****

**Policies on Equal Opportunity, Affirmative Action, ADA**

 **And Policy for Employee Sexual Misconduct**

**Adopted October 1998**

**Updated December 2008**

**Revised July 2014, Updated August 2020**

**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 and staff 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, Discriminatory Harassment, and Accommodation of Persons with Disabilities as well as policies prohibiting Sexual Misconduct. Sexual Misconduct as defined by PLU includes sexual harassment, sexual assault, dating violence, stalking 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 and follow the directives in these policies. 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 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.

The University will not tolerate any unlawful 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 Dispute Resolution 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. In furtherance of these goals and in accordance with state and federal law, Pacific Lutheran University has adopted a Program 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 University’s goals including those set forth in the Affirmative Action Program. The Affirmative Action Program 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 Program may be reviewed at any time by contacting Human Resources.

# 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 will engage in an interactive process to develop 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 Resources. Students in need of accommodation should contact the Manager of Accessibility and Accommodation in the Office of Accessibility and Accommodation.

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

# POLICY ON DISCRIMINATORY HARASSMENT

Harassment on the basis of race, color, national origin, religion, disability, veteran status, marital status, sexual orientation, age, or any other protected classification is prohibited. Such prohibited behavior may include:

* Verbal threats, epithets, derogatory comments or slurs.
* Offensive jokes.
* Inappropriate or harassing emails, phone conversations or other electronic communications.
* Visual conduct such as displaying derogatory posters, photographs, cartoons, drawings, gestures or web sites.
* Physical conduct such as assault, unwanted touching, or blocking normal movement.

The reporting, investigation and potential sanctions procedures for a violation of this policy are the same as in PLU’s Sexual Misconduct Policies.

**SEXUAL MISCONDUCT**

PLU’s Sexual Misconduct Policy is made up of two parts:

|  |
| --- |
| **Human Resources Policy on Sexual Misconduct**.This is PLU’s Human Resources policy that applies if this policy is alleged to have been violated by a faculty or staff member, or a third party (see below). |

|  |
| --- |
| **Code of Student Conduct Policy on Sexual Misconduct**.This is PLU’s Code of Student Conduct Policy that applies if this policy is alleged to have been violated by a current student:<https://www.plu.edu/title-ix/wp-content/uploads/sites/143/2020/08/plu-sexual-misconduct-policy-07-01-2020.pdf> |

Any questions about these policies or about rights or obligations under them, should be directed to Jennifer Childress-White, PLU’s Title IX Coordinator, at 253.535.7361 or childrjl@plu.edu or Gretchen Howell, Director of Human Resources, at 253.535.7329 or crosgrgm@plu.edu.

These policies are intended to meet the requirements of applicable federal, state and local law. If this policy is inconsistent with any applicable law, it is the University’s intent to follow the law.

# HUMAN RESOURCES 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 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, dating violence, stalking and certain consensual sexual relationships.

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, including without limitation, Title IX of the Educational Amendments of 1972 (20 U.S.C. § 1681 et seq.) and 34 C.F.R. 106. If this policy is inconsistent with any applicable law, it is the University's intent to follow applicable law. The requirement not to discriminate in educational programs or activities extends to admission and employment and that inquiries about the application of Title IX and 34 C.F.R. 106 may be referred to the PLU Title IX Coordinator, the U.S Department of Education or both.

## B. Policy Scope

This policy applies when a violation is alleged against a member of the faculty, staff or a third party, such as an off-campus vendor, independent contractor, work-study employer, internship supervisor, prospective student or volunteer.

The University may impose sanctions designed to prevent recurrence 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. Prohibited Conduct

## 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 State and local law. 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
* Such conduct or activity creates an intimidating, hostile or offensive working learning or campus residential environment.

The following are examples, without limitation, of specific behavior which is prohibited under PLU’s anti-sexual harassment policy:

* Touching or grabbing a sexual part of any individual’s body.
* Touching or grabbing any other part of an individual’s body after that person has indicated or it is known that the contact is unwelcome.
* Display in the workplace or learning environment of sexually suggestive photographs, cartoons, graffiti, and/or displaying or transmitting pornography, including accessing pornographic web sites except as germane to the subject matter for educational purposes.
* Visual conduct such as leering, making sexual gestures, or displaying sexually suggestive objects.
* Verbally (or in written email) making or using derogatory comments, epithets, slurs, sexually explicit jokes, sexual innuendo, or comments about any employee’s body or dress.
* Gossip or questions about someone’s sexual conduct, orientation, or experiences.
* Verbal abuse of a sexual nature, graphic verbal commentary about an individual’s body, sexually degrading words to describe an individual, or suggestive or obscene letters, notes, or invitations.
* Subtle pressure for sexual activity, including unwelcome but apparently sanction-free sexual advances by a manager to a subordinate.
* Continuing to ask a person on a date (or to meet outside of work or learning environment) when that person has indicated that he or she is not interested.
* Retaliation for reporting harassment or threatening to report harassment.
* Advances or requests are made under circumstances implying that one’s response might affect educational or personnel decisions that are subject to the influence of the person making the proposal.
* Speech or conduct that is directed against another and is either abusive or severely humiliating, or persists despite the objection of the person targeted by the speech or conduct.

* Speech or conduct is reasonably regarded as offensive and substantially impairs the academic or work opportunity of students, colleagues, or co-workers. If it takes place in the teaching context, it must also be persistent, pervasive, and not germane to the subject matter.

Sexual harassment may occur when there is a difference in institutional authority between persons, such as dean to department chair, supervisor to employee or faculty to student. It may occur between persons in equal positions, such as co-workers, colleagues and peers. It may occur 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 the Director of Human Resources, the Title IX Coordinator or any member of the Dispute Resolution Committee, all of whom are Title IX Deputies.

## Sexual Assault

Sexual assault perpetrated by employees is a form of sexual harassment and is strictly prohibited. Such conduct may also be criminal. Any member of the campus community who may have been the victim of a sexual assault is encouraged to contact a member of the Dispute Resolution Committee who may make a referral to other support resources and/or appropriate law enforcement agencies.

## Certain 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 or staff,) 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 also 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.

**D. Reporting Violations**

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 Dispute Resolution Committee, their supervisor, Jennifer Childress-White, PLU’s Title IX Coordinator, Gretchen Howell, Director of Human Resources or Eva Frey, Dean of Students. Individuals may also choose to report sexual misconduct to law enforcement.

The University Dispute Resolution Committee, following the Grievance Policy and Procedures, processes complaints of sex discrimination, (including, but not limited to, sexual harassment, sexual assault, and sexual violence) by employees, or sexual misconduct, when such conduct is alleged against any member of PLU’s staff, faculty or third parties, except that students who are also employees may be subject to the Student Conduct process, depending on circumstances and at the University’s discretion. Similar complaints against student are handled under the Code of Student Conduct and the Student Conduct Procedures.

Violation of the Human Resources Policy on Sexual Misconduct may result in disciplinary action up to and including termination of employment. 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.

 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.

*Services for Faculty and 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, Human Resources, campus pastor, Center for Gender Equity and/or counseling through the University’s employee assistance program.

**E. Training**

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. If you believe you are in need of additional training on this subject, please contact Jennifer Childress-White, PLU’s Title IX Coordinator or Gretchen Howell, Director of Human Resources.**

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.

##

##