



PACIFIC COAST UNIVERSITY
FOR WORKPLACE HEALTH SCIENCES

Sexual Violence and Misconduct - Policy 163

Purpose

This policy addresses prohibited sexual misconduct and provides for a program to implement the policy, including measures and procedures for the reporting and investigation of complaints of sexual misconduct.

Policy Statement

This policy applies to all members of the university community as defined in this policy.

Pacific Coast University for Workplace Health Sciences (the "University") is committed to maintaining an environment where faculty, staff, students and others can participate in the activities of the University without fear of sexual misconduct.

The University has zero tolerance for sexual misconduct associated with any of its activities. Acts of sexual misconduct associated with any aspect of the University's activities are prohibited.

It is the responsibility of all members of the university community to contribute to ensuring that the university is free of sexual misconduct.

Any member of the university community who is concerned that they have been the victim of sexual misconduct or has become aware of sexual misconduct in the university community is encouraged to report the matter immediately in order to determine what options are available to address the problem.

In administering this policy, emphasis will be placed on respecting the rights and needs of those who have been victims of sexual misconduct. Administration of this policy will also ensure procedural fairness and respect for the rights of the respondent to a complaint or report.

Notwithstanding the existence of this policy, every member of the university community has the right to make a complaint under the British Columbia *Human Rights Code*.

Definitions

Sexual misconduct means sexual misconduct as defined in the British Columbia *Sexual Violence and Misconduct Policy Act* (Bill 23 -2016) including:

- (a) sexual assault;
- (b) sexual exploitation;
- (c) sexual harassment;
- (d) stalking;
- (e) indecent exposure;
- (f) voyeurism;
- (g) the distribution of a sexually explicit photograph or video of a person to one or more persons other than the person in the photograph or video without the consent of the person in the photograph or video and with the intent to distress the person in the photograph or video;
- (h) the attempt to commit an act of sexual misconduct; or
- (i) the threat to commit an act of sexual misconduct.



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In general, sexual misconduct means any unwanted physical, verbal or psychological act carried out through sexual means or by targeting sexuality.

Examples of sexual harassment include:

- unwanted touching;
- making offensive jokes or remarks about an individual's gender or gender identity;
- making sexual requests or suggestions;
- staring at or making unwelcome comments about someone's body;
- showing sexual pictures or images; or
- being verbally abusive to someone because of their gender or gender identity.

Sexual misconduct includes misconduct carried out using any electronic means or electronic media.

Activities of the university include all activities related to the work of the university on the university's physical campus, on its virtual campus (the University's internet based campus which uses the internet for the delivery of educational activities and services including activities that involve the use of electronic tools or electronic media) or anywhere the university is delivering education or services of any kind.

Member of the university community means students, faculty, staff, administrators, members of the board of governors, members of university committees, visitors and guests, as well as contractors providing goods or services and anyone else involved in the activities of the University in any way.

Complainant means a person who brings forward a complaint or report of sexual misconduct under this policy, and includes a person directly affected by the alleged sexual misconduct or a third party.

Respondent means a person against whom a complaint or report of sexual harassment has been made.

Student means a person who is enrolled in any course or program offered by PCU-WHS, including students enrolled in a program of studies but who are not currently enrolled in a specific course.

Faculty means any person contracted by the University to teach, tutor, mentor or otherwise instruct students of the University or conduct research on behalf of or under the auspices of the University and includes continuing faculty who are between research or teaching assignments.

Complaint means advising a representative of the University about an incident of sexual misconduct in order to seek support and/or explore options for addressing the situation. A complaint may be made by anyone whether or not they are the victim in the incident and whether or not they are a member of the university community.

Report means formal written notification to the University of an incident of sexual misconduct. A report may be made by anyone whether or not they are the victim in the incident and whether or not they are a member of the university community.

