



## **Grievance Policy and Procedures**

**Adopted September 1997**

**Updated September 2001, April 2002, August 2005, November 2010, and July 2014**

### **I. INTRODUCTION**

Pacific Lutheran University is committed to the internal resolution of disputes arising within the university community. To that end, the President has appointed a University Dispute Resolution Committee that includes representatives from the faculty, student life, human resources and academic administration. The Committee appointments shall each be for a minimum two-year term.

The University Dispute Resolution Committee (UDRC) is charged with reducing conflicts and helping members of the community resolve disputes appropriately, expediently and fairly. The committee does so by educating the community about campus policies and dispute resolution options; coordinating dispute resolution services; investigating grievances when appropriate and advocating for review of university policies and procedures when necessary.

It is the intent that the University Dispute Resolution Committee be a resource for all members of the PLU community. The UDRC may assist any faculty, administrator, staff or student who needs consultation or referral to resolve an on-campus conflict, or who desires conflict resolution services. The UDRC also processes all formal grievances as allowed by the University's Grievance Policy, except those that (1) relate to faculty tenure, dismissal or discipline, (2) which otherwise arise under the grievance procedure set forth in Article VI of the Faculty Constitution and Bylaws or (3) which arise under the Student Conduct System. The University Dispute Resolution Committee (UDRC) processes complaints of sex discrimination, (including, but not limited to, sexual harassment, sexual assault, sexual misconduct and sexual violence) by employees when such conduct is alleged against any member of PLU's staff, faculty or third parties. The UDRC follows the Grievance Policy and Procedures. 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 students are handled under the Code of Student Conduct and the Student Conduct Procedures.

The UDRC shall have authority to establish separate policies and procedures for certain types of grievances. Subject to faculty approval, the UDRC shall also have authority to enact special policies and procedures for resolution of grade disputes and issues of academic dishonesty. The University Dispute Resolution Committee has the authority to appoint additional committee members on an as needed basis, for example, when one or more UDRC members would be unable to participate in a specific matter or when an additional member would assist in serving the mission of the University Dispute Resolution Committee.

The university encourages community members to resolve their disputes at the earliest and most informal level (i.e. by talking directly with the individual(s) involved; through facilitated conversation and/or through conflict mediation). When informal resolution is not possible, every member of the university community, whether faculty, student, administrator or staff, has the right to file a grievance and access the grievance procedures established by the UDRC. Grievances may be initiated by contacting any member of the Committee. Grievances involving allegations of sexual harassment, sexual assault, and sexual violence may also be initiated by contacting the Title IX Coordinator, Teri Phillips, at 253.535.7187 or [phillipt@plu.edu](mailto:phillipt@plu.edu) or any member of the UDRC, see [www.plu.edu/UDRC](http://www.plu.edu/UDRC) for members. Grievances first reported elsewhere in the community should be referred to the Committee for resolution, except for grievances that arise under the faculty constitution and by-laws or under the Student Conduct System.

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If, at any time during a conflict resolution or grievance proceedings, a participant believes that a member of University Dispute Resolution Committee has a conflict or the appearance of a conflict, or that the dispute/grievance involves or potentially involves a member of the Committee, that member will be excused from any further involvement in the grievance proceedings. In such circumstances an additional UDRC member may be appointed by the remaining University Dispute Resolution Committee members.

The grievance policy and procedures will be published bi-annually and distributed to all members of the university community.

## **II. GENERAL ADMINISTRATIVE PROCEDURES**

The following administrative procedures shall apply to all grievances, with the exception of (1) grade disputes; (2) allegations of academic dishonesty; (3) student conduct issues covered by the Student Code of Conduct; (4) faculty grievances relating to tenure, dismissal, or discipline and/or (5) grievances which otherwise arise under the grievance procedure set forth in Article VI of the Faculty Constitution and Bylaws.

The voluntary and/or involuntary termination of faculty, staff and administrative personnel may not be grieved under this Grievance Policy and Procedures. Such termination is not subject to these administrative procedures. While such termination decisions may not be grieved, the UDRC may investigate allegations that the termination of a faculty, staff or administrative employee was contrary to the University's anti-discrimination policy, anti-harassment policy or was otherwise in violation of any PLU policy or any applicable state, federal or local law. In conducting such investigations, the UDRC may elect, at its sole discretion, to use any of the informal or formal dispute resolution procedures set forth in this policy. The determination of how to process a grievance alleging that a termination was contrary to PLU policy and/or applicable law shall rest solely with the UDRC.

A faculty member who seeks to grieve a dismissal or disciplinary decision may have such matter reviewed under the grievance procedure set forth in Article VI, Section 1 of the Faculty Constitution and Bylaws.

