



Sexual Misconduct Policy

Draft updated on July 31, 2024

I. Introduction

This policy addresses the responsibilities of Pacific Lutheran University (“PLU”) under Title IX 2024 Final Rule, the 2013 Clery Amendments, and the Violence Against Women Reauthorization Act last amended in 2022 (“VAWA”). Title IX prohibits discrimination on the basis of sex (gender and gender identity) in education programs and activities; and, programs that receive Federal financial assistance. VAWA requires that universities have procedures in place to respond to matters of sexual assault, relationship violence and stalking. These laws are consistent and aligned with PLU’s [Non-Discrimination Policy](#), its prohibition against sex discrimination (including sexual misconduct), and the retaliation against any person opposing sex discrimination or participating in any sex discrimination complaint process, or investigation, whether internal or external. It’s PLU’s philosophy and ethical obligation to provide an environment in which our PLU community can live, work and study free from all types of gender associated discrimination.

This policy covers student to student-related concerns related to ***Sex Discrimination; Sex-based Harassment***, a form of sex discrimination including quid pro quo, hostile environment harassment, and the VAWA specific offenses ***Sexual Assault, Dating Violence or Domestic Violence*** (“Relationship Violence”) and ***Stalking***; as well as other ***Sexual Misconduct***. This conduct will be referred to collectively as “**Prohibited Conduct**”. This policy should be used if the Impacted Party (who may also be referred to as the **Complainant**) is a student, or was participating or attempting to participate in a PLU program or activity at the time the alleged conduct occurred; and the student against whom the allegations are made (referred to as the **Respondent**) is currently enrolled, or actively participating in a PLU sanctioned or sponsored program or activity. If the Impacted Party is a student and the Respondent is an employee of PLU, the Impacted Party should refer to the [PLU Human Resources Sexual Misconduct Policy](#). In cases when one person, either the Complainant or Respondent is not a member of the PLU community, PLU will determine, in its sole discretion, the best remedies for the Impacted Party and the community.

If the alleged behavior does not meet the 2024 Final Rule definition and criteria for Title IX as defined by the [U.S. Department of Education](#), but there is an allegation of student misconduct, the report will be referred to the Dean of Students Office and Student Rights and Responsibilities for further review and in PLU's sole discretion, further action utilizing the appropriate conduct or university policy.

This policy, the Title IX Prohibited Conduct Formal Procedures, and the Student Code of Conduct procedures set forth the procedures that PLU will follow regarding reports, complaints, implementation of available and reasonable supportive measures, and making a determination whether a policy violation

has occurred. When a determination is made that a violation has occurred, PLU will issue sanctions, remedies for the aggrieved party, and take actions that are commensurate with the violation and which reflect PLU's determination to end such conduct, prevent its recurrence and remedy its effect on individuals and the community.

II. Statement of Policy

It is a violation of PLU policy for any member of the PLU community (faculty, staff, student, volunteer) to engage in any conduct defined in this policy as **Prohibited Conduct** including, without limitation, ***Sex Discrimination, Sex-based Harassment, Sexual Assault and Sexual Misconduct, Dating Violence or Domestic Violence (“Relationship Violence”)***, and ***Stalking***, whether or not it occurs on campus. This policy is intended to meet the requirements of applicable federal and state laws. Nothing in this policy restricts any rights that would otherwise be protected from government action by the First Amendment of the U.S. Constitution, deprives a person of the rights that would otherwise be protected from government action under the Due Process Clauses of the Fifth and Fourteenth Amendments of the U.S. Constitution, or restrict any other rights guaranteed against government action by the U.S. Constitution. If this policy becomes inconsistent with any applicable law, it is the University's commitment to update policies to be consistent with applicable laws.

Pacific Lutheran University complies with the requirements of the Americans with Disabilities Act of 1990, as amended 2008: Sections 504 and 508 of the Rehabilitation Act of 1973, as amended; and all other federal and state laws prohibiting discrimination on the basis of disability. PLU is committed to providing individuals with disabilities equal access to the institution's programs and activities.

Parties may request reasonable accommodations for disabilities at any point relating to the implementation of the policy, including making a disclosure or report, and initiating a grievance procedure. Accommodations may be granted if they are reasonable and do not fundamentally alter the procedures established by this policy. The University will not affirmatively provide disability accommodations that have not been requested, even if accommodations are being provided in other programs and activities.

With consent of the Impacted Student, the Title IX Coordinator will work collaboratively with the Office of Accessibility and Accommodations to ensure the approved reasonable accommodations are implemented.

III. Education Basis for Policy

In addition to and co-equal with its legal responsibilities as set out in Section II to this policy, PLU, by its mission, is committed to providing an environment in which students and employees can work, live, and study free from all types of Prohibited Conduct. Consistent with its [Equal Educational Opportunity Policy](#), PLU prohibits any discrimination in education and employment on the basis of gender or gender identity (see also [PLU Human Resources Sexual Misconduct Policy](#)). Prohibited Conduct, as listed above, has a serious negative impact on the quality of the educational experience and is disruptive to realization of individual and community outcomes. All members of the community are expected to

conduct themselves in a manner that does not infringe upon the rights of others. When a complaint is filed and a student conduct process concludes, PLU will seek to remedy the aggrieved party and restore the elements of their educational experience to what was experienced before the Prohibited Conduct occurred.