Procedures

A. Time Limit

Complaints or reports about alleged sexual violence or sexual misconduct must be reported within ninety (90) days of the occurrence of the incident. When incidents are not reported within ninety (90) days,



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the University may, at its discretion, decide not to investigate the complaint or report.

B. Confidentiality

The University will treat all reports and complaints regarding sexual misconduct as confidential and involve others on a need to know basis and only to the extent required to investigate and resolve the complaint.

Both the victim and the respondent will be treated with dignity, fairness and sensitivity to the physical and psychological trauma associated with sexual misconduct.

C. Non Retaliation

All persons involved in the processing of a complaint or report of sexual misconduct will ensure that the complainant is neither penalized nor subjected to any prejudicial treatment as a result of making a legitimate complaint or report in good faith. Disciplinary action will be taken against any person who takes reprisal or retaliatory measures against a person who makes a complaint or report of sexual misconduct.

D. Steps in Making a Complaint and/or Report of Sexual Misconduct

The University will handle reports and complaints of sexual misconduct using a four-step process as set out below. Step 1 and Step 2 are primarily for the purpose of providing support to the complainant and assisting them to explore what next steps they can and may wish to take. It is important that, especially during these early steps, special attention is paid to the safety, feelings and other challenges a victim may face in dealing with sexual misconduct.

Whenever a complaint or report is received it will be reported to the Vice President Administration. In the case of complaints, which are informal and not written, only the fact that the complaint has occurred will be reported. Neither the names of the complainant nor the respondent will be reported without the permission of the complainant.

In the case of reports, which are formal written complaints, complete details of the report will be reported to the Vice President Administration, who will appoint a team of at least two people to investigate the report.

Step 1. Making a Complaint of Sexual Misconduct

Any member of the university community who is concerned that they have been the victim of sexual misconduct or has become aware of sexual misconduct in the university community is encouraged to make a complaint immediately in order to determine what options are available to address the problem. Complaints should be made as follows:

- Students should report the matter to the Student Services Officer in the office of the Registrar.
- Faculty should report the matter to the Chief Academic Officer.
- Staff, visitors, service contractors and others should report the matter to the Vice President Administration.

In an emergency, a complaint should be made to any member of the university community or to the police as necessary.

Step 2. Consideration of Options for Resolution

Once a complaint or report of sexual misconduct (verbal or written) has been received by the University, a designated representative of the University will discuss options for resolution of the matter with the



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person or persons making the complaint or report.

The University will act on complaints of sexual misconduct only if requested to do so by and in consultation with the complainant, and only after the complainant has had an opportunity to consider the options for resolution.

Notwithstanding any of the above, the University reserves the right to inform the appropriate authorities if required by law or to take action if the University believes it is necessary to protect the complainant or to prevent further sexual misconduct or disruption of the University's activities.

If the complainant wishes for the University to investigate the matter, they must make and sign a written report. If there is a signed written report concerning sexual misconduct, the matter will proceed to Step 3 below.

Step 3. Investigating a Written Report of Sexual Misconduct

When a written report is received, the Vice President Administration will appoint a team of at least two people who will investigate the complaint.

After consulting with the complainant, the team will advise the respondent with details of the complaint and indicate that the team will be conducting an investigation.

The team will determine the most appropriate means for investigating the report. Options include, but are not limited to:

1. investigating the report or complaint;
2. attempting to resolve the report or complaint through a form of alternative dispute resolution (e.g. mediation) with agreement of both parties; and/or
3. determining the facts of the report or complaint, even if true, would not constitute a violation of this policy.

Whenever the investigation involves direct contact with the complainant or the respondent, the complainant or respondent will be entitled to have a representative present.

When appropriate, the University may, in its discretion, suspend the respondent pending the results of the investigation.

Step 4. Results of the Investigation

Once the matter has been investigated, the results of the investigation will be reported to the Vice-President Administration who will:

1. determine whether an act of sexual misconduct has occurred;
2. determine how the matter should be resolved; and
3. advise the complainant and respondent in writing of the decision. The decision of the Vice-President Administration will be final.

