

## SALVE REGINA UNIVERSITY'S SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY AND PROCEDURES

### Policy Statement

Salve Regina University strives to provide an environment that is free from all forms of discrimination, harassment and other unreasonable interference. Although the University promotes freedom of expression, this freedom implies a responsibility to observe the rights of others. Conduct that diminishes, exploits or abuses another's position or personal worth is not acceptable, and harassment in any form is not tolerated. The University does not condone sexual harassment or sexual violence, including dating violence, domestic violence, stalking and sexual assault, regardless of the sexual orientation or gender identity of individuals involved. The University will remedy all unwelcome conduct of a sexual nature and will impose serious sanctions on anyone who violates this policy. Any student, staff member, faculty, or administrator found to have violated this policy shall be subject to appropriate disciplinary action, up to and including expulsion or termination. Resolution by the University is intended to bring an end to harassing or discriminatory conduct, prevent its recurrence and remedy the effects on the complainant and the community.

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### Purpose of Policy

This policy document informs members of the University community about sexual harassment and sexual violence, and explains what they can do if they encounter or observe it in connection with any University program or activity.

### Jurisdiction

This policy applies to all University community members including faculty, adjunct faculty, staff, students, visitors, and participants in University programs and activities, both on campus and in other locations, including Study Abroad locations and at University sponsored events within and outside of the U.S.

## Definitions

**Complainant:** The person who is alleging the occurrence of sexual harassment or sexual violence

**Respondent:** The person whose actions are alleged to have violated the University's sexual harassment and sexual violence policy

Depending on the particular circumstances, sexual harassment and other policy violations may include, but are not limited to, the following:

**Sexual Harassment:** Defined as unwelcomed conduct of a sexual nature. Examples of sexual harassment may include but are not limited to – unwelcomed sexual advances; requests for sexual favors; verbal or physical contact of sexual nature; situations in which benefits are granted or withheld based on submission to or rejection of unwelcomed requests or conduct based on statutorily-protected characteristic, such as sex; situations in which the University environment is sexually hostile or oppressive to members of the University because of the actions of students, co-workers, supervisors or other members of the University community; written contact, such as sexually suggestive, harassing or obscene letters, texts, faxes, emails, notes, invitations, etc.; verbal contact, such sexually suggestive or obscene comments, phone calls, threats, slurs, epithets, jokes about gender-specific traits, sexual propositions; physical contact, such as intentional touching, pinching, brushing against another's body, impeding or blocking movement, assault, coercing sexual intercourse; visual contact, such as leering or staring at another's body, gesturing, displaying sexually suggestive objects or pictures, cartoons, posters or magazines.

**Hostile Environment:** Includes situations where sexual harassment is sufficiently severe, pervasive or persistent and objectively offensive that it unreasonably interferes with, limits or denies the ability to participate in or benefit from the University's academic programs, student employment program, Campus Life program or University activities. Sanctions can be imposed for the creation of a hostile environment. The determination of whether an environment is "hostile" may be based on a multitude of circumstances including, but are not limited to:

- The frequency of the speech or conduct;
- The nature and severity of the speech or conduct;
- Whether the speech or conduct was physically threatening;
- Whether the speech or conduct was humiliating;
- The effect of the speech or conduct on alleged victim's mental and/or emotional state;
- Whether the speech or conduct arose in the context of other discriminatory conduct;
- Whether the speech or conduct unreasonably interfered with the alleged victim's educational or work performance;
- When a statement is a mere utterance of an epithet, which engenders offense in a person or offends by mere discourtesy or rudeness.

**Quid Pro Quo:** Exists when there are unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature where submission to, or rejection of, such conduct results in adverse educational or employment action. Quid pro quo harassment may also exist when a threat of adverse action or a promise of a benefit is explicitly conditioned on submission to, or rejection of, such requests.

**Retaliation:** Exists when an individual harasses, intimidates or takes other adverse action(s) against a person because of the person's complaint of harassment, discrimination or sexual misconduct or because of the person's participation in an investigation of harassment, discrimination or sexual misconduct or their support of someone involved in an investigation of harassment, discrimination or sexual misconduct. Retaliatory actions include, but are not limited to, threats or actual violence against the person or their property, adverse educational or employment consequences, ridicule, intimidation, bullying, or ostracism. The University will impose sanctions on any student or employee found to be engaging in retaliation.

**Non-consensual Sexual Intercourse** (or attempts to commit the same) often referred to as rape:  
Any sexual intercourse (anal, oral or vaginal), however slight, with or without an object, by a person upon another person, that is without consent and/or by physical force and/or abusive.

Intercourse includes vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

**Non-consensual Sexual Contact** (or attempts to commit the same) often referred to as fondling:  
Any intentional sexual touching, including but not limited to breast, buttocks, inner thigh, groin, genitalia or surrounding area, however slight, with or without an object, by a person upon another person, that is without consent and/or by physical force and/or abusive.

Sexual contact includes intentional contact with the breast, buttocks, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breast, buttocks, groin, genitals, mouth or other orifice.

