



# Reporting Prohibited Sexual Misconduct at Pepperdine University

August 4, 2025



## **Natasha J. Baker**

**Co-founder and Managing Attorney**

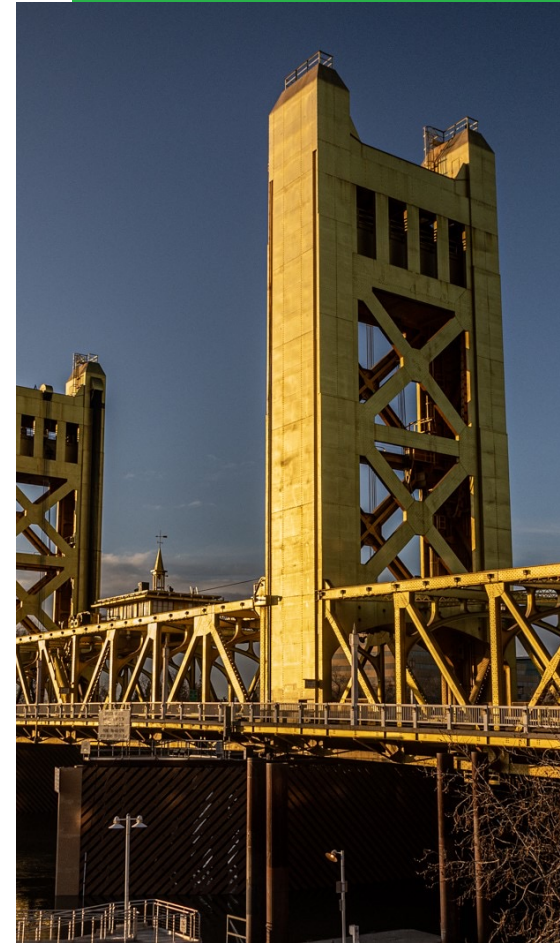
Advises institutions of higher education on a broad range of legal matters, including labor and employment law, Title IX, and compliance issues. Regularly presents training sessions to administrators and faculty around the country on higher education issues.

Past member of the National Association of College & University Attorneys (NACUA) Board of Directors and frequently speaks for NACUA, the Council of Independent Colleges (CIC), and other higher education associations.



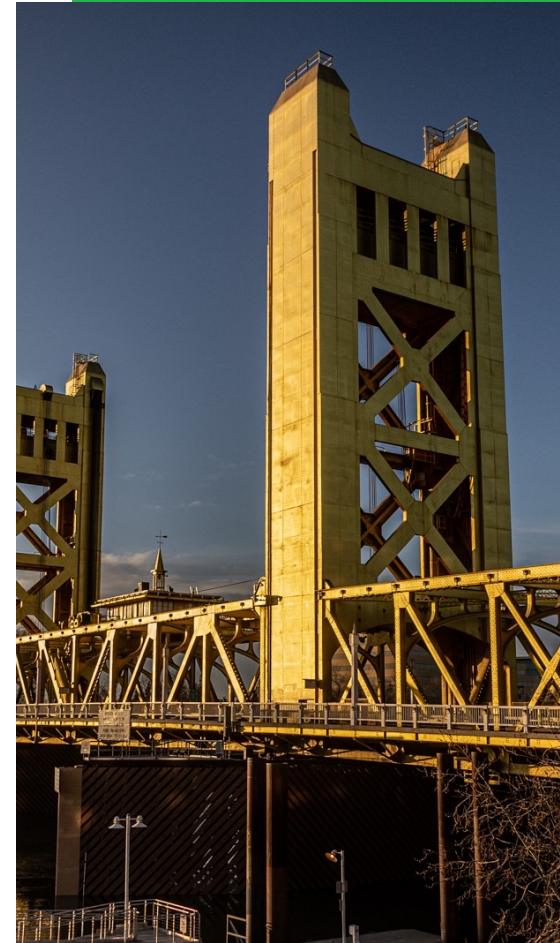
## Agenda

- Overview of Applicable Laws and Summary of Recent Changes (Title IX, Education Code, and Clery/VAWA)
- Understanding the Obligations of a Responsible Employee
- How to Respond to a Concern as a Responsible Employee
- Understanding the Grievance Process as a Responsible Employee
- Understanding the Legal Obligations for Pregnant Employees
- Understanding the Legal Obligations for Pregnant Students



## Legal Disclaimer

This presentation is not legal advice, and you should consult with your own counsel if you have specific legal questions.





