Azusa Pacific University
Sexual Harassment, Stalking, and Sexual Violence Procedures

I. Policy
Please refer to the Title IX APU website for the University's current Sexual Harassment, Stalking, and Sexual Violence Policy. This procedure covers all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, investigations, formal or informal meetings, and hearing.

If you have any questions or concerns related to this policy, please contact the Title IX Coordinator.

II. Definitions
Definitions of terms used in this policy, including, but not limited to, “affirmative consent”, “complainant”, “domestic and dating violence”, “nonconsensual sexual contact”, “nonconsensual sexual intercourse”, “sexual harassment”, “respondent”, “responsible employee”, “sex discrimination”, “sexual assault”, “sexual coercion”, “sexual exploitation”, “sexual violence”, and stalking”, are included in the Sexual Harassment, Stalking, and Sexual Violence Policy, PO2015042 on the APU Title IX website.

III. Reporting
The University encourages reporting of sexual harassment, stalking, and sexual violence in writing, but reports may also be made orally, and will be investigated when reported in either form. Prompt reporting helps preserve evidence and aids the University in taking preventative measures where appropriate. Prompt reports of sexual harassment, stalking, and sexual violence will be thoroughly investigated under the oversight of the Title IX Coordinator provided there is sufficient information to do so.

Complaints of sexual violence that are not promptly reported should still be reported, and will be investigated under these procedures if possible.

In addition to reporting the allegations to the Title IX Coordinator, a Deputy Coordinator, or another Responsible Party, the complainant may elect to report the allegations to the police. While the University may delay its own investigation for a short period of time to accommodate a police investigation, a police investigation does not replace the University's obligation to conduct its own investigation under the oversight of the Title IX Coordinator.

Once the responsible individual has received a complaint, they will immediately inform the Title IX Coordinator. The Title IX Coordinator or designee will then review and when appropriate, initiate the investigation.


IV. INVESTIGATION
The Title IX Coordinator has the authority to investigate allegations of discrimination prohibited by Title IX even absent the filing of a formal complaint, or in the event that a complaint is withdrawn. In addition, the Title IX Coordinator may proceed with investigating a formal or informal complaint even if a complainant specifically requests that the matter not be pursued, if it is determined that an investigation is necessary to comply the University’s regulatory obligations. In such a circumstance, the Title IX Coordinator or designee will take all reasonable steps to investigate and respond to the matter in a manner that is informed by the complainant’s articulated concern about pursuing the matter further.
Individuals found to have engaged in sexual harassment, stalking, and/or sexual violence will be subject to disciplinary actions, which could include written warnings placed in the respondent’s personnel or student file, participation in appropriate education, counseling, no contact order, termination of employment or non-renewal of an employment contract, suspension or dismissal from academic programs, exclusion from university activities, and suspension or expulsion from the university.

“Investigation” as used in this procedure, refers to the process the University uses to resolve sexual harassment, stalking, and sexual violence complaints. This includes the fact-finding investigation and any hearing and decision-making process the two assigned investigators use to determine: (1) whether or not the conduct occurred, and (2) if the conduct occurred, what actions the University will take, which includes imposing disciplinary consequences on the respondent and providing remedies to the complainant.

The status of the respondent will determine which office will be assigned to investigate and adjudicate the complaint.

All university officials involved from the initial investigation to the completion of the process (i.e. investigators, adjudicators, appeals committee, etc.), have received, at minimum, an annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. The proceedings will be conducted by officials who do not have a conflict of interest or bias for or against the complainant or the respondent. If the complainant or respondent believes any university official in the proceeding is not suited to perform their role because of bias or conflict of interest, he or she must notify the Title IX coordinator within five calendar days of learning the identity of the official and his/her role.

**Students**

Where the respondent is a student, the Title IX Coordinator or the Coordinator’s designee will assign two trained student affairs professionals to investigate. Students found to have engaged in sexual harassment, stalking, or sexual violence will be subject to judicial process in accordance with the Student Code of Conduct (undergraduate students) or the Student Standards of Conduct (graduate and professional students).

Upon conclusion of the investigation, if the adjudicating officers find that the respondent has committed a violation of Sexual Harassment, Stalking, and Sexual Violence Policy, appropriate sanctions will be determined and administered in accord with the student judicial process.

**Staff**

Where the respondent is a staff member, the Title IX Coordinator or the Coordinator’s designee will assign two individuals to investigate--one trained HR representative and one additional trained staff member.

Upon conclusion of the investigation, the investigation panel will submit its findings and recommend appropriate disciplinary action, if any, to the to the Executive Director of Human Resources and the Dean or Vice President over respondent who will then either accept, reject or modify the recommended action, and implement them appropriately.

**Faculty**

Where the respondent is a faculty, the Title IX Coordinator or the Coordinator’s designee, in consultation with the Provost, will assign one trained HR representative and two trained faculty to investigate.
These investigators will submit their findings and recommend appropriate disciplinary action to the Title IX Coordinator, dean of the respondent’s school, and the dean of another school, which will vote to either accept, reject, or modify the recommended disciplinary actions. The Dean of the respondent’s school will communicate any disciplinary action to the respondent.

For all incidents:
The investigators shall interview the complainant, respondent, and pertinent witnesses and review any relevant written or other documentary evidence to determine whether the preponderance of the evidence supports the allegations, and, where misconduct is found, recommend or implement, as set forth above, appropriate disciplinary action.

The investigators shall interview the complainant, respondent, and others involved. In incidents related to sexual violence, domestic or dating violence, or stalking, both complainant and respondent will be given timely notification related to when investigators are meeting with complainant or respondent, and timely access to the information used during any formal or informal disciplinary meetings (such information includes relevant university policies and procedures, and any documents that will be reviewed during the meetings).

