

Legal Issues and Policies Pertaining to Faculty's Instructional Role**Case Study B: Title IX, Academic Freedom, Classroom Management, FERPA and ADA**

This semester you are teaching an ACS course. During a class discussion on Augustine's *Confessions* the students reflect on Augustine's 13 years living with and being sexually active with a concubine. As the discussion continues, students question why Augustine stayed with the concubine for so long if he was struggling with his sin. Jamie then makes a comment that the Catholic faith is very hypocritical and says loudly, "Catholics say they are so accepting of others, but look at their stance on gay rights!" A spirited debate ensues over Catholic values. During the discussion, Sam appears to be getting frustrated and loudly slams a pen on the desk and mumbles something. As the discussion continues, Sam becomes more frustrated, stands up, walks towards Jamie and yells, "If you don't like our faith then just leave! Why did you even come to a Catholic school to begin with?" The faculty member instructs Sam to leave the class and schedule a time to meet with them during office hours. Sam storms out of the classroom.

The class discussion shifted into talking about reasons why people stay in certain relationships even if they are struggling with various aspects of the relationship. Pat mentions that there are times when someone stays with their partner even if they are physically and verbally abusive. Alex says, "Why would anyone ever stay with someone who abuses them? They should just leave." The conversation becomes more intense, and Pat eventually shares that it recently took 6 months to get out of "a bad" relationship and that Pat's partner "did not take it well". Alex then said they would never stay with someone who hurts them.

Pat attends your office hours to discuss a paper on which they received a C grade. This paper was submitted prior to the class discussion and included information about their former abusive relationship. Pat explains to you that they suffer from depression, anxiety, and PTSD and that they would like to submit a more objectively written assignment as they were emotional when writing the original paper. Later that week, Pat's mother emails you requesting to schedule a meeting to discuss Pat's grade and attendance.

Discussion points:

1. Please identify the issues raised by this scenario.
2. What can the faculty member do to address the escalation between Sam and Jamie?
3. What should the faculty member do upon learning about Pat's abusive relationship?
4. How can the faculty member best handle Pat's mother's email?
5. How should the faculty member respond to Pat's request to re-write the paper?

Academic Freedom

In the classroom, academic freedom is task-specific, deriving from and governing one's role as an instructor in a given discipline or disciplines. Faculty members are free to present and discuss their subject matter and related issues in accordance with relevant academic standards and students' legitimate academic rights and responsibilities. Except when the University explicitly asks them to discuss specific issues of University concern, faculty "should be careful not to introduce into their teaching controversial matter which has no relation to their subject." Faculty members are responsible for upholding the integrity of reasoned inquiry, open discussion, and free expression. Especially when dealing with controversial topics, faculty members are expected to lead students in a scholarly evaluation of the subject matter.

Student performance should be evaluated solely on an academic basis, not on opinions or conduct unrelated to academic standards. Students should be free to take reasoned exception to the information or views offered in any course of study and to reserve judgment about matters of opinion, but students are responsible for learning the content of the course of study in which they are enrolled, including matters with which they disagree. The validity of their ideas, theories, arguments, and views should be measured against the relevant academic standards.

For additional information, please review the Full-Time Faculty Handbook found on the [Faculty Resources webpage](#).

Classroom Management

The goal in the classroom is to encourage critical thinking while promoting respectful discussion. It is the instructor's responsibility to monitor the class which may require redirecting the conversation, encouraging the students to think broadly, rewording students' questions and/or statements. The [Full-Time Faculty Handbook](#) found on the [Faculty Resources webpage](#) states:

Faculty members are responsible for upholding the integrity of reasoned inquiry, open discussion, and free expression. Especially when dealing with controversial topics, faculty members are expected to lead students in a scholarly evaluation of the subject matter.

Faculty members are responsible for managing the classroom environment and should be prepared to address and possibly remove "disruptive" students. Keep in mind that making others "uncomfortable" with speech may not necessarily be "disruptive" – it is important to explain this to students at the beginning of the course. If controversial topics may be discussed as part of the course, instructors should, both in the syllabus and in class, outline expectations and set parameters for productive and respectful conversations.

If a student is disruptive, instructors should tell the student to leave the class immediately and, if appropriate, to come to the instructor's office hours. If the instructor needs assistance from Public Safety, they may call (610) 519-4444. If the instructor believes that the student has violated the [Code of Student Conduct](#), they may contact the Dean of Students Office for guidance and assistance.