**Incest:** Sexual intercourse between two persons who are related to each other within the degrees wherein marriage is prohibited by law

**Non consensual sex with a minor** (often referred to as statutory rape): Sexual Intercourse with a person who is under the statutory age of consent

### **Sexual Assault as legally defined in Rhode Island**

Sexual assault is a felony crime in Rhode Island which we strongly encourage students to report to local police authorities. State law defines sexual assault as three degrees:

- **First degree Sexual Assault**, also called rape, has two major components: Any forced, coerced penetration of the vagina, anus or mouth by any part of another's body or an object; and legally, lack of consent does not necessarily require physical resistance or verbal refusal. For instance, someone who is incapacitated or asleep is, by definition of the law, unable to give consent.
- **Second Degree Sexual Assault** is non-consenting sexual contact with another person. This includes any forced or coerced contact with a person's genital area, inner thigh, buttocks, or the breast of a female.
- **Third Degree Sexual Assault** is consensual sexual penetration by a person 18 years of age or older of a person over 14 years of age, but under the age of consent (16 years old).

**Sexual Violence:** Is divided into three categories: 1) use of physical force to compel a person to engage in a sexual act against his or her will, whether or not the act is completed; 2) attempted or completed sex act involving a person who is unable to understand the nature or condition of the act, to decline participation, or to communicate unwillingness to engage in the sexual act (e.g., because of illness, disability, or the influence of alcohol or other drugs, or because of intimidation or pressure); and 3) abusive sexual contact.

**Stalking:** Any behavior or activities occurring typically on more than on occasion that collectively instill fear and/or threaten a person's safety, mental health or physical health. Stalking may occur in a range of formats including, but not limited to, in-person conduct, writings, texting, voicemail, email, social media, following someone with a global position system (GPS), and video/audio recording.

*Examples* of stalking behaviors include, but are not limited to:

- repeated unwanted or unsolicited contact or leaving unwanted gifts or items;
- posting disturbing messages or threats online;

- creating, attempting to create, or disseminating unauthorized recordings of another;
- gathering information about an individual from family, friends, co-workers, and/or classmates, or by electronic means by installing spy-ware on a computer or using GPS;
- threats in any form about an individual or their loved ones or threats to harm oneself;
- damaging, stealing, borrowing, or relocating property, trespassing and vandalism;
- pursuing, waiting, or showing up uninvited at a workplace, residence, classroom, or other locations frequented by an individual; and
- directing a third party to take any of the above acts.

**Sexual Exploitation:** Taking non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit a person other than the one being exploited. Examples of sexual exploitation include, but are not limited to:

- Prostituting another University community member;
- Non-consensual video or audio recording of sexual activity;
- Exceeding the boundaries of explicit consent, such as allowing friend to hide in a closet to be witness to one's consensual sexual activity;
- Engaging in voyeurism;
- Knowingly transmitting sexually transmitted infections or HIV to another University community member;
- Invasion of sexual privacy;
- Sexually-based stalking and/or bullying;
- Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals; and/or
- Sexually-based stalking and/or bullying

**Dating Violence:** Is a type of intimate partner violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim is dating violence. The existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. The nature of dating violence can be physical, emotional, or sexual. It is a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner.

**Domestic Violence:** Is abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

### **Rhode Island Definitions of Domestic Violence and Relationship Violence**

Rhode Island General Law 12-29.2 defines domestic violence as crimes when committed by one family member or household member against another. Family or household member is defined as:

- Spouses
- Former spouses
- Adult persons related by blood or marriage and persons who have a child in common regardless of whether they have been married or have lived together
- Adult persons who are currently residing together or who have resided together during the past three years. **PLEASE NOTE: Students in the same residence hall may be considered under this definition. In addition, this may apply to students sharing an off-campus residence.**
- Persons who have a child in common regardless of whether they have been married or have lived together

- Persons who are or have been in a substantive dating or engagement relationship within the past 6 months which shall be determined by the court's consideration of the length of time of the relationship, the type of relationship and the frequency of the interaction between parties.

Domestic violence includes but is not limited to any of the following crimes when committed by one family or household member against another: simple and felony assaults, vandalism, disorderly conduct, trespassing, kidnapping, child snatching, sexual assault, homicide, violations of court orders, stalking, refusal to relinquish or to damage or to obstruct a telephone, burglary and unlawful entry, arson, cyberstalking and cyber harassment, and domestic assault by strangulation.

Rhode Island Law defines domestic abuse as “attempting to cause or causing physical harm, placing another person in fear of immediate physical harm, or causing another to engage involuntarily in sexual relations by force, threat, or duress, stalking via harassment or following a person, and cyberstalking.”

There are many forms of physical, verbal, emotional, and sexual abuse that may be used between roommates, friends or couples.

Examples of verbal and emotional abuse include using threatening gestures or language, stalking or harassing, shouting, swearing, blocking the doorway or using body size to intimidate, claiming to be the authority, blaming or accusing, insulting, mocking, driving recklessly to scare the victim, isolating the victim from friends or family, or refusing to listen or respond. All forms of domestic violence, domestic abuse and relationship violence are in violation of the sexual misconduct policy.

These crimes carry sentences up to one year in prison and may result in the serving of a restraining order against the assailant and the requiring of the assailant to attend a recognized treatment program for batterers.