## **Overview of Applicable Laws and Summary of Recent Changes**

# Regulation of Sexual Misconduct

- Title IX Regulations (2020 Rule)
- VAWA Amendments to the Clery Act (2013)
- California Education Code (students) – 2014; 2022
- California Fair Employment & Housing Act (employees, applicants, interns, student-employees, contractors, volunteers) – major changes 2019





## **Understanding the Obligations of a Responsible Employee**

# Understanding Reporting Obligations

- Who is a Responsible Employee?
- What are the Definitions of Conduct That Must Be Reported?
- How to Report (Where, When, What to Report)





## Who is a Responsible Employee?

- With the exception of University employees designated as confidential resources (see [Confidential Resources](#)), all University employees, are required to report immediately any information they know about suspected prohibited conduct or potential violations of the Sexual Misconduct 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 Prohibited Conduct Must Be Reported?

### Appendix A: Sexual Misconduct Definitions

A matter will be designated as a Title IX matter if the conduct is alleged to meet one or more of the following definitions below and satisfies the Title IX jurisdictional location requirement:

- **Title IX Sexual Harassment (Environment)**
- **Title IX Sexual Harassment (Quid Pro Quo)**
- **Sexual Assault**
- **Dating Violence**
- **Domestic Violence**
- **Stalking**



## What Prohibited Conduct Must Be Reported?

### Appendix A: Sexual Misconduct Definitions

A matter will be designated as a Non-Title IX matter if the conduct is alleged to meet one or more of the following definitions or if it meets a definition of prohibited conduct under Title IX but does not satisfy the Title IX jurisdictional location requirement:

- **Non-Title IX (SB 493) Sexual Harassment**
- **Sexual Violence**
- **Rape**
- **Sexual Battery**
- **Sexual Exploitation**



## What Prohibited Conduct Must Be Reported?

### Appendix A: Sexual Misconduct Definitions

Other forms of related Prohibited Conduct that should be reported but is not always processed under the Sexual Misconduct Policy.

- **Retaliation**
- **Sex Discrimination**
- **FEHA Sexual Harassment**



## Tips for Understanding Definitions

Review the Definitions in Appendix A and B of the Sexual Misconduct Policy. Generally:

Discrimination based on sex?

- 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.



## Tips for Understanding Definitions

Review the Definitions in Appendix A and B of the Sexual Misconduct Policy. Generally:

- Unwelcome sexual conduct of any nature (verbal, physical, quid pro quo)?
- Hostile environment based on touching, slurs, offensive statements?



## Tips for Understanding Definitions

Review the Definitions in Appendix A and B of the Sexual Misconduct Policy. Generally:

Dating or domestic violence?

- Physical violence in a dating or domestic relationship.



## Tips for Understanding Definitions

Review the Definitions in Appendix A and B of the Sexual Misconduct Policy. Generally:

Stalking?

- 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.



## Tips for Understanding Definitions

Review the Definitions in Appendix A and B of the Sexual Misconduct Policy. Generally:

Retaliation?

- An adverse action which may include intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or by this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.



## Tips for Understanding Definitions

Review the Definitions in Appendix A and B of the Sexual Misconduct Policy. Generally:

### 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. Examples of Sexual Exploitation include, but are not limited to:

1. Sexual voyeurism
2. The distribution/recording of or the taking of pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity without consent...





## How 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 University Title IX Coordinator (see [Reports to the University Title IX Coordinator](#)).

Responsible employees are not required to report information disclosed: 1) 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 2) during an individual’s participation as a subject in an Institutional Review Board-approved human subjects research protocol (IRB Research).



## Other Reporting Information

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.



## **How to Respond to a Concern as a Responsible Employee**

## How to Respond to Concerns

- How to Respond to a Disclosure Including Resources and Supportive Measures
- Understanding How to Explain that You Are Not a Confidential Resource
- Understanding How to Explain the Duty to Report
- Understanding How to Explain Retaliation
- Being Trauma-Informed In Your Response



