

Prohibited Discrimination and Retaliation

Policy Number:

V.11.02

Reason for Policy:

This policy defines prohibited discrimination, harassment (including sexual harassment), and retaliation; outlines reporting options and obligations; and describes the investigation process for complaints of discriminatory misconduct. Formal grievance procedures are set forth in applicable collective bargaining agreements and the university's grievance policy.

Entities Affected by this Policy:

This Policy applies to all students, staff, faculty, university partners, and other individuals participating in or seeking to participate in, or benefit from, the university's programs or activities, whether on or off campus, including education and employment.

Responsible Office:

For questions about this policy, please contact the Office of Investigations and Civil Rights Compliance at [\(541\) 346-3123](tel:541-346-3123) or oiarc@uoregon.edu (<mailto:oiarc@uoregon.edu>).

Website Address for this Policy:

<https://policies.uoregon.edu/vol-5-human-resources/ch-11-human-resource...>
(<https://policies.uoregon.edu/vol-5-human-resources/ch-11-human-resources-other/prohibited-discrimination-and-retaliation>).

Enactment & Revision History:

01 August 2024 - Emergency revised policy enacted by the University President.

10 October 2022 – Technical change made by the University Secretary (9 Retaliation word substitution of “means” to “includes” for clarity)

05 May 2022 – Technical changes made by the University Secretary (phone number updated, link to Support Resources added)

28 June 2021 – Amended and renamed (formerly Discrimination Complaint and Response) with an effective date of August 15, 2021.

15 September 2017 - Amended by incorporation with the adoption of UO Policy V.11.0. (Redline amendments available upon request in the UO Policy library.)

18 August 2016 - Enacted by the president as a temporary emergency policy
Policy:

I. Policy Statement

The university is committed to equal access to programs and activities, admission, course offerings, facilities, and employment for its: (1) students, (2) employees, and (3) university community members. It is the policy of the university to maintain an environment free of discrimination against any person because of their real or perceived “protected characteristic” including race, color, religion, national origin, sex, sexual orientation, gender identity, gender expression, pregnancy, age, physical or mental disability, genetic information (including family medical history), ancestry, family or marital status, citizenship, service in the uniformed services (as defined in federal and state law), veteran status, expunged juvenile record, and/or the use of leave protected by state or federal law. Protections under this Policy include protection from discrimination, harassment, and retaliation based on characteristics and stereotypes associated with a protected characteristic (e.g., sex or racial stereotypes).

The term pregnancy includes pregnancy-related conditions, including:

- Pregnancy, childbirth, loss of pregnancy, termination of pregnancy, and lactation;
- Medical conditions related to pregnancy, childbirth, loss of pregnancy, termination of pregnancy, and lactation; and
- Recovery from pregnancy, childbirth, loss of pregnancy, termination of pregnancy, lactation, and related medical conditions.

Discrimination or harassment based on one or more of the above protected characteristics violates the dignity of individuals, impedes the realization of the university’s educational mission, and will not be tolerated.

It is the responsibility of every member of the university community to foster an environment free from discrimination, harassment, and retaliation. All students, employees, and other members of the university community are strongly encouraged to take reasonable and prudent actions to prevent or stop acts of discrimination, harassment, or retaliation. This may include directly intervening when safe to do so, enlisting the assistance of others, contacting law enforcement, or seeking assistance from a person in authority.

II. Policy Jurisdiction

This Policy applies to all students, staff, faculty, university partners, and other individuals participating in or seeking to participate in, or benefit from, the university's programs or activities, whether on or off campus, including education and employment.

For claims against students and student organizations, jurisdiction is defined by the Student Conduct Code.

For claims against employees, this Policy applies to conduct that: (1) occurs on campus or property owned or controlled by the university (university property), (2) occurs in the context of a university employment or educational program or activity, (3) uses university resources, such as workplace telephones, video conferencing technology, e-mail, or other means of electronic communication, or (4) creates a hostile environment for or causes substantial disruption to the university community or any of its members, or seriously threatens the health or safety of any person. The university will follow applicable collective bargaining agreements, policies and procedures in determining whether corrective action can be imposed for behavior that occurs while employees are off duty.

For claims against third parties, such as contractors, visitors, alumni, and guests, the university will determine the appropriate manner of resolution, which may include without limitation referral to local law enforcement or to the school or employer of the third-party respondent, and/or restriction from access to campus or university programs or activities. The university's ability to take disciplinary action against a third-party respondent is limited and will be determined by the nature of the misconduct and the university's relationship to the third-party respondent.

