

Sexual Misconduct Policy

Pacific Design Academy is committed to the prevention of and appropriate response to sexual misconduct. Sexual misconduct refers to a spectrum of non-consensual sexual contact and behaviour including the following:

Sexual Assault

Any form of sexual touching or the threat, express or implied, of sexual touching without the individual's consent.

Sexual Exploitation

The sexual abuse of children and youth through the exchange of sex or sexual acts for drugs, food, shelter, protection, other basics of life, and/or money. Sexual exploitation includes involving children and youth in creating pornography and sexually explicit websites.

Sexual Harassment

Unwelcome conduct, by comment or gesture, of a sexual nature that detrimentally affects the working, learning, or living environment, or leads to adverse consequences for the individual directly subjected to the harassment.

Stalking

Stalking through the use of the internet or other electronic means, or engaging in unwelcome conduct, expressed or implied, that causes an individual to fear for their physical or psychological safety. It can include repeatedly following the individual, repeatedly communicating with the individual through any means, engaging in threatening conduct, or keeping watch over the place where the individual happens to be.

Indecent Exposure

Exposing one's body to another individual either physically, electronically, or through any other means, for a sexual purpose without the individual's consent, or coercing another individual to remove their clothing in order to expose their body.

Voyeurism

Non-consensual viewing, photographing, or otherwise recording another individual in a location where there is an expectation of privacy and where the viewing, photographing, or recording is done for a sexual purpose. This includes, but is not limited to, 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 their consent and with the intent to distress them; the attempt or threat to commit an act of sexual misconduct.

Complaints of Sexual Misconduct

A Complaint of sexual misconduct is different than a Report of sexual misconduct.

A **Complaint** is when the victim/survivor discloses or chooses to tell someone at the institution of an incident of sexual misconduct in order to seek support but may not want to make a formal report to the police or the institution. A **Report** is a formal notification of an incident of sexual misconduct to someone at the institution accompanied by a request for action. A Report does not have to be made by the victim/survivor.

A student making a Complaint will be provided with resolution options and, if appropriate, accommodation, and will not be required or pressured to make a Report.

Primary Contact: Kevin Zak, Academic Dean (kzak@pdaeducation.com)

Alternate Contact: Isabel Yu, School Director (isabel.yu@pdaeducation.com)

A Complaint does not initiate an investigation or other action by PDA, subject only to Confidentiality and Privacy.

The individual making the Complaint does not need to prove that sexual misconduct occurred to access support or receive accommodations. The Complainant may seek emotional, medical, or advocacy support without reporting the incident to the police, and their decision should be respected.

The process for responding to a Complaint of sexual misconduct involving a student is as follows:

- PDA will acknowledge receipt of the Complaint within 5 working days.
- PDA will respond supportively. This may include:
 - Assisting the Complainant in making a police report, including accompaniment by a PDA staff member if requested.
 - Facilitating a Third-Party Report to the police through a Community Victim Service Agency if the Complainant wishes to remain anonymous.
 - Reports are sent to police by an intermediary agency and provide detailed information about the incident and the Respondent but do not include the name or contact information of the Complainant. A Third-Party Report is not in and of itself a police investigation; it is an option of last resort for the Complainant, who would not otherwise provide information to the police but who may want to access support and let the police know of a sexual predator in order to protect others.
 - Connecting the Complainant with medical assistance or a forensic medical exam, while informing them about the collection and storage of forensic samples.
 - It is advisable for anyone who has experienced sexual assault to seek medical attention to address possible physical injury, pregnancy, and/or sexually transmitted infections. The Complainant will be referred to the nearest hospital and will be connected with a sexual assault response worker or advocate who can provide support and accompany them to the hospital. The Complainant will be informed of the need to collect any forensic samples while they decide whether or not to report the sexual assault to the police. Forensic samples can be collected and stored for up to one year while the Complainant decides whether or not to speak with the police.

Report of Sexual Misconduct

A Report is a formal notification of an incident of sexual misconduct to someone at the institution accompanied by a request for action.

The process for making a Report of sexual misconduct involving a student is as follows:

- A student who has experienced sexual misconduct may make a Report by contacting the Academic Dean or Director in writing. A Report may be made in writing by e-mail or letter.
- A Report to PDA may be made at any time.
- Reports must be submitted in writing and should set out the relevant details concerning the alleged sexual misconduct. Reports should include a list of any potential witnesses, along with a description of the information those witnesses are expected to provide. Copies of relevant documents, including any social media communications, should be provided with the Report.
- Upon receipt of a Report, the Academic Dean or Director will determine whether the subject matter of the Report falls within this policy and whether to initiate an investigation.

