

# Policy on Sexual Misconduct

## Providence College

### PREAMBLE

The Catholic and Dominican mission of Providence College maintains that, “to see the world of people and things as capable of revealing God and to understand that God’s grace can suffuse even seemingly secular realities is to regard all things as potentially holy. And because they are we are required to live and act in particular ways.”<sup>1</sup> In light of this, Providence College:

- recognizes the unity of the human family that proceeds from its one Creator;
- encourages the deepest respect for the essential dignity, freedom, and equality of every person;
- cultivates intellectual, spiritual, ethical, and aesthetic values within the context of the Judaeo-Christian heritage;
- prepares its students with an understanding of the importance of community; and
- fosters in its students an awareness of the role of faith in the acquisition of knowledge, in the growth of personal identity, and in discernment of ethics and values that are informed by the teachings of Catholicism and the Dominican Order.<sup>2</sup>

In contemporary secular society, honoring these values and meeting these objectives is increasingly difficult when there is a growing disconnection between faith and individual morality. For example, binge drinking, promiscuity, interpersonal violence, and vandalism are all too familiar on today’s college campus. As a result, the process of character formation of adolescents and young adults is increasingly complex and often inadequate.

In the fall of 2005 Fr. Brian J. Shanley, O.P., president of Providence College, formed a presidential Committee on Campus Culture, Conduct, and Civility and charged it with assessing these behavioral trends and recommending policies, interventions, and actions to enhance the Providence College experience in ways congruent with its mission. One priority that the Committee established was to examine the issue of sexual assault on campus, and to this end constituted a Sub-Committee on Sexual Assault. After reviewing the incidence of sexual assault on campus, the existing policies and procedures at Providence College, policies at peer institutions, and the relevant research literature, the Sub-Committee on Sexual Assault developed the accompanying *Policy on Sexual Misconduct*. The Committee on Campus Culture, Conduct, and Civility reviewed and endorsed this policy and it was subsequently approved by Fr. Shanley and the cabinet.

This policy is framed within the broad context of two truths: that all creation is of God, and that human beings in particular have dignity and worth by virtue of having been created in the image of God. This policy lends deep respect to the goodness of human sexuality and encourages that the gift of sexuality be received with respect, and shared with reverence and responsibility. Additionally, it affirms the Gospel message of

<sup>1</sup> Office of Mission and Ministry, *What does it mean to be Catholic?*

<sup>2</sup> Adapted from *Mission Statement* and *Statement of Objectives* of Providence College

selflessness, love for others, and commitment. It includes a set of rules that define unacceptable behavior and that meet federal mandates to ensure a safe campus. Finally, this policy and its accompanying documents aim to educate the Providence College community and to help us foster a community of trust and goodness where all can flourish in safety and freedom.

## **POLICY ON SEXUAL MISCONDUCT**

### **I. INTRODUCTION**

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 standards of conduct for Providence College, and some forms of sexual misconduct can violate both civil and criminal law. Students at Providence College are responsible for being familiar with and abiding by the standards of conduct set forth herein.

### **II. JURISDICTION**

This policy applies to all Providence College students, and the College may initiate disciplinary proceedings for conduct directed toward a member of the Providence College community or someone outside the College community. Disciplinary action may be taken whether or not criminal charges are filed and without regard to whether the conduct occurred on or off the Providence College campus.

Any member of the Providence College community may file a complaint against a student for allegedly violating the sexual misconduct policy. The term “student” includes all persons (other than faculty, staff or administrators) taking or auditing courses at the College, either full-time or part-time. Persons who are not officially enrolled for a particular term but who have a continuing relationship with the College are considered students. The term “member of the College community” includes any person who is a student, faculty member, administrator/staff member or any other person employed by the College. A person’s status in a particular situation shall be determined by the Vice President for Student Services.