III. Definitions

The following definitions apply to those reporting alleged misconduct to the university, as well as parties in university complaint resolution procedures:

1. **Chief Civil Rights Officer:** The university's Chief Civil Rights Officer & Title IX Coordinator.
2. **Complaint:** An oral or written report to the university that can objectively be understood as a request to investigate and make a determination about the allegation(s) in the report.
3. **Complainant:**
 - a. A student or employee who is alleged to have been subjected to conduct that may constitute discrimination, harassment, or retaliation; or
 - b. A person other than a student or employee who is alleged to have been subjected to conduct that could constitute discrimination, harassment, or retaliation and who was participating or attempting to participate in a university program or activity at the time of the alleged discrimination, harassment, or retaliation.
 - c. A third-party, but only where it is alleged that a university policy, practice, or procedure has resulted in discrimination as defined in this Policy.
4. **Reporting Party:** A person who reports alleged violations of this Policy, and who is neither a Complainant nor a Respondent.
5. **Respondent:** A person who is alleged to have violated this Policy.

The following definitions are forms of Discriminatory Misconduct, which are prohibited by this Policy:

1. **Discrimination:** An adverse action taken against an individual or group on the basis of the individual's or group's protected characteristic(s). Discrimination takes two forms: disparate treatment and disparate impact. Disparate treatment occurs when the adverse action is motivated in whole or in part by the protected characteristic. Disparate impact occurs when a policy, requirement, or regularized practice, although neutral on its face, adversely impacts persons in a protected class and is not necessary to achieve an important university purpose. An adverse action includes actions that significantly change the terms and conditions of employment or actions that have a significant detrimental impact on a student's education.
2. **Harassment:** Unwelcome verbal or physical conduct based on a protected characteristic that is sufficiently severe or pervasive that it substantially interferes with an individual's employment, education or access to university programs, activities, or opportunities, and would have such an effect on a reasonable person who is similarly situated. Harassment may include, but is not limited to, verbal statements or nonverbal or physical conduct, graphic or written statements, threats, or slurs. Whether the alleged conduct unreasonably interferes

depends on the totality of the particular circumstances, including the nature, frequency and duration of the conduct in question, the location and context in which it occurs, and the status of the individuals involved. Harassment includes when an individual engages in a pattern of conduct toward multiple people that would, in the aggregate, create a hostile environment for a reasonable person.

3. **Sex-Based Harassment:** A specific form of Harassment involving unwelcome conduct of a sexual nature, including:
 - a. Quid pro quo harassment. Occurs where a university employee, agent or other representative authorized to provide an aid, benefit, or service within the university's education program or activity explicitly or implicitly conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct, including advances, requests, or other sexual conduct.
 - b. Hostile environment sex-based harassment. Unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct based on sex that is subjectively and objectively offensive and is so severe or pervasive that it limits or denies an individual's ability to participate in or benefit from any university program or activity or employment (i.e. creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the nature, frequency, and duration of the conduct in question, the degree to which the conduct affects individuals' access to university programs or activities, the location and context in which it occurs, and the status, ages, roles and prior interactions of the individuals involved. Hostile environment sex-based harassment includes when an individual engages in a pattern of conduct toward multiple people that would, in the aggregate, create a hostile environment for a reasonable person.
4. **Sexual Misconduct:** Having or attempting to have sexual contact with another individual without affirmative consent or causing a person to have sexual contact with another individual without affirmative consent. "Sexual contact" is defined as:
 - a. Non-consensual penetration: 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, or by a sex-related object, without affirmative consent.
 - b. Non-consensual sexual contact: Intentional contact of a sexual nature with a person's intimate body parts without affirmative consent. The term "intimate body parts" means breasts, buttocks, groin, genitals, anus, and includes bodily fluids. Contact may be either over or under the clothing.

Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual contact. It is the responsibility of each person involved to ensure they have the affirmative consent of the other(s) to engage in each sexual contact.

Affirmative consent can be communicated by words or actions, as long as those words or actions convey clear willingness to engage in the sexual contact. In determining the presence of affirmative consent, the university will consider the presence of any force, threat of force, or coercion; whether the complainant had the capacity to give consent; and, whether the communication (through words and/or actions) between the parties would be interpreted by a reasonable person under similar circumstances as a willingness to engage in a particular sexual act.