The Sexual Misconduct Policy has been developed to reaffirm these principles and to provide recourse for those individuals who believe they may have experienced, been impacted by, or witnessed Prohibited Conduct, as defined by this policy. This policy, the [Student Code of Conduct Procedures](#), and the Title IX Prohibited Conduct Formal Process procedures also provide the standards and process for the University to determine, after the fact, if behaviors violate the PLU Student Code of Conduct or the University's prohibition against sex discrimination. The University will work to prevent and eliminate Prohibited Conduct by providing a multi-faceted educational program to promote awareness of acceptable and unacceptable behaviors and the potential related consequences. All members of the PLU community are expected to play a role in making their community a safe, educational, and just community.

IV. Scope and Applicability

As set forth in this policy, PLU prohibits discrimination on the basis of sex in its programs and activities. As defined by Title IX, discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Consistent with other provisions of PLU's Student Code of Conduct, this policy and procedures herein apply to all students enrolled in courses at Pacific Lutheran University. Enrolled individuals involved in sex-based harassment incidents prior to attending or during a break between successive terms of enrollment may be subject to action through the Title IX grievance procedures. Previously enrolled students alleging to have been impacted by sex discrimination while actively participating in a PLU sponsored program or activity may submit a report and complaint if the Respondent is still an active member of the PLU community.

Unless otherwise specified, any individual who is accused of engaging in Prohibited Conduct as defined by this policy who is not a student, faculty member, or staff member is generally considered a third party. PLU's ability to take corrective action against a third party may be limited and will depend on the nature of the third party's relationship, if any, to PLU. When appropriate, the Title IX Coordinator will refer such allegations against a third-party to the appropriate office.

The University will respond "promptly and effectively" once it obtains notice, or has available "knowledge of conduct that reasonably may constitute sex discrimination.", and the alleged conduct meets the definition of Prohibited Conduct as articulated in this policy and the Title IX regulations. Prior to the University proceeding with any formal grievance process, a Complaint must be articulated (an oral or written statement requesting the university to investigate and make a determination about alleged sex discrimination) to the Title IX Coordinator.

A Title IX response will be initiated if the incident affects current or past community members while

attempting or actively participating in an educational program or activity in which PLU exercises substantial control over, occurs in the U.S. or in a PLU sponsored program taking place in an international location, and meets the criteria defined in Title IX Final Rule by the U.S. Department of Education. This includes, but not limited to conduct occurring in a building owned or controlled by a student organization officially recognized by the university or during an off campus location understood to be the location for a PLU sponsored activity.

This policy may also pertain to instances in which the conduct is within the jurisdiction of its **disciplinary authority** or affects a substantial PLU interest, including access to the educational program or activity, safety and security, compliance with applicable law, and meeting its educational mission.

2024 Title IX regulations specifically extend the right for PLU to address ***Sex-based Hostile Environment Harassment*** under its education program or activity, even when some conduct alleged to be contributing to the “hostile environment” occurred outside the recipient’s education program or activity or outside the United States (i.e. private residence off campus, study abroad, athletic events).

The University reserves the right to follow the procedures outlined in the Student Code of Conduct procedures if a student’s behavior does not meet the above Title IX criteria, but does violate the Student Code of Conduct, regardless of where the behavior occurs, and the behavior raises concern for the safety of those on-campus, or the behavior jeopardizes the university’s interests in the community.

In addition, the University may follow the procedures outlined in the Student Code of Conduct or procedures defined by law enforcement whenever a student is accused of a criminal act, regardless of the location of its occurrence.

V. Reporting and Resources

A. How to Report

The Title IX Coordinator will review all Prohibited Conduct allegations and make a determination if the conduct meets the criteria set forth by the 2024 Final Rule Title IX regulations.

Any current or past PLU community member who believes they have been subjected to Prohibited Conduct is an Impacted Party, and is encouraged to report such a concern. Students may report Prohibited Conduct in several ways:

- Submit a report online: anyone is able to electronically submit a report via the online [Incident Reporting Form](#). Impacted Parties can remain anonymous; however, the Title IX office will only be able to act on as much information as is given.
- Contact the Title IX Coordinator or Deputy Coordinators via email or phone:
 - Jennifer Childress-White, Assistant Dean of Students, Title IX Coordinator (childrjl@plu.edu, titleix@plu.edu, or 253.535.7361)
 - Gretchen Howell, Director for HR, Deputy Title IX Coordinator (crosgrgm@plu.edu, or 253.535.7329)
 - Eva Frey, Dean of Students, AVP for Wellbeing Services and Resources, Deputy Title IX

Coordinator (eva.frey@plu.edu, or 253.535.7462)

- Submit a report via mail to Pacific Lutheran University at:
Title IX Coordinator
Pacific Lutheran University, 12180 Park Avenue S, Tacoma, WA 98447
- Students may make a report directly to law enforcement officials by calling 911, or through contacting Campus Safety at 253-535-7441 (non-emergency line) / 253-535-7911 (emergency line), who can assist students in filing a report with local law enforcement.
- With the exception of staff who are identified as **Confidential Resources** because of their licensure, or whose communications are privileged, all part and full time employees including faculty, staff, administration, and the following student employees (Residential Assistants, Campus Safety staff, Teacher Assistants, and Athletic Trainers) are considered “**Responsible Employees**”, also referred to [Mandatory Reporters](#), for all incidents related to Prohibited Conduct. They are required to file a report when they have knowledge of, or have received information that may reasonably constitute sex discrimination, thus alleging potential Prohibited Conduct.