### **III. PROHIBITED BEHAVIOR**

Providence College strictly prohibits sexual misconduct in all forms. Sexual misconduct includes the following:

#### **A. Sexual Misconduct I**

Sexual misconduct I includes any sexual penetration (anal, oral or vaginal), however slight, with any object or sexual intercourse by a man or woman upon a man or woman without effective consent<sup>3</sup>. Sexual penetration includes vaginal or anal penetration by a penis, object, tongue or finger and oral copulation by mouth to genital contact or genital to mouth contact.

<sup>3</sup> See section IV.A for a description of what constitutes effective consent.

## **B. Sexual Misconduct II**

Sexual misconduct II is any intentional sexual touching, however slight, with any object by a man or woman upon a man or woman without effective consent. Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another or any other bodily contact in a sexual manner. Sexual misconduct II also includes any disrobing of another or exposure to another by a man or woman without effective consent.

## **C. Sexual Exploitation**

Sexual exploitation includes any conduct in which a student takes advantage of another without his/her consent for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not constitute Sexual Misconduct I or II or Sexual Harassment.

## **D. Sexual Harassment**

Sexual harassment is any type of behavior of a sexual nature that is severe or pervasive, and that creates a hostile or abusive learning, working, or living environment, thereby unreasonably interfering with a person's ability to learn or work.<sup>4</sup>

# **IV. CONSENT**

## **A. Definition**

Effective consent is informed, freely and actively given mutually understandable words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Consent may never be given by minors (in Rhode Island, those not yet sixteen (16) years of age), mentally disabled persons, and those who are incapacitated as a result of alcohol or other drug consumption (voluntary or involuntary). It also cannot be given by those who are unconscious, unaware, or otherwise physically helpless. Consent obtained through the use of fraud or force (actual or implied), whether that force be physical force, threats, intimidation or coercion, is not effective consent.

Consent is mutually understandable when a reasonable person would consider the words and/or actions of the parties to have expressed a mutually understandable agreement between them to do the same thing, in the same way, at the same time, with one another.

In the absence of mutually understandable words or actions, it is the responsibility of the initiator, or the person who wants to engage in the specific sexual activity, to make sure that he/she has the consent from his/her partner(s). Consent to some form of sexual

<sup>4</sup> For more information, please see the Providence College *Harassment Prevention Policy and Grievance Procedures* which are available in the Office of the General Counsel, Harkins Hall 410.

activity does not necessarily imply consent to other forms of sexual activity. Mutually understandable consent must be obtained by the initiator at every stage of sexual interaction.

## **B. 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. 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 will be made after the incident in light of all of the facts available.

### **1. Alcohol**

Alcohol related incapacity results from a level of alcohol ingestion that is more severe than impairment, being under the influence, drunkenness, or intoxication. Incapacity may be indicated by:

- Slurred speech;
- Bloodshot eyes;
- The smell of alcohol on his or her breath;
- Shaky equilibrium;
- Vomiting;
- Outrageous or unusual behavior;
- Unconsciousness.

Two things should be noted. First, none of these indicators, except for unconsciousness, will constitute – in and of itself – incapacitation. Second, indications of consent are irrelevant if the initiator knows or should reasonably have known of the incapacity of another person.

### **2. Drugs**

There are a number of drugs that are used to incapacitate victims for the purpose of sexual assault. Two such drugs, Rohypnol and GHB (Gamma Hydroxy Butyrate), are illegal synthetic drugs that act as powerful central nervous system depressants. The effects of these drugs can be felt within 15-30 minutes of ingestion and can cause drowsiness, confusion, reduced levels of consciousness, partial or complete amnesia, and/or seizures and respiratory distress. These drugs are commonly mixed with alcohol and given to an unsuspecting person.

## **V. REPORTING SEXUAL MISCONDUCT**

### **A. On-Campus Options**

Individuals are strongly encouraged to report incidents of sexual misconduct to a College official so that victims can receive help and access support services, and in order to facilitate disciplinary action against the perpetrator. Allegations of sexual misconduct are resolved in accordance with the disciplinary procedures outlined in the *Student*

*Handbook*. Students found responsible for violations of this policy will be subject to the full range of sanctions.

