



Sexual Misconduct and Sex Discrimination

1. Policy Statement

- 1.1. Oregon State University (university) is committed to creating and maintaining a safe, respectful, equitable, and inclusive working and learning environment. In furtherance of that commitment, the university does not unlawfully discriminate On the Basis of Sex and prohibits unlawful Sex Discrimination in any education program or activity that it operates, including in admission and employment, as required by Title IX and other state and federal laws.
- 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 Sexual Misconduct and Sex Discrimination. The university prohibits discrimination on the basis of actual or perceived sex, including sex stereotypes, sex characteristics, sexual orientation, gender identity or expression, Pregnancy or Related Conditions, or any other status protected by law or University Policy (individually and collectively, “protected status”).¹ Sexual Misconduct is a form of Sex Discrimination that is sexual in nature. Sexual Misconduct includes Sexual Harassment, Non-Consensual Sexual Contact or Intercourse, Intimate Partner Violence, Sexual Exploitation, and Stalking. Such misconduct violates University Policy and may also violate state or federal law.

2. Reason for Policy

- 2.1. The university takes all Reports of Sexual Misconduct and Sex Discrimination seriously and responds promptly to reported concerns. This policy is established in alignment with university values and in compliance with state and federal nondiscrimination and equal opportunity laws and implementing regulations, including by not limited to: Title IX of the Education Amendments of 1972, the Violence Against Women Act of

¹ University Policy 05-001 *Sex Misconduct and Sex Discrimination* is solely focused on conduct occurring On the Basis of Sex. See University Policy 04-100 *Discrimination and Discriminatory Harassment* for information on additional protected statuses at the university, including all non-sex-based protected statuses. All Reports that include allegations of Sex Discrimination will be considered under Policy 05-001.

1994, the Campus Sexual Violence Elimination Act of 2013, Title VII of the Civil Rights Act of 1964, and all other applicable state and federal civil rights laws.

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, attempting to participate in, or accessing university-sponsored programs, activities, or facilities.
- 3.2. The university reserves the right to 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; away from the university when the conduct could have the impact of limiting, denying, or adversely affecting an individual'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

General Definitions. The definitions in Sections 4.1 through 4.11 apply throughout this University Policy, whether the prohibited conduct is addressed as *University Sexual Misconduct or Sexual Discrimination* or *Title IX Sexual Misconduct*:

- 4.1. **Complainant:** A person who is alleged to have been subjected to conduct that could constitute Sexual Misconduct or Sex Discrimination under this University Policy.
- 4.2. **Complaint:** An oral or written request made to the Office of Equal Opportunity and Access (EOA) that objectively can be understood as a request for the university to investigate and make a determination, or resolve through an informal resolution, alleged Sex Discrimination or Sexual Misconduct.
- 4.3. **Consent:** Knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity. Consent must be present and ongoing, mutually understandable and reciprocal, and freely and actively given. Consent is further defined and described in Section 4.22 of this University Policy.
- 4.4. **On the Basis of Sex:** Conduct that is sexual in nature or that is directed at a person because of his/her/their actual or perceived sex, including sex stereotypes, sex characteristics, sexual orientation, gender identity or expression, or Pregnancy or Related Conditions.

- 4.5. **Party:** The Complainant or Respondent. When used in the plural, “Parties” means the Complainant and Respondent collectively.
- 4.6. **Pregnancy or Related Condition:** Includes pregnancy, childbirth, termination of pregnancy, or lactation; medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
- 4.7. **Reasonable Person:** An objective standard referring to an individual in similar circumstances with a reasonable way of interpreting and reacting to a situation. A Reasonable Person is assumed to exercise average care, skill, and judgment.
- 4.8. **Report:** Notice to or actual knowledge by EOA of an allegation or concern of Sex Discrimination or Sexual Misconduct.
- 4.9. **Respondent:** A person who is alleged to have violated this University Policy.
- 4.10. **Sexual Misconduct:** A form of Sex Discrimination that is sexual in nature. Sexual misconduct includes Sexual Harassment, Non-Consensual Sexual Contact or Intercourse, Intimate Partner Violence, Sexual Exploitation, and Stalking.
- 4.11. **Title IX:** Title IX of the Education Amendments of 1972 protects people from discrimination based on sex in education programs or activities that receive federal financial assistance. The U.S. Department of Education’s Office for Civil Rights enforces, among other statutes, Title IX of the Education Amendments of 1972. This policy and accompanying procedures are inclusive of, and expansive beyond, the requirements and scope of Title IX.

