

## ***SEXUAL MISCONDUCT POLICY***

### **I. Introduction**

Pepperdine University affirms that all members of our community are created in the image of God and therefore should be treated with dignity and respect. Our University code of ethics states that we do not unlawfully discriminate on the basis of any status or condition protected by applicable federal or state law. Further, we respect the inherent worth of each member of the community and do not engage in any forms of harassment. We follow the profound truth found in the Golden Rule, “In everything do to others as you would have them do to you” (Matthew 7:12).

Because of our commitment to honoring the dignity and respect of every individual, sexual misconduct (and any related retaliation), as defined below, is prohibited and will result in disciplinary action, up to and including dismissal from the University. This policy applies to all University students, including any matriculated undergraduate or graduate student who is enrolled full- or part-time; has completed the immediately preceding term, is not presently enrolled, and is eligible for re-enrollment; or is on an approved educational leave or other approved leave status. This includes the period before classes begin, while the student is attending classes, between academic sessions or on leave. This policy applies even if the student withdraws from school while a disciplinary matter is pending. This policy applies to student conduct that occurs both on and off campus.

Speech that constitutes a protected exercise of a student’s rights under California’s Leonard Law will not be deemed a violation of this policy. However, some speech that may be protected by the Leonard Law is nonetheless inconsistent with the Golden Rule, and students are encouraged to live by this higher standard rooted in our Christian faith and heritage.

### **II. Definitions**

The University encourages students to immediately bring any concerning behavior to the University’s attention even if such behavior does not constitute sexual misconduct or retaliation as defined below.

#### ***A. Sexual Misconduct:***

Sexual misconduct includes sex discrimination, sexual harassment, sexual assault, domestic violence, dating violence, and stalking. Sexual misconduct can be committed by men or women, and it can occur between people of the same or different sex.

#### ***B. Sex Discrimination:***

Unlawful sex discrimination occurs when an individual is treated less favorably with respect to the administration of the University’s educational programs and activities, admissions, financial aid, or on-campus housing, based upon that individual’s sex.

#### ***C. Sexual Harassment:***

Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature that is sufficiently serious that it interferes with or limits a student’s ability to participate in or benefit from the University’s educational programs and activities or their living environment. Sexual harassment also includes gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature. This definition will be interpreted and applied in a manner consistent with the accepted standards of mature behavior, academic freedom, and the mission of the University.

Examples of sexual harassment include, but are not limited to:

1. A student repeatedly contacts another student to go out on a date after the student has made it clear that such contact is unwelcome.
2. A male professor makes several comments to a female student suggesting that if they have a sexual relationship he will give her a better grade in his class.
3. A lesbian student is called a “dyke” by a male classmate, who also makes sexually explicit remarks.
4. A male staff assistant in a biology lab repeatedly makes disparaging comments about women such as “science is a man’s field” and “women don’t have the capacity to understand.”
5. A student worker tells her supervisor that she is not comfortable with him massaging her shoulders, but he continues to do so and also makes comments about her attractiveness.

***D. Sexual Assault:***

Sexual assault is a general term that covers a broad range of inappropriate and/or unlawful conduct, including rape, sexual battery, and sexual coercion. As defined under California law, rape is nonconsensual sexual intercourse that involves the use or threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Other examples of sexual assault include the following nonconsensual acts: oral copulation, anal intercourse, and penetration of the anal or vaginal area with a foreign object, including a finger. Sexual battery includes the nonconsensual touching of a person's intimate parts, or the clothing covering the immediate area of those parts, or forcing a person to touch another's intimate parts. Sexual coercion is the act of using pressure (including physical, verbal, or emotional pressure), alcohol, medications, drugs or force to have sexual contact against someone's will or with someone who has already refused.

***E. Consent:***

Consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

An individual is also unable to provide consent to engage in sexual activity when the individual: 1) is a minor (age 17 or under); 2) has a mental disorder or developmental or physical disability that renders her or him incapable of giving knowing consent; 3) is asleep or unconscious; or 4) is incapacitated from alcohol or other drugs, and this condition was known, or reasonably should have been known or recognized by the accused. "Incapacitated" means intoxicated to the point that the person is incapable of exercising the judgment required to decide whether to consent.

***F. Domestic Violence:***

Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of California, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of California.

***G. 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. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition: 1) dating violence includes but is not limited to, sexual or physical abuse or the threat of such abuse and 2) dating violence does not include acts covered under the definition of domestic violence.

