in Bad Faith - Title IX and Non-Title IX.** Members of the College community are expected to provide truthful information in any report, meeting, or proceeding under this Policy and its Appendices. Providing or submitting false or misleading information in bad faith, with a motive to obtain personal advantage or to cause intentional harm to another person in connection with an incident of sexual misconduct, is prohibited, and the individual is subject to disciplinary sanctions under the relevant disciplinary system. This provision does not apply to reports made or information provided in good faith, even if the facts claimed in the report are not ultimately substantiated. A determination regarding responsibility, alone, is not sufficient to conclude that any party violated this provision.

### **C. Policy Violations That May Not Also be Violations of Title IX**

Consistent with the Statement at the beginning of this Policy, the College encourages reports of all forms of sexual misconduct, including conduct that does not meet the standards for illegal harassment or discrimination under Title IX as promulgated in the Federal Register by the U.S. Department of Education on May 19, 2020. Additionally, in the employment setting, the College prohibits discrimination in accordance with Title VII of the Civil Rights Act of 1964. Title VII prohibits employment discrimination based on race, color, religion, sex, and national origin; claims of sexual harassment in the employment setting are covered by this Policy.

#### **The College prohibits the following conduct:**

- 1) **Sexual Assault, dating violence, domestic violence, stalking** when this conduct does not occur as part of an education program or activity (as defined in this Policy), and that occurs outside the United States; however, the conduct has continuing adverse effects on the College community or in a community member's program or activity, or, it occurs in close proximity to the College premises and is related to hostile conduct therein.
- 2) **Unwelcome conduct of a sexual nature that is severe or pervasive, and that creates a hostile or abusive learning, working, or living environment**, that does not occur in an education program or activity (as defined in this Policy), and that occurs outside the United States; however, the conduct by purpose or effect, unreasonably interferes with or limits a person's ability to learn or work, or to access or participate in a College program or activity, and the unwelcome conduct has no legitimate relationship to the subject matter of an academic course, activity, or research. Conduct is unwelcome when the person being harassed does not solicit or invite the behavior, regards it as offensive, and it is objectively offensive from the perspective of a reasonable person. The fact that persons may accept the conduct does not mean that they welcome it. Additionally, sexual harassment or discrimination can include behavior as part of a hazing incident.

To help assess whether a hostile environment exists pursuant to the Sexual Misconduct Policy, which covers certain conduct that satisfies the Title IX criteria and certain conduct that does not satisfy the Title IX criteria, the College will consider the totality of known circumstances, including but not limited to:



- a. The frequency, nature, and severity of the conduct;
- b. Whether the conduct was physically threatening;
- c. The effect of the conduct on the complaining party's mental health or emotional state;
- d. Whether the conduct arose in the context of other discriminatory conduct;
- e. Whether the conduct unreasonably interfered with the complainant's educational or work performance and/or the complainant's participation in College programs or activities; and,
- f. Whether the conduct implicates concerns related to academic freedom or is otherwise deemed to be protected speech by the College.<sup>3</sup>

Sexual harassment can include behavior not sexual in nature but behavior directed toward a person on the basis of the person's sex and/or gender, including harassment based on the person's nonconformity with gender norms and stereotypes. Sexual harassment can include behavior based on gender, sexual orientation, gender identity, or gender expression, which may include acts of bias, aggression, intimidation, or hostility, whether verbal or non-verbal, written, graphic, physical, or otherwise, when other criteria are present.

It is not possible to list all circumstances that might constitute Policy violations (Title IX or non-Title IX hostile environment sexual harassment). Depending on the circumstances, sexual harassment may include but is not limited to, the following kinds of behavior, which may be committed by individuals who are in supervisory positions, or by peers: (1) repeated propositions or requests for a sexual relationship to a person who has previously indicated that such conduct is unwelcome; (2) requests for sexual favors, whether or not accompanied by promises or threats with regard to the professional relationship; (3) unwelcome verbal or written (including cyber-harassment) expressions of a sexual nature, including graphic sexual comments about a person's sexuality, anatomy, attire, appearance, or sexual experience; the hostile use of sexually derogatory or gender-based terms, jokes, innuendo, or graffiti; intrusive sexually explicit questions or story-telling; sexual gestures, noises, remarks, jokes, or questions; (4) sexually suggestive objects, pictures, cartoons, recordings, electronic communications, or literature unrelated to employment or educational purposes, used or displayed in the employment or educational setting; (5) statements by an instructor to students that women are not capable scientists, or that men are not welcome in a women's studies course; (6) consensual sexual relationships where such relationships lead to favoritism of a student or subordinate employee with whom the faculty member or supervisor is sexually involved and where such favoritism adversely affects other students and/or employees.