**A person who commits sexual harassment or sexual violence in violation of this policy will be subject to disciplinary action, up to and including expulsion and termination.**

## **Other Definitions**

**Consent** is defined as words or actions that show an informed and voluntary agreement to engage in mutually agreed upon sexual activity. Consent cannot be gained by force, by ignoring or acting in spite of the objections of another or by taking advantage of the incapacitation of another, where the other person(s) knows or reasonably should have known of such incapacitation. Sexual activity with someone whom one should know to be – or based on the circumstances should reasonably have known to be – mentally or physically incapacitated (by alcohol or other drug use, unconsciousness), constitutes a violation of the sexual misconduct policy. Consent is also absent when the activity in question exceeds the scope of consent previously given.

What is consent? Consent, as noted above, means words or actions that show an informed and voluntary agreement to engage in mutually agreed-upon sexual activity. Consent to one form of sexual activity should not, and cannot, be taken as consent to any other sexual activity. Under this policy, “No” always means “No” and “Yes” may not always mean “Yes.” For example, when alcohol or other drugs are being used, a person will be considered unable to give valid consent if they cannot fully understand the details of the sexual interaction (who, what, where, when, why, or how) because they lack the capacity to reasonably understand what they are doing. Consent cannot be given by an individual who is incapacitated or asleep. In addition, silence – without clear actions demonstrating permission – cannot be assumed to indicate consent. Anything but a clear, informed and voluntary consent to any sexual activity is equivalent to a “no.”

Consent:

- Requires Communication
- Words or actions must be used to establish consent. The absence of “no” does not equal “yes.”
- Must entail an uninfluenced “yes”
- Consent cannot be established if one person is pressuring the other – this can be physical or emotional. Pressuring another person by saying things like “If you love me you’ll do this” or “I’ll find it elsewhere if I don’t get it from you” does not lead to consent and is not respectful of the other person’s wishes.
- Happens one step at a time, every time. Just because your partner agrees to one thing that does not mean they agree to everything. Oral sex does not give consent for intercourse and vice versa. Also, hooking up one time, does not give permission for every other time – even if you are in a relationship, even if it has happened many times before.
- Is free to be taken back at any time. At any point during a sexual encounter each partner should feel free to change his or her mind and the other partner must respect that person’s decision.
- In order to give consent, one must be of legal age.

**Force:** The use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent for example, “Have sex with me or I’ll hit you.” “Okay, don’t hit me, I’ll do what you want”.

Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

NOTE: There is no requirement that a party resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual activity is not by definition forced.

**Intimidation:** Defined as implied threats or acts that cause a reasonable fear of harm in another.

**Incapacitation:** A state where an individual is temporarily or permanently impaired to the extent they do not have command over their own decisions. Incapacitation may be caused by mental or physical disability, illness, sleep or when a person has used alcohol or other drugs, including prescribed medication, to an extent where that person can no longer make rational, informed decisions. A person who does not comprehend the “who, what, when, where, why or how” of a sexual interaction may be incapacitated. Sign of incapacitation includes, but are not limited to:

- Amount of alcohol/drugs consumed
- Stumbling or shaky equilibrium
- Vomiting
- Slurred speech
- Bloodshot eyes
- Smell of alcohol
- Outrageous or unusual behavior
- Unconsciousness (short of long periods of time)

If a person may be incapacitated then all potential sexual activity should cease until consent can be clearly given. If a person knows or should reasonably know that someone is incapacitated, then all potential sexual activity must cease until consent can again be freely given.

Remember, a person being intoxicated or impaired by drugs or alcohol is NEVER an excuse for sexual misconduct, stalking, dating or domestic violence, and does not diminish that person's responsibility to obtain consent or recognize incapacitation.

Other guidance on consent and assessing incapacitation:

A person who wants to engage in a specific sexual activity is responsible for obtaining consent for that activity. The lack of negative response or protest does not constitute consent. Lack of resistance does not constitute consent. Silence and/or passivity does not constitute consent. Relying solely on non-verbal communication before or during sexual activity can lead to misunderstanding and may result in a violation of this Policy. It is important not to make assumptions about whether a potential partner is consenting. In order to avoid confusion or ambiguity, participants are encouraged to talk with one another before engaging in sexual activity. If confusion or ambiguity arises during sexual activity, participants are encouraged to stop and clarify a mutual willingness to continue that activity.

Consent to one form of sexual activity does not, by itself, constitute consent to another form of sexual activity. For example, one should not presume that consent to oral-genital contact constitutes consent to vaginal or anal penetration. Consent to sexual activity on a prior occasion does not, by itself, constitute consent to future sexual activity. In case of prior relationships, the manner and nature of prior communications (verbal and/or non-verbal) confirming consent between the parties and the context of the relationship may have bearing on the presence of consent at the time of the reported incident. Once consent has been given, it may be withdrawn at any time. Once consent is withdrawn, the sexual activity must cease immediately.

In evaluating consent in cases of alleged incapacitation, the University asks two questions: (1) Did the person initiating sexual activity know the other person was incapacitated? And if not, (2) should a sober, reasonable person in the same situation have known the other party was incapacitated? If the answer to either of these questions is "YES", then consent was absent and the conduct is likely a violation our policy(s).

