



Sexual Misconduct and Sex Discrimination

Responsible Executive: Title IX Coordinator

Responsible Office: Equal Opportunity and Access

Adopted: September 15, 2017

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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 discriminate on the basis of sex and prohibits 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 sex discrimination, sexual misconduct, and retaliation. The university prohibits unlawful discrimination on the basis of actual or perceived sex,¹ 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”).² 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. The university will promptly and effectively address any sex discrimination it has knowledge of and take steps to prevent, remedy the impacts of, and stop conduct that violates this policy.

2. Reason for Policy

¹ Throughout this Policy, “on the basis of sex” means 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.

² 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.

- 2.1. This policy is established in alignment with university values and in compliance with state and federal nondiscrimination/equal opportunity laws and implementing regulations, including but not limited to: Title IX of the Education Amendments of 1972, the Violence Against Women Act of 1994 (“VAWA”), the Campus Sexual Violence Elimination Act of 2013 (“Campus SaVE Act”), 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 and associated resolution processes are applicable 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 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. **Complainant:** A person who is alleged to have been subjected to conduct that could constitute sex discrimination, sexual misconduct, or discrimination under this 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, sexual misconduct, or retaliation.
- 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. See Section 5.4 “Evaluation of Consent” for further information.

- 4.4. **Employee:** All persons employed by the university, including, but not limited to, academic faculty, professional faculty, classified staff, law enforcement professionals, student employees, and graduate assistants.
- 4.5. **Employee exempt from internal reporting:** Certain OSU employees are exempt from the responsible employee reporting requirements and will not report any information to EOA without the permission of the complainant. Employees exempt from internal reporting may still have requirements to report certain information to external entities (such as being a mandatory reporter of child abuse). See [University Policy 05-005: Responsible Employees](#) for more information.
- 4.6. **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.
- 4.7. **Party:** The complainant or respondent. When used in the plural, “parties” means the complainant and respondent collectively.
- 4.8. **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.
- 4.9. **Reasonable Person:** An objective standard referring to an individual in similar circumstances and holding similar relevant identities with a reasonable way of interpreting and reacting to a situation. A reasonable person is assumed to exercise average care, skill, and judgement.
- 4.10. **Report:** Notice to or knowledge by EOA of an allegation or concern of sex discrimination, sexual misconduct, or retaliation.
- 4.11. **Respondent:** A person who is alleged to have violated this policy.
- 4.12. **Responsible Employee:** University employees who have the duty to report all known details of actual or suspected sexual misconduct, discrimination, discriminatory harassment, or retaliation to EOA. All OSU employees are Responsible Employees unless specified as exempt. See [University Policy 05-005 Responsible Employees](#) for more information.
- 4.13. **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.

- 4.14. **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.
- 4.15. **Student Organization:** A recognized student organization or student group affiliated with an academic unit.
- 4.16. **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 (“OCR”) 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.

5. Responsibilities & Procedures

5.1. General

- 5.1.1. The university shall respond promptly, equitably, and effectively to all reports of sex discrimination, sexual misconduct, and retaliation, and shall take appropriate action to prevent, remedy impacts of, and stop conduct that violates this policy.
- 5.1.2. The Office of Equal Opportunity and Access (“EOA”) is the university’s Title IX Office and the Executive Director of EOA 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](#), or both. To report information about conduct that may constitute sex discrimination or to make a complaint of sex discrimination, sexual misconduct, or retaliation, contact EOA. EOA’s contact and reporting information is included in Section 11 of this University Policy.
- 5.1.3. The university has adopted procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Executive Director of EOA & Title IX Coordinator.
- 5.1.4. When the university receives a report of sex discrimination, sexual misconduct, or retaliation, EOA emails the complainant (if known) information on their available resources, rights, and options. This information is also discussed during the initial

meeting between EOA and the complainant, if the complainant chooses to meet with EOA. Certain actions, such as the preservation of evidence, may be critical to potential criminal prosecution and to obtaining restraining/protective orders, and are particularly time sensitive. More information is available on EOA's website at: eoa.oregonstate.edu/sexual-misconduct or by contacting confidential resources on or off campus (see Section 6.3).