***H. Stalking:***

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: 1) fear for his or her safety or the safety of others; or 2) suffer substantial emotional distress. For the purposes of this definition: 1) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property, 2) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling, and 3) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

***I. Retaliation:***

Retaliation is any form of sanction or adverse treatment against a person because that person has asserted a good faith complaint of sexual misconduct, or assists in providing information regarding a complaint of sexual misconduct. Retaliation may consist of intentional disparagement, harassment, negative remarks, or other treatment that creates a hostile environment.

### **III. Immediate Steps to Take if you are Subject to Sexual Assault or Other Forms of Violence or Threatening Behavior**

- Go to a safe place and speak with someone you trust. Tell this person what happened. If there is any immediate danger and you are on the Malibu campus, call Public Safety at 506-4441. If you are off-campus, call 911. If you are located at one of Pepperdine's graduate, DC, or international campuses, contact your program director or local law enforcement to obtain information regarding local counseling, medical and legal resources available to you.
- Consider securing immediate professional support to assist you in the crisis. You can consider on- or off-campus options. During office hours, you may access the Pepperdine Counseling Center (506-4210), the Pepperdine Health Center (506-4316), the Santa Monica Rape Treatment Center (310) 319-4000, the Sojourn Services (domestic and dating violence) at (310) 264-6644.
- After hours, if you live on-campus, your resident advisor, student life advisor, resident director, or Public Safety (506-4441) can typically help you reach a confidential Pepperdine University counselor.
- After hours, if you live off-campus or live on-campus but prefer to use off-campus options, call the Santa Monica Rape Treatment Center's 24-hour hotline: (310) 319-4000. When contacting SMRTC, please let them know if you are in need of transportation to and from the center, as free options are available. Students may also contact Sojourn Services at (310) 264-6644.
- In cases of sexual assault, for your safety and well-being, immediate medical attention is encouraged to evaluate for physical injury, sexually transmitted diseases, and pregnancy. Further, being examined as soon as possible, ideally within 72 hours, is important for evidence collection, which may be used to support prosecution should you decide immediately or later to pursue criminal charges. The Santa Monica Rape Treatment Center will arrange for a specific medical examination at no charge. To preserve evidence, it is best that you do not bathe, shower, douche, or change clothes before that exam. Even if you have already bathed, you are still encouraged to have prompt medical care. Additionally, you are encouraged to gather bedding, linens, or unlaundered clothing and any other pertinent articles that may be used for evidence.
- Even after the immediate crisis has passed, consider seeking support from the Pepperdine Counseling Center, the Santa Monica Rape Treatment Center, or Sojourn Services.
- Contact the Title IX Coordinator for Students (see contact information below) if you need assistance with University-related concerns, including academic issues (e.g., missed classes or exams; requesting extensions regarding coursework) or on-campus housing issues (e.g., requesting that the student who you believe assaulted you be moved or that you be moved to a different residence hall).
- Consider your reporting options (see section VI below).
- Report to Public Safety or the Title IX Coordinator for Students any concerns about retaliation against you or your friends.

### **IV. Seeking Confidential Support**

Students who have been victimized are urged to seek confidential support from the counselors at the Pepperdine Counseling Center located at TCC 270 (506-4210) or the University chaplain, Sara Barton, at TCC 106A (506-4275). These settings allow students to receive emotional/spiritual support and think through their next steps, including reporting options, confidentially. There are rare exceptions to confidentiality in cases of court subpoena, child or elder abuse, or if there are serious threats of suicide or harm to others.

### **V. Title IX Coordinator for Students**

The Title IX Coordinator for Students monitors the University's overall compliance with Title IX in all matters related to students, ensures appropriate training and education, and oversees the University's investigation, response, and resolution of reports made under this policy. Upon receiving reports of sexual

misconduct, the Title IX Coordinator for Students ensures that appropriate action is taken to eliminate that conduct, prevent its recurrence, and remedy its effects. The Title IX Coordinator for Students is available to advise all individuals—including individuals who have experienced misconduct, individuals who are alleged to be responsible for misconduct, and third parties.

## **VI. Reporting Sexual Misconduct**

The University encourages all students to report incidents of sexual misconduct or suspected sexual misconduct, whether they are victims or witnesses. Reporting protects victims, promotes a healthy and safe campus culture, and holds perpetrators accountable. Although a student has the right not to report sexual misconduct, many individuals subjected to sexual misconduct have shared that filing a report with the University, local law enforcement, and/or a community resource center is the beginning of the process by which they regain control over their lives. Though the reporting and judicial processes can be difficult, they are often worth the effort because individuals feel empowered by bringing the perpetrator to justice. Reporting sexual misconduct may also help to establish precedents that will aid others in the future or prevent others from being subjected to sexual misconduct by the same perpetrator.