The complainant and the respondent are granted the same opportunities to have others present during an adjudication process. Both parties will have the opportunity to be accompanied to any meeting by a support person/advisor of their choice for incidents related to sexual violence, domestic or dating violence, or stalking. Advisor means any individual who provides the complainant and respondent support, guidance, or advice. The support person/advisor may not question witnesses, make statements before the conduct committee, or otherwise participate in proceedings. The support person/advisor who acts contrary to these standards may jeopardize the fact-finding process and will be required to leave the meeting. In cases of alleged sexual harassment, the advisor of choice may not be an attorney.

The proceedings will be completed within sixty days as set forth in the University’s current Sexual Harassment, Stalking, and Sexual Violence Policy. However, for good cause, reasonable extensions of the time for completion of the proceedings will be permitted. In such cases, the complainant and respondent will be provided with written notice, by the appropriate university official, of the extension and the reason for the extension.

Standard of Evidence
The standard of evidence used in the investigation of sexual harassment, stalking, and sexual violence complaints, including domestic violence, dating violence, sexual assault, and stalking will be the “preponderance of the evidence” standard, wherein the investigators are to determine whether it is more likely than not that the behavior in question occurred and constituted a violation of University policy.

At the conclusion of the adjudication process, both complainant and respondent will be concurrently notified in writing of the determination and appeal procedures within 5 (five) business days from the date of completion of the investigation. If the determination is that the respondent has engaged in the alleged sexual violence and/or other violations of University policy, the disciplinary consequences shall also be included in the written notice of the determination.
V. APPEAL PROCESS

This process applies to an appeal of sanctions received from a violation of sexual harassment, stalking, and sexual violence policy only. Both the complainant and the respondent may participate in the appeal process in sexual harassment, stalking, and sexual violence accountability procedures.

Complainant and respondent will have only one opportunity to appeal. All appeal meetings are closed and the proceeding may be kept confidential at the discretion of the university. Appeal meetings may be recorded at the discretion of the university with notice to those involved.

The appeal shall consist of one or more of the following exclusive grounds for appeal:

- **New Information**—There is new and significant information that has not yet been considered. Information would be considered “new” if it was not available to the complainant or respondent prior to the conclusion of the investigation.
- **Sanctions**—Sanctions imposed are either excessive or insufficient to the violation(s) relative to sanctions imposed for similar violations under similar facts and circumstances.
- **Procedural Irregularity**—The complainant and/or the respondent did not receive adequate notice of the opportunity to be heard.

An individual wishing to appeal the sexual harassment, stalking, and sexual violence process must do so in writing to the chair of the appeal committee.

- **Composition of the appeal committee:**
  - **Chairs of the appeal committee:**
    - The Associate Vice President for Student Life/Chief Judicial Officer or designee for incidents involving undergraduate students as a respondent
    - Vice President for Graduate and Professional Enrollment and Student Services or designee for incidents involving graduate or professional students as a respondent
    - Vice President for Human Resources or designee for incidents involving staff as a respondent
    - Provost will designate Professional Affairs Review Board (PARB) for incidents involving faculty as a respondent
  - **Membership**
    - Incidents involving non faculty member as a respondent: The chair of the committee will preside as a nonvoting member. If practicable, the committee shall consist of the combination of faculty member(s) and staff member(s). Each of the members are selected by the chair of the committee. There must be a minimum of three members present to constitute quorum.
    - Incidents involving faculty members as a respondent: Membership of appeals to PARB will be determined by standard PARB procedures.

Complainant or respondent must submit a written appeal within three business days of the date of the written decision. The written appeal must reflect the guidelines as listed in the following point.
The appeal must include:

1. Names of the parties involved
2. Clear statement of the nature of the appeal (must consist of one or more of the following exclusive grounds):
   - New information
   - Excessive sanctions
   - Procedural irregularity
2. A narrative of the incident including:
   - Why it occurred
   - How it occurred
   - Where it occurred
   - Who was present
   - The information on which the appeal is based
3. The desired outcome

The appeal committee will review the petition for appeal, and any new evidence submitted by the appealing party in support of the appeal. At the discretion of the appeal committee, the appeal process may include an opportunity for the committee to ask questions of the appealing party, and others.

The sexual harassment, stalking, and sexual violence Appeal Committee will review all information and testimony presented. If the respondent’s behavior resulting in the disciplinary process involved violent or dangerous behavior, the committee shall be required to consider the safety of the APU community in its deliberations and recommendation, and any sanction imposed on the respondent shall not be stayed pending the appeal.

After review of information, interview of witnesses, and deliberation, the appeal committee will make a recommendation to the committee chair, based on the information submitted. The chair of the committee will either accept, reject, or modify the recommendation. In cases appealed to PARB, that body will make its recommendations to the Provost, whose decision is final. In all other cases, the decision of the chair of the committee is final.

After a decision has been reached, both the complainant and the respondent will be notified in writing by the chair of the committee. Decisions made in the appeal process are final and may not be addressed through the “Grievance Process.”

In cases appealed to PARB, where there is conflict between, on the one hand, the appeals proceedings outlined in this procedure and, on the other hand, PARB procedures outlined in the Faculty Handbook, the appeals proceedings outlined in this procedure govern.

Other Prohibited Conduct

In the process of investigating a complaint of sexual misconduct, investigators may uncover other violations of University policy. A respondent found to have committed sexual misconduct, and have engaged in other violations of University policy may be subject to discipline both for the sexual harassment, stalking, and sexual violence and for the other policy violations uncovered during the investigation.