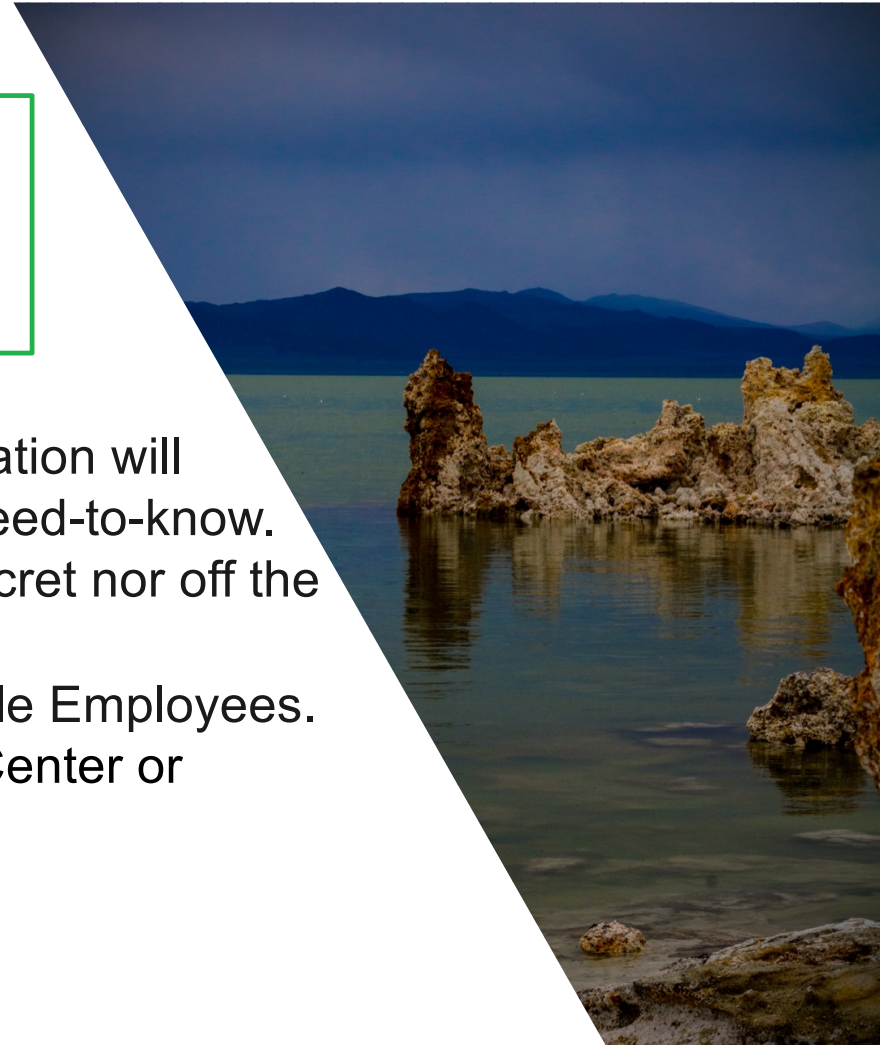
## How to Respond to a Disclosure Including Resources and Supportive Measures

- Report to the Title IX Coordinator as soon as possible.
- Offer resources OR state that the Title IX Coordinator has the ability to offer resources and supportive measures.
- Stay in your lane.



## Understanding How to Explain That You Are Not a Confidential Resource

- Language matters. Confidential means information will be disclosed to those who have a legitimate need-to-know.
- Reports to Responsible Employees are not secret nor off the record. Including third-hand or hearsay.
- Anonymity cannot be preserved by Responsible Employees.
- Confidential Resources: Student Counseling Center or University Chaplain



## Understanding How to Explain the Duty to Report

- Acknowledge the disclosure.
- Explain that you will need to bring in the Title IX Coordinator, who can offer supportive measures and resources, including referrals to Confidential Resources.
- What happens next?
  - Title IX Coordinator reaches out.
  - Reporting party may engage/ignore.
  - Allegations may be reviewed if enough information has been disclosed.



## Understanding How to Explain Retaliation

- Pepperdine University has a policy prohibiting retaliation.
- Refer the reporting party to the Title IX Coordinator.
- Don't overpromise/over define retaliation.



## Why Are People Reluctant to Report?

- Shame
- Want to get along
- Retaliation
- Not community-minded
- Self-blame
- Won't be believed/don't have enough evidence
- Don't trust the process



## Being Trauma-Informed In Your Response

- Trauma is an individualized, neurobiological response to a situation.
- What is traumatic for one person is not necessarily traumatic for another person.
- Existence of trauma is not evidence of a policy violation.
- Avoid commentary, opinions or questioning the behavior of the reporting party.
- Remain open and non-judgmental.
- What is your role? Stay in your lane.





## **Understanding the Grievance Process as a Responsible Employee**

## Understanding the Grievance Process

- Depending on conduct, might be processed under Sexual Misconduct Policy, or another policy.
- Might not meet any definitions.
- Neither party has to participate.
- Evaluated.
- Informal vs. formal resolution process.
- Investigation.
- Hearing.
- Appeal.



