

DISCRIMINATION, HARASSMENT, AND SEXUAL MISCONDUCT

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).

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.

Discrimination, harassment, sexual misconduct, and any related retaliation, as defined below, will not be tolerated and will result in disciplinary action, up to and including dismissal from the University. This policy applies to students and governs conduct that occurs both on and off campus.

Definitions

Discrimination

Unlawful 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 membership in a class protected by applicable law.

Harassment

Harassment is defined as conduct that is so severe and/or pervasive, and objectively offensive, that its effect, whether or not intended, impairs a person's ability to participate in the University's educational programs and activities or their living environment. Objectively offensive conduct means that it must be offensive both to the recipient of the conduct and to a "reasonable person" in the recipient's circumstances.

Examples of Harassment include, but are not limited to:

1. Some students hang a noose from the ceiling of an African-American student's room.
2. Over the course of the semester, a gay student is repeatedly called names (including anti-gay slurs like "fag" and "homo") both to his face and on social networking sites.
3. After a student discloses that he receives an accommodation for his learning disability, another student calls him a "retard" every time he walks into the classroom.
4. Someone spray paints "terrorist" on a Muslim student's car.
5. A student draws a swastika on a Jewish student's message board.

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.

Sex Discrimination:

Discrimination (as defined above) on the basis of an individual's sex.

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 repeatedly 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 on numerous occasions and also makes comments about her attractiveness.

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.

An individual is 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 unconscious; or 4) is incapacitated from alcohol or other drugs, and this condition was known, or reasonably should have been known by the accused. “Incapacitated” means intoxicated to the point that the person is incapable of exercising the judgment required to decide whether to consent.

Domestic Violence:

Felony or misdemeanor crimes of violence committed by a current or former spouse 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, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction...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 the jurisdiction.

Dating Violence:

Violence committed by a person: 1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and 2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- a. the length of the relationship
- b. the type of relationship
- c. the frequency of interaction between the persons involved in the relationship.

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.

Campus Sexual Misconduct Resources

In an effort to reduce the risk of sexual misconduct occurring among its students, the University provides awareness and prevention programming. These outreach efforts are coordinated through the Counseling Center. For information, call 506-4210 or visit community.pepperdine.edu/counseling-center/sexualassaultresources.

If You Are Subject to Sexual Misconduct:

- Go to a safe place and speak with someone you trust. Tell this person what happened. If there is any immediate danger, call Public Safety at 506-4441 if you are on-campus or 911 if you are off-campus.
- 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 – Battered Women at (310) 264-6644.
- After hours, if you live on-campus, your RA, SLA, 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 Dean of Student Affairs Office (506-4472) 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).
- Report to Public Safety or the Dean of Student Affairs Office any concerns about retaliation against you or your friends. Retaliation by any party is a serious offense and appropriate disciplinary action will be taken.

Immunity for Victims

Pepperdine encourages the reporting of sexual misconduct. Sometimes, victims are hesitant to report to college officials because they fear that they themselves may be charged with policy violations (such as visitation, underage drinking, or sexual activity) at the time of the incident. To encourage reporting, Pepperdine offers victims immunity from policy violations related to sexual misconduct.

Immunity for Good Samaritans

Pepperdine encourages students to offer assistance to other students in need, both on and off campus. When a student seeks medical assistance for a student in need, both parties will receive immunity from disciplinary action. This policy was created because students are sometimes hesitant to offer assistance to other students for fear that they themselves may be charged with policy violations (for example, an underage student who has been drinking might hesitate to get help from Public Safety or an RA for someone who may be suffering from alcohol poisoning, or might be hesitant to provide important information about a sexual assault incident).

Retaliation

The University prohibits retaliation against any individual who, in good faith, complains of discrimination, harassment, sexual misconduct, or assists in providing information about a complaint of discrimination, harassment, or sexual misconduct. Any individual who engages in retaliatory conduct in violation of this policy is subject to disciplinary action, up to and including dismissal from the University.

Reporting Discrimination, Harassment, Sexual Misconduct and Retaliation

Students who feel that they have been subjected to discrimination, harassment, sexual misconduct, or retaliation, should contact Sharon Beard, associate dean of students, for assistance in making a report.