All other matters, including, but not limited to, disputes or complaints relating to discrimination and sexual harassment sexual assault, and sexual violence shall be handled in accordance with the following procedures.

The University is committed to resolving all grievances arising under these procedures, including complaints of sexual harassment and/or misconduct, at the earliest and most informal level.

### **A. Informal Grievance Resolution**

A grievant may pursue any of the following options for informal resolution:

- (1) Direct Resolution. The grievant may discuss directly with the respondent the allegations of the grievance and work with the respondent to resolve any concerns.
- (2) Supervisor Resolution. If the action suggested in paragraph 1 is unsuccessful, ill-advised or otherwise inappropriate, the grievant is encouraged to first discuss his or her concerns with the supervisor or department chair who is responsible for taking appropriate action. If the grievance directly involves the supervisor, the grievant may go to the next level of supervision or may bring the matter directly to the University Dispute Resolution Committee as set forth below. If a grievance directly involves an individual at the level of Vice President, Dean, Provost or President, the grievant should bring the matter directly to the Dispute Resolution Committee. The matter may be concluded by mutual consent at this point. Supervisors and chairs must inform the Dispute Resolution Committee when handling grievances, which involve potential violations of the University's policy on discrimination, sexual harassment or sexual misconduct.

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- (3) University Dispute Resolution Committee. If there is no mutually satisfactory resolution at an earlier stage, or if the grievant does not wish to bring the matter to the chair or supervisor, the grievant may contact any member of the University Dispute Resolution Committee to seek resolution. The Dispute Resolution Committee may discuss options for informal handling of the grievance, make referrals to appropriate resources and support services, and, with the permission of all parties, may also attempt to resolve the problem through mediation.

At any point in the process, the grievant may send written notification to the Dispute Resolution Committee that the situation is resolved or that no further University action is desired. The Dispute Resolution Committee will retain records of informal grievances for a minimum of three (3) years.

At any time during the informal resolution process, either party, or the Dispute Resolution Committee, may request that informal resolution efforts be terminated and that the formal grievance procedures be initiated. Such request shall automatically suspend informal procedures. At such time, the Dispute Resolution Committee, or any subcommittee thereof, shall, within five days, hold a meeting with both parties to discuss options for informal resolution, including mediation. If no agreement can be reached as to informal means of resolution or if informal procedures fail, then either party, or the Committee, may request that the grievance proceed in accordance with the formal grievance procedures set forth in Section B, below.

**B. Formal Grievance Procedures**

- (1) Filing the Written Grievance. Grievants for whom the matter has not been satisfactorily resolved through the informal process may file a written grievance with the University Dispute Resolution Committee within five (5) working days after termination of the informal process. If no informal resolution was sought, written grievances must be filed within 30 working days of the alleged incident. The grievance shall include the grievant's written statement describing the alleged inappropriate action or misconduct. Upon receipt, the grievance shall be marked with the date received.
- (2) Determination of Whether Grievance is Subject to Procedures. Within five (5) working days of the grievance filing date, the Dispute Resolution Committee shall determine whether the facts alleged in the grievance fall within the purview of these procedures. If not, the grievant shall be so notified in writing. No appeal may be taken internally of such determination.
- (3) Notification to Respondent. If it is determined the grievance falls within the purview of these procedures, the Dispute Resolution Committee shall, within three (3) working days of such determination, provide a copy of the grievance to the respondent, together with a copy of these procedures.
- (4) Written Response May Be Filed. Within five (5) working days after receiving a copy of the grievance, the respondent may submit to the Dispute Resolution Committee a written response to the allegations raised in the grievance. The respondent is encouraged to provide a written response, however, failure to answer a charge or to participate in the investigation will not prevent the process from proceeding. Failure to respond may result in the investigation proceeding solely on the basis of the grievant's testimony and evidence.
- (5) Investigation of the Grievance. Within fifteen (15) working days of receipt of the respondent's written response, or, if there is no written response, within twenty (20) working days of notification to respondent, the Dispute Resolution Committee or its designees shall complete an adequate, reliable and impartial investigation which may include interviews with both parties and with those identified by the parties as having personal knowledge of the facts relating to the grievance; review of written responses as appropriate; and/or review of any documents or other evidence submitted by the parties or by persons with knowledge.
- (6) Preliminary Report and Recommendations. Within five (5) working days after completion of the investigation, the Dispute Resolution Committee will prepare a preliminary written report which details

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the investigative process, summarizes information received, and presents the Committee's factual findings and recommendations. Copies of the preliminary report shall be given to the grievant and respondent.

