



Policies on Equal Opportunity, Affirmative Action, ADA and Sexual Misconduct

Adopted October 1998

Updated September 2001

PREAMBLE

Pacific Lutheran University is committed to providing an educational and employment environment which is fair, consistent, caring and supportive of professional and personal growth. The University is further committed to protecting the rights of its community members to engage in dialogue and express ideas in an environment which is free from harassment, discrimination and exploitation. Freedom of expression does not entail freedom to threaten, intimidate, harass or assault. The University community will not and does not tolerate such behaviors. Finally, the University is committed to expanding and maintaining diversity in its student, faculty, staff and administrator populations and to accommodate, whenever possible, persons with disabilities.

To honor and implement these commitments, the University Board of Regents has adopted policies on Equal Opportunity, Affirmative Action and Accommodation of Persons with Disabilities as well as a policy prohibiting Sexual Misconduct, including sexual harassment, sexual assault, and certain consensual sexual relationships. The success of these policies requires the cooperation of every member of the University community.

Specifically, each member of the University community is expected to read the policies and follow the directives set forth therein. The process of providing equal employment and educational opportunity as well as providing working, learning and living environments free of harassment, discrimination and intimidation requires that every member of the University community respect the rights of others and report violations of the University's policies. Failure to report violations may inhibit the University's ability to take prompt, corrective action.

Throughout these policies, references to "Employee(s)" shall mean any regular or temporary member of the University's workforce including faculty, administration, and staff.

EQUAL OPPORTUNITY POLICY

Pacific Lutheran University is committed to providing equal opportunity in employment and in education for all members of the University community without regard to an individual's race, color, creed, religion, gender, national origin, age, mental or physical disability, marital status, sexual orientation or any other status protected by law.

This equal opportunity policy shall apply to all aspects of employment, including hiring, compensation, benefits, transfers, promotions, training, education, reduction-in-force and termination. To the extent permitted by applicable law, PLU reserves the right to hire Lutherans or other Christians for faculty or administrative positions whenever such choices are deemed necessary for carrying out the educational and religious goals consistent with Article II of its Articles of Incorporation and Article V, Section 2 of the University's By-Laws. PLU further reserves the right to make employment decisions based on an individual's job performance, merit and/or qualifications.

This equal opportunity policy shall similarly apply to all aspects of educational opportunity, including recruitment, enrollment, advancement and evaluation.

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The University will not tolerate any discrimination or harassment toward or by any of its Employees or students. Any written, oral, physical or visual communication that is demeaning, degrading, intimidating, or otherwise directed at a person or persons because of race, color, gender, national origin, marital status, age, religion, mental or physical disability, veteran status, sexual orientation or any other status that is protected by federal, state or local law will be considered a violation of this policy. Any person, or persons, who are found to have violated this policy may be subject to disciplinary action, up to, and including, suspension, expulsion and/or termination.

Individuals who believe that they have been subject to discriminatory action or harassment or believe that discriminatory action or conduct has taken place, are strongly encouraged to contact any member of the University Grievance Committee or their supervisor. The University strictly prohibits threats, intimidation or retaliation of any kind against a person who reports a violation of this non-discrimination policy or who cooperates with an investigation of alleged violation. Any such conduct will itself constitute a violation of this policy and may subject the offender(s) to disciplinary action.

AFFIRMATIVE ACTION POLICY

Pacific Lutheran University is committed to enlarging and maintaining the representation of ethnic, gender, cultural and economic diversity among its Employees, as well as among its student population. PLU is further committed to the reasonable accommodation of persons with disabilities, whether students or Employees. In furtherance of these goals and in accordance with state and federal law, Pacific Lutheran University has adopted an Affirmative Action Plan that reflects its intent to provide applicants, Employees, and students equal opportunity in all aspects of employment and education and to provide a working and learning environment free from unlawful discrimination and harassment.

In accordance with the plan, the University has appointed an Affirmative Action Officer who is responsible for implementing and monitoring the goals set forth in the Affirmative Action Plan. The Affirmative Action Plan is regularly reviewed and may be modified from time to time to serve the needs of the PLU community consistent with the University's affirmative action goals. The current Affirmative Action Plan may be reviewed at any time by contacting the Human Resource Services Office.

POLICY ON ACCOMMODATION OF PERSONS WITH DISABILITIES

As stated in the equal opportunity policy, and in accordance with the Americans with Disabilities Act of 1990 ("ADA"), Pacific Lutheran University will not discriminate against any student, applicant or employee because of the presence of a mental or physical disability. As part of its long-range plan, the University has committed the financial and human resources necessary to provide access to University facilities according to the recommendations and requirements of the ADA. Where a student, applicant or employee with a disability is able to perform the essential functions of the job or academic/program requirements, the University may be obligated to provide reasonable accommodation to the needs of that individual, unless such accommodations would provide undue hardship to the University.