In addition, the University's Title IX coordinators are available to also address questions or receive complaints concerning sexual misconduct:

Title IX Coordinator

For employees, guests, & contractors:

Edna Powell, Chief Business Officer
24255 Pacific Coast Highway
Malibu, CA 90263
310-506-6464
edna.powell@pepperdine.edu

The Title IX Coordinator is also responsible for the University's overall compliance with Title IX and oversees the Deputy Coordinators.

Title IX Deputy Coordinators

For students:

Tabatha Jones Jolivet, Associate Dean of Student Affairs,
Seaver College
24255 Pacific Coast Highway
Malibu, CA 90263
310-506-4472
tabatha.jones@pepperdine.edu

For athletics:

Brian Barrio, Associate Director of Compliance for Athletics
24255 Pacific Coast Highway
Malibu, CA 90263
(310) 506 - 4150
brian.barrio@pepperdine.edu

Additional Reporting Information for Sexual Assault

Making the decision whether or not to report a sexual misconduct is the beginning of the process by which victims regain control over their lives. Though the reporting and judicial processes can be difficult, they are often worth the effort because victims feel empowered by bringing the assailant to justice. Reporting a sexual assault may also help to establish precedents that will aid other victims in the future.

Some students will choose to pursue criminal charges (i.e., through the police and criminal courts). Others will choose to pursue University judicial options, if the offender is a Pepperdine student. Some will choose both. Civil litigation is a third option that some victims choose. It is important that you understand your options as you make these decisions. Speaking confidentially with a counselor from the Pepperdine University Counseling Center, the Santa Monica Rape Treatment Center, or Sojourn Services may be helpful as you decide how you would like to proceed.

For help in reporting the offense to local law enforcement, call the Department of Public Safety (506-4700). It is important to understand that reporting the incident does not obligate the victim to press criminal charges. To pursue disciplinary action through the University, please contact the Dean of Student Affairs Office (506-4472).

If the victim or another source identifies the alleged assailant, the Department of Public Safety will collaborate with local law enforcement in conducting an investigation. Support of the victim is the University's highest priority in these matters; therefore, the victim's wishes will always be taken into consideration. There are also community safety issues to be considered. Thus, if the offending student is

perceived to be a potential threat to the victim or other students, the University may choose disciplinary action against the alleged offender regardless of whether the victim submits or wishes to pursue a complaint.

The University will make every effort to safeguard the identities of students who seek help and/or report sexual misconduct. While steps are taken to protect the privacy of victims, the University may need to investigate an incident and take action once an allegation is known, whether or not the student chooses to pursue a complaint.

Judicial Procedures in Sexual Misconduct Cases

Students accused of sexual misconduct will be subject to disciplinary proceedings, following the procedures set forth under the Judicial Procedures section of this handbook, with the following exceptions:

1. The disciplinary committee will include only faculty and staff members, with a mix of both male and female members.
2. The associate dean may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the reporting party, accused student, 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, where and as determined in the sole judgment of the associate dean to be appropriate.
3. The reporting party and the accused are also entitled to the same opportunities during a Student Disciplinary Committee Hearing. At the hearing, both parties may call witnesses, ask questions, present relevant information, and give closing statements.
4. Both parties may have an advisor present. The advisor must be a current student, faculty, or staff member of the University who was not involved in the incident. The advisor may not address the disciplinary committee. The role of the advisor is to accompany the student and advise him or her privately during the hearing process.
5. Both parties will be informed in writing of the outcome of the disciplinary hearing and both parties may appeal the decision of the disciplinary committee based on the appeal criteria set forth under the Appeals Process section of the Judicial Procedures.
6. The disciplinary committee will render a decision within 60-days of the complaint being filed. However, there may be extenuating circumstances that render this time-frame impractical. In such cases, decisions will be rendered as promptly as possible.

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.

If sexual misconduct is found, the University will take steps to prevent recurrence and correct its discriminatory effect on the complainant and others, if appropriate.

Interim Remedies

If the dean of student affairs or designee determines that continued close proximity or potential for unwanted interaction with the alleged offender might pose a threat to the victim, temporary action may occur. This action may include alternative living arrangements, exclusion of the alleged offender from various University properties or privileges, interim suspension of the accused pending a hearing, or other appropriate remedial actions.