- (7) Rebuttal Statements. Should either the grievant or the respondent dispute the findings of the preliminary report or the recommendations, rebuttal statements may be filed with the Committee within five (5) working days of receipt of the preliminary report. The Committee may review the rebuttal statements and shall have the authority to reopen its investigation and amend its preliminary investigative report, if it deems such action appropriate. Either party may also submit names of additional witnesses and additional information, additional evidence or documents, etc.
- (8) Final Report and Recommendations. Within seven (7) working days of receipt of any rebuttal statements or additional information, the Committee shall complete a final investigative report and recommendations. In the event no rebuttal statements are submitted, the Committee's preliminary report shall be deemed final. Copies of the final investigative report and recommendations shall be given to the grievant, to the respondent and to the appropriate vice president, dean and/or department head. If the grievance involves a faculty member, a copy of the final report shall also be provided to the Provost.
- (9) Review by Appropriate Supervisor. Within ten (10) working days from completion of the Committee's final report, the appropriate Vice President, Dean or Provost shall assess the report, review any written statements, determine whether to accept the recommendations, and take any responsive action. In the event the grievance and/or recommendations of the Dispute Resolution Committee directly involve a Vice President, Dean or Provost, the Committee will designate an alternate authority to assess the report and determine any responsive action. Such action, if any, shall be in accord with applicable University policy. The grievant shall be informed of any corrective action taken involving the respondent. Where sexual harassment sexual assault, and sexual violence is found, the university will take steps to prevent recurrence of any harassment and correct discriminatory effects on the Grievant and others, if applicable.
- (10) Time Limits. Time limits set forth in these procedures may be extended by the Dispute Resolution Committee upon request and showing of good cause. Either party may seek an extension of time. Reasonable extensions of time may also be granted upon initiation of the Committee at its discretion. The Dispute Resolution Committee will not usually extend the time for filing a written grievance except for those situations in which the grievant alleges violation of the University's Policies on Equal Opportunity, Affirmative Action, and Sexual Misconduct. When appropriate, time limits may also be extended from one school year to the next.
- (11) Grievance Initiated by Administration. The President, Provost, or any Vice President may request that the Dispute Resolution Committee conduct an investigation without a formal grievance from any individual. In such cases, the Provost or applicable Vice President will act as the grievant. In those cases, the Dispute Resolution Committee will use the same notification and process guidelines as outlined in the formal grievance procedures.
- (12) Grievance Initiated by University Dispute Resolution Committee. The Dispute Resolution Committee may initiate a formal grievance at any time where an individual declines to pursue the formal grievance process and/or where the Committee believes the University's Policies on Equal Opportunity, Affirmative Action, and Sexual Misconduct may have been violated. In such cases, the grievance will follow the same notification and procedures set forth above. The Dispute Resolution Committee has the right, where appropriate, to protect the identity of a grievant and to proceed with an anonymous grievant. That right should be used only in rare circumstances, taking into consideration the inherent difficulty to the respondent, and only after consultation with the University's attorney.

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- (13) Record Retention. The Dispute Resolution Committee is the custodian of all records developed during the investigation of a grievance. All records of the Dispute Resolution Committee are considered confidential and will be retained by the Committee for three (3) years, except records relating to grievances involving violations of the University's policies on Equal Opportunity, Affirmative Action, and Sexual Misconduct, which may be kept indefinitely at the discretion of the Committee.
- (14) Sanctions. The Dispute Resolution Committee has no authority to impose any sanction, however, it may, as part of its investigative report, recommend a particular sanction or course of corrective action. The actual authority to impose sanctions and other corrective action shall remain with the Provost, as to faculty; the Vice President of Student Life, as to students; and the appropriate administrative Vice President as to staff and administrative personnel. The authority imposing sanctions shall report its action to the Dispute Resolution Committee in writing.
- (15) Falsified Grievance. Deliberately filing a grievance with false statements is considered to be serious misconduct and such offenses will be subject to the full range of disciplinary sanctions, including termination and/or expulsion.
- (16) Right of Appeal. Either party may appeal to the President of the University the findings of the Dispute Resolution Committee's final investigative report. The Dispute Resolution Committee may also request that the President review a particular grievance. Such appeal must be filed in writing to the President's Office within ten (10) working days after completion of review by the Vice President or Provost in accordance with paragraph 9 above. The President may choose to accept, reject, accept in part, or reject in part the investigative findings and recommendations. The President shall have final authority.
- (17) Attorneys. These procedures are intended to be a means of internal resolution only. As such, attorneys will not be allowed to participate directly in any phase of these grievance procedures, however, any party affected by a grievance is free to consult with an attorney of his or her choice at his or her own expense.
- (18) Retaliation Prohibited. The University expressly prohibits retaliation against any person who has filed a grievance, or in any way participated in the grievance process. Any person who violates this policy may be subject to disciplinary action, including termination and/or expulsion.