**Sexual penetration:** Any contact, however slight, between the sex organ or anus of one person by an object, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including but not limited to cunnilingus, fellatio or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

**Preponderance of the evidence:** This standard of proof refers to the criteria or measure of proof that is used to assess when finding a respondent responsible for violating the Sexual Harassment and Sexual Violence Policy. The Preponderance of evidence standard is defined as the greater weight of the evidence/information or 'more likely than not' that the violation has occurred. Salve Regina University strives to assure fairness to all parties in the adjudication of all cases. However, University investigation procedures are not identical to a civil or criminal proceeding; therefore a lower standard of proof is required to reach a conclusion than in a criminal proceeding. Investigation procedures will be adhered to as faithfully as possible, but variation dictated by circumstances may occur and will not invalidate the process.

**Days:** For this document, is defined as business days during which the University is open. This does not include weekends or holidays.

### **Mandatory Reporting**

Salve Regina University has decided to adopt a policy that defines all employees as mandatory reporters. If you learn about sexual harassment, discrimination or sexual violence, you are expected to promptly contact the campus Title IX Coordinator, (Malcolm Smith, Associate VP and Dean of Students, 401-341-2145) or the Deputy Title IX Coordinator for Employees, (Nancy Escher, HR Generalist, 401-341-2157). The Title IX

Coordinator or Deputy Title IX Coordinator will take responsibility for prompt notification to Campus Safety and Security and other appropriate University officials. The University will promptly and effectively remedy all reported incidents by providing resources to the victim and addressing the effects on the victim and the community. Failure to report an allegation of sexual harassment, discrimination or sexual violence may result in disciplinary action, up to and including termination.

For additional details on the University's Mandatory Reporting policy, refer to Appendix J in the University's Staff Handbook.

### **Reporting Incidents of Sexual Violence, Domestic Violence, Dating Violence and Stalking**

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) and the Violence Against Women Act prohibit sexual harassment, including sexual violence, domestic violence, dating violence and stalking and require a prompt and equitable resolution of complaints. Acts of sexual violence, domestic violence, dating violence or stalking should be referred to the Title IX Coordinator or Deputy Title IX Coordinator. If an act of sexual violence is in progress or imminent on campus, dial 911.

Incidents of sexual violence may be criminal in nature, and members of the University community who have been subjected to it may, if they wish, file reports with local law enforcement authorities. If a member of the University community wishes to notify law enforcement, he or she may obtain assistance from the Office of Campus Safety and Security. Victims of sexual violence may also decline to notify law enforcement authorities if they so choose.

Regardless of whether a report is filed with local law enforcement, individuals should preserve all evidence that could be relevant to any criminal charges that may be brought or that might be needed to obtain a protection order. Individuals who have been subjected to sexual violence are encouraged to obtain physical examination by a Sexual Assault Nurse Examiner (SANE). This exam may be obtained at Newport Hospital (401)846-6400. Before obtaining a SANE exam, individuals should avoid showering, washing, changing clothes, combing hair, drinking, eating or altering their physical appearance. Even if a SANE exam is not sought, all victims of violence should consider obtaining medical attention so that any issues relating to possible injury or disease from the incident may be addressed.

### **Confidentiality**

#### **Confidential versus Formal Reporting - Know the Options**

The University encourages victims of sexual violence to talk to somebody about what happened – so they can get the support they need, and so the University can respond appropriately. Different employees on campus have different responsibilities. Some are required to maintain near complete confidentiality (counseling services, health services, and University chaplains). They can talk with a victim in confidence and generally only report to the University that an incident occurred without revealing any personally identifiable information. Disclosures to these employees will not trigger a University investigation into an incident against the victim's wishes.

All other employees are required to report all the details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX Coordinator. A report to these employees (called "responsible employees") constitutes a report to the University – and generally obligates the University to investigate the incident and take appropriate steps to address the situation.

The following describes more about the two reporting options at Salve Regina University:

#### **Confidentially Reporting Sexual Harassment or Sexual Violence**

University officials, depending on their roles at the University, have varying reporting responsibilities and abilities to maintain confidentiality. In order to make informed choices, one should be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some



resources (counseling services, health services, and University chaplains) may maintain confidentiality, offering options and advice without any obligation to inform an outside agency or individual unless the reporting party has requested information to be shared. These offices will submit an anonymous report regarding the incident for purposes of the Clery Act and Title IX reporting, but this anonymous report does not include any personally identifiable information.

If the reporting party would like the details of an incident to be kept confidential, you may speak with a member of Salve Regina's Health Services office, Counseling Services office, the University Chaplain or an off campus rape crisis center counselor who will maintain confidentiality. Members of Salve Regina's health and counseling services will only submit the anonymous report, which does not include any personally identifiable information. The purpose of an anonymous report is to maintain the victim's confidentiality while taking steps to ensure future safety of the campus community. With this information, the University can maintain accurate records about the number of assaults within the University's jurisdiction; determine whether there is a pattern of assaults with regard to particular location, method, or assailant; and alert the campus community to potential danger.

### **Formal Reporting and Responsible Employees**

A "responsible employee" is a University employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other policy violations, or who a student or employee could reasonably believe has this authority or duty. All University employees – including Resident Assistants (RAs), faculty, student organization advisors, and staff members, are the University's "responsible employees," with the following exceptions:

- Food Service staff
- Cleaning/Housekeeping staff
- University Chaplain, Counseling and Health Services staff, who will maintain confidentiality

Before a victim reveals any information to a responsible employee, the employee should ensure that the victim understands the employee's reporting obligations – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources (counseling services, health services, University Chaplain).