The following principles apply to the above definition of affirmative consent:

- The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, gender expression, or any other protected characteristic.
- Affirmative consent cannot be obtained through physical force, threats, or coercion.
- Affirmative consent must be ongoing throughout a sexual activity and can be withdrawn at any time, as long as such withdrawal is clearly communicated through words or actions. Any sexual activity occurring after affirmative consent has been withdrawn is considered non-consensual.
- Affirmative consent to any sexual act or prior consensual sexual activity does not necessarily constitute consent to any other sexual act.
- A person cannot provide affirmative consent if they are below the legal age of 18, unless otherwise permitted by law.
- Affirmative Consent cannot be inferred from silence, passivity, or lack of verbal or physical resistance.
- An individual cannot provide affirmative consent if they are incapacitated. A person is incapacitated, for example, (1) due to their youth or (2) when they lack the ability to choose knowingly to participate in sexual activity when they are unconscious, asleep, involuntarily restrained, under the influence of alcohol or other drugs, or otherwise unable to provide consent. This is not an exhaustive list. A person who is incapacitated lacks the capacity to give affirmative consent because they cannot understand the "who, what, when, where, or how" of their sexual interactions. In evaluating consent in cases of alleged incapacitation, the university asks if the respondent knew or reasonably should have known the complainant was incapacitated. Voluntary intoxication does not absolve a person of responsibility for non-consensual sexual contact.

5. **Dating Violence:** Violence committed by an individual who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of the interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or

the threat of such abuse. Dating violence does not include acts covered under the definition of Domestic Violence.

6. **Domestic Violence:** Any act of violence committed by (a) a current or former spouse or intimate partner of the complainant, (b) by a person with whom the complainant shares a child in common, (c) by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, (d) by a person similarly situated to a spouse of the complainant under the domestic or family violence laws in the state of Oregon, or (e) by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws in the state of Oregon.
7. **Indecent Exposure:** Exposing one's genitals to another person without affirmative consent for the purpose of sexual gratification. Indecent exposure includes includes sharing intimate images using social media platforms or via text or other means of electronic communication without consent.
8. **Invasion of Privacy:** Invasion of privacy means (a) voyeurism (including observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts) without the consent of the person being observed; (b) knowingly making or threatening to disclose a person's sexual orientation, gender identity, or gender expression.
9. **Retaliation:** Retaliation means an adverse action taken against a Complainant, Respondent, Reporting Party, or any other person because the individual engaged in a protected activity. Adverse action means any action that is reasonably likely to deter a person from engaging in a protected activity, including intimidation, threats, coercion, or discrimination. Adverse action does not include petty slights or trivial annoyances. Protected activity includes (a) opposing a practice that is unlawful or that the individual reasonably believes is unlawful; (b) filing a report, making a complaint, serving as a witness, assisting someone with a complaint, or participating in or declining to participate in an investigation, proceeding or hearing or informal resolution or grievance process pertaining to discrimination, harassment or other prohibited conduct; (c) participating in the university's reasonable accommodation processes; (d) the university's pregnancy accommodation processes; or (e) requesting or using protected leave.
10. **Sexual Exploitation:** Taking sexual advantage of another, for one's benefit, or to benefit or advantage a third-party, including by:
 - a. Taking pictures, video, or audio recording of another person engaged in a sex act or other sexual activity when there is a reasonable expectation of privacy and without the consent of all involved in the activity;
 - b. Threatening to use depictions of nudity or sexual activity of another person unless the person undertakes a particular action, including the payment of money or engaging in sexual conduct;

- c. Non-consensual dissemination, posting, or copying of images, photography, video or audio recording of sexual activity or nudity conducted in a private space;
 - d. Creating or disseminating synthetic media, including images, videos, or audio representations of individuals engaged in sexual conversation or conduct that never occurred, or placing identifiable real people in fictitious pornographic or nude situations without their consent (i.e., deepfakes);
 - e. Engaging in sex trafficking;
 - f. Purposefully exposing another person to a sexually transmitted infection or sexually transmitted disease without their knowledge;
 - g. Knowingly soliciting a minor for sexual activity; or
 - h. Viewing, possessing, producing, or distributing child pornography or child sexual abuse images or recordings.
11. **Stalking:** A course of conduct directed at a specific person that would cause a reasonable person to (a) fear for the person’s own safety or the safety of others, or (b) suffer substantial emotional distress. “Course of conduct” means two or more instances of conduct, including but not limited to, unwelcome acts in which an individual directly, indirectly, or through third parties follows, monitors, observes, surveils, threatens, or communicates to or about an individual, or interferes with an individual’s property. “Substantial emotional distress” means significant mental suffering or anguish. Stalking includes cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used.