- 5.1.5. The university reserves the right to address offensive conduct and/or harassment that does not suggest a violation of this policy. Addressing such conduct will not result in an imposition of discipline but may be addressed through respectful conversation, remedial actions, education, and/or informal resolution.
- 5.1.6. As determined by the Executive Director of EOA & Title IX Coordinator, the university may initiate an investigation of any conduct prohibited by this policy without a formal complaint from or participation by the complainant.
- 5.1.7. 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.
- 5.1.8. 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.
- 5.1.9. Persons who are found to have violated this policy shall be subject to sanctions commensurate with the violation, up to and including termination of employment, or expulsion from the university or removal of privileges to participate in university programs and activities, or both.
 - 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 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.
- 5.1.10. 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 university processes, and in compliance with applicable law or collective bargaining agreement.
- 5.1.11. The Executive Director of EOA & Title IX Coordinator is responsible for the implementation of and compliance with this policy, including publishing this 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 sex discrimination, sexual misconduct, and retaliation consistent with this policy. The Executive Director of EOA & Title IX Coordinator acts with independence and authority, free from bias and conflicts of interest. The Executive Director of EOA & Title IX Coordinator oversees all resolutions under this policy and associated procedures. All employees involved in the resolution process are vetted and trained to ensure they are not biased for or against any party in a specific complaint, or for or against complainants or respondents, generally.
- 5.1.12. In compliance with state and federal law, including Title IX, all university students and employees are required to take annual training related to the university’s obligations to address sex discrimination, sexual misconduct, and retaliation, 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.
- 5.1.13. Almost all university employees are “responsible employees,” meaning they are required by university policy to immediately report a possible violation of this policy to EOA. However, several offices are available to assist individuals confidentially who have been affected by sex discrimination, sexual misconduct, or retaliation.

See Section 6.3 “Confidential Resources” below for more information on employees exempt from internal reporting. These offices can confidentially assist and/or refer students and employees to resources and services both within and outside the university.

- 5.1.14. Complainants and respondents are not restricted from discussing or sharing information related to the complaint 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 and/or disclosure of information made available for review in the university investigation or resolution process. Publicly disclosing university work product (*i.e.*, 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 to 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 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.
- 5.1.15. The university makes every 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.
- 5.1.16. 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.
- 5.1.17. 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 ensure that a complainant’s name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

5.1.18. 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**, (1) 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 (2) 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.

5.2. Amnesty

- 5.2.1. 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.
- 5.2.2. Exceptions: At the discretion of the Assistant Dean & Director of Student Conduct and 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.

5.3. Prohibited Conduct – OSU Sex Discrimination and Sexual Misconduct³

- 5.3.1. **Sex Discrimination.** Conduct, either intentional or unintentional, on the basis of sex, that:
- a. Excludes an individual from participation in any university program or activity for which they are otherwise eligible; or
 - b. Denies the individual the benefits of a university program or activity for which they are otherwise eligible; or
 - c. 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
- 5.3.2. **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:
- a. It creates an intimidating, hostile, or offensive environment in which to work, learn, or participate in a university program or activity; or,
 - b. 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.
- 5.3.3. **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:
- a. 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
 - b. 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

³ These prohibited conduct definitions are used for university sex discrimination and sexual misconduct allegations that do not fall within the Title IX prohibited conduct as defined in section 5.4.2.

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

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. 5.3.3 Sexual Harassment encompasses harassment that is sexual in nature.

- c. 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.
- 5.3.4. **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.
- 5.3.5. **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.
- 5.3.6. **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 of a person who is, or has been involved in, a sexual, dating, or other intimate relationship with the Respondent.⁶ 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.
- a. 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.
- b. 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.

⁶ 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.

- 5.3.7. **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.
- a. "Course of conduct" means two or more acts, including, but not limited to, unwanted contact, property invasion or damage, watching, following, surveilling (using tracking devices, monitoring online activity, etc.), sabotage, threats, violence, and attacks. Stalking can occur in person, via third parties, and/or using technology.
 - b. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or professional treatment or counseling.
 - c. Merely annoying conduct, even if repeated, is a nuisance, but generally is not considered stalking.
- 5.3.8. **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:
- a. 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;
 - b. Exposing one's genitals or inducing another to expose their own genitals in non-consensual circumstances;
 - c. 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;
 - d. 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;
 - e. Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections;
 - f. 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;

- g. Viewing or possessing, or enabling or facilitating the viewing, creation, or trafficking of child sexual abuse images or recordings;
- h. Knowingly soliciting a minor for sexual activity;
- i. 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;
- j. 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
- k. Engaging in sex trafficking and/or coercing another person to engage in sexual acts in exchange for money, goods, housing, or favors.