Reasonable accommodation may include job restructuring, part-time or modified work/class schedule, reassignment, transfer, purchase or modification of special equipment or devices, modification of examinations, training/course materials or policies. Reasonable accommodation will be determined on a case-by-case basis.

Students and employees with medically recognized and documented disabilities and who are in need of special accommodation, have an obligation to notify the University of their needs. Employees should contact Human Resource Services. Students in need of accommodation should contact the Coordinator for Students with Disabilities in the Counseling and Testing Office.

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Individuals who believe this policy has been violated may contact a member of the University Grievance Committee or their supervisor.

POLICY ON SEXUAL MISCONDUCT

A. Introduction

In accordance with its equal opportunity policy, Pacific Lutheran University prohibits any discrimination in education or employment on the basis of gender. Moreover, PLU is committed to providing an environment in which students and Employees can work, live and study free from all types of sexual misconduct. Sexual misconduct has a serious negative impact on the quality of the education and work experience. The range of sexual misconduct includes sexual harassment, intimidation, coercion, sexual assault, and certain consensual sexual relationships.

As set forth below, the University does not and will not tolerate sexual misconduct by or against any of its students or Employees. The University will work to prevent and eliminate such behavior by providing a comprehensive education program to promote awareness of acceptable and non-acceptable behaviors.

This policy is intended to meet the requirements of applicable federal and state law. If this policy is inconsistent with any applicable law, it is the University's intent to follow applicable law.

B. Policy Scope

This policy applies when the conduct prohibited by this policy occurs between any member of the student body or Employee population and any other member of the student body or Employee population. This policy also applies when the prohibited conduct occurs between a member and a non-member of the student body or Employee population, such as an off-campus vendor, independent contractor, work-study employer, internship supervisor, prospective student or volunteer.

The University may impose sanctions if the prohibited conduct occurs on University premises or in connection with a person's participation in a university-sponsored organization, program or activity, or if the conduct poses a risk of harm to any member of the campus community, including but not limited to any of the harmful effects encompassed by the definition of sexual harassment.

C. Sexual Harassment

Sexual harassment is a form of sex discrimination which is prohibited by Title VII of the Civil Rights Act of 1964, Title IX of the 1972 Education Amendments and the laws of the State of Washington. When the University becomes aware of allegations of sexual harassment, it is bound by state and federal law to investigate those allegations, stop the harassment if it is found to exist and take measures to ensure a working and learning environment that is free of sexual harassment.

For the purposes of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature when:

- Submission to such conduct or activity is made either explicitly or implicitly a term or condition of an individual's employment or academic progress;
- Submission to or rejection of such conduct or activity is used as the basis for employment or evaluation;
- Such conduct or activity has the purpose or effect of interfering with an individual's employment or educational performance or advancement; or

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- Such conduct or activity creates an intimidating, hostile or offensive working, learning or campus residential environment.

Sexual harassment may occur when there is a difference in institutional authority between persons. It may occur between persons in equal positions, such as co-workers, colleagues and peers. It occurs without respect to gender, age, appearance or status. It may occur between persons of the same sex. It may occur if the sexual conduct of others in the education, work or campus residential environment has the purpose or effect of substantially interfering with another's academic or work performance or environment. Sexually harassing conduct can include unwanted jokes, comments, gestures and non-verbal conduct. Anyone who is uncertain as to whether particular conduct violates this policy should contact any of the people or resources named in the Sexual Assault paragraphs of this policy.

Individuals who believe this policy has been violated, or who observe potential violations, are strongly encouraged to seek redress of their concerns by contacting any member of the University Grievance Committee or by contacting their supervisor.

Violation of these policies shall result in disciplinary action including the possibility of suspension, termination of employment or expulsion from the University. Any form of reprisal, actual or implied, whether academic or related to employment, will be treated as an aggravation of prohibited behavior and will not be tolerated.

The University is committed to providing all members of its community with education and training about the nature of sexual harassment, its damaging consequences and procedures for handling complaints. **Training is particularly essential for persons in supervisory roles who may face personal liability if they fail to take appropriate action when they become aware of instances of sexual harassment.**

Retaliation against anyone reporting or thought to have reported sexual harassment is prohibited. Such retaliation is considered a serious violation of this policy and will be considered independently of whether a charge or informal complaint of sexual harassment is substantiated. Encouraging others to retaliate also violates this policy.

The University is dedicated to the prevention and elimination of sexual harassment in the workplace, in the campus residential environment, and in the learning environment. The University cannot take corrective action, however, when it does not know about inappropriate behavior. Therefore, it is very important that violations of this policy be reported as soon as possible.