There is no time limit on making a complaint, but prompt reporting is encouraged in order to provide support to those impacted, and to obtain appropriate evidence and information. Allegations regarding active students, staff, or faculty will be subject to the direct application of university policy and university authority whereas graduates or those no longer enrolled or employed by PLU may require additional pathways for response.

Any person with knowledge of an alleged Prohibited Conduct is encouraged to report concerns or information to any of the above listed individuals.

All of the above individuals are considered private sources. This means the offices will keep the information as private as possible, but certain procedures will need to be followed once reported.

B. Confidentiality, Confidential and Private Resources

Confidentiality. The University will make reasonable and appropriate efforts to preserve an Impacted Party’s and Respondent’s privacy and to protect the confidentiality of information. Should an Impacted Party request confidentiality, the Title IX Coordinator will inform the Impacted Party that the University’s ability to respond may therefore be limited – but that where feasible, the University will take reasonable steps to prevent Prohibited Conduct and limit its effects.

The Title IX Coordinator will further inform the Impacted Party that it is not possible to provide confidentiality in all cases and that the University’s decision to share information with others is subject to the balancing test described below in Section VII. In summary, although the University’s goal is to limit the number of individuals who may learn about an allegation of Prohibited Conduct or an investigation, the University cannot guarantee confidentiality in all matters.

1. Confidential Resources

Should an individual not be prepared to make a report, but is seeking information and a confidential resource, there are several options available to the student. Individuals can explore different options

without initiating further action from the University. The University encourages pastoral counselors, professional counselors, and confidential advocates if and when they deem it appropriate, to inform the parties they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the University's required annual disclosure of crime statistics. These individuals/offices **cannot and will not** report the matter further, and reporting to any of these individuals/offices does not put the University on notice that Prohibited Conduct may have occurred.

- **Pacific Lutheran University Confidential Advocacy Services**
 - Website: [Advocacy Services](#)
 - Telephone: 253-535-8204
 - Office: Center for DJS, Anderson University Center 150
- **Pacific Lutheran University Counseling Services**
 - Email: counseling@plu.edu
 - Telephone: 253-535-7206
 - Office: Anderson University Center 300
- **PLU TimelyCare - online / phone-based mental health and medical care**
 - [TimelyCare \(formerly Lute Telehealth\)](#)
- **Pacific Lutheran University Student Health Services**
 - Email: health@plu.edu
 - Telephone: 253-535-7337
 - Office: Wellbeing Services and Resources, 121st and Park Avenue S
 - <https://www.plu.edu/chws/urgent-emergency-resources/>
- **Pacific Lutheran University Campus Ministry**
 - Email: cmin@plu.edu
 - Telephone: 253-535-7465
 - Office: Anderson University Center 190
- **Pierce County Sexual Assault Center - Rebuilding Hope**
 - Website: [Rebuilding Hope](#)
 - Telephone: 253-474-7273 or 800-756-7273
- **Pierce County Domestic Violence Helpline**
 - Website: [Crystal Judson Family Justice Center \(FJC\)](#)
 - Telephone: 253-798-4166 or 800-764-2420
- **National Sexual Assault Hotline**
 - 1-800-656-HOPE

2. Private Resources

A report to the University may be made to any of the following offices or individuals. These are trained individuals who will initiate the University's responsive action to a Prohibited Conduct complaint. While not bound by confidentiality, these resources will maintain the privacy of an individual's information within the confines of the Title IX / Student Code of Conduct processes.

- **Pacific Lutheran University Campus Safety**

- Email: csin@plu.edu
- Website: <https://www.plu.edu/campus-safety/>
- Telephone: 253-535-7441, For Emergencies: 253-535-7911
- Office: Neeb Center, 125th St and Park Avenue S
- **Pacific Lutheran University Title IX Coordinator**
 - Email: titleix@plu.edu
 - Website: www.plu.edu/title-ix
 - Telephone: 253-535-7462 / 253-535-7361
 - Office: Wellbeing Services and Resources, 121st and Park Avenue S
- **Pacific Lutheran University Student Rights and Responsibilities**
 - Email: srr@plu.edu
 - Telephone: 253-535-7462
 - Office: Wellbeing Services and Resources, 121st and Park Avenue S
- **Pacific Lutheran University Campus Life**
 - Email: engage@plu.edu
 - Telephone: 253-535-7200
 - Office: Anderson University Center 161

C. Reports to Law Enforcement

The University encourages anyone who believes they have experienced a violation of this Sexual Misconduct policy to make a report through the Pierce County Sheriff's Office. PLU Campus Safety is willing and able to assist with referring students to this resource. The University also encourages Impacted Parties to be aware of the importance of preserving evidence that may assist in providing information that an alleged criminal offense occurred or may be helpful in obtaining a protection order. An Impacted Party may also, in their discretion, decline to notify law enforcement officials.