IV. Academic Freedom and Free Speech

In all its actions, the university will respect the rights of freedom of expression and academic freedom, as set forth in law, university policies, and applicable bargaining agreements.

V. Options for Reporting

This section discusses options for reporting Discriminatory Misconduct subject to this Policy.

1. Filing a Report

The university encourages all students, employees, and other members of the university community who believe they have experienced misconduct under this Policy to report the incident immediately to the university. Reports may be submitted to the university’s Office of Investigations and Civil Rights Compliance via a web form or by phone or email. Please see related resources at the end of this Policy for contact/submission information. Reports may be

submitted anonymously, though the university's ability to respond may be limited if a report is submitted anonymously.

Identifying witnesses and providing as many details as possible in a report increases the university's ability to respond and/or take corrective action.

2. Time Frame for Reporting

Individuals are encouraged to report Discriminatory Misconduct as soon as possible in order to maximize the university's ability to respond promptly and effectively. Although the university does not limit the timeframe for reporting, the passage of time may impact or limit the university's jurisdiction, the ability to impose discipline, and/or the ability to gather relevant evidence that may be lost due to the passage of time.

3. Reporting to Law Enforcement

A reporting party has the right to report, or decline to report, potential criminal conduct to law enforcement. Upon request, the university will assist a reporting party in contacting law enforcement at any time. Under limited circumstances where there is a threat to the health or safety of any university community member, the university may independently notify law enforcement. An individual may make a report to the university, to law enforcement, to neither, or to both.

The university's resolution process and law enforcement investigations may be pursued simultaneously but will operate independently of one another. The university will, when appropriate, coordinate information with law enforcement if law enforcement is notified. The university, upon request, may also temporarily pause its investigation to allow preliminary fact-gathering by law enforcement. Under Oregon law, there are different time limits for prosecuting different crimes, and charges must be filed within the applicable statute of limitations for a given crime.

4. Confidential Resources

The university also offers a number of confidential resources, including Confidential Employees, for individuals who are unsure whether to report misconduct or who seek counseling or other emotional support in addition to, or without, making a report to the university. A link to resources, including confidential resources is included at the end of this policy.

VI. Expectations of Employees When Notified of Discriminatory Misconduct

As a caring community, and to promote a compassionate campus community, the university expects all employees to do the following when responding to disclosures of Discriminatory Misconduct under this Policy:

- Listen to what the person wants to tell you before providing supportive resources, referrals, and information, including those resources listed at the end of this Policy;
- Inform the person of your reporting responsibilities, as well as reporting options, including the option to report to the Office of Investigations and Civil Rights Compliance;
- Be sensitive to the needs of the person who allegedly experienced the conduct, without being judgmental, dismissive, condescending, discriminatory, or retaliatory; and
- At the outset of the conversation, if the person making the disclosure appears under 18, ask them if they are 18 years of age or older. If they are under 18, explain that all employees, except for confidential employees engaging in privileged communications, are required to report all disclosures of “abuse” as defined by state law (see ORS § 419B.005), including physical or sexual abuse, sexual exploitation, or a current threat of physical or sexual abuse of a minor, to the Department of Human Services or a law enforcement agency.

In addition to these general expectations, all employees are designated as either Assisting Employees, Confidential Employees or Designated Reporters as set forth below.

1. Confidential Employees

The university has identified certain employee positions as Confidential Employees. Confidential Employees will not share information disclosed to them with others without the express permission of the person making the disclosure or as required or permitted by applicable law or professional codes of ethics (such as cases involving imminent risk of serious harm). Confidential employees are only confidential while they are functioning within the scope of their duties to which privilege or confidentiality applies.

In responding to reports of Discriminatory Misconduct, a Confidential Employee is required to explain (1) their status as a Confidential Employee, including the circumstances in which the employee is not required to notify the Chief Civil Rights Officer about conduct that reasonably may constitute discrimination; (2) how to contact the Chief Civil Rights Officer; (3) how to make a complaint of discrimination; and (4) that the Chief Civil Rights Officer may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation.

The following employees are Confidential Employees under this Policy, when acting in their confidential, professional role:

- All health care and mental health professionals working at the University of Oregon, including without limitation employees at University Health Services and in Athletics Medicine;
- Care and Advocacy Program staff;
- Employees designated as Confidential Employees by the University;
- Employees conducting an Institutional Review Board-approved human-subjects study designed to gather information about sex discrimination, but only while conducting an approved study;
- The university's Ombudsperson and program staff (Note: The Ombudsperson does not have a legal privilege of confidentiality, but under their professional code of ethics the Ombudsperson must take steps to avoid, whenever possible, disclosure of confidential records and information);
- Employee and contract attorneys representing students in Student Conduct processes;
- Other employees who have a professional commitment and/or legal privilege that may enable them to oppose successfully an application for a court order seeking disclosure of communications, but only when acting in that professional capacity;
- Employees in colleges and departments designated as Confidential Employees.