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<sup>3</sup> This Policy is not meant to be used as a mechanism for restricting or suppressing academic freedom. The higher-education academic setting necessarily accommodates themes, topics, material, and speech that are relevant to the subject matter and that, in other settings, may not be appropriate. The essential purposes of the academic setting are free intellectual pursuit and the free exchange of ideas. Wide-open debate helps to foster the search for truth, and in that search, we allow speech that might not be tolerated in other settings. Policies forbidding harassment and discrimination do not threaten academic freedoms.

- 3) **Sexual exploitation** that does not meet Title IX criteria. Sexual exploitation is an act attempted or committed by a person for sexual gratification, financial gain, or other advancement through the abuse or exploitation of another person's sexuality. Examples include, but are not limited to: non-consensual observation or photographing of individuals who are undressing or engaging in sexual acts; non-consensual use of electronic or other devices to make an audio or video record of sexual activity; prostituting another person; allowing others to observe a personal consensual sexual act without the prior knowledge and consent of all involved parties; and, knowingly exposing an individual to a sexually transmitted infection without his or her knowledge.
- 4) **Complicity** that does not meet Title IX criteria. Complicity means assisting, facilitating, or encouraging the commission of a violation of this Policy.
- 5) **Certain Consensual Sexual Relationships Prohibited; Mandatory Report**

A dating, romantic and/or sexual relationship between two people who both genuinely desire, and voluntarily begin and continue, the relationship is "consensual." A consensual dating, romantic, or sexual relationship between an employee and a student, or between a supervisor and a subordinate employee, however, can create actual or perceived conflicts of interest or bias, and can lead to abuses of power. Employees (faculty and staff), therefore, are not permitted to have a consensual romantic and/or sexual relationship with any student (undergraduate, graduate, continuing education). Employees (including faculty, department chairpersons, managers, and supervisors) also are not permitted to have a consensual romantic and/or sexual relationship with employees who are in their line of supervision or authority.

Employees are expected to be aware of their professional responsibilities, to promote trustworthy relationships with colleagues and students, and to avoid apparent or actual conflicts of interest, favoritism, or bias. Consequently, if an employee is in a consensual romantic and/or sexual relationship with a person who subsequently becomes a student at the College, or if an existing student is in a consensual relationship with a person unaffiliated with the College who subsequently becomes an employee at the College, the employee is required to disclose the relationship in a timely manner to the Associate Vice President for Human Resources and the Title IX Coordinator. These officials will determine what, if any, actions need to be taken to protect the integrity of the educational experience for the involved student and other affected students, and to preserve equal access to education programs or activities for the involved student and other affected students.

Similarly, if Employee A and Employee B, who are not in the same line of supervision or authority, enter into a consensual relationship, and subsequently Employee A is given supervisory status or authority over Employee B, Employee A is required to disclose the consensual relationship in a timely manner to the two officials listed above. These officials will determine, what, if any, actions need to be taken to protect the integrity of the employment experience for Employee B and other affected employees. Employees who violate this Policy by neglecting their duty to disclose are subject to disciplinary action.

- 6) **Retaliation in a Non-Title IX Matter.** Retaliatory acts, or attempts to retaliate, against anyone who has reported in good faith sexual misconduct or discrimination, who has assisted, testified, is expected to participate, or has participated in any manner, in an investigation or grievance process pursuant to this Policy, or who otherwise supports the report, are prohibited. Retaliation includes intimidation, verbal or physical threats, coercion, or discrimination. When evidence of retaliatory behavior exists, appropriate disciplinary action will be taken. Evidence of retaliation may exist even when there is a finding of “not responsible” on the underlying formal complaint. Retaliation does not include good-faith actions lawfully pursued in response to a report of a Policy violation.

The College may compel a non-party, i.e., a student witness or an employee witness, to participate in a non-Title IX grievance resolution by providing information to the College’s investigator and/or to a decision-maker, and such action does not constitute retaliation.