D. Sexual Assault

Sexual assault is a violation of individual rights and dignity that will not be tolerated by Pacific Lutheran University. Sexual assault is not only an act of violence, aggression or coercion against a single individual, but it is also an attack on human dignity, a value essential to the University community. For these reasons, Pacific Lutheran University strongly encourages victims to report sexual assault incidents to appropriate university and governmental authorities as outlined in this policy. This policy applies to all members of the campus community, students and Employees, and is subject to enforcement via the applicable university policies and/or procedures including the Student Conduct System and the Grievance Policy and Procedures.

1. Victim Rights and Services

Victims have the right to:

- Respectful treatment from all campus authorities;
- On-campus medical assistance, which may include testing for sexually transmitted diseases, HIV and pregnancy as well as referral to outside medical resources;

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- Confidential counseling;
- Assistance in changing housing and academic situations if such changes are reasonably available;
- Pursuit of disciplinary action through the Pacific Lutheran University Student Conduct System as outlined in Section 4(b);
- Pursuit of action via the University Grievance Policy and Procedures as outlined in Section 4(c);
- Assistance in the pursuit of criminal and/or civil charges within Pierce County as outlined in Section 4(d);
- A victim's advocate.

a. PLU Services for Students:

Student victims are entitled to a variety of services on and off campus. The following campus offices are available:

For counseling and support: Counseling and Testing, Campus Ministry, Women's Center, Student Life Office, Residential Life staff

For medical assistance: Student Health Center, Campus Safety and Information

To file a formal complaint: Student Conduct Coordinator, Grievance Officers, Campus Safety and Information

b. PLU Services for Faculty & Staff:

Employee victims of an incident committed on campus or in connection with a University-sponsored activity or event, or by a member of the PLU community, are strongly encouraged to contact Campus Safety and Information, Human Resource Services and/or counseling through the University's Employee assistance program.

c. Off-Campus Assistance:

The Sexual Assault Center of Pierce County offers a 24-hour crisis, information and referral line at 253-474-7273 or 1-800-756-7273. The Center exists to serve victims of sexual assault and abuse, their families and friends. Legal and medical advocacy is available, as well as support groups for victims, their friends and families.

2. PLU Services for Alleged Perpetrators

Members of the PLU community who are alleged to have committed a sexual assault against another member of the PLU community are entitled to all rights given within the University's Student Code of Conduct, Faculty Constitution and By-Laws, Personnel Policies and Procedures Manual, and Grievance Policy and Procedures, as appropriate. Such individuals are also entitled to PLU services which may offer them physical and emotional support, consultation and/or referral.

3. Sexual Assault Terminology

Sexual assault can occur against both males and females and may be perpetrated by an assailant not known to the victim, or may occur when the victim knows his or her assailant, such as in the case of acquaintance or date rape. At Pacific Lutheran University, sexual assault includes, but is not limited to (1)

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non-consensual sexual contact, including forced sexual contact, and (2) forced sexual penetration, and may occur by a person individually or in concert with others.

a. *Non-consensual sexual contact, including forced sexual contact*, includes any harmful, insulting or non-consensual physical contact of a sexual nature (including touching, fondling, exposure, disrobing, etc.) that is committed against another person without his/her consent, including any such act accomplished by means of actual or implied force, threat, coercion or helplessness. Forcing or intimidating a person to touch another person's intimate parts shall also constitute non-consensual or forced sexual contact.

b. *Forced sexual penetration* includes intercourse (vaginal penetration), sodomy, oral copulation or penetration with any object by the use of force, threats, coercion or by taking advantage of a victim's helplessness.

c. Because the University hopes to educate the community in order to prevent violations of this policy, it should be understood that:

(i) Alcohol and/or other drug use, intoxication or any impairment of the accused does not absolve one of responsibility for sexual assault.

(ii) For purposes of this policy, "consent" means that at the time of the act of sexual intercourse or other sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or other sexual contact. In situations where the victim is incapable of giving consent, or is unable to resist sexual advances due to alcohol/other drug use or other impairments, the accused will be held responsible for sexual assault. Silence will not be considered as evidence of consent under such circumstances.

(iii) Force or coercion is defined as:

- The use of physical force or physical violence; or
- The use of threats, including but not limited to, physical threats, abduction, extortion or retaliation directed against the victim or another when the victim believes there is an ability to execute such threats; or
- The use of verbal comments or non-verbal behaviors or gestures to intimidate the victim or another when the victim believes that there is a present ability to execute such threats.

(iv) Threat is defined as an expression of intention to hurt, destroy or punish the victim, another person, or their property.

4. Reporting Sexual Assault

Pacific Lutheran University strongly encourages victims of sexual assault to report incidents. Filing a report with the University, the Pierce County Sheriff or the Sexual Assault Crisis Center of Pierce County is not a commitment to pursue legal recourse. Criminal, civil and University action occur independently; a victim may pursue action in one or both systems concurrently. The University is not required to delay on-campus proceedings pending results in the criminal or civil systems. Because the definitions of sexual assault and the burden of proof required for responsibility are different in the campus, criminal and civil systems, an alleged perpetrator may be found responsible on campus, while in the criminal or civil justice systems, a different result may occur.