Students subjected to sexual misconduct have several reporting options. At the University, students can anonymously report, confidentially report, or file a formal report of sexual misconduct, as explained below. Outside the University, students can report sexual misconduct to community resource centers that specialize in providing resources to victims of sexual misconduct, file a criminal charge with local law enforcement, or file civil litigation against the alleged perpetrator. Some students will choose to pursue criminal charges (i.e., through the police and criminal courts). Others will choose to pursue University disciplinary options, if the alleged perpetrator is a Pepperdine student. Civil litigation is another option that some choose. Some will choose a combination of the above options, and some will choose none.

Under California law, the University is required to immediately, or as soon as practicably possible, disclose to local law enforcement, any report of sexual assault, whether committed on-or-off campus. If the student communicates to the University that he or she would like his or her identity withheld, the University will not disclose the student's or the alleged perpetrator's identity in its report to law enforcement.

### ***A. Reporting Within the University***

***Note:** If there is any immediate danger and you are on the Malibu campus, call Public Safety at 506-4441. If you are off-campus, call 911. If you are located at one of Pepperdine's graduate, DC, or international campuses, contact your program director or local law enforcement to obtain information regarding local counseling, medical and legal resources available to you.*

#### **1. Formal Report**

Anyone may formally report a complaint of sexual misconduct or retaliation related to sexual misconduct to the University by contacting:

La Shonda Coleman  
Title IX Coordinator for Students  
Pepperdine University  
24255 Pacific Coast Highway  
Tyler Campus Center Suite 210  
Malibu, CA 90263  
310-506-4436  
lashonda.coleman@pepperdine.edu

A student reporting sexual misconduct may do so verbally or in a written report. If a written report is submitted, it should contain a brief written statement citing the type(s) of sexual misconduct that occurred (see definitions section above) and supporting facts (e.g., alleged perpetrator, what happened, when and where the incident occurred, witness(es), etc.). The scope of any investigation, and who will conduct the investigation, shall be in the sole discretion of the Title IX Coordinator for Students. The investigation may include, but is not

limited to, meeting with the parties, talking with witnesses, and reviewing any supporting documents.

Formal reports and any related investigative materials concerning a Pepperdine student will be submitted to the associate dean of student affairs for community standards as discussed in section VII below to determine whether an administrative or student disciplinary committee hearing will be convened. Formal reports and any related investigative materials concerning Pepperdine faculty or staff will be submitted to the grievance officer as discussed in section VIII below. Formal reports concerning non-student third-parties will be resolved by the Title IX Coordinator for Students. The University reserves the right to investigate, take disciplinary action, and/or report sexual misconduct to local law enforcement regardless of how much time has passed since it occurred and even if the sexual misconduct is reported after the student graduates or employee leaves the University.

## 2. Anonymous Report

Any individual may make an anonymous report concerning an act of sexual misconduct. An individual may report the incident without disclosing names, identifying the alleged perpetrator, or requesting any action. Depending on the extent of information available about the incident or the individuals involved, however, the University's ability to respond to an anonymous report may be limited. Anonymous reports may be made on the anonymous Wave Tip line by calling voice mail at (310) 506-7634 or on the LiveSafe app. Public Safety will receive these reports and share them with the Title IX Coordinator for Students who will determine appropriate steps.

## 3. Confidential Reporting

If a student discloses sexual misconduct to an employee (other than the University chaplain or Counseling Center staff), but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, Pepperdine must weigh that request against the obligation to provide a safe, non-discriminatory environment for all students, including the student reporting the incident. If Pepperdine honors the request for confidentiality, the reporting student must understand that Pepperdine's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator may be limited.

Although rare, there are times when Pepperdine may not be able to honor a reporting student's request in order to provide a safe, non-discriminatory environment for all students. Pepperdine has designated the Title IX Coordinator for Students to evaluate requests for confidentiality once an employee is on notice of alleged sexual misconduct. When weighing a student's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator for Students will consider a range of factors, including the following:

- whether there have been other sexual misconduct complaints about the same alleged perpetrator;
- whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
- whether the alleged perpetrator threatened further sexual misconduct or other violence against the student or others;
- whether the sexual misconduct was committed by multiple perpetrators;
- whether the sexual misconduct was perpetrated with a weapon;
- whether the reporting student is a minor;
- whether the University possesses other means to obtain relevant evidence of the sexual misconduct (e.g., security cameras or personnel, physical evidence);
- whether the reporting student's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead Pepperdine to investigate and, if appropriate, pursue disciplinary action. If none of these factors are present, Pepperdine will likely respect the reporting student's request for confidentiality.