University Sex Discrimination and Sexual Misconduct. The prohibited conduct definitions in Sections 4.12 through 4.19 are used for Sex Discrimination and Sexual Misconduct allegations that do not meet the criteria of *Title IX Sexual Misconduct* as defined in Sections 4.20 through 4.26 of this University Policy:

- 4.12. **Intimate Partner Violence.** Intimate Partner Violence (IPV) includes dating violence, domestic violence, and other types of relationship violence. IPV is defined as intentionally or recklessly causing physical, emotional, or psychological harm to a person who is, or has been involved in, a sexual, dating, or other intimate relationship with the Respondent.² IPV includes, but is not limited to, threatened acts of violence, including threatened self-harm for the purpose of controlling an individual and threats to harm the individual’s family members, pets, or friends.

² Legitimate use of violence for self-defense is not chargeable under this Policy because the purpose is safety, not harm. Consensual use of violence, such as in kink relationships, would also not meet this definition, in most circumstances.

- 4.12.1. IPV can encompass a broad range of behavior for the purpose or effect of controlling another individual, including all prohibited behavior in this policy. It may involve one act or an ongoing pattern of behavior.
- 4.12.2. If there is a question whether a relationship exists, EOA will make the determination based on the Parties' description of their interactions, the frequency of interaction between the Parties, and consideration of the length and type of interactions.
- 4.13. **Non-Consensual Sexual Contact.** Unwelcome intentional sexual touching of a person's private body part (including, but not limited to, breasts, buttocks, groin, or genitals) or of a person's body by someone else's private body part; causing a person to touch their own or another person's private body parts without Consent; or any other unwelcome intentional bodily contact made in a sexual manner or for a sexual purpose. Non-Consensual Sexual Contact can include kissing or fondling without Consent.
- 4.14. **Non-Consensual Sexual Intercourse.** Any sexual intercourse by a person upon another person that is without Consent. Intercourse includes vaginal, anal, or oral penetration by a penis, finger, tongue, or any object, and mouth-to-genital contact, no matter how slight the penetration or contact.
- 4.15. **Sex Discrimination.** Conduct, either intentional or unintentional, On the Basis of Sex,³ that:
- 4.15.1. Excludes an individual from participation in any university program or activity for which they are otherwise eligible; or
- 4.15.2. Denies the individual the benefits of a university program or activity for which they are otherwise eligible; or
- 4.15.3. Otherwise adversely affects a term or condition of an individual's employment, education, on-campus housing, or participation in a university program or activity.⁴

³ At times, legitimate, non-discriminatory business needs or programmatic reasons exist to exclude an individual from a university program or activity; deny an individual the benefits of a university program or activity; or that adversely affect a term or condition of an individual's employment, education, on-campus housing, or participation in a university program or activity.

⁴ The failure to provide reasonable accommodations required by law or university policy based on pregnancy or related medical condition may constitute Sex Discrimination.

- 4.16. **Sex-Based Discriminatory Harassment.**⁵ Unwelcome conduct On the Basis of Sex that, based on the totality of the circumstances and regardless of intent, is subjectively and objectively offensive and sufficiently severe or pervasive that:
- 4.16.1. It creates an intimidating, hostile, or offensive environment in which to work, learn, or participate in a university program or activity; or
 - 4.16.2. It unreasonably interferes with, limits, or denies the individual's academic pursuits, employment, or ability to participate in or benefit from a university program or activity.
- 4.17. **Sexual Exploitation.** Taking non-consensual or abusive sexual advantage of another for one's own benefit or for the benefit of anyone other than the person being exploited. Examples of Sexual Exploitation include, but are not limited to:
- 4.17.1. Purposefully observing or allowing others to observe a person undressing, using the bathroom, or engaging in sexual activity, when conducted in a private space and without the Consent of all Parties involved;
 - 4.17.2. Exposing one's genitals or inducing another to expose their own genitals in non-consensual circumstances;
 - 4.17.3. Non-consensual photographing, recording, sharing, or streaming of images, photography, video, or audio recording of sexual activity or nudity conducted in a private space, or distribution of such without the knowledge and Consent of all Parties involved;
 - 4.17.4. Creating or disseminating media, including images, videos, or audio representations of individuals doing or saying sexually related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their Consent;
 - 4.17.5. Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections;
 - 4.17.6. Extortion or otherwise forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity;
 - 4.17.7. Viewing or possessing, or enabling or facilitating the viewing, creation, or trafficking of child sexual abuse images or recordings;

⁵ This definition is for unwelcome conduct On the Basis of Sex (including sex, sex stereotypes, sex characteristics, sexual orientation, gender identity or expression, or Pregnancy or Related Conditions) that is not sexual in nature, whereas Section 5.1.3 *Sexual Harassment* encompasses harassment that is sexual in nature.

