An Overview of Pepperdine’s Sexual Misconduct Policy (Part 1 of 2)

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Presented by:
Natasha Baker
Managing Attorney
Novus Law Firm, Inc.
Natasha@novuslawfirm.com
• Overview of the new Sexual Misconduct Policy
  • New definitions
  • Relationship to other policies

• Overview of the new procedures
  • Reporting concerns
  • Intake and assessment
  • Supportive measures
  • Emergency removals
  • Interim actions

• Overview of process
  • Formal complaints
  • Informal resolution options
  • Formal resolution phases
• **Title IX Coordinators:**

  • **Lauren Cosentino**  
    University Title IX Coordinator  
    Vice President for Campus Operations and Human Resources  
    Pepperdine University  
    24255 Pacific Coast Highway  
    Thornton Administrative Center  
    Malibu, CA 90263  
    310-506-4397  
    lauren.cosentino@pepperdine.edu

  • **La Shonda Coleman**  
    Title IX Coordinator for Students  
    Student Care Team Chair  
    Associate Dean of Student Affairs  
    Pepperdine University  
    24255 Pacific Coast Highway  
    Tyler Campus Center Suite 210  
    Malibu, CA 90263  
    310-506-4436  
    lashonda.coleman@pepperdine.edu
Introductions

• Name
• Role
• One goal for today
Overview of Pepperdine’s Sexual Misconduct Policy

(1) Overview of New Policy
(2) New Definitions
(3) Relationship of the Sexual Misconduct Policy to Other Pepperdine Policies
Overview of New Changes

• Definitions

• Formal Procedures – Formal Complaint followed by an investigation phase to formal hearing with cross examination by an advisor

• Roles of those in the process
Concepts to Consider

(1) What is the alleged conduct?
(2) Who are the parties?
(3) Where did the alleged conduct take place?
(4) When did the alleged conduct take place?
(5) Which definition covers the alleged conduct?
(6) Relationships to other policies.
Covered Definitions

Sexual Misconduct is an umbrella term that includes Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking.

These forms of Sexual Misconduct are considered Title IX "sexual harassment" under certain circumstances.

Pepperdine also includes Sex Discrimination and Sexual Exploitation as other forms of Sexual Misconduct covered under this Policy.
Sexual Harassment (Environment)

Sexual Harassment is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access the University's education program or activity.
Sexual Harassment (Quid pro quo)

Quid Pro Quo Sexual Harassment Quid occurs when a Pepperdine employee conditions the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.
Sexual Assault (see policy for full definitions)

An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

- Rape
- Sodomy
- Sexual Assault With An Object
- Fondling
- Incest
- Statutory Rape
Dating Violence

Violence committed by a person:

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.
(ii) The type of relationship.
(iii) The frequency of interaction between the persons involved in the relationship.
Domestic Violence

A 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 intimate partner,
• by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state 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 the state of California.
Stalking

Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.
Stalking

• Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent 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.
Stalking

• Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

• Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.
Sex Discrimination*

When an individual is subject to an adverse action based upon that individual's sex.

An adverse action means an action that has a substantial and material adverse effect on the individual's ability to participate in a University program or activity.

Minor or trivial actions or conduct not reasonably likely to do more than anger or upset an individual does not constitute an adverse action.
Sexual Exploitation*

Sexual Exploitation is taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute Sexual Harassment under the Policy.
Jurisdiction of the Sexual Misconduct Policy

- Students
- Faculty
- Staff
Jurisdiction of the Sexual Misconduct Policy

• Complainant must be participating or attempting to participate in the University’s programs or activities.
Jurisdiction of the Sexual Misconduct Policy

• Respondent enrolled or employed (generally).
Jurisdiction of the Sexual Misconduct Policy

• Where did the alleged conduct take place?
Sexual Misconduct Policy

Applies to the education programs and activities of Pepperdine, to conduct that takes place:

• on the campus or on property owned or controlled by Pepperdine,

• at University-sponsored events, or

• in buildings owned or controlled by Pepperdine's recognized student organizations.
Sexual Misconduct Policy

Can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to Pepperdine's educational programs or activities.

The University may also extend jurisdiction to International Programs and/or to off-campus or online conduct.
Jurisdiction of the Sexual Misconduct Policy

- Title IX Regulations
- Sexual Misconduct Policy
Sex Discrimination and Sexual Exploitation are not considered Title IX "sexual harassment," the University is not obligated to follow the procedures required by the Title IX regulations in Sex Discrimination and Sexual Exploitation cases.
Process Note

Formal complaints of Sex Discrimination or Sexual Exploitation by a student against another student *may* be resolved using the procedures in this Policy.

Formal complaints of Sex Discrimination or Sexual Exploitation by a student against a Pepperdine employee *may* be resolved using the school's Non-Academic Student Grievance Procedure.