If Pepperdine determines that it cannot maintain a student's confidentiality, Pepperdine will inform the reporting student prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling Pepperdine's investigation and response. Pepperdine will remain mindful of the student's well-being, and will take ongoing steps to protect the student from retaliation or harm and work with the student to create a safety plan. Retaliation against the reporting student, whether by other students or Pepperdine employees, will not be tolerated. Pepperdine will also:

- Assist the student in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus;
- Provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for assignments or tests; and
- Inform the student of the right to report a crime to campus or local law enforcement – and provide the student with assistance if the student wishes to do so.

Pepperdine will not require a reporting student to participate in any investigation or disciplinary proceeding.

Because Pepperdine is under a continuing obligation to address the issue of sexual misconduct campus-wide, reports of sexual misconduct (including anonymous reports) will also prompt Pepperdine to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual misconduct occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments; and/or revisiting its policies and practices.

If Pepperdine determines that it can respect a student's request for confidentiality, Pepperdine will also take immediate action as necessary to protect and assist the student.

## ***B. Reporting Options Outside the University***

### **1. Community Resource Centers**

- a. The Santa Monica Rape Treatment Center  
Santa Monica-UCLA Medical Center  
1250 Sixteenth Street  
Santa Monica, California 90404  
(310) 319-4000  
<http://www.911rape.org/home>  
Provides professional support, including counseling, medical and advocacy services, to victims of sexual assault.
- b. The Sojourn Services  
1453 16th St, Santa Monica, CA 90404  
(310) 264-6644  
<https://www.opcc.net/?nd=sojourn>  
Provides professional support, including counseling, medical and advocacy services, to victims of domestic and dating violence. Sojourn also operates a crisis shelter.

### **2. Local Law Enforcement**

Malibu/Lost Hills Sheriff Station  
27050 Agoura Rd, Agoura Hills, CA 91301  
(818) 878-1808 or 911 for emergency  
<http://shq.lasdnews.net/pages/patrolstation.aspx?id=LHS>  
For help in reporting the sexual misconduct to local law enforcement, call the Department of Public Safety (506-4700). It is important to understand that reporting sexual misconduct does not obligate the reporting party to press criminal charges.

3. Civil Court

Santa Monica Municipal Court

1725 Main St #102, Santa Monica, CA 90401

(310) 260-3522

<http://www.lacourt.org/courthouse/info/SM><http://www.lacourt.org/courthouse/info/SM>

For help filing a civil lawsuit, please contact the Santa Monica Municipal Court.

***C. Resources for Students Located Out of State or Abroad***

If you are participating in a program located out of state or abroad, please consult with your program director for confidential reporting options, available community resources, and law enforcement contact information in your location. The Student Title IX Coordinator welcomes reports from all students, regardless of where they are located.

***D. Reporting Party Immunity/Good Samaritan Policy***

Sometimes victims of sexual misconduct are hesitant to report to University officials because they fear that they themselves may be charged with policy violations (e.g., underage drinking). To encourage reporting, Pepperdine offers victims immunity from policy violations related to the sexual misconduct.

Because Pepperdine places a high priority on student health and safety, the Good Samaritan policy was created to encourage students to take immediate action in any crisis or medical emergency. Pepperdine students are expected to care for others by getting help from appropriate officials even when violations of the Code of Conduct have occurred. In crisis situations involving alcohol, drugs, physical violence, and/or sexual misconduct (e.g., sexual assault, domestic violence, dating violence, and stalking), the University strongly considers the positive impact of taking responsible action when determining the appropriate response for alleged policy violations related to the incident. This means that no University disciplinary sanctions will be issued to either the reporting student(s) or to the student(s) in need of assistance related to the violations that occurred at or near the time of the incident.

This policy applies to students who report sexual misconduct or participate as key witnesses in sexual misconduct investigations, or who seek medical assistance for themselves or another by contacting an appropriate official (e.g., resident advisor, Public Safety officer, or calling 911). The incident will still be documented, and educational and/or health interventions may be required as a condition of replacing disciplinary sanctions. This policy may not apply to the hosts of a party if they do not seek immediate medical assistance for the student in need.

In any situation involving imminent danger to the health and safety of any individual(s), or where sexual misconduct has been alleged to have occurred, students are expected to: 1) immediately contact Public Safety or other emergency officials to report the incident; 2) remain with the individual(s) needing support and cooperate with emergency personnel as long as it is safe to do so; and 3) meet with appropriate University officials after the incident and cooperate with any University investigation.

**VII. Authority and Responsibility for Student Sexual Misconduct Discipline**

The associate dean of student affairs for community standards (“associate dean”) is responsible for the overall coordination of rules and regulations regarding the adjudication of violations of the Sexual Misconduct Policy by students.