2. **Designated Reporters**

All employees other than Confidential Employees and Student Employees are Designated Reporters, including the following student employees: Graduate Employees, Resident Assistants, and Orientation Leaders. Members of the Board of Trustees are also Designated Reporters under this Policy.

When Designated Reporters become aware of an alleged incident of Discriminatory Misconduct that involves a student or employee as either the complainant or respondent, they are always obligated to report information they have to OICRC, even if the accused is unknown or not affiliated with the university. Designated Reporters should be prepared to report the name, date, time, location, and description of the incident to the extent such information is known to them. They otherwise will maintain privacy to the greatest extent possible.

Designated Reporters should not investigate any matter themselves. If a Designated Reporter knows that a matter has already been brought to the attention of OICRC, the Designated Reporter does not need to report it but is encouraged to report new or additional information to OICRC.

Designated Reporters are required to share information disclosed during public awareness events (e.g. “Take Back the Night” and town halls). The university will respond to such reports where there is a serious and imminent threat to a person’s safety.

Designated Reporters who fail to report as required by this Policy may be subject to discipline or other appropriate corrective measures.

3. Student Employees

Upon receipt of a disclosure of Discriminatory Misconduct, student employees except for Designated Reporters (i.e., Graduate Employees, Resident Assistants, and Orientation Leaders), must do one of the following:

- a. Consult with their supervisor about the appropriate steps to take without revealing the name of the person who made the disclosure;
- b. Consult with a Confidential Advocate in the Dean of Students Office;
- c. Ask the person making the disclosure whether they want to report to OICRC;
- d. Ask the person making the disclosure whether they want to speak with a Confidential Advocate in the Dean of Students Office.

VII. University Response to Reports of Discriminatory Misconduct

The university will respond promptly and effectively to reports of Discriminatory Misconduct. This includes taking appropriate corrective action and promptly correcting harassing behavior. Such actions are designed to stop, prevent, correct, and when necessary, discipline, behavior that may violate this Policy. If the university initiates an investigation, it will be impartial. In responding to incidents of Discriminatory Misconduct, the university will follow state and federal law, university polices, and any applicable collective bargaining agreements. Employees and students may also choose to exercise applicable formal grievances rights. A complainant’s options will be explained to that person by the Office of Investigations and Civil Rights Compliance, Human Resources, or the Office of Student Conduct and Community Standards, as appropriate.

1. Supportive Measures

Regardless of whether an investigation or other university process is initiated, the university will offer and provide supportive measures as appropriate. In deciding which supportive measures to

implement, the university will attempt to mitigate the impact on affected parties, while also balancing the rights of the alleged wrongdoer.

Supportive measures will not unreasonably burden either party and will not be punitive or disciplinary. Supportive measures are designed to protect the safety of the parties and the university educational environment, to restore parties' access to the university programs and activities and provide support during the informal resolution process or a university investigation.

For students, supportive measures may include academic arrangements (such as class withdrawals, incomplete grades and alternative course completion, extension of deadlines), campus escort services, assistance with housing, transportation, and other support services, ombudsperson services, legal advice, confidential support persons, referrals to community agencies, and/or other reasonable measures. Students may also seek confidential resources such as health and counseling services, as well as financial assistance, visa and immigration assistance, and safety planning. This is not an exhaustive list. All students who have experienced, witnessed, or been accused of Discriminatory Misconduct are eligible for supportive measures.

For employees, supportive measures may include change of employment conditions, leaves of absence, modifications to work schedules, safety planning, information and assistance regarding employee resources, and/or other reasonable measures. This is not an exhaustive list. Employees who have experienced, witnessed, or been accused of Discriminatory Misconduct are eligible for supportive measures. Employees may also seek confidential resources such as counseling services through the university's Employee Assistance Program.

2. Interim Actions and Emergency Removal

After receiving a report of Discriminatory Misconduct, the university may implement interim action(s) when determined necessary to address an imminent and serious threat of harm to persons or property or when there are reasonable concerns that an investigation may be compromised. Interim actions will remain in place until lifted or modified by a university official with authority to do so. Interim actions aim to prevent the repetition of prohibited conduct, if occurring, and eliminate opportunities for retaliation against a complainant, the individual who reported, other specified persons, and/or a specific student organization.