- 4.17.8. Knowingly soliciting a minor for sexual activity;
 - 4.17.9. Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection;
 - 4.17.10. Inducing or attempting to induce incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of making another person vulnerable to non-consensual sexual activity; or
 - 4.17.11. Engaging in sex trafficking and/or coercing another person to engage in sexual acts in exchange for money, goods, housing, or favors.
- 4.18. **Sexual Harassment.** Unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature when:
- 4.18.1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, or other education program or activity, including an aid, benefit, or service; or
 - 4.18.2. Submission to or rejection of such conduct by an individual is used as the basis for employment, education, or other education program or activity, including an aid, benefit, or service, decision affecting an individual; or
 - 4.18.3. Such conduct, based on the totality of the circumstances and regardless of intent, is subjectively and objectively offensive, and sufficiently severe or pervasive that: it creates an intimidating, hostile, or offensive environment in which to work, learn, or participate in a university program or activity; or it unreasonably interferes with, limits, or denies the individual's academic pursuits, employment, or ability to participate in or benefit from a university program or activity.
- 4.19. **Stalking.** Engaging in a course of conduct On the Basis of Sex that is directed at a specific person that would cause a Reasonable Person to fear for their own or others' safety, or to suffer substantial emotional distress.
- 4.19.1. "Course of conduct" means two or more acts, including, but not limited to, unwanted contact, property invasion or damage, watching, following, surveilling (*e.g.*, using tracking devices or monitoring online activity), sabotage, threats, violence, and attacks. Stalking can occur in person, via third Parties, and/or using technology.

4.19.2. “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or professional treatment or counseling.

4.19.3. Merely annoying conduct, even if repeated, is a nuisance, but generally is not considered Stalking.

Title IX Sexual Misconduct. The prohibited conduct definitions in Section 4.21 *Title IX Sexual Harassment* are only used for Sex Discrimination and Sexual Misconduct allegations falling within the *Title IX Allegations* parameters described in Section 4.20 of this University Policy:

4.20. Title IX Allegations

4.20.1. The university will address allegations of prohibited conduct through its [Title IX Investigation and Resolution Process](#) when the following criteria are met:

- a. The allegation meets the definition of *Title IX Sexual Harassment* as defined in Section 4.21 of this University Policy;
- b. The matter alleges conduct in a university program or activity over which the university exercised substantial control over both the Respondent and the context in which the alleged *Title IX Sexual Harassment* occurred;
- c. The incident occurred against a person in the United States who, at the time of filing the Complaint, was participating in or attempting to participate in a university education program or activity; and
- d. A written, signed formal Complaint describing the allegations is submitted to EOA or signed by the Title IX Coordinator.

4.21. **Title IX Sexual Harassment.** Any conduct On the Basis of Sex that satisfies one or more of the following:

4.21.1. A university employee conditioning the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct;

4.21.2. Unwelcome conduct determined by a Reasonable Person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a university educational program or activity;

4.21.3. **Title IX Sexual Assault.** An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

- a. Sex Offenses, Forcible. Any sexual act directed against another person, without the Consent of the Complainant including instances where the Complainant is incapable of giving Consent.
 - i. Forcible Rape. Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the Complainant.
 - ii. Forcible Sodomy. Oral or anal sexual intercourse with another person, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the Complainant is incapable of giving Consent because of age or because of their temporary or permanent mental or physical incapacity.
 - iii. Sexual Assault With An Object. To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the Complainant is incapable of giving Consent because of age or because of their temporary or permanent mental or physical incapacity.
 - iv. Title IX Sexual Contact. The intentional touching of the clothed or unclothed body parts without Consent of the Complainant for the purpose of sexual degradation, sexual gratification, or sexual humiliation. The forced touching by the Complainant of the Respondent's clothed or unclothed body parts, without Consent of the Complainant for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This offense includes instances where the Complainant is incapable of giving Consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication.
- b. Sex Offenses, Nonforcible. Nonforcible sexual intercourse.
 - i. Incest. Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - ii. Statutory Rape. Nonforcible sexual intercourse with a person who is under the statutory age of Consent.