The associate dean reviews formal reports, as well as confidential reports if the Title IX Coordinator for Students has determined that a confidentiality request cannot be honored, and any related investigative materials. The associate dean may conduct further investigation of the report if he or she deems necessary. The scope of any investigation shall be in the sole discretion of the associate dean. The investigation may include, but is not limited to, meeting with the parties, talking with witnesses, and reviewing any supporting documents.

If the associate dean considers the report and investigative materials to indicate a probable violation of the Sexual Misconduct Policy, the matter will be heard through either an administrative hearing or a hearing with the student disciplinary committee. During such hearings, the reporting party will be referred to as the “complainant” and the accused party as the “respondent.” The vice president for student life and dean of student affairs serves as the final appeal for disciplinary decisions in sexual misconduct cases.

The University’s actions are not dependent on the initiation or outcome of criminal charges. Disciplinary proceedings may be carried out prior to, simultaneously with, or following civil or criminal proceedings.

#### ***A. Interim Measures***

Upon receipt of a report of sexual misconduct, the University may impose reasonable and appropriate interim measures designed to eliminate the reported hostile environment or alleged violation and protect the parties involved. The University will maintain consistent contact with the parties to ensure that all safety and emotional and physical well-being concerns are being addressed. Interim measures may be imposed regardless of whether a confidential or formal complaint has been filed.

The complainant or respondent may request separation or other protection, or the University may choose to impose interim measures at its discretion to ensure the safety of all parties, the broader University community, and/or the integrity of the investigative and/or disciplinary process. All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by an interim measure. The University will take immediate and responsive action to enforce a previously implemented measure.

##### **1. Available Interim Measures**

The Title IX Coordinator for Students or designee, at his or her discretion, may implement interim measures with potential remedies which may be applied to the complainant and/or the respondent including:

- access to counseling services and assistance in setting up an initial appointment, on and off campus;
- imposition of an on-campus “no-contact directive”;
- rescheduling of exams and assignments;
- providing alternative course completion options;
- changing class schedules, including the ability to transfer course sections or withdrawal from a course without penalty;
- changing work schedules or job assignments;
- changing a student’s University-owned housing;
- assistance from University support staff in completing University housing relocation;
- limiting an individual’s or organization’s access to certain University facilities or activities pending resolution of the matter;
- voluntary leave of absence;
- providing an escort to ensure safe movement between classes and activities;
- providing medical services;
- providing academic support services, such as tutoring; and/or
- any other remedy that can be tailored to the involved individuals to achieve the goals of this policy.

##### **2. Interim University or Housing Restriction**

The vice president for student life and dean of student affairs or designee may impose an interim University-wide restriction or University housing restriction on the respondent prior to an administrative hearing or student disciplinary committee hearing. Such measures may be imposed: a) to ensure the safety and well-being of members of the University community or preservation of University property; or b) if the respondent poses a definite threat of disruption of, or interference with, the normal operations of the University. During the interim restriction, the student may be denied access to the residence halls and/or to the campus (including classes). The interim measure does not replace the regular disciplinary process, which will proceed on the normal schedule, up to and through an appeal, if required.



### ***B. Administrative Hearings***

In some sexual misconduct cases, the associate dean meets individually with those involved rather than submitting the case for a hearing before the Student Disciplinary Committee. This is most often true when the violation is of a less serious nature and discipline would not result in suspension or dismissal. If an administrative hearing is to take place, the involved parties will receive a written notice prior to the hearing date that will include a description of the behavior that allegedly violates the Sexual Misconduct Policy, the investigative materials, and any other information the associate dean deems necessary to provide to the parties. The notice and related materials will be sent to the involved students' pepperdine.edu email accounts. The notice will also include the date and time of the administrative hearing.

The administrative hearing officer (normally the associate dean) will meet with the complainant first to discuss the incident. After the meeting with the complainant, the administrative hearing officer will meet with the respondent to discuss the incident. The meeting will be followed by an email from the administrative hearing officer summarizing the discussions and imposing a sanction if a violation of the Sexual Misconduct Policy is found.

Sanctions imposed as a result of an administrative hearing cannot be appealed. Student disciplinary committee sanctions may be appealed; therefore, students who are required to attend an administrative hearing may request instead to have the matter heard by the Student Disciplinary Committee if they would like to reserve their right to an appeal.

### ***C. Student Disciplinary Committee Hearings***

If, after reviewing a sexual misconduct report and related investigative materials, the associate dean believes that there is a probable violation of the Sexual Misconduct Policy and the resulting sanction could result in a suspension or dismissal from the University, the matter will be submitted for hearing by the Student Disciplinary Committee. The committee will include a minimum of three faculty and/or staff members, with a mix of both male and female members. The associate dean will chair the committee but is not a voting member unless there is a tie vote.