### **1. Sexual Assault Response Coordinator**

The College response protocol for incidents of sexual misconduct is overseen by the Sexual Assault Response Coordinator. Typically, students will meet with the Coordinator who will help students understand, evaluate, and choose among the options and services outlined in this policy.

### **2. Confidentiality**

Providence College recognizes that a student reporting an incident of sexual misconduct may desire confidentiality and may not want the College or the Office of Safety and Security to investigate and attempt to resolve the incident. For any student who so requests, officials of the College will maintain confidentiality to the extent permitted by law. However, the College reserves the right to investigate and pursue resolution when it is deemed necessary to protect the welfare of the College community.

A student who initially requests confidentiality and who requests that the College not investigate or pursue resolution may later request that the College investigate and pursue resolution. Reports filed with the Office of Safety and Security will be noted in a log that is made public within two (2) business days of the date of the report. No names or other information that could reveal the identity of the individuals involved will be made public in this log.

Students seeking support should speak with staff members in the Personal Counseling Center, the Office of the Chaplain/Campus Ministry, or the Student Health Center.

#### **a. Confidential Resources**

Under federal law, counselors with the Personal Counseling Center, the Chaplain, and priests exercising their pastoral duties are not required to report incidents of sexual misconduct.

#### **b. Non-Confidential Resources**

Under federal law, staff members with the Student Health Center and other administrative officials at the College are required to report non-personally identifiable information to the Office of Safety and Security. This information is limited to the incident reported, the type of incident, and the general location of the incident. Statistics given to the Office of Safety and Security will be made available through the Annual Security Report. Additionally, the College may post warnings about incidents that continue to pose a potential threat of bodily harm or danger to members of the campus community. Faculty and staff members should report incidents of sexual misconduct to the Sexual Assault Response Coordinator or College Counsel, and may be required to do so by divisional or departmental policy.<sup>5</sup>

<sup>5</sup> Please see the *Faculty Handbook*, *Administrative and Staff Handbook*, and the *Residence Assistant Handbook*.

c. Confidentiality Regarding Accused Persons

Confidentiality with respect to a person accused of having violated the sexual misconduct policy is governed by the Family Educational Rights and Privacy Act (FERPA). FERPA provides that personally identifiable information maintained in the educational records of an institution shall not be disclosed, except as otherwise specified by law. One exception is in the case of students charged with violating institutional policy related to sexual misconduct. In such cases, the victim will be notified of the outcome of any disciplinary proceeding.

**B. Other Options**

Students may also file a complaint with the Providence Police Department. The Office of Safety and Security will assist any student wishing to file such a complaint. A student does not need to file a criminal complaint in order to initiate disciplinary proceedings with the College, and the College may find a perpetrator responsible for violating this policy regardless of the outcome of criminal proceedings.

**VI. RESOURCES AND SERVICES**

**A. College Resources**

Emergency	401-865-2222	<i>24 hours, 7 days a week</i>
Sexual Assault Response Coordinator	TBD	TBD
Student Health Center	401-865-2422	Lower Bedford Hall
EMTs	401-865-2888	
Office of Safety and Security	401-865-2391	
Personal Counseling Center	401-865-2343	Lower Bedford Hall
Chaplain/Campus Ministry	401-865-2216	St. Dominic Chapel
Student Services	401-865-2143	Slavin 202
Judicial Affairs	401-865-2813	Slavin 110
Residence Life	401-865-2392	St. Joseph Hall 110
Harassment Complaints	401-865-2463	Harkins 409
College Counsel	401-865-2774	Harkins 410
Office of the Dean	401-865-2495	Harkins 213

**B. Other Resources**

Providence Police	401-272-1111	
Women & Infants Hospital	401-274-1100	general
	401-274-1750	emergency room
Rhode Island Hospital	401-444-4000	general
	401-444-5411	emergency room
Sexual Assault & Trauma Resource Center	401-421-4100	
Victims of Crime Hotline	1-800-494-8100	