

## **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 investigation and grievance procedures are set forth in the Standard Operating Procedures for Student Discriminatory Misconduct Allegations, the Employee Formal Process, as well as 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 Equal Opportunity & Access at (541) 346-3123 or [OEOA@uoregon.edu](mailto:OEOA@uoregon.edu).

### **Website Address for this Policy:**

<https://policies.uoregon.edu/vol-5-human-resources/ch-11-human-resource...>

### **Enactment & Revision History:**

xxxx 2025 – Amended with an effective date of August 15, 2025

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. Purpose of Policy**

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, harassment, and retaliation. Discrimination, harassment, and retaliation violate the dignity of individuals, impede the realization of the university's educational mission, and will not be tolerated. This policy complies with federal and state law. While the university will make good faith efforts to update this policy to reflect any legal changes, the law will supersede a provision in the event any provision of this policy conflicts with applicable law.

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 Scope and Jurisdiction**

This Policy prohibits discrimination, harassment, and retaliation on the basis of “protected characteristics,” which include race, color, religion, national origin, sex, sexual orientation, gender identity, gender expression, pregnancy (including pregnancy-related conditions), age, 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. The prohibitions under the Policy also extend to discrimination, harassment, and retaliation based on characteristics and stereotypes associated with a protected characteristic (e.g., sex, race, or religion-based stereotypes). The prohibition against discrimination and harassment based on race, color, religion, national origin or ancestry includes a prohibition against anti-Semitism, Islamophobia, as well as conduct based on citizenship or toward immigrants, migrants, and ethnic groups.

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

A. 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). 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.

Discrimination includes:

- a. Disparate treatment: When an adverse action is motivated in whole or in part by the protected characteristic;
  - b. Disparate impact: 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;
  - c. Failing to effectively implement approved accommodations for disabilities;
  - d. Failing to effectively implement approved religious accommodations;
  - e. Failing to effectively implement approved pregnancy modifications;
  - f. Improper denial or interference with the use of protected leave.
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 similarly situated reasonable person. Harassment may include, but is not limited to, verbal, online and electronic statements, electronic and online conduct, nonverbal or physical conduct, graphic or written statements, threats, or slurs, intentional or repeated deadnaming or misgendering.

Whether the alleged conduct substantially 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. It also includes when a hostile environment is created by the conduct of multiple people, acting in concert, towards an individual.

3. **Sexual Harassment:** A specific form of Harassment involving unwelcome conduct of a sexual nature, such as unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, when:
  - a. Submission to such advances, requests, or conduct is made either explicitly or implicitly a term or condition of an individual's employment, academic experience, or participation in any university program or activity (quid pro quo), or
  - b. The conduct is sufficiently severe or pervasive that it has the effect, intended or unintended, of unreasonably interfering with an individual's work or academic performance, thereby creating an intimidating, hostile, or offensive environment and would have such an effect on a similarly situated reasonable person.

Whether a hostile environment has been created is a fact-specific inquiry. Factors that may be considered include 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 sexual 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. It also includes when a hostile environment is created by the conduct of multiple people, acting in concert, toward an individual.

4. **Sexual Misconduct:** Having or attempting to have sexual contact with another individual without Affirmative Consent (defined below) or causing a person to have sexual contact with another individual without Affirmative Consent. Sexual Misconduct includes:
  - 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; or
  - b. Non-consensual sexual contact: Intentional contact of a sexual nature with a person's breasts, buttocks, groin, genitals, anus, and/or bodily fluids without Affirmative Consent. Contact may be either over or under the clothing.

5. **Dating Violence:** A threat of violence or 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 also includes actual or threatened emotional, sexual, physical, psychological or financial abuse, as well as other controlling behavior, actual or threatened harm to the Complainant, Respondent, their children or other family members, third parties, pets, or property. Dating violence does not include acts covered under the definition of Domestic Violence.
6. **Domestic Violence:** Any act or threat of violence committed by (a) a current or former spouse or intimate partner of the Complainant; (b) a person with whom the Complainant shares a child in common; (c) a person who is 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) 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. Domestic Violence also includes emotional, sexual, physical, psychological or financial abuse, as well as other controlling behavior, including actual or threatened harm to the Complainant, Respondent, their children or other family members, third parties, pets, or property.
7. **Indecent Exposure:** Exposing one's genitals to another person without Affirmative Consent for the purpose of sexual gratification, to harass, humiliate, or intimate. Indecent exposure includes using social media platforms or other means of electronic communication to expose oneself without Affirmative Consent to another person.
8. **Invasion of Privacy:** Invasion of privacy includes (a) voyeurism, including observing or allowing others to observe a person undressing, showering, bathing, or using the bathroom or engaging in sexual acts, without the Affirmative Consent of the person being observed; or (b) listening to or allowing others to listen to or view electronic communications between individuals engaged in sexual activity, without the Affirmative Consent of the individuals engaged in sexual activity.
9. **Public Indecency:** Public indecency includes the following conduct while in, or in view of, a public place: (a) touching oneself for the purpose of sexual gratification, regardless of whether the person's intimate body parts are exposed; (b) an act of sexual intercourse; or (c) an act of oral or anal intercourse.
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. Disseminating, posting, or copying of images, photography, video or audio recording of sexual activity or nudity conducted in a private space without the consent of all individuals involved;
- 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. Inducing an individual to share an intimate image through deception;
- f. Taking an intimate image or recording of an individual when there is an expectation of privacy;
- g. Engaging in sex trafficking;
- h. Knowingly exposing another person to a sexually transmitted infection or sexually transmitted disease without their knowledge and consent;
- i. Knowingly soliciting a minor for sexual activity; or
- j. 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. 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.