When a victim tells a responsible employee about an incident of sexual violence, the victim has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A responsible employee must report to the Title IX Coordinator or Deputy IX Coordinator all relevant details about the alleged sexual violence or sexual harassment shared by the victim. The University will need to determine what happened – including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the University's response to the report. A responsible employee should not share information with law enforcement without the victim's consent or unless the victim has also reported the incident to law enforcement.

If the victim wants to tell the responsible employee what happened but also maintain confidentiality, the victim should understand that the University may consider the request, but cannot guarantee that the University will be able to honor it. In reporting the details of the incident to the Title IX Coordinator or Deputy Coordinator, the responsible employee will also inform the Coordinator of the victim's request for confidentiality.

If a victim discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the University must weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all

students and employees, including the victim. If the University determines that an investigation and disciplinary proceedings will be taken, the University will inform the victim prior to the start of investigations and will, to the extent possible, only share information with people responsible for handling the University's response. The University will remain mindful of the victim's well-being and take steps necessary to protect and assist the victim. The University may not require a victim to participate in any investigation or disciplinary proceeding.

Formal Reporting of incidents of sexual harassment and sexual violence is encouraged by the University. A complainant has the right to, and can expect to have complaints of policy violation taken seriously by the University when formally reported, and to have those incidents investigated and properly resolved through adjudication procedures. Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told. Information will be shared as necessary with investigators, witnesses, and the responding party. The circle of people with this knowledge will be kept as limited as possible to preserve the complainant's rights and privacy. It is also encouraged that incidents be reported to local law enforcement. Formal reporting options include contacting the local police department in which the incident occurred.

### **Federal Timely Warning Obligations**

Victims of sexual violence, domestic violence, dating violence and stalking should be aware that University administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The University will make every effort to ensure that a victim's name and other personally identifiable information are not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

### **Assistance For Victims of Sexual Violence**

Victims of sexual violence may obtain confidential counseling from the Office of Counseling Services. Counselors can be reached during office hours from 9am-5pm Monday through Friday and are on call 24 hours a day/7 days a week by contacting the Office of Safety and Security.

Members of the University community may obtain further information about resources relating to sexual violence from the University's Title IX Coordinator, Malcolm Smith (Associate VP for Student Affairs and Dean of Students) and Deputy Coordinators, Nancy Escher (HR Generalist) or Emily Diomandes (Assistant Dean of Students).

The University will provide victims of sexual violence with written notice about existing counseling, health, mental health, victim advocacy, legal assistance and other services, as well as options for changing academic and working situations, if requested, if reasonably available, and regardless of whether reports are made to local law enforcement.

#### **On campus resources for victims:**

- Office of Safety & Security, 401-341-2325, Tobin Hall, 24 hours a day, 7 days a week
- Title IX Coordinator, Malcolm Smith, 401-341-2145, Miley Hall, 8:30am – 4:30pm
- Deputy Title IX Coord. for Students, Emily Diomandes, 401-341-2640, Miley Hall, 8:30am -4:30pm
- Deputy Title IX Coord. for Employees, Nancy Escher, 401-341-2157, Stonor Hall, 8:30am-4:30pm
- Health Services, 401-341-2904, Miley Hall, Garden level, 9am-5pm
- Office of Counseling Services, 401-341-2919, Miley Hall, Garden level, 9am – 5pm
- Mercy Center for Spiritual Life, Mercy Chapel, 401-341-2326, 8:30am – 4:30pm
- Office of the Dean of Students, 401-341-2145, Miley Hall, Rm 118, 8:30am – 4:30pm
- Office of Residence Life, 401-341-2210, Walgreen Hall, Admin. Wing, 9am – 5pm

#### **Off campus resources for victims:**

- Day One The Sexual Assault & Trauma Resource Center, 100 Medway, Providence, RI, 401-421-4100

- Women's Resource Center, 114 Touro St., Newport, RI, 401-846-5263
- Newport Police Department, 120 Broadway, Newport, RI, 911 or 401-847-1306 (non-emergency)
- Newport Hospital, 11 Friendship St., Newport, 401-846-6400

### **Interim Actions and Accommodations**

The University may take interim actions, as appropriate, while incidents involving allegations of sexual violence are investigated and resolved. Interim action may be taken regardless of whether an individual chooses to report an incident to local law enforcement and may include interim suspension, removal from University housing, "no contact" orders, and/or changing academic, living, transportation or working arrangements for one or more parties.

### **Complaint Procedures**

#### **Formal Procedures for Complaints**

**This section provides the procedure for an employee to file a formal complaint against another employee, student, contractor or vendor.**

**Please note:** Retaliation against any individual who reports sexual harassment, sexual discrimination, or sexual violence or who cooperates in an investigation of a sexual harassment, sexual discrimination, or sexual violence complaint will not be tolerated and will result in disciplinary action. It shall be a violation of this policy for anyone to willfully make false allegations of harassment or sexual harassment.

An employee may file a formal complaint by making a report to either Malcolm Smith, Associate VP for Student Affairs, Dean of Students and Title IX Coordinator or Nancy Escher, HR Generalist/Deputy Title IX Coordinator.

