

**Campus PRISM Project**  
**Promoting Restorative Initiatives on Sexual Misconduct at Colleges and Universities**  
**Briefing Paper, December 2017**

**Next Steps for a Restorative Justice Approach to Campus-Based Sexual and Gender-Based Harassment, Including Sexual Violence**

With recent changes in federal guidance about how higher education institutions should respond to campus-based sexual and gender-based harassment, including sexual violence, many institutions have expressed interest in adopting restorative responses to address the harm. Current guidance appears to create space for a restorative approach (although campuses should confirm this with the Department of Education, Office for Civil Rights). Restorative justice on college campuses is a nonadversarial approach to addressing offensive behavior that seeks to identify and repair harm and rebuild trust through facilitated dialogue. The Campus PRISM Project supports values-driven, evidence-based, carefully-planned implementation. Our recommendations for next steps include the following:

**A Whole Campus Approach**

The whole campus approach to restorative justice (RJ) includes three tiers of intervention based on a public health approach that is multi-pronged and focused on changes to individuals, subcommunity attitudes and beliefs, and campus climate. Tier I is designed for primary prevention education and intended for all members of the campus community to co-create a safe and responsible community by engaging in meaningful circle-based discussions about sexual harassment, including sexual violence (including situations that might not rise to the level of a violation of a school's policy). When an incident of sexual harassment occurs, Tier II restorative interventions (consistent with secondary and tertiary interventions in a public health model) can address both individual and collective harm as an alternative or supplement to formal hearings. Tier III restorative reentry circles assist with the reintegration of students who have been suspended. Not only are these students anxious about how they will be received upon their return to campus, but the wider community needs reassurance that they will be responsible and committed to causing no further harm. Even if campuses begin with implementation in one tier only, a sequential development of all three tiers of intervention has the best promise of success. In addition, implementation for sexual harassment can coincide with RJ applications for other campus misconduct and climate concerns.

**High Accountability and Support**

Retributive sanctioning is often called for on campuses following findings of responsibility because it is viewed as delivering maximum accountability. Unfortunately, this approach lacks the social support necessary for reducing recidivism. Rehabilitative approaches, in contrast, can be supportive, but they often fail to clearly express moral disapproval of the offending behavior. Restorative justice offers a third way that combines the favorable characteristics of traditional retributive and rehabilitative approaches, while avoiding their disadvantages. It is both high on support and accountability. Rather than simply assigning passive accountability, in which punishment is delivered but change is not measured or assured, RJ cultivates active accountability in which those who caused harm can address it and demonstrate responsible behavior. This approach is highly consistent with the educational and developmental focus of student conduct procedures.

**Voluntary Participation**

One of the primary values of RJ is voluntary participation, especially for harmed parties. It is easy for a university to write policy that states participation is voluntary and no institution is likely to require participation in an RJ process for an incident of sexual harassment or violence. But it is more difficult to protect against coercive pressure, which is much more subjective. In any restorative process, the participants must be able to choose freely whether to participate, withdraw at any time during the process, and pursue alternative options should the RJ process prove unsatisfactory.

**Campus PRISM Project**  
**Promoting Restorative Initiatives on Sexual Misconduct at Colleges and Universities**  
**Briefing Paper, December 2017**

**Confidentiality**

Confidentiality is important for any participant in a restorative process. For an accused student, the opportunity to participate may provide a path to meaningful accountability. Although harmed parties can always pursue a formal campus adjudication or criminal case, using the RJ process to obtain evidence for use in an adversarial process undermines a restorative approach by creating mistrust and reducing the likelihood of participation by those accused of misconduct. It is important to develop policy mechanisms to protect the confidentiality of the RJ process, such as a “Reverse Miranda Rule”—anything said inside the RJ process will not be used against the accused person in another adjudication process.