Formal complaints of Sex Discrimination or Sexual Exploitation by an employee against another employee *may* be resolved through the Employee Grievance Procedure in Section 31 of the University Policy Manual.
Relationship to Other Policies

- Employee Grievance Procedure in Section 31 of the University’s Policy Manual
- University Tenure Policy
- Non-Academic Student Grievance Procedure
- Student Code of Conduct
Questions?

(Following this Q&A, we will take a 15 minute Zoom break)
Zoom Break

9:15 AM – 9:30 AM (approximately)
Overview of New Procedures

- Reporting concerns
- Intake and Assessment
- Support Measures
- Emergency Removals/Interim Actions
Responsible Employees

All University employees (except Confidential Employees), including faculty and staff, are required to report immediately any information they know about suspected prohibited conduct or potential violations of this Policy.

Student workers who have supervisory responsibility or responsibility for the welfare of other students are also considered responsible employees when they learn of potential violations of this Policy in the scope of their employment.
What to Report

Responsible employees must report all known information, including the identities of the parties, the date, time and location, and any details about the reported incident to the appropriate Title IX coordinator.
What to Report

• Responsible employees may provide support and assistance to a Complainant, Witness, or Respondent; but they cannot promise confidentiality or withhold information about prohibited conduct.

• Failure by a responsible employee to report suspected prohibited conduct in a timely manner may subject them to appropriate discipline, including removal from a position or termination of employment.
What to Report

Not required to report information disclosed:

• at public awareness events (e.g., "Take Back the Night," candlelight vigils, protests, "survivor speak-outs," or other public forums in which students may disclose prohibited conduct (collectively, public awareness events)); or

• during an individual's participation as a subject in an Institutional Review Board-approved human subjects research protocol (IRB Research).
What Happens?

The appropriate Title IX coordinator will promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint.
Supportive Measures

• Options available
• Doesn’t require a Formal Complaint
• Can be offered even if respondent is a third party.
Supportive Measures

- Access to counseling services and assistance in setting up an initial appointment, on and off campus;
- Imposition of mutual restrictions on contact between the parties (or a one-way no-contact order when appropriate);
- Rescheduling of exams or assignments;
- Providing alternative course completion options;
Supportive Measures

• Changing class schedules, including the ability to transfer course sections or withdrawal from a course without penalty;
• Changing work schedules, job assignments, or work environment;
• 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;
• Increased security and monitoring of certain areas of the campus;
Supportive Measures

- Voluntary leave of absence;
- Providing an escort to ensure safe movement between classes and activities;
- Providing medical services;
- Providing pregnancy support;
- Providing academic support services, such as tutoring; and/or
- Any other actions deemed appropriate by the Title IX coordinator.
Emergency Removals

• Pepperdine can remove a student Respondent on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal.

• This risk analysis is performed by the vice president for student affairs (or designee), who may consult as necessary with other University officials to conduct an objective threat assessment.

• The emergency removal may be a full restriction from all Pepperdine property, programs and activities or a limited removal (e.g., from certain locations, classes, teams, organizations, or activities).
Emergency Removals

- When it is determined that an emergency removal is justified, the student Respondent will be given written notice, which will include the basis for the removal decision and the specific restrictions, conditions, and duration. Immediately after the emergency removal, the student Respondent will be given the opportunity to challenge the decision by submitting in writing why the removal should not be implemented or should be modified to the Office of the Provost within 72 hours of the emergency removal.

- The emergency removal does not replace the regular investigation and hearing process, which will proceed as set forth in this Policy, up to and through the conclusion of any appeal, if required.
Emergency Removals

- Employee Respondents may be placed on paid administrative leave by Human Resources while the formal grievance process described below is pending.

- Human Resources' decision to do so is final and is not subject to review.
Emergency Removals

• Employee Respondents may be placed on paid administrative leave by Human Resources while the formal grievance process described below is pending.
• Human Resources' decision to do so is final and is not subject to review.
Introductions.
Designate a reported.
Examine each permutation.
Fill in the boxes.
Prepare to explain your choices.
Prepare to explain answers.
Bring back any questions that you have.
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Which policy applies if sexual harassment (environment) on campus is reported?
What should happen when a report is received by an employee?
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Which policy applies if sexual exploitation on campus is reported? Which procedures will be followed?
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Which policy applies if sexual assault off-campus is reported?
What factors may be important to consider?
What should happen if an employee hears of allegations?
Breakout Room

• Discussion of Questions
Zoom Break

10:45 AM – 11:00 AM
Report Back from Breakout Room
Overview of Process

• Formal Complaints
• Informal Resolution Options
• Formal Resolution Phases
Q&A on Topics Covered

- Overview of Pepperdine's Policy
- Overview of New Procedures
- Breakout Room
- Overview of Process