4.21.4. **Title IX Dating Violence**. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant.

- a. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition:
 - i. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - ii. Dating violence does not include acts covered under the definition of Title IX domestic violence.

4.21.5. Title IX Domestic Violence. An act of violence committed by:

- a. A current or former spouse or intimate partner of the Complainant,
- b. A person with whom the Complainant shares a child in common,
- c. A person who is cohabiting with or has cohabitated with the Complainant as a spouse or intimate partner,
- d. A person similarly situated to a spouse of the Complainant under applicable law,
- e. Any other person against a Complainant who is protected from that person's acts under applicable domestic or family violence laws.

4.21.6. Title IX Stalking. Engaging in 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.
- c. For the purposes of this definition:
 - i. "Course of conduct" means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third Parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
 - ii. "Substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

4.21.7. **Title IX Retaliation.** Intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX, 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 the university's *Title IX Investigation and Resolution process*.

Consent. Section 4.23 *Effective Consent and Evaluation of Consent* further describes Section 4.3 *Consent* pursuant to this University Policy:

4.22. **Effective Consent and Evaluation of Consent**

4.22.1. All sexual activity between members of the university community must be based on Consent. It is the responsibility of each Party to determine that the other is Consenting before engaging in any activity.

4.22.2. To be effective, Consent must be all of the following:

- a. **Present and ongoing.** Individuals choosing to engage in sexual activity need to recognize the dynamic nature of sexual activity and must evaluate Consent in an ongoing manner and communicate clearly throughout all stages of sexual activity. Consent can be withdrawn at any time. Withdrawal of Consent can be expressed orally or can be based on an outward demonstration that conveys that an individual is hesitant, confused, uncertain, or is no longer a mutual participant. Once Consent is withdrawn, the sexual activity must cease immediately, and all Parties must obtain mutually expressed or clearly stated Consent before re-engaging in sexual activity.
- b. **Mutually understandable and reciprocal.** Mutually understandable words and/or actions that indicate an unambiguous willingness to engage in sexual activity. All Parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are Consenting. Consent to some sexual contact (such as kissing or fondling) does not constitute Consent for other sexual activity (such as intercourse). A current or previous intimate relationship does not constitute Consent. If an individual expresses conditions on their willingness to Consent (*e.g.*, use of a condom) or limitations on the scope of their Consent (*e.g.*, the clear expectation for the partner to avoid internal ejaculation), those conditions and limitations must be respected. Failure to adhere to an individual's expressed conditions, limitations, parameters, or boundaries can be considered engaging in Non-Consensual Sexual Contact and/or intercourse. Unless a sexual partner has Consented to slapping, hitting, hair pulling, strangulation, or other physical roughness during otherwise

consensual sex, those acts may constitute IPV or Non-Consensual Sexual Intercourse.⁶ Consent may not be inferred from silence, passivity, lack of resistance, or lack of active response alone.

- c. **Freely and actively given.** All sexual activity needs to be voluntary (freely given) and active (not passive). A person is unable to give Consent when there is sufficient evidence of force, coercion, or incapacitation:
- i. **Force.** Force is the use of physical violence and/or physical imposition (*e.g.*, using strength, weight, ability, etc.) to overcome an individual's freedom to choose whether or not to participate in sexual activity. Force includes threats or intimidation (implied threats) that is intended to overcome resistance or produce submission to sexual activity.
 - ii. **Coercion.** Coercion is the use of unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person's Consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, and duration of the pressure involved. The level of physical isolation is also considered. Coercion can include a wide range of behaviors, including, but not limited to, non-physical threats, blackmail, and manipulation that is intended to overcome resistance or produce submission to sexual activity.
 - iii. **Incapacitation.** Incapacitation is a state where a person is incapable of giving Consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing and informed Consent (*e.g.*, to understand the "who, what, when, where, why, and how" of their sexual interaction). A person cannot Consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of temporary or permanent physical or mental health conditions and/or the consumption of alcohol, drugs, or other incapacitating substances. Incapacitation can be caused by physical condition (such as when an individual is asleep, unconscious, or otherwise unaware that sexual activity is occurring); disability that impairs the individual's ability to give Consent; or age (for example,

⁶ When Parties Consent to BDSM (bondage, discipline, sadism, masochism) or other forms of kink, non-Consent may be shown by the use of a safe word or by engaging in sexual acts outside of pre-establish boundaries.