Impacted Parties also have the right to seek other forms of relief from civil authorities, such as no contact orders, restraining orders, or similar. As set out in Section VI: A of this policy, the University may enact such campus community no contact orders and take such other Interim Measures to assist the Impacted Party to continue to access their educational program and activities.

D. Anonymous Reports

The University welcomes members of the PLU community to submit anonymous reports of Prohibited Conduct, however, the University may not be able to fully address anonymous reports unless sufficient information is furnished thus enabling the University to conduct a meaningful and fair investigation. If you are defined as a PLU mandatory reporter, you must report and cannot be anonymous. The University takes anonymous reports seriously and will address the concern in whatever steps it deems appropriate, in the University's sole discretion, and in the best interest of the overall University community.

The University will take steps to protect the confidentiality of the Impacted Party and others involved in the reporting process. Publicly available recordkeeping, including Clery Act reporting and disclosures will be completed without including personal identifying information about the Impacted Party. Additionally the University will maintain as confidential any accommodations or protective measures

provided to the Impacted Party, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.

Certain situations may require the Title IX Coordinator to file a complaint on behalf of the University when Prohibited Conduct is reported that meets the definition of the 2024 Final Rule Title IX regulations specifically sex-based conduct that is “unwelcomed, subjectively and objectively offensive, so severe or pervasive, that it limits or denies a person access or benefit from PLU sponsored programs and activities”, or when there is an assessed threat to campus or individual safety. In these situations, anonymous reports may be included in those Title IX Coordinator complaints.

E. Advisor/Support Person

The above resources can be utilized by both the Complainant(s) and the Respondent(s) for cases involving allegations of Prohibited Conduct. Throughout all Prohibited Conduct reporting and grievance procedures, individuals are allowed to be accompanied by an individual of their choice as defined below:

1. Advisor - for sex-based harassment complaints involving a formal review process defined by the 2024 Final Rule Title IX regulations

The Complainant and the Respondent involved in an incident that meets the 2024 Final Rule Title IX criteria for sex-based harassment each have the right to an Advisor of their choice, who may be, but need not be, an attorney. Parties may only select one advisor per conduct process; and if the party does not have an Advisor present at the live hearing, the university may provide a member of the PLU community to serve in that capacity free of cost or charge. An Advisor’s role is to provide guidance through the Formal Process, and assist their party in constructing the hearing questions to be asked by the Decision Makers, as applicable. The Advisor may attend all meetings, interviews, and proceedings but may not speak on the student’s behalf. During the hearing, the party and the Advisor may confer at reasonable times as determined in the sole discretion of the Decision Makers. The Advisor is also limited to the participation constraints as described in the hearing decorum policy.

2. Support Person -for incidents that are not sex-based harassment, but are sex discrimination or in the Student Code of Conduct purview

Students may select one support person per conduct process. The support person must be a current member of the PLU community. A request should be made via email to the SRR Office at least 24-hours prior to the scheduled Review Meeting. If the request is approved, all students involved in the Review Meeting will be afforded the same opportunity to have a support person present.

A support person who accompanies a student is present for emotional support only and may not speak on the student’s behalf. The student and the support person may confer at reasonable times as determined in the sole discretion of the Review Officer(s).

F. Respect for Medical Amnesty Provisions

It is in the best interest of the PLU community for students and employees to report cases of Prohibited Conduct, because of that, an individual who reports Prohibited Conduct, either as a Complainant or a Reporter, will have the University's focus of the investigation on the Prohibited Conduct reported.

VI. Response Procedure

Upon receipt of a report, PLU will take immediate steps to ensure that services have been offered to the Impacted Parties and Supportive Measures have been taken for the safety and security of the Impacted Parties and the PLU community. Supportive Measures may be offered to the Respondent, as appropriate. PLU will generally proceed as described below. Exceptions to this policy will be documented for individuals involved in a report or grievance process.

A. Supportive Measures

1. Upon receipt of a report, the Title IX Coordinator will promptly contact the Impacted Part(ies) to offer supportive measures, and inform them of or confirm receipt of a report.
2. The Title IX Coordinator will explain to the Impacted Part(ies) the process for filing a Complaint, and assess if the alleged conduct meets the definition of sex-based discrimination, and if so, which procedural path the Prohibited Conduct will be processed.
3. The Title IX Coordinator will inform the Impacted Part(ies) of the availability of supportive measures with or without the filing of a Complaint.

Supportive Measures are “reasonably available” environmental and resource-based alterations that may include, but are not limited to, counseling services, extensions of deadlines or other course-related adjustments, modifications of employment or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures that are responsive to the specific situation.

Supportive Measures are not meant to be punitive, or unreasonably burden the Impacted Party or Respondent. Either party has the opportunity to request a review of the offered supportive measures, and seek additional provisions be added, or that the existing measures be modified or terminated.

The University reserves the right to take any measures it believes, in its sole discretion, are in the best interests of the parties and the University community.