**III. ALTERNATIVE GRIEVANCE PROCEDURES**

These grievance procedures do not supersede existing procedures for resolution of grade disputes, academic dishonesty or matters arising under the Student Code of Conduct or any grievance procedures set forth in the Faculty Constitution and Bylaws. Where a grievance may be brought in under an alternative procedure, the grievant must elect at the outset which forum to use. As used herein, the term "outset" shall mean (a) with respect to a grievance filed under these policies, the date such grievance is accepted by the UDRC or (b) with respect to a grievance filed under an alternative dispute resolution procedure, the date such grievance is filed with the alternative adjudicating body. If a grievant chooses to proceed under these administrative procedures in lieu of alternate internal grievance procedures, then the grievant may not subsequently pursue the alternate grievance procedures for resolution of the same grievance. Similarly, if a grievant elects to pursue an alternate grievance procedure, the grievant may not subsequently seek to use these procedures to resolve the same grievance.

Should a faculty member file any grievance under the grievance procedure set forth in Article VI, Section 1 of the Faculty Constitution and Bylaws, that faculty member thereby waives right to have the subject matter of such grievance addressed under this Grievance Policy and Procedures. Similarly, a faculty member who elects to have any matter proceed under this Grievance Policy and Procedures thereby waives any right to have the subject matter of such grievance addressed under the Grievance Procedures set forth in Article VI, Section 1 of the Faculty Constitution and Bylaws.

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**IV. SPECIAL CONSIDERATIONS IN SEXUAL MISCONDUCT CASES**

PLU takes allegations of sexual harassment and sexual violence very seriously. Allegations that PLU's Sexual Misconduct Policy has been violated trigger some procedures in addition to those set out above as required by federal law.

PLU generally investigates allegations of sexual harassment and sexual violence in one or more of three ways. All three processes are designed to:

- Provide notice to students and employees of sexual misconduct grievance procedures, including where complaints may be filed;
- Apply the procedures to complaints alleging harassment carried out by employees, other students, or third parties;
- Provide for adequate, reliable, and impartial investigation of complaints, including the opportunity for both parties to present witnesses and other evidence;
- Set out designated and reasonably prompt time frames for the major stages of the complaint process;
- Provide notice to parties of the outcome of the complaint. Assure community members that the university will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

PLU's three processes are:

***The Student Conduct Process*** is utilized if allegations are made that PLU's Sexual Misconduct policy in its Code of Student Conduct has been violated by a current student. The process is governed by PLU's [Student Conduct Procedure](#).

***The University Dispute Resolution Process*** is utilized if allegations are made that PLU's Human Resources Policy has been violated by a faculty or staff member, or a third party. The process is governed by PLU's [Grievance Procedures](#).

***Further Investigative Process by the Title IX Coordinator***

The Title IX Coordinator is advised of and monitors all allegations of conduct that may constitute sexual harassment or sexual violence, as they are filed in and investigated and determined through either the Student Conduct process or the UDRC process. The Associate Director for Student Rights and Responsibilities and all UDRC Committee Members have been designated as Title IX Deputies to actively participate in the Student Conduct and Dispute Resolution processes, respectively. All final determinations of either group are forwarded to the Title IX Coordinator for review. The Title IX Coordinator will, in her sole discretion, decide whether further investigation is necessary to determine whether a violation of Title IX may have occurred. PLU's Code of Student Conduct Sexual Misconduct Policy – which is designed to educate students about healthy sexual interaction - prohibits some sexual conduct that may not rise to the level of sexual harassment or violence as defined by Title IX. As a result, it is possible for a student to be found "Responsible" and sanctioned for a violation of the Sexual Misconduct policy in the Student Code of Conduct, but for a determination to be made that the conduct has not violated Title IX.

If the Title IX Coordinator investigates further, and discovers information that causes her to believe Title IX may be violated, s/he may file an independent Incident Report in the Student Conduct Process or a Complaint in the Grievance Process based on the additional information. The prompt and equitable procedures set out in the Student Conduct Procedures and the Grievance Procedures will be utilized to review the additional information.

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All questions about PLU's efforts to stop sexual harassment and sexual violence should be directed to the Title IX Coordinator (and/or the Associate Director of Rights and Responsibilities in the appropriate case.)