Oregon law states that a person is considered incapable of Consenting to a sexual act if the person is under 18 years of age).⁷

1. The use of alcohol or other drugs does not, in and of itself, negate a person's ability to give Consent. Incapacitation is determined through consideration of all relevant indicators of a person's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk. However, a level of intoxication can be reached short of losing consciousness in which a person's judgment is so impaired that they become incapacitated and thus are not capable of giving Consent.
 2. The impact of alcohol and drugs varies from person to person. Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impacts an individual's decision-making ability, awareness of consequences, ability to make informed judgments, and capacity to appreciate the nature of the act.
 3. Because the use of alcohol and other drugs can have a cumulative effect over time, a person who may not have been incapacitated at the beginning of sexual activity may become incapacitated and, therefore, unable to give effective Consent as the sexual activity continues.
- 4.22.3. When determining whether Consent was present, the university will consider whether the Respondent, or a sober, Reasonable Person in the Respondent's position, knew or should have known whether the other Party could or could not Consent to the sexual activity.
- 4.22.4. A person's responsibility for obtaining Consent is not diminished by their own use of alcohol or other drugs. If the person who wants to engage in sexual activity is too intoxicated to judge another's communications about Consent, that person has an obligation to cease the activity.

⁷ See [ORS 163.315](#) *Incapacity to Consent*. Under Oregon law, "statutory rape" is defined as nonforcible sexual intercourse with a person who is under the statutory age of Consent. "Age of Consent" is the minimum age at which an individual can engage in sexual intercourse, which varies by state and country, and may include exceptions for individuals who are married or within a certain age range of each other. For example, in Oregon, [ORS 163.345](#) notes exceptions to the law if the individuals are less than three years apart in age and the sexual contact would be consensual, but for the fact that the minor cannot legally Consent under the law. Evaluation of Consent related to age will include consideration of the applicable laws local to the state or country in which the alleged conduct occurred.

5. Responsibilities & Procedures

5.1. Response to Reports

- 5.1.1. The university shall respond promptly, equitably, and effectively to all Reports of Sexual Misconduct and Sex Discrimination, and shall take appropriate action to prevent, remedy the impacts of, and stop conduct that violates this University Policy.
- 5.1.2. The university reserves the right to address conduct that may not rise to the level of a violation of this University Policy.
- 5.1.3. As determined by the Associate Vice President and Chief Civil Rights Officer, or their designee, the university may initiate an investigation of any conduct prohibited by this University Policy without a formal Complaint from or participation by the Complainant.
- 5.1.4. The university will offer and coordinate supportive measures, as appropriate, for a Complainant and/or Respondent to restore or preserve that person's access to the university's education program or activity or provide support during an investigation or informal resolution process. Individuals do not need to engage in a university resolution process to receive supportive measures. Supportive measures are described within the Investigation and Resolution Process.
- 5.1.5. The Associate Vice President and Chief Civil Rights Officer is responsible for the implementation of and compliance with this University Policy, including publishing this University Policy, developing and conducting training, monitoring for and correcting barriers to reporting, and establishing an administrative structure that facilitates the prevention, response to, mitigation of effects, and elimination of Sexual Misconduct or Sex Discrimination consistent with this University Policy. The Associate Vice President and Chief Civil Rights Officer acts with independence and authority, free from bias and conflicts of interest. The Associate Vice President and Chief Civil Rights Officer oversees all resolutions under this University Policy and associated procedures. All employees involved in the resolution process are vetted and trained to support the goal that those employees are not biased for or against any Party in a specific Complaint, or for or against Complainants or Respondents, generally.