During any in person meeting to report or discuss the allegations, the complainant may be accompanied by an advisor or support person of their choice. The complainant and the respondent are entitled to the same opportunity to have an advisor of their choice from within the University community present during any investigation related meeting. Advisors may not speak for or on behalf of any student or employee during the adjudication process. While an advisor cannot speak on behalf of student or employee, they can confer with the student or employee as necessary. If deemed appropriate, by the investigator, a recess can be granted for the advisor and student or employee to confer. Complainants and respondents are not required to use advisors.

The role of the advisor will be restricted to advising the respective parties. No advisor may speak at any time in place of the complainant or respondent. The responsible investigator(s) reserves the right to exclude an advisor from the proceedings for failure to abide by these guidelines.

The Title IX Coordinator will provide information to the complainant for possible informal resolution of the complaint after securing details of the allegations from the complainant. This will occur only if it is determined that exploring informal resolution is appropriate after evaluating the complaint. An informal resolution may include the possibility of a meeting between the complainant and respondent to discuss an informal resolution of the matter. Importantly, if the matter is resolved informally, an investigation will not be conducted. **Note: Allegations of sexual violence cannot be handled through any informal resolution process.**

Any complaint that cannot or should not be resolved informally will be considered for an investigation by the Title IX Coordinator and/or designee. If it is determined that an investigation must take place, the case will be assigned to an investigator(s). Investigations shall generally be completed within sixty (60) calendar days unless circumstances prevent the completion of an investigation or disposition.

**Procedures for a student to file a formal complaint related to sexual harassment, sexual discrimination or sexual violence can be found in the Student Sexual Misconduct Policy within the Student Code of Conduct.**

### **Investigation and Adjudication Process**

Both the complainant and respondent have the right to be interviewed separately and to present any information relevant to the charge and to provide names of witnesses and/or evidence helpful to them.

When an investigation to determine policy violation has been approved, the assigned investigator(s) will move forward with an investigation, which may include, however, not be limited to the following:

- Notifying all parties in writing when the investigation and adjudication processes have been initiated
- In coordination with the Title IX Coordinator or a Deputy Title IX Coordinator, initiate any necessary corrective actions, which are non-punitive measures that may include, without limitation, training, guidance, adjustment of supervisory or evaluative responsibilities and measures to protect health and safety.
- Determine the identity and contact information of the complainant (whether that be the initiator, the alleged victim, or a University proxy or representative);
- Identify the correct policies allegedly violated;
- Conduct an immediate initial investigation to determine if there is reasonable cause to charge the respondent, and what policy violations should be alleged as part of the complaint;
- If there is insufficient evidence to support reasonable cause, the investigation should be closed with no further action;
- Meet with the complainant to finalize the complaint and prepare the notice of charges on the basis of the initial investigation;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe and order of interviews for all witnesses and the respondent, who may be given notice prior to or at the time of the interview;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Determine, based on the **preponderance of the evidence** standard, if a violation of the Sexual Harassment and Sexual Violence Policy and Procedures has occurred;
- The investigative report and the findings will be given to the Director of Human Resources or designee who, within 10 business days of its receipt, will confer with appropriate members of the Cabinet and define the corrective and/or disciplinary action to be taken and will inform both the complainant and the respondent, simultaneously, of the outcome in writing. The University will not require the respondent or complainant to abide by a nondisclosure agreement that would prevent them from sharing information related to the outcome.
- Where the respondent is found not responsible for the alleged violation(s), the investigation should be closed.

The Director of Human Resources or designee will notify the President of the corrective and/or disciplinary action to be taken before it is communicated to the Complainant and Respondent. The University will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the University community.

In the event that the respondent rejects the findings in part or entirely, the respondent may have the right to an appeal. All complaints shall be handled as confidentially as possible, with disclosure of allegations provided only to those with a need to know.

## **Appeal Procedures**

Both the complainant and the respondent have the right to appeal the outcome. Upon receiving an appeal, the Title IX Coordinator or designee will let the other party know, provide them with the opportunity to review the appeal and allow them to submit a written response.

To initiate an appeal, the party requesting the appeal must write and submit, on his or her own behalf, a request to the Title IX Coordinator within five business days after receiving (written) notification of the initial decision. The request for an appeal must be accompanied by all relevant supporting information and documentation and the desired outcome of the appeal request.

The grounds for an appeal must be based upon one of the following:

1. **Procedural Error:** A procedural error(s) occurred during the original conduct process that significantly impacted the outcome.
2. **New Information:** Specification of new information, unavailable at the time of the investigation, that if introduced would have significantly affected the outcome. A detailed account of the new information must be clearly specified. Information is not considered new if the student/employee was given an opportunity to present it during the original investigation or voluntarily withheld the information during the original investigation.

If the Title IX Coordinator determines that the request satisfies one or more of the aforementioned grounds, he/she will provide the appeal documentation to the President or designee for review. The purpose of the appeal is not to provide a second hearing of the case. The President or designee will not meet with the student/employee or re-hear the case.

Copies of all pertinent documentation will be made available to the President or designee at the time of the review. The President or designee shall have the power to uphold, reverse or modify the original disciplinary action within ten University business days of the procedure being initiated. When there is an appeal on the grounds of new information and the President or designee finds that the new information may have significantly affected the finding of the investigation, then the Title IX Coordinator will provide to the Investigators and/or the Director of Human Resources for consideration.