Bottom line: Set parameters and expectations at the beginning of a course. Manage class discussions to encourage critical thinking and respectful exchange of ideas. If there are indicators that behavior

might escalate and become disruptive, redirect the conversation to deescalate while still promoting thoughtful dialogue. If a student is disruptive, the faculty member can direct the student to leave the class.

Disclosure of Abusive Relationship

If a student shares (in person or in an assignment) that they have, at any time (not just while enrolled at the University) been a victim of sexual misconduct, dating violence and/or stalking you should [CARE, CONNECT, & CONTACT](#):

- [CARE](#) for the student - make sure the student is safe and provide non-judgmental support.
 - Avoid asking questions about the incident(s) and simply listen.
- [CONNECT](#) the student with resources who can provide support, counseling, information on reporting options, etc. These on campus resources include: SARC (Sexual Assault Resource Coordinator) Team, University Counseling Center, Public Safety, Dean of Students and Title IX Coordinator/Deputies. Other information and a full list of resources (including those for respondents) can be found on the [University's Sexual Misconduct Prevention and Response](#) webpage.
- [CONTACT](#) the Title IX Coordinator, Ryan Rost, or a [Deputy Title IX Coordinator](#). Inform the student that you must share the disclosure with the Title IX Coordinator, and that the matter will be kept private. The Title IX Coordinator and Deputy Title IX Coordinators generally will follow up with the student to provide resource support and resolution options, consistent with the victim's wishes (except in cases where an ongoing threat to the student and/or community is identified) pursuant to the Sexual Misconduct Policy and/or the Clery Act.
 - It is important to contact the Title IX Coordinator or a Deputy Title IX Coordinator right away as the University may, in some cases, be required to make a report to law enforcement or other government agencies within a specified time frame (sometimes as little as within 24 hours of the disclosure). In particular, if the student might have been a minor when the incident(s) occurred, immediate notification requirements to prevent and respond to suspected or actual child abuse may be triggered.
 - Faculty members are always welcome to discuss specific situations and their reporting obligations under law and/or policy with Michael Zubey, Vice President and General Counsel and/or Hedy Aryani, Deputy General Counsel.

Bottom line: Faculty members should connect students with appropriate resources so that the University can address ongoing safety concerns and provide impacted students with appropriate support and options to make fully informed decisions about next steps. Under [Villanova's Sexual Misconduct Policy](#), faculty members are NOT confidential resources and must immediately report all instances of sexual misconduct (this includes sexual harassment, sexual assault, sexual exploitation, dating and domestic violence and stalking) to the Title IX Coordinator or a Deputy Title IX Coordinator regardless of when or where the reported sexual misconduct occurred.

Faculty members may wish to include the following language in their syllabi:

Title IX/Sexual Misconduct Policy and Reporting

Villanova University and its faculty and staff are committed to assuring a safe and productive educational environment for all students. Under Villanova's [Sexual Misconduct Policy](#), faculty and staff members are "Responsible Employees" and must report any sexual misconduct or harassment to the University's Title IX Coordinator.

While I want to encourage you to share information related to your life experiences through discussion and written work, please understand that I am required to report sexual misconduct disclosures to the Title IX Coordinator so the University can offer support resources and resolution options. Students are encouraged but not obligated to respond to outreach as a result of a report to the Title IX Coordinator.

If you wish to learn more about Villanova's sexual misconduct resources, response, and prevention, please visit: www.villanova.edu/sexualassault.

Students with Disabilities

- **Laws:** Rehabilitation Act of 1973; Americans with Disabilities Act of 1990
- **Rationale:** Level the playing field; provide "reasonable accommodations" to allow success in the workplace and classroom.
- **Definition of Disability:** Having or perceived as having a physical or psychological condition that substantially limits one or more major life activities.
- **Reasonable Accommodation Interactive Process:** Identification, request, response.
- **Academic Standards:** Need not be lowered. Not required to alter the essential elements of an academic program.
- **University Resources:**
 - **Learning Disabilities, Neurologically Based Disorders, and Chronic Illness** – Nicole Subik, Director of [Learning Support Services \(LSS\)](#), Learning Commons in Falvey – Suite 212, 610-519-5176, nicole.subik@villanova.edu.
 - **Physical Disabilities** – Gregory Hannah, Director of Disability Services, [Office of Disability Services \(ODS\)](#), Connelly Center – 2nd Floor, 610-519-3209, gregory.hannah@villanova.edu.