**Inclusive Decision-Making and Responding to Systemic Harm**

Although individual incidents of sexual misconduct primarily harm the individuals involved, the ripple effects of such incidents require diverse considerations. Foremost, the affected parties should have an influential voice in the decision-making process including opportunities to define their participation and articulate their perspectives on the incident as well as their goals and needs moving forward. A restorative process should include voices that can articulate any broader considerations. One voice, for example, could represent institutional concerns about ongoing community safety. Other voices could attend to relevant social identities and ensure fair treatment to groups that are often stigmatized, marginalized, ignored, or disadvantaged in a conduct process. Restorative interventions, even for individual cases, are always an opportunity to confront and address larger issues of culture and climate.

**Intensive Facilitator Training and Apprenticeship**

RJ program coordination and case facilitation require in-depth training and experience. Facilitators should be trained in an apprenticeship model where practice begins with simpler cases and progresses, with support and supervision, to more complex cases. Facilitators must be skilled in all of the key stages of a restorative process: pre-dialogue preparation and assessment, restorative facilitated dialogue, and post-dialogue agreement monitoring and support. For sexual misconduct cases, it is necessary to have training in restorative practices, student development in higher education, and especially trauma-informed gender-based harassment and violence.

**Distinct from Mediation**

While mediation and restorative practices share some similarities including the use of trained facilitators and the empowerment of participants to collaboratively decide outcomes, they differ in important ways. RJ conferencing is used when someone accused of causing harm acknowledges the harmful behavior (although they may not grasp the full impact) and commits to taking responsibility for the misconduct and its resulting harms. Mediation does not require that a party take responsibility for their role in causing harm. Acceptance of responsibility is a primary determinant for referral to RJ and is essential for preventing adversarial confrontation and victim-blaming. Unlike some forms of mediation, RJ facilitators meet extensively with participants during the preparation process to assess whether the case should include a face-to-face dialogue and to prepare participants in advance of the dialogue. To decide whether the case will go to a RJ dialogue, facilitators assess *risk of revictimization* and *ensure safety*, whether participants feel *pressure or coercion to participate* and if the participants', institution's, and community's *goals are in alignment* with RJ. Although it cannot eliminate all risk of revictimization, RJ is distinctive in its guidelines and practical strategies to create a safe and noncoercive environment.

**Campus PRISM Project**  
**Promoting Restorative Initiatives on Sexual Misconduct at Colleges and Universities**  
**Briefing Paper, December 2017**

**Pilot Programs with Attention to Best Practice and Careful Assessment**

Campuses should work in a collaborative way to build RJ interventions for sexual misconduct cases. They should cooperate with practitioners with on-the-ground experience with policy, procedure, and case facilitation. They should partner with researchers with knowledge of best practice and methods of assessment. They should be advised by a broad range of stakeholders including survivors, people who have taken responsibility for causing harm, demographically diverse voices--especially from communities of color and LGBTQ+, Title IX coordinators, victim advocates, prevention specialists, treatment professionals, conduct administrators, attorneys, researchers, students, and faculty. This can help ensure acceptance of restorative justice by the campus community and create new avenues of response for a large community of harmed individuals that do not believe current practices meet their needs.

Author

David Karp, PhD  
Professor of Sociology  
Co-Coordinator of Campus PRISM  
Skidmore College

Campus PRISM Project Briefing Paper Reviewers

Kaaren Williamsen, University of Michigan  
Holly Rider-Milkovich, Everfi  
Howard Kallem, Duke University  
Laura Bennett, Nova Southeastern University  
Mary Koss, University of Arizona  
Jill Dunlap, NASPA  
Julie Shackford-Bradley, University of California-Berkeley  
Jasmyn Story, The People's Coalition  
Robin J. Wilson, McMaster University  
Jay Wilgus, J.D., M.D.R.  
Elise Lopez, University of Arizona

The Campus PRISM Project (Promoting Restorative Initiatives for Sexual Misconduct) includes an international team of researchers and practitioners who are deeply invested in reducing sexual and gender-based violence by exploring how a restorative approach may provide more healing and better accountability. The Project is coordinated by the Skidmore College Project on Restorative Justice. The Campus PRISM network includes participants from over 80 higher education institutions. For a list of the Project's advisory council and additional resources, see the Project website.