B. Initial Title IX Assessment

Reports of Prohibited Conduct will not, on their own, initiate a Title IX investigation. An actual Complaint is required, and must be articulated either in written format or orally to the Pacific Lutheran

University Title IX Coordinator, or designee, to begin a formal grievance process under this policy and as outlined in the U.S. Department of Education Title IX Regulations. As defined by Title IX Regulations, Pacific Lutheran University may dismiss complaints that fail to meet the definitions below or are outside of its prescribed jurisdiction. Prohibited Conduct that does not meet the definition or jurisdiction of sex-based discrimination as defined by Title IX Regulations, may be, at the discretion of PLU, processed through the PLU Student Code of Conduct.

Consistent with the Title IX regulations issued on April 19, 2024, for a formal investigation to proceed through PLU's Title IX Formal Process, it must meet several criteria. The Prohibited Conduct must be one of the following forms of sex discrimination:

- *Quid Pro Quo Sexual Harassment*: This exists when there are unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and submission to or rejection of such conduct results in adverse educational or employment action; or
- *Hostile Environment Harassment*: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from PLU's education program or activity (i.e., discrimination that creates a hostile environment); or
- "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30). (Refer to Section XII for formal definitions.)

Initial assessment of these criteria, does not preclude Pacific Lutheran University from removing a Respondent from an educational program or activity on an emergency basis, pending an individualized safety and risk assessment and determination that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal. In these situations, Pacific Lutheran University will provide the Respondent with notice and an opportunity to appeal the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

If a report is formally dismissed by the Title IX Coordinator or their designee, the report will be referred to the Office of Student Rights and Responsibilities for evaluation if the reported behavior is otherwise a violation of the Pacific Lutheran University's Student Code of Conduct. The Impacted Party(ies) will be notified of the dismissal in writing.

The dismissal of a report does not preclude an Impacted Party from utilizing any of the supportive measures outlined in this policy.

C. Complaint

If the Complaint is within a) jurisdiction of Pacific Lutheran University and b) meets the definition and threshold of Prohibited Conduct, PLU is obligated to respond to the Complaint. When the Title IX or Student Code of Conduct grievance process is initiated on the basis of a Complaint, the individual alleged to have engaged in the Prohibited Conduct and who must respond to the allegations is designated as the Respondent. The Impacted Party(ies) who submit the Complaint will be designated as the

Complainant(s). Prior to and during this process, Pacific Lutheran University presumes that the Respondent is not responsible for the alleged conduct and does not make a determination regarding responsibility until the conclusion of the grievance process.

The Title IX Coordinator may dismiss a Complaint of Prohibited Conduct, if applicable, for any of the following reasons:

1. The University is unable to identify the Respondent after taking reasonable steps to do so;
2. The University is unable to compel a Respondent to participate in the University's process because the University does not have authority or jurisdiction over the Respondent;
3. The Respondent is no longer participating in PLU's education program or activity, and is not employed by PLU and there is a reasonable expectation and related evidence to support that they will not return to active status;
4. The Complainant voluntarily withdraws any or all of the allegations in the complaint, and the University determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute Prohibited Conduct under Title IX or the Student Code of Conduct; or
5. The University determines the conduct alleged in the complaint, even if proven, would not constitute Prohibited Conduct under Title IX or the Student Code of Conduct. Prior to dismissing the complaint, the Title IX Coordinator must make reasonable efforts to clarify the allegations with the Complainant.

D. Procedures

There are different procedures used to respond to Prohibited Conduct. Title IX procedures are defined by the Department of Education's 2024 Final Rule Title IX legislation. The Title IX Coordinator will assess each reported incident and will coordinate the appropriate response pathway. Pathways available are defined by who the Complainant and Respondent are, the severity or pervasiveness of the conduct, and where the misconduct took place. Partners in responding to Prohibited Conduct are, but not limited to: Office of Human Resources, University Dispute Resolution Committee, and the Dean of Students Office. Any conduct that does not meet the criteria for or jurisdiction of Title IX will be processed by PLU's Student Code of Conduct Procedures or through policies and procedures listed in relevant Personnel, Faculty, or Staff Handbooks.

The link for **Title IX Prohibited Conduct Procedures** is here:

<https://www.plu.edu/title-ix/documents/>

The link for **PLU's Student Code of Conduct Procedures** is here:

<https://www.plu.edu/student-rights-and-responsibilities-procedures/>

In lieu of resolving a Complaint through the formal grievance procedures, the parties may instead elect to participate in an Informal Resolution process. Both parties must enter an Informal Resolution voluntarily, and prior to agreeing to a resolution, each party has the right to withdraw from the Informal

Resolution process and to initiate or resume the formal grievance procedures. Once the parties have agreed to a final resolution, that agreement prevents either party from initiating or resuming the formal grievance process for that same allegation.

Informal Resolution options may include, but are not limited to, educational discussions, mediated discussions, or an arbitrated agreement-based resolution.