## Formal Grievance Process: Title IX & Non-Title IX Comparison

This flowchart accompanies Pepperdine's official Sexual Misconduct Policy: [www.pepperdine.edu/titleix](http://www.pepperdine.edu/titleix)

### Mandatory Dismissal

The University Title IX Coordinator *must* dismiss a complaint as a Title IX matter if:

- It did not occur in Pepperdine's educational program or activity;
- Alleged conduct is not Title IX sexual harassment as defined in the policy (see appendix A);
- Alleged conduct occurred outside the United States;
- The complainant is not participating in or attempting to participate in the education programs or activities of the University

\*In some cases, the dismissal may only be a procedural requirement under the Title IX regulations, because the Title IX regulations also allow and state law requires the University to still address the allegations using this Policy's formal grievance process or the informal resolution process. Therefore, the University Title IX coordinator will indicate in the written notice if Pepperdine will continue with the informal resolution process or the formal grievance process under this Policy as a non-Title IX matter, even though it has been dismissed as a Title IX matter. Dismissal decisions may be appealed by either party.

The investigation of non-Title IX matters may have shorter timeframes to review the investigation materials.

Non-Title IX hearings may rely upon indirect cross-examination through questions submitted by the parties to the hearing officer who, after determining relevance, will ask the questions directly to the parties rather than having an advisor ask the cross-examination questions.

Complainant files a formal complaint

Title IX Coordinator determines if the complaint must be "dismissed" based on the Title IX regulations\*

Complainant requests an informal resolution or formal grievance process

Formal Grievance Process

Non-Title IX Process

Investigation

Hearing

Appeal

Title IX Process

Investigation

Hearing

Appeal

### Discretionary Dismissal

The University Title IX Coordinator *may* dismiss a complaint as a Title IX matter if:

- The complainant notifies the University Title IX coordinator in writing that the Complainant would like to withdraw the formal complaint as a Title IX matter;
- The respondent is no longer enrolled in or employed by the University; or
- Specific circumstances prevent Pepperdine from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Informal Resolution Process  
see the flowchart for more information

Title IX regulations require two 10-day time periods to review and respond to evidence collected by the investigator and to review and respond to the final investigation report.

Title IX regulations require that each party must have an advisor present, and the hearing decision maker(s) must permit each party's advisor to cross examine the other party and any witnesses. Before a party answers a question, the hearing officer must first determine whether the question is relevant.



## **Understanding the Legal Obligations for Pregnant Employees**

## Understanding the Legal Obligations for Pregnant Employees

- Title IX – don't discriminate or harass
- See Human Resources for other legal obligations under PWFA and state law:
  - Pregnancy disability leave
  - FMLA (leave)
  - CFRA (leave)
  - Paid Family Leave (income replacement)
  - Accommodations under PWFA and FEHA
  - Lactation spaces





## **Understanding the Legal Obligations for Pregnant Students**



## Understanding Legal Obligations

- Title IX – don't discriminate or harass
- Provide medically necessary leave
- Provide same type of services as those provided to students with temporary disabilities (medical or hospital benefit, service, etc.)
- Graduate student requirements.



## Resources

# Campus Resources

## *For Everyone*

### **Dawn Emrich**

Interim Title IX Coordinator  
dawn.emrich@pepperdine.edu  
titleix@pepperdine.edu

### **Cassie Horton**

Associate Director for Title IX and  
Student Care  
cassie.horton@pepperdine.edu

### **Interim Chaplain**

(confidential resource)

Dee Dee Mayer  
310-506-8558  
deedee.mayer@pepperdine.edu

## *For Employees*

### **Human Resources**

Greyson Orellana  
Associate Director  
310-506-4397  
greyson.orellana@pepperdine.edu

### **Employee Assistance Program**

(confidential resource)

24/7  
Health Advocate webpage  
866-799-2728

## *For Students*

### **Student Counseling Center (24/7)**

(confidential resource)

310-506-4210  
student.counseling.center@pepperdine.edu

### **Student Health Center (Malibu)**

310-506-4316

### **International Programs (24/7)**

International SOS  
215-942-8226



## Resources

To review the Sexual Misconduct Policy please visit the University's [Title IX site](#).

[Immediate help](#)



## **Wrap Up and Questions**



# Questions?





## **Natasha J. Baker**

Managing Attorney  
Novus Law Firm, Inc.  
[natasha@novuslawfirm.com](mailto:natasha@novuslawfirm.com)  
IG: natashabakeremploymentlaw

Clients and colleagues can  
schedule a call or  
videoconference [here](#)





THANK  

---

YOU  

---