The specific interim action(s) implemented will vary depending on the circumstances of each report. In some instances, the university may share information regarding such interim measures with a complainant, or other appropriate individuals, on a need-to-know basis, such as safety

planning. Where interim actions place restrictions on Respondents or where Respondents are removed from campus on an emergency basis, Respondents will be provided with the opportunity to raise an objection about the action taken or request that it be made less restrictive. Interim actions for employee respondents may include administrative leave or changing reporting lines.

3. Investigation of Complaints

The Office of Investigations and Civil Rights Compliance is responsible for responding to reports of Discriminatory Misconduct under this Policy. Upon receipt of a report, complainants are offered support resources and the opportunity to meet with an investigator. Following that interview, the investigator determines whether the allegations, if proven true, would constitute a policy violation. If so, a formal complaint is drafted and the respondent is provided notice that an investigation has been initiated, offered support resources, and offered an interview. During the investigation, witnesses for both parties are interviewed, and documents such as emails, text messages, photographs, and other documentary evidence are also gathered. The parties will have an opportunity to review and respond to the evidence. Determinations of whether or not a violation of this Policy has occurred are based on a preponderance of the evidence standard, and respondents are presumed not responsible. Following the decision, parties are afforded applicable appeal or grievance rights. Operative procedures are set forth in the Standard Operating Procedures for student cases and the Employee Formal Process for employee cases. Links to procedures for resolving student and employee formal complaints are available at the end of this policy.

4. Request by Complainant that the University not Investigate

A Complainant may request that the university not initiate a Formal Investigative Process. The university will seek to honor a Complainant's wishes to the extent possible while also meeting its obligation to protect the health and safety of the Complainant and the university community.

In determining whether a Complainant's wishes can be honored, the university will consider: (1) Complainant's request to not proceed with an investigation; (2) Complainant's reasonable safety concerns; (3) the risk that additional acts of discrimination would occur if a complaint is not initiated; (4) the severity of the alleged discrimination, including whether the respondent would be removed from campus or the imposition of another sanction would be necessary to end the discrimination and prevent its recurrence; (5) the age and relationship of the parties, including whether the Respondent is a university employee; (6) the scope of the alleged discrimination, including information suggesting a pattern, ongoing discriminatory misconduct, or

discriminatory misconduct alleged to have impacted multiple individuals; (7) the availability of evidence to assist a decision-maker in determining whether discriminatory misconduct occurred; and (8) whether the university could end the alleged discriminatory misconduct and prevent its recurrence without a formal investigation.

5. Informal Resolution

Where appropriate, and where the parties voluntarily agree, at any time prior to determining whether Discriminatory Misconduct occurred, the parties may participate in informal resolution. Either party may terminate informal resolution at any time prior to the parties reaching an agreement to resolve allegations of Discriminatory Misconduct.

If the parties reach an agreement during informal resolution, the terms of any informal resolution agreement are binding on the parties. The university will review and approve the terms of any informal resolution agreement to ensure that it complies with university policies and that the agreement is enforceable by the university. A party who breaches an informal resolution agreement is subject to discipline.

Potential terms that may be included in an informal resolution agreement include but are not limited to: (1) restrictions on contact between the parties and (2) restrictions on a respondent's participation in one or more university programs or activities or attendance at specific events.

6. Corrective Action

If the university finds that an employee, student, or university community member has engaged in Discriminatory Misconduct under this Policy, it will take immediate and appropriate corrective action. Students who have engaged in Discriminatory Misconduct may face sanctions up to and including suspension or expulsion. Employees who have engaged in Discriminatory Misconduct may face discipline up to and including termination. Campus community members who violate this Policy may be excluded from campus or may otherwise lose the right to use university property and/or to participate in university-sponsored programs and activities.

5. Bad Faith Complaints

Individuals who make bad-faith complaints may be subject to disciplinary action, student conduct code violations, or other appropriate corrective action. A complaint is made in bad faith when it is intentionally dishonest. A finding that a Respondent did not violate a university policy is not alone sufficient to form the basis of a bad faith complaint.