Prior to the committee hearing, the involved parties will receive a written notice prior to the hearing date that will include a description of the behavior that allegedly violates the Sexual Misconduct Policy, the investigative materials, and any other information the associate dean deems necessary to provide to the involved parties. The notice and related materials will be sent to the involved students' pepperdine.edu email accounts. The notice will also include the date and time of the hearing, not less than five (5) or more than fifteen (15) calendar days after the date of the written notice to the involved parties. Maximum time limits for scheduling hearings may be extended at the discretion of the associate dean.

Other than as outlined below, hearings need not adhere to formal rules of procedure or technical rules of evidence followed by courts of law. Hearings will be conducted according to the following guidelines:

1. All procedural questions are subject to the final decision of the associate dean.
2. The hearing will normally be conducted in private. Admission of any person to the hearing will be at the discretion of the associate dean. The associate dean may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, respondent, and/or other witness during the hearing by providing separate facilities, and/or by permitting participation by telephone, video conferencing, written statement, or other means, as deemed appropriate by the associate dean.
3. Involved parties may be assisted at hearings and pre-hearing meetings by an advisor of their choice. The advisor cannot speak for the involved parties. The role of the advisor is to accompany the involved parties and advise them privately during the pre-hearing and hearing process.
4. Hearings will be chaired by the associate dean or designee, and will proceed in the following manner:
  - a. Reading of the charges.
  - b. The respondent's denial or admission of the charges (If the respondent admits the charges, then the committee may dismiss the respondent and deliberate on the appropriate sanctions).

- c. Presentation of information and/or witnesses supporting the charges and questions by the committee.
  - d. Presentation of information and/or witnesses that rebuts the charges and questions by the committee.
  - e. Each involved party has the option of presenting a closing statement to the committee.
5. Involved parties are not required to provide witness testimony. However, if an involved party chooses to provide a witness's testimony, that witness may appear in person at the hearing or submit a written statement at least 24 hours before the hearing. If the witness attends the hearing, the committee may ask him or her questions. Witnesses may only be present while giving testimony. Involved parties must submit a list of intended witnesses and purposes of their statements to the associate dean at least 48 hours in advance of the hearing. The associate dean reserves the right to limit which witnesses the involved parties may call at the hearing.
  6. A list of witnesses called by the University should be presented to the involved parties at least 24 hours before the hearing.
  7. Pertinent records, exhibits and written statements may be accepted as information for consideration by the committee at the discretion of the Chair. This information must be submitted to the Chair at least 24 hours before the hearing. The Student the Disciplinary Committee may or may not consider any documents received after the 24-hour deadline subject to the discretion of the associate dean.
  8. Involved parties will receive a copy of witness lists and all relevant materials submitted.
  9. If, during the course of the hearing, additional policy violations are discovered, the respondent will be notified of the new charges and will be granted additional time, if needed, to prepare a defense of the new charges. The respondent may waive the additional time and the hearing can proceed with the new charges taken under consideration by the committee. A record should be made in the hearing notes of additional charges and whether or not the respondent desires additional preparation time.
  10. Information about the misconduct of other students shared at the hearing may be used as the basis for disciplinary action unless immunity pursuant to the reporting party Immunity/Good Samaritan policy has been granted.
  11. The committee's determination will be made on the basis of the preponderance of the evidence standard (whether it is more likely than not that the respondent violated the Sexual Misconduct Policy).
  12. After the hearing, the committee will determine by majority vote whether the respondent has violated the Sexual Misconduct Policy.
  13. If the respondent is found to have violated the Sexual Misconduct Policy, the committee will then make a recommendation to the associate dean on the appropriate sanction(s).
  14. The associate dean will notify the involved parties in writing to the involved parties' pepperdine.edu accounts of the committee's decision and the sanctions issued, if any.
  15. There will be a single written record of the hearing, which normally consists of the statement of alleged misconduct, a summary of the information presented in the hearing, a summary of the statement of the involved parties, statement of the decision, and the sanctions issued, if any. The hearing will not be transcribed or otherwise recorded.
  16. If either of the involved parties fails to appear at the hearing or participate, the committee may make a decision based on the available information. If the associate dean determines that good cause exists for the either of the involved parties accused student not appearing at the hearing, a new date may be set for the hearing.
  17. The committee will render a decision within 60 days of the formal report being filed or within 60 days of the Title IX Coordinator for Students' decision not to honor a confidentiality request. However, there may be extenuating circumstances that render this time-frame impractical. In such cases, decisions will be rendered as promptly as possible.

