



University Policy 04-110

Retaliation

Responsible Executive: Executive Director of the Office of Equal Opportunity and Access

Responsible Office: Equal Opportunity and Access

Effective: December 14, 2022

Last Revised: December 14, 2022

1. Policy Statement

- 1.1. Oregon State University (“university”) is committed to creating and maintaining an equitable and inclusive working and learning environment free of retaliation. In furtherance of that commitment, the university prohibits retaliation as described in Section 5.2 of this policy.
- 1.2. All individuals who are participating in university programs and activities, and all those who apply to participate in university programs and activities, have the right to do so fully, free from prohibited retaliation.

2. Reason for Policy

- 2.1. Retaliation affects the university’s sense of community and can act as a deterrent to reporting. Therefore, the university takes all reports of retaliation seriously and responds promptly to reported concerns. This policy is intended to comply with all applicable state and federal anti-retaliation laws and implementing provisions.¹

3. Scope & Audience

- 3.1. This policy applies to all members of the university community, including, but not limited to students, student organizations, employees, contractors, volunteers, and visitors; all applicants for university employment or for admission to educational or university-sponsored programs or activities; and all non-student and non-employee persons or groups participating in or accessing university-sponsored programs, activities, or facilities.
- 3.2. The university will respond, in conformance with university policy and applicable law, to conduct that occurs on property owned, controlled, or used by the university; at university associated events; in online, extended or distance learning environments;

¹ Retaliation connected to sexual/gender-based discrimination is defined and addressed in University Policy 05-001 *Sexual Misconduct and Discrimination*. All retaliation complaints that include or stem from allegations of sexual/gender-based misconduct will be considered under Policy 05-001.

away from the university when the conduct could have the impact of limiting or denying any university community member's ability to participate in or benefit from a university program or activity; or when it creates a hostile work or educational environment.

4. Definitions

- 4.1. **Employee:** All persons employed by the university, including, but not limited to, academic faculty, professional faculty, classified staff, temporary staff, law enforcement professionals, student employees, and graduate assistants.
- 4.2. **Student:** An admitted person demonstrating acceptance of admission through participation in orientation programs or early start programs; a person who is enrolled or dually enrolled; a person enrolled online; a person between academic terms; a graduate awaiting a degree; a person on an approved educational leave; a person currently serving a suspension, including administrative suspension; a person who is not currently enrolled but can register without re-applying; a person who withdraws while a disciplinary matter, including an investigation, is pending; and, a person who is eligible to receive any of the rights and privileges afforded a person who is enrolled.
- 4.3. **Student Organization:** A recognized student organization or student group affiliated with an academic unit.
- 4.4. **Complainant:** A person alleging a violation of this policy or who is allegedly the victim of a person who is alleged to have violated this policy.
- 4.5. **Respondent:** A person who is alleged to have violated this policy.
- 4.6. **Reasonable person:** An objective standard referring to a hypothetical reasonable person with a reasonable way of interpreting and reacting to a situation. A reasonable person is assumed to exercise average care, skill, and judgement.

5. Responsibilities & Procedures

5.1. General

- 5.1.1. The university shall respond promptly to all complaints of retaliation, and shall take appropriate action to prevent, correct, and sanction conduct that violates this policy.
- 5.1.2. Alleged violations of this policy will be investigated by the Office of Equal Opportunity and Access ("EOA"). See Section 8 *Related Information* below for additional information.

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- 5.1.3. As determined by the Executive Director of EOA, the university reserves the right to initiate an investigation of any conduct prohibited by this policy without a formal report from or participation by the complainant.
 - 5.1.4. The applicable evidentiary standard for all violations of this policy is preponderance of the evidence. That standard is met when the evidence shows that it is “more likely than not” that the alleged misconduct occurred.
 - 5.1.5. Persons who are found to have violated this policy are subject to sanctions commensurate with the violation, up to and including termination of employment, expulsion from the university, or removal of privileges to participate in university programs and activities. Sanctions will be designed to stop further retaliation and to prevent future violations.
 - a. If employee discipline is warranted, it shall be administered in a manner consistent with applicable collective bargaining agreements, university policies, and legal requirements.
 - b. If student discipline is warranted, it shall be administered in accordance with the Code of Student Conduct (“Code”). All sanctions listed in the Code are available as outcomes for student violations of this policy.
 - 5.1.6. The university may impose an interim administrative suspension on a student/student organization or may impose an interim change in the employment arrangements of an employee, pending the completion of an investigation and resolution. Such interim administrative suspension or change in employment arrangements will be initiated in accordance with Student Conduct and Community Standards (“SCCS”) or Employee and Labor Relations (“ELR”) processes, as applicable, and in compliance with applicable law.
 - 5.1.7. The Executive Director of EOA is responsible for implementation of and compliance with this policy. The Executive Director is responsible for publishing this policy, developing and conducting training, and establishing an administrative structure that facilitates the prevention, response to, mitigation of effects, and elimination of retaliation consistent with this policy.
 - 5.1.8. Complainants and respondents are not restricted from discussing or sharing information with others who may support or assist them during the process, nor are they prohibited from seeking resolution in court or with an applicable state or federal agency. However, reproduction of documents or disclosure of information contained in documents made available for review in the investigative process is prohibited, and any breach of this restriction is subject to disciplinary action by ELR or SCCS, as appropriate. All parties are encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid retaliation or the appearance of retaliation. While discretion is encouraged, this

policy should not be understood to limit the legal rights of the parties during or after resolution. All other conditions for disclosure are governed by applicable state and federal law.