5.3.9. **Retaliation.** Retaliation against a complainant, respondent, or any individual or group of individuals for any manner of participation with the university under this policy is prohibited. Retaliation includes 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 includes, but is not limited to, intimidation, threats, coercion, or discrimination for the purpose of interfering with any right or privilege secured by law or policy. 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; (2) opposing conduct that the individual reasonably believes is prohibited by law; or (3) participating in the university's reasonable accommodation processes under the Americans with Disabilities Act (ADA).
- c. The university will impose sanctions on any individual subject to this policy who is found to have engaged in retaliation, or individuals who encourage third

parties to retaliate on their behalf or are found to have engaged in conduct that would discourage a reasonable person from participating in an investigation or resolution.

5.4. Prohibited Conduct – Title IX Sexual Misconduct⁷

5.4.1. **Title IX Allegations.** Title IX Discriminatory Sexual Misconduct definitions, and the associated Title IX Investigation and Resolution Process, apply only when all of the following are met:

- a. The allegation meets the definition of sexual harassment as outlined in 5.4.2;
- 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 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.

5.4.2. **Title IX Sexual Harassment.** Any conduct on the basis of sex that satisfies one or more of the following:

- a. A university employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
- b. 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;
- c. **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;
 - i. 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.

⁷ Title IX Discriminatory Sexual Misconduct definitions are only for allegations falling within the definitions of Title IX prohibited conduct, as defined in section 5.4.2.

1. 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.
 2. 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.
 3. 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.
 4. Forcible Fondling. The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, 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.
- ii. Sex Offenses, Nonforcible. Nonforcible sexual intercourse.
1. Incest. Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 2. Statutory Rape. Nonforcible sexual intercourse with a person who is under the statutory age of consent.
- d. **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.
- i. 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:
 1. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

2. Dating violence does not include acts covered under the definition of Title IX domestic violence.
- e. **Title IX Domestic Violence.** An act of violence committed by:
- i. A current or former spouse or intimate partner of the complainant,
 - ii. A person with whom the complainant shares a child in common,
 - iii. A person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner,
 - iv. A person similarly situated to a spouse of the complainant under applicable law,
 - v. Any other person against a complainant who is protected from that person's acts under applicable domestic or family violence laws.
- f. **Title IX Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- i. Fear for their safety or the safety of others; or
 - ii. Suffer substantial emotional distress.
 - iii. For the purposes of this definition:
 1. 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.
 2. Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.
 3. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.
- 5.4.3. **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.

5.5. Evaluation of Consent

- 5.5.1. 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.
- 5.5.2. Consent is defined as knowing, voluntary, and clear permission by word or action to engage in agreed-upon sexual activity.
- 5.5.3. 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 intimate partner violence

or non-consensual sexual intercourse.⁸ 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, Oregon law

⁸ 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.

states that a person is considered incapable of consenting to a sexual act if the person is under 18 years of age).⁹

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. 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.
5. 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.

5.4.4 It is the legal responsibility of individuals to know and adhere to all applicable laws in the jurisdiction they are in, including those that define consent / non-consent and the legal parameters for having sexual intercourse (such as laws

⁹ See [ORS 163.315](#) "Incapacity to Consent." 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 in 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.

defining the age of consent or prohibiting incest).¹⁰ The university may initiate an investigation or resolution process under this policy for any conduct on the basis of sex that is prohibited by the state, federal, or country law where it occurred.

6. Reporting and Resources

Call 911 in an emergency or if you have an immediate safety concern.

6.1. University Reporting

- 6.1.1. EOA documents any reports made to it that involve potential sex discrimination, sexual misconduct, or retaliation. 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 and/or action. Individuals are encouraged to promptly report concerns to EOA or to otherwise document any incidents involving conduct that may constitute unlawful discrimination, discriminatory harassment, or retaliation. To notify the university and initiate an investigation or resolution process regarding any prohibited conduct as defined by this policy, contact:

Executive Director of EOA & Title IX Coordinator
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: eoa.oregonstate.edu

- 6.1.2. A full list of reporting options can be found at: eoa.oregonstate.edu/sexual-misconduct-resources
- 6.1.3. Even if a complainant chooses not to report formally and/or chooses not to participate in an investigation 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.
- 6.1.4. In the event an incident involves alleged sex discrimination, sexual misconduct, or retaliation by the Executive Director of EOA & Title IX Coordinator, reports should be made directly to the university president or their designee (the current designee