5.2. Investigations and Sanctions

- 5.2.1. The applicable evidentiary standard for all violations of this University 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.
- 5.2.2. Persons who are found to have violated this University 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.
- a. If employee discipline is warranted, it shall be administered in a manner consistent with applicable collective bargaining agreements, university policies, and legal requirements. A violation of any provision of this policy may lead to a sanction ranging from warning up to and including termination, based on the severity of the conduct, the aggravating or mitigating circumstances, or the cumulative employment record of the Respondent. Sanctions include, but are not limited to, warning, required educational sanctions, behavior expectations, coaching, letter of counsel, being placed on a Performance Improvement Plan (PIP), written reprimand, paid employment suspension, unpaid employment suspension, and termination.
 - 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 any violation of this University Policy, based on the severity of the conduct, the aggravating or mitigating circumstances, or the cumulative conduct record of the Respondent. Sanctions include, but are not limited to, warning, required educational activities, university/community service work hours, behavior expectations, restitution, restriction/exclusion, no contact order, academic sanction, removal from a class, residential disciplinary probation, university conduct probation, conduct suspension, expulsion, loss of recognition, and degree revocation.
 - c. Individuals who are both students and employees may be subject to discipline as both a student and an employee.
- 5.2.3. The university may impose an interim administrative suspension on a student or student organization, an interim change in the employment arrangements of an employee, or an interim change to the status or access of a volunteer, contractor, or visitor to the university pending the completion of an investigation and resolution. Such interim administrative suspension, interim change in employment arrangements, or interim change to status or access will be initiated in accordance with university processes, and in compliance with applicable law or applicable collective bargaining agreements.

5.3. Amnesty

5.3.1. Oregon State University encourages all community members to Report behavior associated with Sexual Misconduct. To support such reporting, except for the specific reasons noted below, the university will not pursue student conduct proceedings against a reporting student, a Complainant, or a witness for personal use of alcohol, marijuana, or other drugs, trespassing or unauthorized entry of university-owned or operated facilities, or other violations of the Code, occurring at or near the time of the alleged incident of Sexual Misconduct. Additionally, the university will not pursue student conduct proceedings against a Respondent for personal use of alcohol, marijuana, or other drugs at or near the time of the incident. Oregon State University may, however, initiate an educational discussion with any student regarding any behavior that, without reporting amnesty, could violate the Code.

5.3.2. Exceptions: At the discretion of the Assistant Dean & Director of Student Community Standards or their designee, a reporting student, a Complainant, a witness, or a Respondent will not be granted reporting amnesty if their behavior placed the health or safety of any other person at risk, if the university determines that the Report of Sexual Misconduct was not made in good faith, or the violation of the Code was egregious.

5.4. Privacy and Records

5.4.1. Complainants and Respondents are not restricted from discussing or sharing information related to the Report 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, Parties and their advisors are prohibited from unauthorized reproduction of documents or disclosure of information made available for review in the university investigation and resolution process. Publicly disclosing university work product (*e.g.*, documents produced, compiled, or written for the purposes of a university investigation or resolution process) or a Party's personally identifiable information without authorization or Consent is a breach of this restriction and subject to disciplinary action in accordance with university processes. 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 University Policy should not be understood to limit the legal rights of the Parties during or after resolution. The university may not, by federal law, prohibit either party from disclosing the final outcome after any appeal is concluded. All other conditions for disclosure are governed by applicable state and federal law.

- 5.4.2. The university makes every reasonable effort to preserve Parties' privacy. The university will not externally share the identity of any individual who has made a Complaint, or the identities of any Parties or witnesses, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law, including any investigation or resolution proceeding arising under these policies and procedures.
- 5.4.3. The university is required to track and make publicly available statistical information related to some crimes and the university investigation process, as required by the federal Clery Act and the state of Oregon. All personally identifiable information is kept private and not disclosed.
- 5.4.4. The university must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the community. The university will make reasonable efforts to ensure that a Complainant's name and other identifying information are not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

5.5. Training and Prevention

- 5.5.1. In alignment with university values and in compliance with state and federal law, all university students and employees are required to take annual training related to the university's obligations to address Sexual Misconduct and Sex Discrimination, including the scope of conduct that constitutes Sex Discrimination, and employees' duties to Report conduct prohibited by this policy. The failure of a student or employee to complete their required annual training will be subject to disciplinary action in accordance with university processes.

6. Related Policies, Procedures, or Information

Call 911 in an emergency or during an immediate safety concern.

