



Title IX Prohibited Conduct Formal Process

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There are two different response procedures to a formal complaint of sexual misconduct (what PLU refers to as Prohibited Conduct).

1. Title IX procedures are defined by the Department of Education's 2020 Final Rule regulations, and are describe below.
2. Any conduct that does not meet Title IX criteria or jurisdiction will be processed by [PLU's Student Code of Conduct Procedures](#).

A. Investigation

Upon receipt of a Formal Complaint, the Title IX coordinator will designate an unbiased, trained investigator to investigate each allegation of Prohibited Conduct. The investigator will conduct a thorough, fact-finding investigation, which will typically include interviews with the Complainant(s), the Respondent(s), and Witnesses. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence. As part of the investigation, PLU will allow all parties to provide witnesses and other evidence as appropriate. The investigation is designed to be thorough, impartial and fair, and all individuals will be treated with appropriate sensitivity and respect. The investigation will be conducted in a manner that is respectful of individual privacy concerns.

All meetings during an investigation will be documented before the meeting occurs . Upon notice of a Formal Complaint alleging Prohibited Conduct, the Respondent will have ten days to review the Formal Complaint, notice from Pacific Lutheran University, and any initial evidence submitted with the Formal Complaint prior to an initial interview. Each party will have an equal opportunity to present fact and expert witnesses and other inculpatory and exculpatory evidence. Pacific Lutheran University does not and will not ever access information provided to HIPAA-protected practitioners on campus by any other parties holding protected information and involved in a student conduct process.

Throughout the investigation, any person participating may have an Advisor present at any meeting related to the review of the reported Prohibited Conduct. Advisors have very defined roles in a Title IX process. An advisor's role is to provide guidance through the Formal Process, and conduct cross-examination on the student's behalf, as applicable. Parties are not permitted to conduct cross-examination themselves.

B. Investigation Findings and Outcomes

At the conclusion of the investigation, the Investigator will prepare a written report synthesizing the facts and the conclusions of the investigation. Prior to concluding the investigation, the investigator will share all evidence collected with each party and any individuals selected to serve as advisors for the party. Each party will have ten days to review the evidence and submit a final response to the investigator to be included in the final investigative report. Both parties will receive a copy of the final report at or near the same time to prepare for the hearing.

C. Hearings

The final investigative report will be passed on to the Decision Makers. The Decision Makers are three faculty/staff/administrators who have been trained in conduct and Title IX procedures, and are designated by the Office of Student Rights and Responsibilities. Their charge is to come to a determination at the conclusion of the Formal Process. One Decision Maker will be designated the chair for the hearing. Each party will be notified of a hearing date and time a minimum ten days prior to that hearing being scheduled. This hearing will be conducted live, and each party's advisor will have the opportunity to provide follow-up questions, or "cross-examine" the opposing party. Only a party's advisor is permitted to participate in these questions, and any and all questions will be screened by the Decision Maker chairing the hearing for relevance and appropriateness before the party has to answer it. Individuals should be present at the hearing, unless alternate teleconferencing arrangements have been made.

If a party or witness chooses not to submit to cross-examination at the live hearing, Decision Makers must take into consideration any statements, and relevant evidence provided by that party or witness during the investigation, and that choice may not have any bearing on the final determination of the Decision Makers.

All hearings will be recorded and retained for future examination by either party.

The Decision Makers will make a determination if a policy (policies) have been violated, and determine sanctions, if applicable.

Both Complainant(s) and Respondent(s) will be notified at or near the same time when the decision is made, in writing.

D. Standard of Proof

The determination of the alleged violation(s) is based on the ***Clear and Convincing*** standard. This standard requires that the information supporting a determination of Responsible demonstrates that a particular fact is substantially more likely than not to be true. Under this standard, individuals are presumed to have not engaged in a policy violation of sexual misconduct unless it is "*substantially* more likely than not" based on the information provided that a violation of the Prohibited Conduct did occur.

E. Timeline of Process

A Title IX Investigation should normally be completed within 90 calendar days after the University has obtained actual knowledge of the complaint. If the timeline is extended for any reasonable reason, the Title IX Coordinator will communicate with all affected parties.

F. Sanctioning

In the determination letter for an incident of violating the Prohibited Conduct, the Decision Makers will include an identification of the allegations that constituted sexual misconduct, a description of the procedural steps the University had taken in response to the report and formal complaint, the findings of fact supporting the determination, conclusions of any potential Student Code of Conduct violations, and a statement and rationale for each determination of responsibility on each allegation listed.

If the Respondent is found responsible for violation of the PLU Sexual Misconduct Policy, the University will initiate a sanctioning process designed to eliminate the misconduct, prevent its recurrence, and remedy its effects, while supporting the University's educational mission and Title IX obligations. Sanctions or interventions may also serve to promote safety or deter students from similar future behavior. Potential sanctions can include, but are not limited to:

- Expulsion from Pacific Lutheran University
- Suspension from Pacific Lutheran University for a designated period of time
- Removal from campus housing
- Mandated assessment and compliance with all recommendations
- Letter of Mutual Understanding
- Removal of Privileges
- Disciplinary Probation

Remedies to the complainant will also be provided as part of the determination letter. The determination letter will conclude with an explanation for either party to appeal that determination.

G. Appeal Process:

In the case of a Prohibited Conduct investigation, the Respondent and the Complainant have the right to appeal a determination. Grounds for Appeal are:

1. Procedural error that substantially impacted the outcome of the investigation process
2. Bias unknown at the beginning of the investigation or panel that substantially impacted the outcome of the investigation or panel decision
3. New Information, previously unavailable, that would substantially impact the outcome of the investigation
4. Severity of sanction

All appeals must be received in writing by the deadline indicated in the written outcome letter,

with the deadline typically 72 hours after the outcome was given. The student should complete the Appeal Form and submit it to the Title IX Coordinator. Each party will be notified when a party has submitted an appeal and be given an opportunity to submit further statements to the appellate officer.

Appeals will go to the Vice-President of Student Life, who will make a determination based on all materials provided, including the Investigative Report, supplemental documentation, audio interviews, and the appeal form. Appeal decisions will generally be completed within 5 business days of the Appeal Form submission, and all parties will be notified of the status of the appeal by the Title IX Office simultaneously.