E. Coordination with Concurrent Legal Proceedings:

Impacted parties may choose to engage in criminal prosecution procedures and/or civil litigation in connection with the same behavior that forms the basis of a Prohibited Conduct report under this policy. In such cases, the University will cooperate and assist with coordination with local law enforcement and may, if requested and appropriate, share information with those agencies. The University will fulfill its legal and ethical obligation to take immediate and appropriate action to investigate possible violations of this policy, even if there are external processes or procedures pending in connection with that same complaint of Prohibited Conduct.

Standards for criminal investigations are different from the standards for a violation of this policy, and therefore the University will not base its decisions under this policy solely on law enforcement reports and/or action. The University will take every possible step to coordinate with law enforcement and also will take steps to resolve the complaint within the University process in a timely manner.

F. Reporting Prohibited Conduct to Law Enforcement and for Statistical Disclosure

Community members who believe any Prohibited Conduct they have experienced may be criminal in nature will receive support and assistance in contacting law enforcement and/or reporting the conduct for Statistical Disclosure under the Clery Act. PLU encourages accurate and prompt reporting of all crimes to Campus Safety and the appropriate law enforcement agencies.

As a part of its prevention and awareness programs for incoming students and new employees, and its ongoing prevention and awareness programs for continuing students and employees, PLU includes the definitions of sexual misconduct, the definition of consent in reference to sexual activity, and the definitions of domestic violence, dating violence, and stalking that are used by the criminal laws in applicable jurisdictions. The criminal law definitions used in Washington State are described in Appendix A for the sake of information only. However, PLU utilizes its own definitions of these prohibited behaviors for purposes of this policy that are consistent with the Clery Act, as amended effective 2014 (and expands upon the Clery Act as noted above), and determines responsibility for violations of PLU policy through its own procedures and standards of proof.

VII. Immediate Help/Steps for Victims

If you believe you or someone you know has been impacted by Prohibited Conduct, you are urged to immediately notify the police and/or seek medical attention.

Options for Seeking Medical Treatment: Individuals who believe they have been sexually assaulted may seek medical attention without reporting the crime to police. The hospital emergency room will assist in treatment of injuries, prevention of sexual transmitted infections and pregnancy, crisis intervention, and emotional support services. Physical evidence can also be collected at this time.

Off Campus:

Tacoma General Hospital

315 Martin Luther King Way, Tacoma 98405

Telephone: 253-403-1000

Hours: 24 hours a day, 7 days a week

St. Clare Hospital

11315 Bridgeport Way SW, Lakewood, WA 98499

Telephone: 253-985-1711

Hours: 24 hours a day, 7 days a week

Multicare Good Samaritan Emergency Parkland

14815 Pacific Ave., Tacoma, WA 98444

Telephone: 253-697-8660

Hours: 24 hours a day, 7 days a week

On Campus:

Pacific Lutheran University's Health Services

121st Street and Park Avenue, Tacoma, WA 98447

Email: health@plu.edu

Telephone: 253-535-7337

Hours: Tuesday/Thursday/Friday 9 am to 4 pm (closed 12 pm to 1 pm for lunch)

Options for Seeking Confidential Emotional Support: Students who believe they have been sexually

assaulted may seek emotional support without reporting the crime to the police or PLU.

Off Campus:

Rebuilding Hope - The Sexual Assault Center of Pierce County

Website: www.sexualassaultcenter.com

Location: 101 E. 26th Street, Suite 200, Tacoma, WA 98421

Emergency Hotline: 1-800-756-7273 (24 hours a day, 7 days a week)

Hours: Monday - Thursday 9 am to 5 pm / Friday 9 am - 12 pm

On Campus:

Pacific Lutheran University Center for DJS Advocacy Services

Website: <https://www.plu.edu/diversity-justice-sustainability/advocacy-services/>

Anderson University Center 156

Email: djs@plu.edu / mks@plu.edu

Telephone: 253-535-8204

Hours: By appointment

Pacific Lutheran University Counseling Services

University Center 300

Email: counseling@plu.edu

Telephone: 253-535-7206

TalkNow feature within the PLU [TimelyCare](#) App

VIII. False Reports

Pacific Lutheran University takes all allegations of Prohibited Conduct very seriously and will not tolerate intentional false reporting of incidents. It is a violation of the Student Code of Conduct to make an intentionally false report of any policy violation, and it may also violate state criminal statutes and civil defamation laws. Any false reports will be addressed using the Student Code of Conduct Procedures.

IX. Rights and Expectations

Federal law requires Pacific Lutheran University to afford the Complainant and the Respondent rights throughout the Prohibited Conduct process. Additionally, Pacific Lutheran University has a commitment to the rights of all community members, and is committed to creating an environment that still serves the educational and employment rights of all during the Prohibited Conduct process. Basic rights include:

A. Respect for Privacy

Information regarding Prohibited Conduct reports, and any investigation or review of these reports, including sanctioning determinations, will be shared among University employees on a “need to know” basis only, and only under applicable law.

B. Choice to Participate

All Complainants, Respondents, Reporters, or Witnesses may choose to participate or decline to participate in the Prohibited Conduct procedures. However, even if the Complainant or Respondent decline to participate, the University, in its sole discretion, may continue to investigate the matter and make sanctioning decisions based on determinations of responsibility for violation of policy based on the incident and information gathered.