General Guidelines Regarding Documentation of Disabilities

- All faculty members should announce on the first day of class an invitation to speak confidentially with any student with disability-related needs as soon as possible, and course syllabi should include the following statement addressing students with disabilities:

It is the policy of Villanova to make reasonable academic accommodations for qualified individuals with disabilities. Go to the [Learning Support Services website](#) for registration guidelines and instructions. For physical access or temporarily disabling conditions, please contact the Office of Disability Services at 610-519-3209 or email ods@villanova.edu. Registration is needed in order to receive accommodations.

- Students must complete the disability determination process with LSS and/or ODS as a prerequisite to receiving any accommodations, auxiliary aids, and services.
- It is the responsibility of the ODS and/or LSS to review student documentation and determine disability status and reasonable accommodations. These offices also work with the faculty member regarding the provision of the accommodations.

Faculty Responsibilities

Faculty members should direct students seeking academic accommodations due to a disability to the University's Learning Support Services (LSS) and/or the Office of Disability Services (ODS). Faculty members should implement disability accommodations only for students who have registered with, and received approved accommodations from, those offices. Faculty members should not make individual or ad hoc arrangements to provide disability accommodations to students outside of the University's policies and procedures. Accommodations must not compromise the academic quality of the course, and students with disabilities must reach the same performance standards as non-disabled students. Faculty members should also refrain from identifying or otherwise discussing a student's issues regarding disabilities and accommodations with anyone, other than faculty or staff who are directly involved in the accommodation process.

Student Responsibilities

It is the responsibility of the student to identify themselves, as soon as possible, to ODS and/or LSS and present documentation directly to those offices (not to faculty members) that establishes eligibility for services and supports their requests for reasonable accommodations.

Once a student is registered and approved for accommodations, they are responsible for sending the accommodation letter to their professors. After the student has sent their accommodation letter, professors and students are expected to discuss the accommodations to make sure all parties are clear on what is needed to implement them.

As part of the accommodation process, students give ODS and/or LSS permission to discuss their accommodations with faculty members who are responsible for providing the accommodations. Instructors should be given time to review the requested accommodations.

Additional guidance for faculty members regarding the process for students to request auxiliary aids and services is available at the webpages for [Learning Support Services \(LSS\)](#) and/or the [Office of Disability Services \(ODS\)](#).

Accessibility

When designing a course, it is important for faculty members to think through how they can create a more accessible course that enables all students to engage with the materials and be successful. More information on accessibility can be found at the [Making Your Course Accessible](#) webpage.

Privacy of Student Records/FERPA

- In the absence of student consent, education records should not be disclosed to a parent/guardian unless an exception to FERPA applies.

- Grades and class attendance records are protected by FERPA.
- Federal **Family Educational Rights and Privacy Act** of 1974 (“FERPA” or “Buckley Amendment”).
 - Applies to all students Kindergarten and up – both currently and previously enrolled students.
- Privacy right under FERPA belongs to the student in the higher education setting.
- What are the **rights**?
 - Rights of students to access their own “education record”.
 - Right to have those education records kept strictly confidential, subject to several exceptions.
- Definition of **“Education Record”**: a record containing information directly related to a student that is maintained by the school.
- Very broad definition and includes virtually all written and electronically stored information about a student which is maintained by the University, including the individual faculty member.
- Exceptions permitting disclosure include:
 - With student’s written consent.
 - Directory information (see VU policy): e.g., name, address, telephone number, etc. (Right to opt-out).
 - To other University officials with “legitimate educational interests”.
 - To other institutions where the student seeks to enroll.
 - Parent of tax dependent student.
 - Valid subpoena or court order (check with Office of General Counsel first).
 - Health or safety emergency.
 - Alcohol violations to parents of students under 21.
 - Victim of violent crime.
 - Attorney General in connection with terrorism (US Patriot Act.).

Additional information can be found in Villanova’s [Disclosure of Student Records Policy, Provost – Disclosure of Student Records](#), and the University Compliance Office’s [Family Educational Rights and Privacy Act \(FERPA\)](#) webpage.