¹⁰ For the purposes of this policy, “incest” is defined as nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

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

6.2 Other Reporting Options

6.2.1. Anyone experiencing sex discrimination, sexual misconduct, or retaliation 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: 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@usdoj.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: 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: eeoc.gov

6.3 Confidential Resources

If an individual is not sure if they want to report to the university or to law enforcement, they can still receive advice, assistance, and support by contacting one or more of the following confidential resources:

6.3.1. Corvallis Campus and Area

a. **OSU Center for Advocacy, Prevention & Education (CAPE)**

Contact: 541-737-2030 or survivoradvocacy@oregonstate.edu

Website: cape.oregonstate.edu

Location: 2251 SW Jefferson Way, 350 Student Experience Center, Corvallis, OR 97331

Available from 9:00 am to 5:00 pm, Monday through Friday. Individuals are encouraged to call ahead of time to ensure availability. CAPE provides confidential advocate services that serve as a first point of contact for survivors and their allies, in order to provide needed information about their choices and their rights and can assist with referrals to desired services. OSU Assist (crisis responders) are also trained as advocates and designated as a confidential resource.

b. **OSU Student Health Services (SHS)**

Contact: 541-737-9355

Website: studenthealth.oregonstate.edu

Location: 850 SW 26th Street, Corvallis, OR 97331

Call ahead of time to ensure availability. Sexual Assault Nurse Examiners are available to any student, regardless of gender identity, who is a survivor of sexual assault. Survivors can continue seeing a Student Health clinician for any other health exam as well, which allows for a continuum of care for the survivor that includes sensitivity to their experience.

c. **OSU Counseling and Psychological Services (CAPS)**

Contact: 541-737-2131

Website: counseling.oregonstate.edu

Location: 2150 SW Jefferson Way, 500 Snell Hall, Corvallis, OR 97331

Available to meet during business hours and available over the phone for counseling after hours, 24 hours a day, seven days a week. Provides support and counseling for students who have experienced unwanted sexual contact or relationship violence.

d. **Center Against Rape and Domestic Violence (CARDV)**

Contact: 541-754-0110

Website: cardv.org

Location: 2208 SW 3rd St, Corvallis, OR 97333

A community resource that provides 24 hours a day, seven days a week confidential crisis response. CARDV can assist in the process of obtaining a restraining/stalking protection order or Sexual Abuse Protection Order (SAPO), accessing emergency shelter, providing support as a personal representative during medical examinations or reporting procedures, and more.

e. **Sarah's Place (Samaritan Health Services)**

Contact: 541-812-4420

Website: samhealth.org/find-a-location/s/sarahs-place

Location: 1046 Sixth Avenue SW, Albany, OR 97321

Sarah's Place is a regional Sexual Assault Nurse Examiner (SANE) center created to provide a safe place for victims to receive resources and care. Sarah's Place is open to patients 24 hours a day, seven days a week. Most services are free. Staffed by nurses with specialized training, the SANE center provides immediate medical treatment to patients who have experienced sexual assault. Additional counseling and patient support is also available. Non-emergency transportation resources for patients from the Oregon coast can be arranged as needed.

6.3.2. Bend Campus and Area

a. **Saving Grace**

Contact: 541-389-7021 (local), 866-504-8992

Website: saving-grace.org

A community resource that provides 24 hours a day, seven days a week confidential crisis response. Saving Grace can assist with court advocacy, emergency shelter, emergency transportation, therapy, and more.

b. **OSU-Cascades Counseling Services**

Contact: 541-322-2047

Website: osucascades.edu/student-health-and-wellness/services-provided/counseling-services

Location: 1500 SW Chandler Ave, Tykeson Hall, 210 Suite, Bend, OR 97702

Email student.counseling@osucascades.edu to make an appointment

Available to meet during business hours for counseling. Provides support and counseling for students who have experienced unwanted sexual contact or relationship violence.

c. **St. Charles Emergency Department**

Contact: 541-382-4321

Location: 2500 NE Neff Road, Bend, OR 97701

Open 24 hours a day, 7 days a week, and staffs Sexual Assault Nurse Examiners (SANE) who provide forensic evidence collection (SAFE exam). It is recommended that a person going for an exam call ahead to lessen wait times as the SANE staff is on-call during off hours.