C. Confidential Assistance and Resources

All Complainants, Respondents, Reporters, and Witnesses have the right to seek additional, confidential resources if needed. Confidential services include the Wellbeing Services and Resources: Health and Counseling Services, TimelyCare, Confidential Advocacy, and Campus Ministry. All information shared with these offices and individuals will remain confidential to the extent permitted by law and University policy. Discussions with these individuals will not be considered a report to the University as it relates to the process.

D. Fair and Unbiased Process

The University will take appropriate steps to ensure that the Respondent and the Complainant are treated fairly throughout the process, without bias.

X. Retaliation is Prohibited

Pacific Lutheran University will take appropriate steps to ensure that a person who, in good faith, reports, complains about, or participates in a Prohibited Conduct process will not be subjected to retaliation, including peer retaliation, by the Respondent or by others with knowledge of the incident and/or report. Anyone who believes they are experiencing retaliation is strongly encouraged to report that concern to the Dean of Students, the Title IX Coordinator, or Director of Human Resources. The University is required to respond to retaliation, and upon receiving a complaint, will initiate the grievance process as prescribed by the 2024 Final Rule regulations.

XI. Definitions - General

Pacific Lutheran University, for the purposes of this policy, defines the following terms as follows. Please note that some of these terms may also be used in other contexts, and that they may have different meanings in those contexts.

Impacted Party: The individual(s) having been affected by the alleged Prohibited Conduct.

Supportive Measures: means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to:

- Restore or preserve that party's access to the institution's education program or activity, including measures that are designed to protect the safety of the parties or the institution's educational environment; or
- Provide support during the institution's grievance procedures

Complainant: The individual complaining of Prohibited Conduct.

- For sex-based harassment complaints:
 - A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or
 - A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.
- For sex discrimination complaints other than those involving sex-based harassment:
 - Any student or employee of PLU; or
 - Any person other than a student or employee who was participating or attempting to participate in PLU's education program or activity at the time of the alleged sex discrimination.

Respondent: The individual accused of Prohibited Conduct.

Parties: The Complainant and Respondent, as referred to collectively.

Complaint: An oral or written request to the Title IX Coordinator that objectively can be understood as requesting the University to investigate, and make a determination regarding alleged Prohibited Conduct that violates PLU's Sexual Misconduct policy.

Informal Resolution: An alternate resolution method for addressing a complaint facilitated by a trained, unbiased third party facilitator. This option requires both parties to agree to this process voluntarily. May be used for student to student complaints, as well as student to employee complaints.

Sexual Activity: Intentional contact with the breast, buttock, groin, or genitals, or touching another with any of these body parts, or making someone touch another person with or on any of these body parts;

any other intentional bodily contact in a sexual manner. Intercourse (anal, oral, or vaginal), however slight, with any object. In the context of this policy, Sexual Activity may also include the conduct preliminary to or involved in Sex-based Harassment, Sexual Exploitation, and Sexual Intimidation.

Consent: Consent is permission explicitly granted by an individual who is physically and mentally capable of providing it. It is the responsibility of the person who wants to engage in Sexual Activity to ensure that they have the valid Consent of the other to engage in the activity. PLU further defines Consent to include the following:

- Consent is informed, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as Consent. Consent can be given by words or actions, as long as those words or actions create clear and mutually understandable permission regarding the conditions of Sexual Activity.
- Consent to one form of Sexual Activity cannot imply Consent to other forms of Sexual Activity, even within the same intimate situation. Previous relationships or Consent cannot imply Consent to future Sexual Activity.
- Consent cannot be procured by use of force, threats, intimidating behavior, or coercion.
- Some individuals are unable to give Consent by reason of Incapacity or Physical Helplessness (defined below). It is a violation of this policy to engage in Sexual Activity with someone you know to be, or should have known to be, Incapacitated or Physically Helpless.

Incapacity: For the purpose of this policy, Incapacity is a condition existing at the time of the incident which prevents a person from understanding the nature or consequences of the Sexual Activity whether that condition is produced by the influence of a substance, or from some other cause. Incapacity is a state where one cannot make a rational, reasonable decision because that individual lacks the ability to understand the who, what, when, where, why or how of the sexual interaction.

The use of alcohol or drugs can prevent an individual from giving valid Consent, even if the person appears to agree to Sexual Activity in the moment. Incapacity may also result from the influence of substances commonly known as “date rape” drugs. Possession, use, and/or distribution of any “date rape” substances, including, but not limited to: Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another individual is a violation of PLU policy, and possibly local and federal law. Incapacity may also result from, without limitation, developmental disability, mental health disorder or crisis chemical dependency, and/or age.

Physical Helplessness: Physical Helplessness refers to a person who is asleep, unconscious, or for any other reason is physically unable to communicate, verbally or nonverbally, valid Consent.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to obtain Consent from another. When someone makes it clear that they do not want to engage in Sexual Activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive if Consent is not voluntarily or freely given, or if the individual giving it is not capable of doing so.

Investigator: An appropriately trained individual, who may be a PLU employee, who reviews, gathers

facts and evidence, and provides an investigative report regarding the alleged Prohibited Conduct that meets the criteria set forth in Title IX legislation.