6. Remedial Action

At any time following a report of Discriminatory Misconduct, the Chief Civil Rights Officer and/or Chief Human Resources Officer may review the complaint, investigative report, and/or any sanction to determine whether additional remedies for the parties or university community are necessary to restore and preserve equal access to the university's education programs and activities or to maintain a respectful workplace. Examples of such remedies may include the initiation or continuation of supportive measures, facilitated dialogue, and/or training for members of the university community, as well as modifications to academic, employment, or housing conditions or assignments. Remedial, non-disciplinary action may be taken where the alleged conduct does not constitute a policy violation, but additional incidents or escalation of conduct could give rise to a policy violation.

7. Confidentiality and Privacy

Information received in connection with the reporting, investigation, and resolution of allegations of Discriminatory Misconduct will be treated as private and will not be disclosed except to those individuals whom the university determines are necessary to conduct an appropriate investigation, to provide assistance and resources to parties, to perform other appropriate university functions, or in accordance with applicable law.

VIII. Workplace Fairness

In compliance with the Oregon Workplace Fairness Act, the university is required to notify employees of the following:

- Oregon state law requires that any legal action taken on alleged discriminatory conduct (specifically that prohibited by ORS 659A.030, 659A.082 or 659A.112) commence no later than five years after the occurrence of the violation. Claims against the university are also subject to the notice provisions set forth in ORS 30.275, which typically requires notice to the university within 180 days of the incident.
- The university will not require an employee to enter into any agreement if the purpose or effect of the agreement prevents the employee from disclosing or discussing conduct constituting discrimination, harassment, or sexual assault.
- An employee claiming to be aggrieved by discrimination, harassment, or sexual assault may, however, voluntarily request to enter into a settlement, separation, or severance agreement which contains a nondisclosure, non-disparagement, or no-rehire provision and will have at least seven days to revoke any such agreement.

- Employees are encouraged to document any incidents involving conduct that constitutes prohibited discrimination under state or federal law.

IX. External Complaints

The university encourages all individuals with a pertinent complaint to follow the process in this Policy. However, individuals may always choose to make a discrimination complaint directly to outside agencies or law enforcement, including, but not limited to, the Bureau of Labor and Industries' Civil Rights Division, the Office for Civil Rights of the U.S. Department of Education, the U.S. Equal Employment Opportunity Commission, or the Educational Opportunities Section of the Civil Rights Division of the U.S. Department of Justice.

X. Differential Treatment Required or Allowed by Law

Neither this Policy nor any other university policy shall be interpreted as preventing the university from complying with laws that require preferential treatment – such as Oregon's Veterans Preference laws – or from engaging in constitutional admissions practices designed to achieve diversity goals.

Chapter/Volume:

- Volume V: Human Resources
- Chapter 11: Human resources, other

Related Resources:

Student Resources:

[Resources for Students and Employees, Including Confidential Resources](https://investigations.uoregon.edu/how-get-support)
(<https://investigations.uoregon.edu/how-get-support>).

Reports to the Office of Investigations and Civil Rights Compliance (and Chief Civil Rights Officer and Title IX Coordinator) may be submitted:

- Online at <https://investigations.uoregon.edu/reporting>
(<https://investigations.uoregon.edu/reporting>).
- By email to oiarc@uoregon.edu (<mailto:oiarc@uoregon.edu>).
- By phone at [\(541\) 346-3123](tel:(541)346-3123)

Related Reporting Obligations

- Employees who have been designated as [Campus Security Authorities](https://clery.uoregon.edu/campus-security-authorities) (<https://clery.uoregon.edu/campus-security-authorities>) also have reporting obligations under the Clery Act.
- All University of Oregon employees are [mandatory reporters](https://hr.uoregon.edu/policies-leaves/general-information/mandatory-reporting-child-abuse-and-neglect) (<https://hr.uoregon.edu/policies-leaves/general-information/mandatory-reporting-child-abuse-and-neglect>) for child abuse (ORS 419B.010), elder abuse (ORS 124.060), abuse of adults with mental illness or developmental disabilities (ORS 430.765), and abuse of individuals under care in a long-term care facility (ORS 441.640).

Chapter/Volume:

Chapter 11: Human resources, other

Related Resources:

Student Resources:

[Resources for Students and Employees, Including Confidential Resources](https://investigations.uoregon.edu/how-get-support)
(<https://investigations.uoregon.edu/how-get-support>).