#### ***D. Sanctions***

Violation of the Sexual Misconduct Policy may result in the imposition of one or more of the sanctions listed below. Sanctions that may be imposed are not limited to those listed. In certain limited

situations, the associate dean or designee may impose a sanction but suspend or postpone its actual implementation. Failure to comply with the sanction(s) imposed by the associate dean may result in further disciplinary action, including but not limited to, a registration hold, placement on, or extension of, University probation, suspension, or permanent dismissal.

Sanctions are based on general principles of fair treatment. While attempting to be consistent in its disciplinary decisions, the University also seeks to be fair and sensitive to the facts and circumstances of each individual case.

- **Warning:** Oral or written notice to the student that the student is violating or has violated the Sexual Misconduct Policy and that continuation or repetition of misconduct may result in a more severe sanction.
- **University Probation:** A status which indicates that a student's relationship with the University is tenuous. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found in violation of the Sexual Misconduct Policy or other policy violations. Probation may also result in the loss of privileges, depending on the policies of various University departments and organizations.
- **Loss of Privileges:** Such loss may include, but is not limited to, financial assistance, eligibility to represent the University officially on athletic teams or performing groups, or use of specific University facilities, or services.
- **Restitution:** Compensation for loss, damage or injury. Failure to pay such charges may result in additional sanctions (including, but not limited to, denial of re-enrollment or refusal to release official transcripts and records).
- **Educational Sanctions:** Reading/writing assignment, drug or alcohol assessment/treatment, seminar attendance, or other discretionary sanctions as deemed appropriate.
- **Dismissal from University Housing:** Loss of privilege to live in University housing. *In accordance with University housing policy, students required to live on campus who are dismissed from University housing may be dismissed from Pepperdine University. Any student dismissed from University housing prior to the end of the contractual period may be responsible for any remaining monetary charges, as well as ineligible for reimbursement for any charges already paid.*
- **Suspension:** Temporary separation of the student from Pepperdine University for a definite period of time, after which the student is eligible to return without re-applying through the office of admissions, unless the student is absent for two or more academic years, which does require re-application and readmission by the office of admission, as is the case for all students. Conditions for readmission may be specified.
- **Expulsion:** Temporary separation of the student from Pepperdine University for a definite period of time, but not less than two semesters, after which the student must re-apply through the office of admission and be granted acceptance before becoming eligible for re-enrollment at the University. Conditions for readmission may be specified, but the student is not guaranteed readmission.
- **Dismissal:** Permanent separation of the student from Pepperdine University. The student is dismissed from the University and is permanently ineligible to re-enroll at the University at any time in the future. *When students are dismissed, expelled, or suspended for disciplinary reasons, there will be no refund of tuition or room charges for the semester and all financial assistance for subsequent semesters will be reviewed and is subject to cancellation.*

If a violation occurs just prior to a student's scheduled graduation, sanctions may be imposed even if all academic requirements are completed. Sanctions may include, but are not limited to, community service, research or reflective paper, restitution, loss of privilege to participate in the graduation ceremony, deferment of degree, and a transcript hold. The University may withhold issuing a degree until all sanctions are fulfilled. In the case of a serious violation, the University may permanently withhold a degree.

#### ***E. Retention of Disciplinary Records***

Other than University dismissal or permanent withholding of a degree, disciplinary sanctions will not be made part of the student's permanent academic record, but will become part of the student's disciplinary record. Cases involving the imposition of sanctions other than University expulsion or

dismissal or withholding of a degree will be expunged from the student's disciplinary record seven years after graduation.

#### ***F. Appeals Process***

Students who wish to appeal the decision of the Student Disciplinary Committee hearing can submit a written appeal to the vice president for student life and dean of student affairs ("vice president") or designee. The appeal must be submitted within seven (7) calendar days of the issuance date of the committee's written decision. The written appeal must specify grounds that would justify consideration. General dissatisfaction with the outcome of the decision or an appeal for mercy is not an appropriate basis for an appeal. The nonappealing party will be emailed a copy of the appeal and may email a response to the vice president within seven (7) calendar days from the date of the vice president's email. If submitted, the appealing party will be provided a copy of the response.

The written appeal must specifically address at least one of the following criteria:

1. Insufficient information to support the decision.
2. New information, sufficient to alter a decision, or other relevant facts not brought out in the original hearing, because such information and/or facts were not known to the person appealing at the time of the original hearing.
3. Procedural irregularity in the student disciplinary committee proceedings that undermined the respondent's ability to present a defense or the complainant's ability to present relevant information supporting his or her complaint.
4. Bias or conflict of interest by a committee member or investigator.
5. Inappropriateness of the sanction for the violation of the Sexual Misconduct Policy.