Reporter: An individual who reports to the University a concern regarding possible Prohibited Conduct. A Reporter does not need to be an Impacted Party or Complainant.

Advisor: In Complaints that allege sex-based harassment and meet the criteria for Title IX, an individual or individuals chosen by the Complainant and Respondent to provide support during the formal grievance process. The chosen may not already be directly involved in the investigative process (Example – cannot be a witness, or Reporter). An Advisor may, or may not be an attorney. An Advisor’s role is to provide guidance through the process, and assist in the development of questions their party wants asked during the formal process hearing. Advisors are not to speak on behalf of their party, but may request time to consult with them privately.

Responsible Employee/Mandatory Reporter: An individual who is a PLU employee who has the authority to redress sexual violence, who has the duty to report incidents of sex discrimination, sex-based harassment, sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty to respond. A Responsible Employee must report any information about Prohibited Conduct to their supervisor or directly to the Title IX Coordinator on-campus. Responsible Employees on the PLU campus include all part and full time faculty/staff/administrators, including Campus Safety student employees, Teacher Assistants, student Athletic Trainers, and Campus Life Residential Assistant student employees.

Title IX: Title IX of the Education Amendments of 1972 is a federal law that prohibits sex-based discrimination. This includes quid pro quo, sex-based harassment, sexual assault, relationship violence, and stalking; and applies to all programs that receive federal financial aid or assistance.

Title IX Coordinator: The University official charged with ensuring PLU’s overall compliance with Title IX and related University Policy.

XII. Definitions – Violations of Sexual Misconduct, VAWA Informed

Prohibited Conduct defined under the PLU Sexual Misconduct Policy include, but are not limited to the following prohibited behaviors:

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence: A pattern of abusive behavior that is used by an intimate partner to gain or maintain power and control over the other intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt,

injure, or wound someone.

Washington State additionally defines domestic violence as physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; sexual assault of one family or household member by another; or stalking of one family or household member by another family or household member.

Non-Consensual Sexual Intercourse: Non-Consensual Sexual Intercourse is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another regardless of gender, without consent.

Non-Consensual Sexual Contact: Non-Consensual Sexual Contact is any intentional sexual touching, however slight, with any object, by a person upon another regardless of gender, without consent.

Relationship Violence: Dating Violence and/or Domestic Violence

Sexual Assault: Any type of sexual contact or behavior that occurs by force or without consent of the recipient of the unwanted sexual activity. Falling under the definition of sexual assault is sexual activity such as forced sexual intercourse, sodomy, child molestation, incest, fondling, and attempted rape. It includes sexual acts against people who are unable to give consent either due to age or lack of capacity.

Sex Discrimination: involves treating someone unfavorably because of that person's sex, including discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Sex-based Harassment: Sex-based harassment is a form of sex discrimination and means Sexual Harassment and other harassment on the basis of sex, gender, or gender identity, whether verbal or physical conduct, that unreasonably interferes with or deprives someone of educational access, benefits or opportunities. There are three types of Sex-based Harassment:

1. ***Quid Pro Quo Harassment:*** This exists when there are unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature; and submission to or rejection of such conduct results in adverse educational or employment action;
2. ***Hostile Environment Harassment:*** Unwelcome sex-based conduct, based on the totality of circumstances, is subjectively and objectively offensive, and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the institution's education program or activity (i.e. creates a hostile environment); or
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Sexual Exploitation: A form of Sexual Harassment: Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other Sexual Misconduct offenses. Examples of behavior that could rise to the level of Sexual Exploitation include:

1. Prostituting another person
2. Recording images (e.g. video, photography) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent.
3. Distributing images (e.g. video, photography) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure.
4. Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without the person's consent, and for the purpose of arousing or gratifying sexual desire.

Sexual Intimidation: A Form of Sexual Harassment: Sexual Intimidation involves, without limitation, threatening another person with a sex act against them, stalking, (including cyber-stalking), and/or engaging in indecent exposure.

Sexual Misconduct: Sexual Misconduct includes Quid Pro Quo, Sex-based Harassment, Sexual Harassment, Sexual Assault, Dating Violence or Domestic Violence ("Relationship Violence"), and Stalking.

Stalking: A pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or suffer substantial emotional distress.

XIII. Miscellaneous Provisions and Record Keeping

When a report of Prohibited Conduct is received, PLU will provide written notification to Impacted Parties and employees regarding the services listed in this policy, and about possible legal assistance, visa and immigration assistance, student financial aid, and any additional services available, both within the University and in the community. While the initial assessment of the report is in progress, all students involved will be supported in continuing their educational endeavors at PLU to the best of their abilities.

Regarding Supportive Measures, the University will provide written notification to Impacted Parties about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The University will make such accommodations or provide such protective measures if they are reasonably available, regardless of whether the Impacted Party chooses to submit a Complaint to the University or participate in the legal process with local law enforcement.

All records pertaining to a report, complaint, investigation, determination, and all other information related to the Title IX Office will be retained for seven years following the exit of an impacted party from the University. All materials and information used for the training of the Formal Process Team, investigators, and the Title IX Coordinator will be available for review on per request..