Action by the University Following a Finding of Sexual Misconduct

Members of the university community who are found to have committed acts of sexual misconduct are subject to discipline by the University, up to and including dismissal from the University or the cancellation of service contracts. Examples of discipline or penalties include but are not limited to:



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1. a warning;
2. prohibition from engaging in similar acts or conduct in the future;
3. mandatory training or participation in a program to address and correct the offensive act or conduct;
4. temporary suspension from participating in a course or courses for a specified period;
5. involuntary withdrawal from a course or courses;
6. temporary suspension from the University for a specified period;
7. involuntary withdrawal from the University;
8. suspension from employment; and/or
9. termination of employment

Suspension or Involuntary Withdrawal may involve loss of academic credit for any course or activity in which the student is involved at the time that the misconduct occurred and/or loss of academic credit for any course or activity in which the student is involved at the time that they are notified of their suspension or involuntary withdrawal.

As a condition of being permitted to resume their studies, a student who has been suspended or involuntarily withdrawn from a course will be required to apply in writing to the University requesting permission to resume their studies, explaining why they should be allowed to resume their studies and agreeing to any requirements imposed by the University.

A student who has been involuntarily withdrawn from the University will be required to reapply for admission to the University explaining why they should be readmitted and agree to any requirements imposed by the University as a condition of admission.

Where a student has been suspended or involuntarily withdrawn because of sexual misconduct, their academic transcript will bear the following notation: *Suspended from or withdrawn from a course or from the University for a period of XX months or permanently (as the case may be).* The reason for the Suspension or Withdrawal will not be noted.

After a period of six months from the date that a student has been notified in writing that they have been suspended or withdrawn for sexual misconduct, the student may apply in writing to have the notation of the suspension or withdrawal removed from their transcript. The application should explain why the student believes that removal of the note is appropriate. The University may at its discretion agree or not agree to the student's request.

No provision of this policy shall be construed as a limitation on the University's disciplinary authority under other applicable policies and procedures to initiate disciplinary action.

Frivolous, Malicious or Vexatious Complaints

The University will not tolerate frivolous, malicious or vexatious complaints. Any member of the university community who makes a frivolous, malicious and/or vexatious complaint may be subject to disciplinary action, including the examples of discipline set out in section 4 of this policy.

Policy Review & Consultation

This policy will be reviewed by the Board of Governors at least every three years.

The review will include consultation with faculty, staff and students and a written report of the review will be prepared.



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Reporting

The President of the University will report to the Board annually:

1. the number of complaints of sexual misconduct;
2. the number of written reports of sexual misconduct;
3. the number of complaints and reports of sexual misconduct that have been resolved;
4. the number of complaints and reports of sexual misconduct that are unresolved; and
5. the number of complaints and reports of sexual misconduct that have been disputed.

Prevention

1. As a condition of their admission to the University and as part of the Admissions Process, students will sign a form indicating that they have read and understand the University's policies related to student conduct, including this policy.
2. As part of the hiring or appointment process, faculty, staff, administrators, members of the Academic Council and members of the Board of Governors will acknowledge that they have read and understand the University's policies related to sexual misconduct, including this policy.
3. As an integral part of the registration process for any course, students will be reminded of the University's *netiquette* when participating in online classes, and the appropriate etiquette when participating in in-person, face-to-face classes and activities or any combination thereof.
4. The University will post *netiquette guidelines* for participation in the on-line internet-based activities of the University.
5. Emergency procedures for addressing incidents of sexual misconduct will be posted at appropriate locations on the Port Alberni campus along with other emergency procedures.

Publication on the University's Website

The Sexual Violence and Misconduct Policy will be posted on the University's website.

Approvals and Responsibility

Approved by: Board of Governors; June 11, 2018
Date for Policy Review: 2020
Responsibility: Vice President Administration

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