Generally, the appellate process does not require a hearing, nor does it require the vice president to make personal contact with the students or the student disciplinary committee. The vice president may, but is not required to, convene an ad hoc appeal committee to assist in making a recommendation regarding the appeal. The vice president shall not be bound by the committee's recommendation.

Within twenty (20) business days from the date of receipt of the written appeal, the vice president may affirm, reverse, or modify the sanction. The vice president may also return the case to the student disciplinary committee for further consideration. The vice president's decision shall be final and effective immediately. A copy of the decision letter will be emailed to the parties' pepperdine.edu accounts.

#### **VIII. Sexual Misconduct by Faculty or Staff**

This policy is applicable to sexual misconduct reports filed by a student against a faculty or staff member. This policy is not applicable to reports filed against another student. The grievance officer shall be a faculty or staff member designated by the Title IX Coordinator for Students from the accused faculty or staff member's school.

The grievance officer will review formal reports, as well as confidential reports if the Title IX Coordinator for Students has determined that a confidentiality request cannot be honored, and any related investigative materials. The grievance officer may conduct further investigation of the report if she or he deems necessary. The scope of any investigation shall be in the sole discretion of the grievance officer. The investigation may include, but is not limited to, meeting with the parties, talking with witnesses, and reviewing any supporting documents.

If the grievance officer considers the report and investigative materials to indicate a probable violation of the Sexual Misconduct Policy, the matter will be reviewed as described below. The dean of the faculty or staff member's school serves as the final appeal for decisions in sexual misconduct cases. The University's actions are not dependent on the initiation or outcome of criminal charges. Proceedings may be carried out prior to, simultaneously with, or following civil or criminal proceedings.

If the grievance officer determines that the allegations in the student's ("complainant") report do warrant further consideration, then the grievance officer shall email a notice describing the behavior that allegedly violates the Sexual Misconduct Policy and investigative materials to the person against whom the complaint is made ("respondent"). All emails will be sent to the parties' pepperdine.edu email accounts.

The respondent shall be given fourteen (14) calendar days from receipt of the notice and investigative materials to return a written response and any supporting materials to the grievance officer. Necessary extensions may be granted at the discretion of the grievance officer. A copy of the respondent's response,

investigative materials, and any supporting materials submitted by respondent will be emailed to the complainant.

If the grievance officer desires, he or she may appoint an ad hoc committee to assist in further investigation of the complaint and/or advise the grievance officer on whether the Sexual Misconduct Policy was violated. The grievance officer shall not be bound by the committee's recommendation.

Within twenty (20) business days of receipt of the written response, the grievance officer shall make a decision by a preponderance of the evidence based on the report, the response, and any other information the grievance officer deems relevant. A copy of the decision will be emailed to both parties. If a sanction is recommended against a staff member, the decision will be forwarded to Human Resources for further action. If a sanction is recommended against a faculty member, the decision will be forwarded to the dean of the faculty member's school for further action.

Any party may submit a written request for appeal to the dean of the faculty or staff member's school ("reviewing officer") within seven (7) calendar days from the date of the decision. The request for appeal must specifically set forth all grounds for appeal. General dissatisfaction with the outcome of the decision or an appeal for mercy is not an appropriate basis for an appeal. The nonappealing party will be emailed a copy of the appeal and may email a response to the reviewing officer within seven (7) calendar days from the date of the grievance officer's email. If submitted, the appealing party will be provided a copy of the response.

The reviewing officer shall be limited to addressing only the following questions:

1. Insufficient information to support the decision.
2. New information, sufficient to alter a decision, or other relevant facts not submitted to the grievance officer, because such information and/or facts were not known to the person appealing at the time of submission to the grievance officer.
3. Procedural irregularity in the proceedings that undermined the respondent's ability to present a defense or the complainant's ability to present relevant information supporting his or her report.
4. Bias or conflict of interest by the grievance officer or investigator.
5. Inappropriateness of the sanction for the violation of the Sexual Misconduct Policy.

Generally, the appellate process does not require a hearing, nor does it require the reviewing officer to make personal contact with the parties or the grievance officer. The reviewing officer may, but is not required to, convene an ad hoc appeal committee to assist in making a recommendation regarding the appeal. The reviewing officer shall not be bound by the committee's recommendation.

Within twenty (20) business days from the date of receipt of the written appeal, the reviewing officer shall make a final decision based on the submitted materials and any other information the grievance officer deems relevant. The reviewing party may affirm, reverse, or modify the grievance officer's recommendation. The reviewing officer may also return the case to the grievance officer for further consideration. The reviewing officer's decision shall be final and effective immediately. A copy of the decision letter will be emailed to the parties' pepperdine.edu accounts.

All written decisions made and materials produced in connection with a grievance conducted under this policy shall be retained by the grievance officer for seven years after the student graduates.