6.1. Resources

- 6.1.1. A list of sexual misconduct resources is available online through EOA: eo.oregonstate.edu/sexual-misconduct/resources
- 6.1.2. Individuals can anonymously speak to a confidential advocate to discuss their options and available resources. Advocates can support individuals reporting

to EOA or law enforcement and can accompany individuals to sexual assault medical exams. To find an advocate, individuals can:

- Contact OSU’s Center for Advocacy, Prevention & Education (CAPE) Available to all OSU-affiliated individuals.
(Free, Monday–Friday, 9 AM–5 PM)
Phone: 541-737-2030 or email: survivoradvocacy@oregonstate.edu
Website: cape.oregonstate.edu
- Utilize the Oregon Coalition Against Domestic & Sexual Violence site to find a provider in Oregon: www.ocadsv.org/find-help/
- Contact the National Sexual Assault Hotline (Free, Confidential, 24/7)
Phone: 1-800-656-HOPE or Website: rainn.org
- Contact the National Domestic Violence Hotline (Free, Confidential, 24/7)
Phone: 1-800-799-7233 or Website: www.thehotline.org

6.2. Reporting to the Office of Equal Opportunity and Access

6.2.1. Individuals who are the victim or target of Sexual Misconduct or Sex Discrimination have the option to report to, or not report to, EOA.⁸ EOA documents any Reports made to it that involve potential Sexual Misconduct or Sex Discrimination. While there is no time limitation on providing a Report to EOA, prompt reporting will better enable EOA to respond to the concern, determine the relevant issues, and provide an appropriate response or action. Individuals are encouraged to promptly Report concerns to EOA or to otherwise document any incidents involving conduct that may constitute Sexual Misconduct or Sex Discrimination. To notify the university and initiate an investigation or resolution process regarding any prohibited conduct as defined by this University Policy, contact:

The Office of Equal Opportunity and Access
2150 SW Jefferson Way, 330 Snell Hall, Corvallis, OR 97331
Phone: 541-737-3556
Email: Equal.Opportunity@oregonstate.edu
Website (with an online reporting form): eoa.oregonstate.edu

6.2.2. Even if a Complainant chooses not to Report formally or participate in an investigation or resolution process through EOA or law enforcement, the Complainant can contact EOA for information and assistance accessing on- or off-campus support resources and for information on available assistance.

⁸ Most university employees must report concerns of Discrimination, Discriminatory Harassment, Retaliation, or Sexual Misconduct to the Office of Equal Opportunity and Access. However, employees are not required to self-report incidents in which they are the victim or target of Discrimination, Discriminatory Harassment, Retaliation, or Sexual Misconduct. See University Policy 05-005 *Responsible Employees* for more information.

Complainants do not need to share specific details about who harmed them or what specifically occurred to get help accessing resources. However, if specific information is shared, there are some circumstances where EOA may need to proceed with an investigation or other appropriate action even if the person reporting specifically requests that the matter not be pursued in order to protect the safety of the campus community.

- 6.2.3. If an incident involves alleged Sexual Misconduct or Sex Discrimination by the Associate Vice President and Chief Civil Rights Officer, Reports should be made directly to the university President or the Office of the General Counsel at intake.ogc@oregonstate.edu.

6.3. Reporting to Law Enforcement

- 6.3.1. Individuals personally impacted by Sexual Misconduct or Sex Discrimination have the option to report to, or not report to, law enforcement. Individuals can report to law enforcement instead of, or in addition to, reporting to EOA. EOA can assist individuals in reporting to law enforcement. To report to law enforcement, individuals can:

- Call 911 if it is an emergency or an immediate safety concern
- Consult with OSU's Department of Public Safety, including to report on-campus incidents or for information on which police department to report to:
 - 24/7 Dispatch / Non-Emergency: 541-737-7000
 - Emergency: 911 or 541-737-7000
 - Website: publicsafety.oregonstate.edu
 - Location: 200 Cascade Hall, 601 SW 17th Street, Corvallis, OR 97333
- Report to the law enforcement agency where the incident occurred, including:
 - Corvallis Police Department Non-Emergency: 541-766-6924
 - Bend Police Department Non-Emergency: 541-693-6911
 - Newport Police Department Non-Emergency: 541-265-4231
 - Search for a local law enforcement agency on this directory: www.discoverpolicing.org/explore-the-field/search-the-agency-directory

- 6.3.2. Regardless of whether an individual chooses to make a report to law enforcement, a medical exam can be done. Sexual Assault Nurse Examiners (SANEs) available at Student Health Services and area hospitals can conduct exams, ideally within five days of the sexual assault. It is best if the person does not bathe, shower, eat, drink, douche, or change clothing. However, evidence can still be collected even if these things have been done.