The complainant and the respondent will be notified in writing, simultaneously, of the outcome of the appeal.

## **Disciplinary Actions**

A violation of the Sexual Harassment and Sexual Violence Policy and Procedures is a serious offense and will be subject to any combination of disciplinary actions as described in the Staff Handbook under Discipline.

## **Contacts**

### **Title IX Coordinator**

Malcolm Smith, Associate Vice President and Dean of Students  
Miley Hall, 8:30 a.m. to 4:30 p.m.  
Phone 401-341-2145  
Email [malcolm.smith@salve.edu](mailto:malcolm.smith@salve.edu)

Deputy Title IX Coordinator for Students  
Emily Diomandes, Assistant Dean of Students  
Center for Student Development, Miley Hall, 8:30 a.m. to 4:30 p.m.  
Phone 401-341-2640  
Email [emily.diomande@salve.edu](mailto:emily.diomande@salve.edu)

Deputy Title IX Coordinator for Employees  
Nancy Escher, HR Generalist  
Stonor Hall, 8:30 a.m. to 4:30 p.m.  
Phone 401-341-2157  
Email [nancy.escher@salve.edu](mailto:nancy.escher@salve.edu)

Individuals with complaints of this nature also always have the right to file a formal complaint with the United States Department Education:

### **Office for Civil Rights (Boston office)**

U.S. Department of Education  
5 Post Office Square, eighth floor  
Boston, MA 02109-3921  
Phone: (617) 289-0111  
Fax: (617) 289-0150  
[ocr.boston@ed.gov](mailto:ocr.boston@ed.gov)

## **Victim's Bill of Rights**

The University will take interim steps to protect victims of sex based discrimination and sexual misconduct and maintain a positive learning environment by minimizing or eliminating contact with the accused student or employee and providing reasonable academic and administrative accommodations in accordance with the Clery Act and Title IX.

- The victim has the right to have any and all incidents of sexual harassment and sexual violence treated seriously and the right to be treated with dignity.
- The victim will be informed in a timely manner of available options including the necessary steps and potential consequences of each option.
- The victim has the right to be free from undue coercion from any member of the University community to pursue or not pursue any course of action.
- The victim has the right to be notified of her/his option to notify appropriate law enforcement authorities, including local police and to be informed about how to notify the appropriate law enforcement agency and receive assistance from University personnel in notifying these authorities, if requested.
- The victim will receive information on how to make a confidential report for the purposes of tracking campus crime.
- The victim has the right to be informed of the investigation process and procedures.
- The victim has the same right as the accused to have others present throughout the investigation process.
- The victim has the right to be informed of the outcome, in writing, of any Salve Regina student or employee conduct proceeding involving an alleged sexual misconduct offense and the right to appeal the outcome.
- The victim has the right to request a change in academic, working and living situations after an alleged sexual harassment or sexual violence offense and be informed of the reasonably available options for those changes.
- The victim will be informed about campus and community resources for counseling, medical services, advocacy, and other services for victims of sexual harassment or sexual violence.

## **Risk Reduction Tips**

Based on research, one in five women is sexually assaulted while in college. In the great majority of cases (75-80%), she knows her attacker, whether as an acquaintance, classmate, friend or (ex) boyfriend. Many are victims of what is called "incapacitated assault:" they are sexually abused while drugged, drunk, passed out, or otherwise incapacitated. Men are also victims of sexual assault. Review the tips below to reduce your risk of sexual assault.

Tips like these may make victims feel blamed if a sexual assault occurs. Salve Regina University believes it is never the victim's fault and these tips are offered in the hope that recognizing patterns can help men and women reduce the risk of victimization. That said, an empowered bystander can intervene to prevent a rape or assault. Generally, an assault by a known offender will follow a four-step pattern:

- An individual's personal space is violated in some way. For example, the perpetrator may touch the victim in a way that does not feel comfortable.
- If the victim does not express discomfort, the perpetrator may begin to view the victim as an easy target because she/he is not acting assertively.
- The perpetrator may take the victim to a location that is secluded and where the victim is vulnerable.
- The victim feels trapped or unable to be assertive and is raped or assaulted.

Decisive action early in an encounter may be the key to avoiding an assault. An individual who can combine assertiveness and self-defense skills, and who is self-confident and definite in his/her interactions with others, is less likely to become a victim of assault. If the individual can assertively defend his/her rights initially, he/she has a better chance of avoiding being assaulted than does a person who resorts to techniques such as pleading or trying to talk the perpetrator out of it. If you find yourself in an uncomfortable sexual situation, these suggestions may help you to reduce your risk:

- If you have limits, make them known before things go too far.
- Give clear messages. Tell a sexual aggressor “NO” clearly and loudly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Be responsible for your alcohol intake/drug use and realize that alcohol/drugs lower your sexual inhibitions and may make you more vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends and ask them to take care of you.
- Trust your feelings or instincts. If a situation does not feel comfortable to you or you feel anxious about the way your date is acting, you need to respond. Leave immediately if necessary.