Reports to the Office of Investigations and Civil Rights Compliance (and Chief Civil Rights Officer and Title IX Coordinator) may be submitted:

- Online at <https://investigations.uoregon.edu/reporting>
(<https://investigations.uoregon.edu/reporting>).
- By email to oiarc@uoregon.edu (<mailto:oiarc@uoregon.edu>).
- By phone at [\(541\) 346-3123](tel:(541)346-3123)

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Related Policies and Procedures:

- [Student Conduct Code \(https://policies.uoregon.edu/vol-3-administration-student-affairs/ch-1-conduct/student-conduct-code\)](https://policies.uoregon.edu/vol-3-administration-student-affairs/ch-1-conduct/student-conduct-code)
- Procedures for Students:
 - [Standard Operating Procedures for Discriminatory Misconduct Allegations \(https://investigations.uoregon.edu/formal-student-conduct-process\)](https://investigations.uoregon.edu/formal-student-conduct-process) (Title IX conduct that occurred July 31, 2024, or earlier)
 - Standard Operating Procedures for Discriminatory Misconduct Allegations (conduct occurring August 1, 2024, or later)
- Procedures for Employees:
 - [Employee Formal Process \(https://investigations.uoregon.edu/formal-employee-investigation-process\)](https://investigations.uoregon.edu/formal-employee-investigation-process) (TIX conduct that occurred July 31, 2024, or earlier)
 - Employee Formal Process (conduct occurring August 1, 2024, or later)
- [Conflicts of Interest and Abuses of Power: Sexual, Physically Intimate, or Romantic Relationships with Students Policy \(https://policies.uoregon.edu/vol-5-human-resources/ch-4-workplace/conflicts-interest-and-abuses-power-sexual-physically-intimate\)](https://policies.uoregon.edu/vol-5-human-resources/ch-4-workplace/conflicts-interest-and-abuses-power-sexual-physically-intimate)
- [Faculty Records Policy \(https://policies.uoregon.edu/faculty-records-policy\)](https://policies.uoregon.edu/faculty-records-policy)
- [Student Records Privacy Policy \(https://policies.uoregon.edu/student-records-1\)](https://policies.uoregon.edu/student-records-1)
- [Employee Grievance Policy \(https://policies.uoregon.edu/grievance-procedures\)](https://policies.uoregon.edu/grievance-procedures)
- [Academic Freedom \(https://policies.uoregon.edu/node/218\)](https://policies.uoregon.edu/node/218)
- [Freedom of Inquiry and Free Speech \(https://policies.uoregon.edu/policy/by/1/01-administration-and-governance/freedom-inquiry-and-free-speech\)](https://policies.uoregon.edu/policy/by/1/01-administration-and-governance/freedom-inquiry-and-free-speech)
- [Community Standards Affirmation \(https://policies.uoregon.edu/policy/by/1/01-administration-and-governance/community-standards-affirmation\)](https://policies.uoregon.edu/policy/by/1/01-administration-and-governance/community-standards-affirmation)
- [Proscribed Conduct Policy \(https://policies.uoregon.edu/proscribed-conduct\)](https://policies.uoregon.edu/proscribed-conduct)
- [Protection of Minors \(https://policies.uoregon.edu/vol-4-finance-administration-infrastructure/ch-5-public-safety/protection-minors\)](https://policies.uoregon.edu/vol-4-finance-administration-infrastructure/ch-5-public-safety/protection-minors)
- [Unions – Collective Bargaining Agreements \(https://hr.uoregon.edu/employee-labor-relations/uo-bargaining-units-cbas\)](https://hr.uoregon.edu/employee-labor-relations/uo-bargaining-units-cbas)

Miscellaneous Information:

- [Information on the Clery Act \(https://clery.uoregon.edu/\)](https://clery.uoregon.edu/)
- [Information on Child Abuse Reporting \(https://hr.uoregon.edu/policies-leaves/general-information/mandatory-reporting-child-abuse-and-neglect\)](https://hr.uoregon.edu/policies-leaves/general-information/mandatory-reporting-child-abuse-and-neglect)
- [Information on Anonymous Reporting to the UO Police \(https://safety.uoregon.edu/report-crime\)](https://safety.uoregon.edu/report-crime)
- [Information on Minors on Campus \(https://hr.uoregon.edu/minors-campus\)](https://hr.uoregon.edu/minors-campus)

- [Information on Title IX \(https://investigations.uoregon.edu/title-ix\)](https://investigations.uoregon.edu/title-ix).
- [Information on Safe Ride Program \(https://pages.uoregon.edu/saferide/\)](https://pages.uoregon.edu/saferide/).
- [Information on UOPD Safety Escorts \(https://police.uoregon.edu/safety-escorts\)](https://police.uoregon.edu/safety-escorts).
- [Information on filing a complaint with the Office for Civil Rights \(https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt\)](https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt).

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UO Policy Statement