## **IX. SUPPORTING DEFINITIONS – TITLE IX AND NON-TITLE IX**

- 1) **Preponderance of Evidence Standard.** The standard of proof in the College’s grievance resolution proceedings, including its Title IX proceedings, is the preponderance of evidence standard, which requires proving that it is more likely than not that reported sexual misconduct occurred, or that an appeal has merit.
- 2) **Consent.** Consent is demonstrated through mutually understandable words and/or actions that indicate a willingness to engage in specific sexual activity. Consent must be knowing and voluntary (freely given). To give consent, a person must be awake, of legal age (16 in Rhode Island), and have the capacity to reasonably understand the nature of her/his actions. A person who is physically or mentally incapacitated cannot give consent. A person may not use physical force, verbal threats, intimidation, or coercion as a method for obtaining consent. Prior consent does not imply current or future consent, even in the context of a relationship. Consent may be withdrawn by either person at any time, and once withdrawal of consent is expressed, the sexual activity must stop. Consent is automatically withdrawn if the person who had provided it becomes incapacitated.
- 3) **Incapacitation.** Incapacitation means being in a state where a person lacks the capacity to appreciate the fact that the situation is sexual, or cannot appreciate (rationally and reasonably) the nature and/or extent of the situation. Incapacity can be found based on someone’s physical or mental status, based on developmental disability, or based on alcohol or drug use. A person who knows or should reasonably have known that another person is incapacitated may not engage in sexual activity with that person. A person’s state of incapacity is a subjective determination that is based on all of the facts available because persons reach incapacitation at different points and as a result of different stimuli.

Incapacity can result from mental disability, involuntary physical restraint, or from the ingestion of substances, including “date-rape” drugs. Administering any substance to another person, without their knowledge, for the purpose of inducing incapacity is a violation of this Policy.

Use of alcohol or other drugs does not, in and of itself, negate a person’s ability to give consent. Alcohol-related incapacity results from a level of alcohol ingestion that is more severe than being under the influence, impairment, intoxication, inebriation, or drunkenness. Common and obvious warning signs of possible incapacitation include consistently slurred or incomprehensible speech, unsteady gait, vomiting, or incontinence. A person who is incapacitated may not be able to understand some or all of the following questions: “Do you know where you are?” “Do you know how you got here?” “Do you know what is happening?” A person who is not incapacitated at the beginning of sexual activity, may, by virtue of alcohol or drug ingestion prior to or during the activity, reach a state of incapacitation as the activity continues and progresses. Persons who are sleeping or completely passed out are incapacitated.

Factors that can influence a person’s state include body composition; tolerance for alcohol and other drugs; amount and type of alcohol or other drugs consumed, and the mixture taken; amount of food intake prior to consumption; genetics; and propensity for blacking out. A memory lapse regarding an incident is not, in itself, conclusive evidence of incapacitation. Alcohol-induced memory lapses, sometimes called “blackouts,” are common. Such memory lapses, or blackouts, do not involve a loss of consciousness. An individual who is unable to form long-term memories of the incident has experienced a memory lapse; that individual may have been able to walk and talk and consent to sexual activity at the time of the incident.

When there is a determination of incapacitation, two additional questions are relevant: First, did the person initiating sexual activity know that the other party was incapacitated? If the answer to the first question is “No,” ask: Should a sober, reasonable person in the same situation have known that the other party was incapacitated? If the answer to either question is “Yes,” consent was absent and the conduct is likely a violation of this Policy.

## **X. REPORTING AND OTHER RESOURCES**

### **Title IX Coordinator/Deputy Coordinators:**

Title IX Coordinator (<https://sexual-harassment.providence.edu>)

Rachel Andoscia

Direct: (401) 865-1029; Administrative/Scheduling: (401) 865-1070

Office: Slavin 102

[randosci@providence.edu](mailto:randosci@providence.edu)

Title IX Deputy Coordinator

Dr. Chris Arroyo, Professor of Philosophy

Direct: (401) 865-2235  
Phillips Memorial Library, Rm. 207  
carroyo@providence.edu

Title IX Deputy Coordinator

Quincy Bevely; Assistant VP for Institutional Diversity  
Direct: (401) 865-2889; Administrative/Scheduling:  
Office: Harkins 312  
qbevely@providence.edu