5.2. Prohibited Conduct

- 5.2.1. **Retaliation.** Any action that adversely affects the employment, education, or access to a university program or activity of an individual due to the individual's engagement in protected activity.
- a. Adverse action is any action that is reasonably likely to deter a reasonable person in the same circumstances as the individual from engaging in protected activity. Adverse action does not include (1) petty slights or trivial annoyances; or (2) action, including employment or academic action, which would have been taken regardless of the individual's engagement in protected activity.
 - b. Protected activity, as used in this policy, includes (1) filing a complaint or report with an official Oregon State University office or a state or federal agency, or otherwise participating in the university's or a state or federal agency's inquiry, investigation, or other dispute resolution process pertaining to discrimination, harassment, or other conduct prohibited by university policy, the Code of Student Conduct, or applicable law; or (2) participating in the university's reasonable accommodation processes under the Americans with Disabilities Act (ADA).

5.3. Reporting

- 5.3.1. **University Reporting.** EOA documents any reports made to it that involve potential retaliation. Individuals are encouraged to promptly report concerns to EOA or to otherwise document any incidents involving conduct that may constitute retaliation. To notify the university and initiate an EOA investigation or resolution process regarding any prohibited conduct as defined by this policy, contact:

Equal Opportunity and Access
330 Snell Hall
Corvallis, OR 97331
541-737-3556
Email: Equal.Opportunity@oregonstate.edu

- 5.3.2. Even if a complainant chooses not to report formally or chooses not to participate in an investigation or resolution process, the complainant can contact EOA for information and assistance accessing on or off campus support resources and for information on available assistance.
- 5.3.3. In the event an incident involves alleged retaliation by the Executive Director of EOA, reports should be made directly to OSU's president or their designee (as of

August 2022, the designee is Rebecca Gose, General Counsel, Office of the General Counsel, Rebecca.Gose@oregonstate.edu).

5.3.4. **Other Reporting Options.** Anyone experiencing retaliation also has the right to file a formal complaint with government authorities but should be aware that deadlines may apply. In compliance with the Oregon Workplace Fairness Act, the university is required to notify employees that employees who pursue legal action against the university based on alleged unlawful employment practice prohibited by ORS 659A.030, 659A.082 or 659A.112 (unlawful discrimination or sexual assault) must do so no later than five years after the occurrence of the alleged unlawful employment practice.

- a. U.S. Department of Education, Office for Civil Rights, Seattle Office
915 Second Avenue, Room 3310
Seattle, WA 98174-1099
Telephone: 206-607-1600
Telecommunications Device for the Deaf (TDD/TTY): 800-877-8339
Email: OCR.Seattle@ed.gov
Website: www2.ed.gov/about/offices/list/ocr/index.html
- b. U.S. Department of Justice, Civil Rights Division
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Telephone: 202-514-3847
Telecommunications Device for the Deaf (TDD/TTY): 202-514-0716
Email: education@usodj.gov
Website: civilrights.justice.gov
- c. Oregon Bureau of Labor and Industries, Civil Rights Division*
800 NE Oregon Street, Suite 1045
Portland, OR 97232
Telephone: 971-673-0764
Telecommunications Device for the Deaf (TDD/TTY): TTY Relay 711
Email: help@boli.state.or.us
Website: www.oregon.gov/BOLI

*Also the appropriate agency for retaliation complaints based on reporting to Oregon Occupational Safety and Health Administration (OSHA).

- d. U.S. Equal Employment Opportunity Commission, Seattle Office
909 First Avenue, Suite 400
Seattle, WA 98104-1061
Telephone: 1-800-669-4000
Telecommunications Device for the Deaf (TDD/TTY): 1-800-669-6820

Website: www.eeoc.gov

6. Forms & Tools

- 6.1. Equal Opportunity and Access Report Retaliation form:
cm.maxient.com/reportingform.php?OregonStateUniv&layout_id=4

7. Frequently Asked Questions

- 7.1. None.

8. Related Information

- 8.1. University Policy 04-100, Discrimination and Discriminatory Harassment Policy:
eoa.oregonstate.edu/discrimination-and-harassment-policies
- 8.2. University Policy 05-001, Sexual Misconduct and Discrimination Policy:
eoa.oregonstate.edu/sexual-misconduct-and-discrimination
- 8.3. Student Conduct & Community Standards, Code of Student Conduct:
studentlife.oregonstate.edu/pre-student-conduct-community-standards
- 8.4. Formal and informal complaint procedures through the Office of Equal Opportunity and Access:
eoa.oregonstate.edu/discrimination-concerns

9. History

- 9.1. Adopted by OSU: University Policy 04-110 *Retaliation* was adopted by the university on December 14, 2022.
- 9.2. Next scheduled review date: December 2025.

10. Website

- 10.1. <https://policy.oregonstate.edu/policy/retaliation>.

11. Contacts

Department	Phone Number	Website
Equal Opportunity and Access	541-737-3556	eoa.oregonstate.edu