6.3.3. Hatfield Marine Science Center and Newport Area

a. **My Sister's Place / My Safe Place**

Contact: 541-994-5959 (24-hour crisis line)
541-574-9424 (Non-emergency)

Website: msplincolncounty.org

Location: 934 SW 8th St, Newport, OR 97703

A community resource that provides 24 hours a day, 7 days a week confidential crisis response. My Safe Place can assist in the process of obtaining a restraining/stalking protection order or Sexual Abuse Protection Order (SAPO), accessing emergency shelter, reporting, and more.

6.4 Law Enforcement

Individuals are not required but have the right to file a criminal complaint with law enforcement and EOA simultaneously. EOA can assist an individual in reporting to law enforcement.

It is important to preserve evidence that may assist in proving that the alleged criminal offense occurred or to help with obtaining a protective order. Regardless of whether or not an individual wishes to report an incident, consider preserving any evidence of the sexual assault or other misconduct should the individual decide to report the incident in the future. Examples of evidence to consider preserving include but are not limited to the clothing the individual was wearing, bedding, relevant text messages, photographs, screenshots, emails, social media correspondence/posts, videos, and/or names of witnesses and contact information.

Regardless of whether an individual chooses to make a report to law enforcement, a medical exam can be done to preserve evidence. The Sexual Assault Nurse Examiners (SANE) 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 you have done any or all of these things.

6.4.1. Corvallis Campus and Area

a. **OSU Department of Public Safety**

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

b. **Corvallis Police Department**

Non-Emergency: 541-766-6924

Emergency: 911

Website: corvallisoregon.gov/police

Location: 180 NW 5th Street, Corvallis, OR 97330

6.4.2. Bend Campus and Area

a. **OSU-Cascades Department of Public Safety**

Non-Emergency: 541-322-3110

Emergency: 911

Website: osucascades.edu/campus-safety

Location: 1500 SW Chandler Avenue, Bend, OR 97702

b. **Bend Police Department**

Non-Emergency: 541-693-6911

Emergency: 911

Website: bendoregon.gov/government/departments/police

Location: 555 NE 15th Street, Bend, OR 97703

6.4.3. Hatfield Marine Science Center and Newport Area

a. **Newport Police Department**

Non-Emergency: 541-265-4231

Emergency: 911

Website: newportoregon.gov/dept/npd

Location: 169 SW Coast Highway, Newport, OR 97365

7. Frequently Asked Questions

7.1. Reporting FAQs: <https://eoa.oregonstate.edu/faqs>

8. Related Information

- 8.1. Office of Equal Opportunity and Access Investigation and Resolution Process:
eoa.oregonstate.edu/sexual-misconduct-and-discrimination
- 8.1.1. Additional 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-and-discrimination
- 8.2. Student Conduct & Community Standards, Code of Student Conduct:
studentlife.oregonstate.edu/studentconduct
- 8.3. Responsible Employee Policy: eoa.oregonstate.edu/responsible-employee-policy
- 8.4. Consensual Relationships Policy: hr.oregonstate.edu/manual/consensual-relationships-policy

9. History

- 9.1. Adopted by OSU: University Policy 05-001 *Sexual Misconduct and Discrimination* was adopted on September 15, 2017.
- 9.2. Revised: Housekeeping, February 2019; Housekeeping, August 2020.
- 9.3. 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.
- 9.4. Revised: Housekeeping, September 15, 2023.
- 9.5. Revised: August 1, 2024.
- 9.6. Next scheduled review date: August, 2027.

10. Website

- 10.1 University Policy 05-001 *Sexual Misconduct and Sex Discrimination*:
policy.oregonstate.edu/UPSM/05-001_sexual_misconduct_discrimination

11. Contacts

Equal Opportunity and Access
541-737-3556
eoa.oregonstate.edu

For inquiries about Title IX or to make a report or complaint of sex discrimination, sexual misconduct, or retaliation contact:

Executive Director of EOA & Title IX Coordinator

The Office of Equal Opportunity and Access (EOA)

2150 SW Jefferson Way, 330 Snell Hall

Corvallis, OR 97331

Email: equal.opportunity@oregonstate.edu

Report Sex Discrimination, Sexual Misconduct, or Retaliation electronically at:

eoa.oregonstate.edu