- 6.3.3. Regardless of whether an individual wishes to report an incident, consider preserving any evidence and documenting information, including text messages, emails, social media correspondences, videos, photographs, pictures, logs, copies of documents, etc., to support reporting at a later date.

6.4. Other Reporting Options

- 6.4.1. Anyone experiencing Sexual Misconduct or Sex Discrimination also has the right to file a formal Complaint with government authorities, but should be aware that deadlines may apply.
- 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: www.ed.gov/about/ed-offices/ocr
 - 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
 - d. U.S. Equal Employment Opportunity Commission, Seattle Office
Federal Office Building, 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
- 6.4.2. **Notification of statutory requirements.** 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 (5) years after the occurrence of the alleged unlawful employment practice. The university may not require or coerce a former, current, or prospective employee to enter into a nondisclosure or nondisparagement agreement that has the purpose or effect of preventing the individual from disclosing or discussing conduct prohibited by ORS 659A.030, 659A.082 or 659A.112 (unlawful Discrimination or sexual assault) when that conduct occurred between employees or between an employer and an employee in the workplace or at certain work-related events; or that occurred between an employer and an employee off the employment premises, except:

- a. When an employee claiming to be aggrieved by unlawful conduct requests to enter into a settlement, separation, or severance agreement which contains a nondisclosure, nondisparagement, or “no-rehire” provision and will have seven calendar days to revoke the agreement; or
- b. If an employer makes a good faith determination that an employee has engaged in conduct prohibited by ORS 659A.030, 659A.082 or 659A.112.

- 6.5. Equal Opportunity and Access reporting form:
https://cm.maxient.com/reportingform.php?OregonStateUniv&layout_id=4
- 6.6. Reporting FAQs: eoa.oregonstate.edu/Report
- 6.7. The university has adopted procedures that provide for the prompt and equitable resolution of Complaints. More information on the procedures used by EOA to investigate or otherwise resolve alleged violations of this University Policy can be found at: eoa.oregonstate.edu/sexual-misconduct/process
- 6.8. Additional information on reporting and resources:
eoa.oregonstate.edu/discrimination-concerns
- 6.9. University Policy 04-100 *Discrimination and Discriminatory Harassment*:
policy.oregonstate.edu/policy/discrimination-and-discriminatory-harassment
- 6.10. University Policy 04-110 *Retaliation*: policy.oregonstate.edu/policy/retaliation
- 6.11. University Policy 05-005 *Responsible Employees*: policy.oregonstate.edu/UPSM/05-005_responsible_employees
- 6.12. *Consensual Relationships Policy*, *Student Community Standards*, *Code of Student Conduct*: <https://scs.oregonstate.edu/>

History

Adopted: University Policy 05-001 *Sexual Misconduct and Discrimination* was adopted on September 15, 2017. It received housekeeping amendments in February 2019 and August 2020.

Revised: University Policy 05-001 *Sexual Misconduct and Discrimination* was revised and approved on an interim basis on August 20, 2021. The interim policy was adopted as university policy on August 31, 2022.

Revised: University Policy 05-001 *Sexual Misconduct and Discrimination* received housekeeping amendments on August 24, 2023 and September 15, 2023, and was revised and renamed as *Sexual Misconduct and Sex Discrimination* on August 1, 2024. It was reviewed and revised on August 11, 2025. Housekeeping amendments were made on December 22, 2025.

Next scheduled review date: August 2030.

Contacts

Office of Equal Opportunity and Access

Website (with an online reporting form): eoa.oregonstate.edu

Email: equal.opportunity@oregonstate.edu

Phone: 541-737-3556

Physical location: 2150 SW Jefferson Way, 330 Snell Hall, Corvallis, OR 97331

Monday – Friday, 8:30 AM – 4:30 PM

The Office of Equal Opportunity and Access (EOA) is the university's Title IX Office and the Associate Vice President and Chief Civil Rights Officer is the university's Title IX Coordinator. Inquiries about Title IX may be referred to EOA, the [U.S. Department of Education's Office for Civil Rights](https://www.ed.gov/), or both. To report information about conduct that may constitute sex discrimination or to make a complaint of sex discrimination or sexual misconduct, contact EOA.

Policy available online at: https://policy.oregonstate.edu/UPSM/05-001_sexual_misconduct_discrimination