The process for responding to a Report of sexual misconduct involving a student is as follows:

- PDA will review the Report within 10 working days.
- The Academic Dean or Director will determine whether or not the subject matter of the Report falls within this policy.
- If the Complainant, after initial consultation, wishes to proceed with the Report of Sexual Misconduct under the Policy, the Director may provide advice on the necessary elements for a request for **Formal Investigation** (see below).

The Academic Dean and/or Director do not determine whether or not behaviours are sexual misconduct; the Academic Dean and/or Director only confirms that behaviours as described by the Complainant may constitute Sexual Misconduct. Only a Formal Investigation can determine whether or not Sexual Misconduct has taken place.

Informal Resolution

If a Complainant wishes to pursue further actions after an initial consultation with the Academic Dean and/or Director and the misconduct and/or harassment behaviours are subject to process under this policy, they may first seek Informal Resolution. Informal Resolution is not mandatory and may not be appropriate for all manner of Sexual Misconduct. The Complainant may choose to proceed immediately to a Formal Resolution.

If the behaviours are student-to-student and classroom-based, the Complainant may request that the Instructor or Academic Dean intervene to address the misconduct or harassment behaviours and take action as appropriate to the situation.

Where misconduct or harassment behaviours are not student-to-student/classroom-based or faculty intervention is not appropriate or possible, the Complainant may seek Informal Resolution. When the Academic Dean and/or Director receives a written Complaint of Sexual Misconduct, they will follow up on such allegations promptly including informing the Respondent of the Complaint and providing a copy of this policy. Such follow-up may involve attempting to facilitate a mutually agreed-to resolution between the Complainant and Respondent, and/or taking appropriate preventative, disciplinary, or remedial measures. Disciplinary actions may include but are not limited to:

- Warning or reprimand
- Referral to educational or psychological services
- Restricted/no access to specific areas of campus
- Suspension/expulsion from specific classes and/or from the institution

Formal Investigation

Where the Complainant wishes to pursue Formal Investigation, the Complainant must submit a written and signed request for Formal Investigation to the Academic Dean and/or Director.

The process for responding to a Formal Investigation is as follows:

- The appointed third-party investigator will ensure that both the Complainant and the Respondent are aware that a Formal Investigation has commenced and that each has a copy of the PDA Sexual Misconduct Policy.
- The investigator will collect information from the Complainant, the Respondent, and any other individuals whom the Investigator believes may have information relevant to the complaint.
- Information may be received through written documentation and/or interviews. The Investigator will ensure that both the Complainant and the Respondent are aware of the positions of the other, and of any allegations made against them, and are given a reasonable opportunity to respond.
- Where an investigator conducts interviews, the Complainant and the Respondent may request that a support person be present. This person will act as an observer/supporter and will not participate in the proceedings. An interpreter for either or both the Complainant and Respondent

(where either or both parties have English as a second language) may be provided by the investigator.

- After completion of the investigation and within ten working days, the investigator will complete a written report, including a copy of the written complaint and findings of fact, and submit the report to the Academic Dean and/or Director. The report will state a positive or null finding of misconduct/harassment based on the balance of probabilities and may include recommendations for resolution of the complaint and/or for remedial or disciplinary action.
- PDA reserves the right to initiate an independent investigation of sexual misconduct if sufficient cause has been demonstrated to warrant such action.

After reviewing the investigator's report, the Academic Dean and/or Director will make their decision(s) based on the findings of sexual misconduct and appropriate actions in the circumstances.

The decision will be rendered, in writing, to the Complainant and Respondent, as soon as possible but in any case within 10 working days of the receipt of the report of the Investigation. The Academic Dean and/or School Director will provide a summary of the findings of the Investigator with their decision to the Complainant and the Respondent.

Where the Academic Dean and/or School Director finds that Sexual Misconduct has occurred, disciplinary decisions may include, but are not limited to:

- Warning or reprimand
- Referral to educational or psychological services
- Restricted/no access to specific areas of the campus
- Suspension/expulsion from specific class and/or from the institution
- Disciplinary action up to, and including, termination of employment

In all instances, the institution will:

- Ensure the safety of the victim/survivor
- As appropriate, provide emergency numbers for on and off-campus security (if applicable), law enforcement, medical assistance, mental health services, and other services.
- Respect the right of the individual to choose the services they consider most appropriate.

It is contrary to this policy for the Institution to retaliate, engage in reprisals, or threaten to retaliate in relation to a Complaint or a Report. Any processes undertaken pursuant to this policy will be based on the principles of administrative fairness. All parties involved will be treated with dignity and respect. All information related to a Complaint or Report is confidential and will not be shared without the written consent of the parties, subject to the following exceptions:

- If an individual is at imminent risk of severe or life-threatening self-harm.
- If an individual is at imminent risk of harming another.
- There are reasonable grounds to believe that others in the institutional community may be at significant risk of harm based on the information provided.
- Where reporting is required by law.
- Where it is necessary to ensure procedural fairness in an investigation or other response to a Complaint or Report.