If you find yourself in a position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you reduce your risk of being accused of sexual misconduct. Do not make assumptions about:

- Consent;
- Someone’s sexual availability;
- Whether a person is attracted to you;
- How far you can go; or
- Whether a person is physically or mentally able to consent to you. (If there are any questions or ambiguity then you DO NOT have consent.)
- Clearly communicate your intentions to your sexual partner and give him/her a chance to clearly relate his/her intentions to you.
- Mixed messages from your partner should be a clear indication that you should step back, defuse the sexual tension, and communicate better. Perhaps you are misreading your partner. Perhaps your partner has not figured out how far he/she wants to go with you, yet. You need to respect the time-line with which your partner is comfortable.
- Do not take advantage of someone’s drunkenness or drugged state, even if he/she did it to him/herself.
- Realize that your potential partner could be intimidated by you or fearful. You may have a power advantage simply because of your gender or size. Do not abuse that power.
- Understand that consent to some forms of sexual behavior does not necessarily imply consent to other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.
- Do not force someone to have sex with you, or have sex with a partner who has not clearly consented to you by words or actions unmistakable in their meaning.



## Frequently Asked Questions

The following are some of the most commonly asked questions regarding the University's Sexual Harassment and Sexual Violence Policy and Procedures.

### *Does a report remain confidential or private?*

Reports made to clinical counselors, health service providers and University chaplains will be kept confidential. All other reports are considered private. The privacy of all parties with regard to a complaint of sexual misconduct will be maintained, except insofar as it interferes with the University's obligation to fully investigate allegations of sexual misconduct. Where information is shared, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted.

In all complaints of sexual misconduct, the complainant will be informed of the outcome. Certain University administrators are informed privately (e.g. University President, Title IX Coordinator, etc.) of the outcome and any change to an employee's status, as necessary. The University must statistically report the occurrence of major violent crimes on and adjacent to campus, including certain sex offenses, and hate crimes in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

### *Do I have to name the responding party?*

Yes, if you want formal conduct action to be taken against the responding party. No, if you choose not to file a formal complaint, (but you should consult the complete confidentiality and reporting procedures policy above to better understand the university's obligations depending on what information you share with different university officials). You can report the incident without the identity of the responding party, but doing so may limit the institution's ability to respond comprehensively. You may also make an anonymous report of the incident using this anonymous reporting form which can be found here:

<http://www.salve.edu/sexual-misconduct-anonymous-reporting-form>

### *Will the responding party know my identity?*

Yes, if the university determines there is reasonable cause to believe a violation has occurred and investigates the matter. Sexual misconduct is a serious offense and the responding party has the right to know the identity of the complainant.

### *Will I have to confront the alleged perpetrator?*

No (refer to the Investigation and Adjudication procedures described within this document)

### *What should I do if I am accused of sexual misconduct?*

First, do not contact the reporting party. You may want to contact the Title IX Coordinator or a Deputy Title IX Coordinator who can explain the University's procedures for dealing with sexual misconduct complaints. You may also want to contact the Title IX Coordinator for resources including counseling services and other outside resources.

### *Will the use of drugs or alcohol affect the outcome of a sexual misconduct complaint?*

The use of alcohol and/or drugs by either party will not diminish the responding party's responsibility. On the other hand, alcohol and/or drug use is likely to affect the complainant's memory and, therefore, may affect the outcome of the complaint. A person bringing a complaint of sexual misconduct must either remember the alleged incident or have sufficient circumstantial evidence, physical evidence and/or witnesses to prove that the policy was violated. If the complainant does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the respondent without further corroborating information. Use of alcohol and/or other drugs will never excuse a violation by the respondent.

*Will either party's prior use of drugs and/or alcohol be considered when reporting sexual misconduct?*

Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present complaint.

*What should I do if I am uncertain about what happened?*

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation of the University's Sexual Harassment and Sexual Violence Policy and Procedures, you should contact the Title IX Coordinator, a Deputy Title IX or the Office of Safety & Security. You could also meet with a member of the Counseling Services office who can help to define and clarify the event(s), and advise you of your options.

*What should I do to preserve evidence of a sexual assault?*

Police are in the best position to secure evidence of a crime. Physical evidence of a sexual assault must be collected from the alleged victim's person within about 96 hours of the assault, though evidence can be often obtained from towels, sheets, clothes, etc. for much longer periods of time. . If you believe you have been a victim of a sexual assault, you should go to a hospital emergency room before washing yourself or your clothing. The Office of Safety & Security can provide you with transportation. Typically, a sexual assault health professional (a specifically trained nurse called a SANE) at the hospital is on call and will counsel you. If you go to the hospital, local police will be called at your request. The hospital staff will collect information, check for injuries and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet. (Plastic containers do not breathe, and may render forensic information useless.) If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you were wearing as evidence. You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. Do not disturb the crime scene – leave all sheets, towels, etc. that may bear information for the police to collect. If a person believes they have been drugged, then they have 12-24 hours for medical professionals to determine if drugs are still present in the body.

## **Training and Prevention**

The University recognizes the importance of providing education and training on the subject of sexual violence and sexual harassment, dating violence, domestic violence and stalking. All employees are required to complete annual training on the following topics:

- Workplace Harassment Prevention
- The Campus SaVE Act
- Mandatory Reporting

The University shall take all reasonable steps to see that this policy prohibiting sexual violence and sexual harassment is followed by all students, employees, supervisors and others who have contact with our University community members. This prevention plan will include online and in-service training sessions, ongoing monitoring of the University, and annual distribution of the Sexual Harassment and Sexual Violence Policy and Procedures to employees.