Title IX Deputy Coordinator

Dr. Sandra Keating, Associate Professor of Theology, Director DWC Program  
Direct: (401) 865-2230  
Office: Ruane 232  
skeating@providence.edu

Title IX Deputy Coordinator

Jill La Point, Associate VP/Deputy Athletic Director/Senior Woman Administrator  
Direct: (401) 865-2588; Administrative/Scheduling: (401) 865-2265  
Office: 216 Alumni Hall  
jlapoint@providence.edu

Title IX Deputy Coordinator

Christopher Schmidt, Associate Director of Recreational Sports  
Direct: (401) 865-2340  
Peterson Recreation Center Lower Lobby (LL108)  
cschmid4@providence.edu

**Confidential Resources (as defined in this Policy):**

- **Personal Counseling Center:** 401-865-2343; After Hours 401-865-2343 - select option “2”
- **Office of the Chaplain:** 401-865-2216; After Hours 401-865-1333
- **PC/Day One Advocate:** 401-865-1177
- **Student Health Center:** 401-865-2422

**Additional Campus & Community Resources:**

- **Office of Public Safety** - 401-865-2222 (Emergency); 401-865-2391 (General); Huxley Ave Gate
- **Office of the Dean of Students** - 401-865-1782; Slavin 102
- **Office of Residence Life** - 401-865-2392; Slavin 105
- **Residence Life On-Call Representative** - 401-639-9110
- **Office of Human Resources** – 401-865-2987; Harkins 302
- **Day One: The Sexual Assault & Trauma Resource Center** - 1-800-494-8100 (24 hour helpline)

- **Rhode Island Coalition Against Domestic Violence** - 1-800-494-8100 (24 hour helpline)
- **Women & Infants Hospital** - 401-274-1100 (General); 401-274-1750 (Emergency)
- **Rhode Island Hospital** - 401-444-4000 (General); 401-444-5411 (Emergency)
- **Providence Police Department** - Emergency: 911; General: (401) 272-312; Special Victims Unit: (401) 243-6331; Law Enforcement Advocate: (401) 243-6338
- **New Directions Employee Assistance Plan** - <https://eap.ndbh.com/> (login code: providencecollege)

**Anyone may file a complaint with the Federal Office for Civil Rights:**

U.S. Department of Education, OCR@ed.gov

5 Post Office Square, Boston, MA 02109-3921

617-289-0111; Fax 617-289-0150; TDD: 877-521-2172

Email: OCR.Boston@ed.gov

## **XI. “OFFICIALS WITH AUTHORITY” (AS DEFINED IN THIS POLICY)**

- Executive Vice President of the College
- Provost & Senior Vice President for Academic Affairs
- Dean of the School of Arts & Science
- Dean of the School of Continuing Education
- Dean of the School of Business
- Dean of the Graduate School
- Vice President for Student Affairs
- Dean of Students – Student Affairs
- Director of Community Standards
- Director, Associate & Assistant Directors - Residence Life
- Associate Vice President & Assistant Vice Presidents - Human Resources
- Chief, Deputy Chief, Lieutenants, Sergeants - Public Safety

## **XII. PREVENTION AND AWARENESS PROGRAMS AND TRAINING**

The College’s awareness and prevention programs, initiatives, and strategies are community-wide or audience-specific and are aimed at preventing violence, promoting safety, and reducing perpetration. Educational efforts focused on prevention, risk minimization, and bystander intervention include primary prevention and awareness programs for incoming students and new employees, and ongoing training and related education for students and employees. The Annual Security and Fire Safety Report (available [here](#)) provides additional information about programming and training.

## **XIII. RELATED POLICIES, SOURCES, AND INFORMATION**

**Title IX/Sexual Harassment:** Visit <https://sexual-harassment.providence.edu/>

- Family Educational Rights and Privacy Act (FERPA) Guidance
- Mandatory Reporting of Sexual Misconduct Policy
- Child Abuse or Neglect Reporting Policy
- Hazing Policy
- Violence Against Women Reauthorization Act of 2013
- Jeanne Clery Act, as amended
- Title VII of the Civil Rights Act of 1964

Policy adopted: 2006; Latest revision August, 2020.