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a. On-Campus Reporting

Victims of sexual assault which occurs on campus or in connection with a University-sponsored activity or event are strongly encouraged to report the incident, as soon as possible, to campus officials, including faculty members and/or Employees of one or more of the following:

- Campus Ministry
- Campus Safety
- Counseling and Testing
- Health Center
- Residential Life
- Student Life
- Women's Center
- Human Resource Services

Pacific Lutheran University is committed to respecting personal dignity and will maintain confidentiality as appropriate and in keeping with the law. Employees outside of the above-referenced departments must inform Student Life (as to students) or Human Resource Services (as to all others) of any sexual assault matters brought to their attention. Such reporting may be done without identification of the individual(s) involved.

b. Student Conduct System

A student may pursue action through the Student Conduct System if the alleged assault was committed by another PLU student. Should a victim choose to pursue a disciplinary hearing through the student conduct system, he/she should contact the Student Conduct Coordinator or Campus Safety and Information. The hearing procedures and rights afforded victims and alleged perpetrators in the Student Conduct System are outlined in the Pacific Lutheran University Student Handbook.

c. Grievance Policy and Procedures

As an alternative to (b) above, a student may choose to pursue action through the University Grievance Policy and Procedures if the alleged assault was committed on campus or in connection with a University-sponsored activity or event by another member of the PLU community.

An Employee who has been sexually assaulted by another member of the University community may pursue action through the University Grievance Policy and Procedures. To pursue such action, he/she should contact any of the University grievance facilitators: Teri Phillips (ext. 7187), Richard Seeger, Chair (ext. 7519), Michelle Ceynar (ext. 7297), Tom Huelsbeck (ext. 7196), Fran Lane Rasmus (ext. 7141), and Leon Reisberg (ext. 7280).

d. Off-Campus Reporting

Victims who wish to report and/or pursue criminal or civil action are encouraged to seek assistance from any of the following resources:

Campus Safety and Information, ext. 7911 (off-campus 253-535-7911)
Sexual Assault Crisis Center of Pierce County
Administrative Offices, 253-597-6424
24-Hour Crisis/Information and Referral Line, 253-474-7273 or 1-800-756-7473, TTY 253-274-0448
Pierce County Sheriff, ext. 7911
Tacoma Police, ext. 7911
Local Policy Agency (if away from campus) 911

5. Penalties for Sexual Assault

Members of the University community who violate the University's ban on sexual assault will be subject to strict disciplinary action by the University, up to and including suspension or expulsion for students and termination for Employees.

E. Consensual Sexual Relationships

Primary responsibility for maintaining high standards of conduct resides with faculty and supervisors, since they exercise significant authority and power over others.

A consensual sexual relationship between an Employee (faculty, staff, or administrator) and a student, or between a supervisor and a subordinate Employee, does not necessarily involve sexual harassment or sexual misconduct. In such circumstances, however, the University's responsibilities to its students and Employees are potentially compromised by the likelihood or even the appearance of a conflict of interest. Consequently, this policy strictly prohibits consensual sexual relationships between an Employee and a student whenever the Employee is in a position of professional responsibility with respect to the student. This policy, further, strictly prohibits consensual sexual relationships between a supervisor and a direct subordinate Employee.

For the purposes of this policy, an Employee is in a position of professional responsibility with respect to a student when the Employee is currently in a position to make or influence a decision or to confer or withhold a benefit relating to the student's education, employment, or campus-sponsored activity. This includes, but is not limited to, staff/student, faculty/student, coach/player, supervisor/student worker, and adviser/advisee relationships.

For the purposes of this policy, an Employee is in a direct subordinate relationship with a supervisor if the Employee reports to the supervisor, if the supervisor evaluates or directs the Employee's work, or if the supervisor is in the direct chain of command of the person to whom the Employee reports.

The University strongly discourages consensual sexual relationships such as those between an Employee and a student (even in the absence of a current professional responsibility with respect to the student) and between a faculty member or supervisor and an Employee in a position of less authority (even in the absence of a direct reporting relationship as defined above). While this policy does not prohibit consensual sexual relationships such as these, they are strongly discouraged. Because all such relationships potentially involve a violation of equal opportunity law, it may be difficult, if not impossible, in any subsequent proceeding to defend against a sexual harassment charge where the defense is based on the complainant's consent to the relationship. Moreover, those persons involved in such relationships must be aware that the relationship may be viewed by others as exploitative or as creating actual or apparent conflicts of interest, thereby creating potential difficulties for one or both parties.