The term "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.

The term "substantial emotional distress" means significant mental suffering or anguish.

**12. Retaliation:** Retaliation is an adverse action taken against a Complainant, Respondent, Reporting Party, or any other person because the individual engaged in a protected activity. An adverse action is 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 or complaint, serving as a witness, assisting someone with a complaint, or participating in or declining to participate in an investigation, proceeding, hearing, informal resolution, or grievance process pertaining to a reported violation of any university policy;
  - c. Participating in the university's religious or disability accommodation processes;
  - d. Requesting pregnancy modifications; or
  - e. Requesting or using protected leave.
- B. The following key terms apply to alleged Discriminatory Misconduct under this Policy:
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.
  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.
  6. **Affirmative Consent:** Affirmative Consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. It is the responsibility of each person involved to ensure they have the Affirmative Consent of the other(s) to engage in each sexual activity.

Affirmative consent can be communicated by words or actions, as long as those words or actions convey a clear willingness to engage in the sexual activity and 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 affirmative 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. Coercion includes inducing fear through words or conduct to overcome a person's will and obtain compliance. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and/or blackmail. A person's subjective fear of harm, in the absence of conduct by another that would induce fear in a reasonable similarly situated person, does not constitute coercion.
- Affirmative consent must be ongoing throughout sexual activity.
- Affirmative consent can be withdrawn at any time. Withdrawal of consent must be accompanied by clear communication through words or actions. A lack of affirmative consent can be inferred from conduct that prevents an individual from withdrawing consent, such as biting, coercion, choking, slapping, hitting, or restraining an individual during otherwise consensual sexual activity. 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.
- Affirmative consent is specifically required for intimate activities such as biting, choking, hitting, slapping, or restraining an individual, including where these intimate activities occur during an otherwise consensual romantic interaction or sexual encounter.
- Affirmative consent is required to re-initiate intimate activity, if affirmative consent was previously withdrawn.
- 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 due to intoxication or their age. In evaluating consent in cases of alleged incapacitation due to intoxication, the university considers whether the Respondent knew or under the circumstances reasonably should have known the Complainant was incapacitated. Voluntary intoxication does not



absolve a person of responsibility for non-consensual sexual contact. In evaluating consent based on an individual's age, the university will consider whether one party was 15 years or younger and the Respondent was at least 18 years old at the time of sexual contact.

7. **Disability:** A person has a disability if they:

- Have a physical, mental, or other condition that substantially limits one or more major life activities, including caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, working, reading, concentrating, thinking, and communicating. A major life activity also includes the operation of a major bodily function, such as normal cell growth, digestive, bowel, bladder, neurological, respiratory, circulatory, endocrine, and reproductive functions;
- Have a record of such conditions; or
- Are regarded by others as having such an impairment.

8. **Pregnancy:** 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.

#### **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. Time Frame for Reporting**

There is no time limit for reporting. However, 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, the ability to identify and contact witnesses with relevant information, and/or the ability to gather other relevant evidence that may be lost due to the passage of time.

#### **VI. Options for Reporting**

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

## **1. Filing a Report**

An individual may make a report to the university, to law enforcement, to neither, or to both. Reporting to the university allows the university to respond as effectively as possible, provide support, track behavioral trends for the purpose of modifying and improving prevention efforts, and provide support as further described below.

### **a. Reporting to the University**

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 misconduct immediately to the university. Reports may be submitted to the university's Office of Equal Opportunity & Access 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.

### **b. 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.

The university's formal resolution process and law enforcement investigation may be pursued simultaneously but will operate independently of one another. The university will, when appropriate, coordinate information with law enforcement if law enforcement has been 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.

## **2. Confidential Disclosures**

The university also offers confidential resources, including Confidential Employees (as set forth in Section VII.1), for individuals who are unsure whether to formally 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.

## **VII. 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 Equal Opportunity & Access;
- 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 Confidential Employees, Designated Reporters or Student Employees 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 university role:

- All health care and mental health professionals working in such capacity at the University of Oregon, including without limitation, employees at University Health Services and in Athletics Medicine;
- Care and Advocacy Program staff;
- Employees conducting an Institutional Review Board-approved human-subjects study designed to gather information about sex discrimination or harassment, 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 or other proceedings;
- Other employees who have a professional commitment and/or legal privilege that may enable them to successfully oppose 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 (as defined below) are Designated Reporters, including 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 OEOA, 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 OEOA, the Designated Reporter does not need to report it but is encouraged to report new or additional information to OEOA.

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

### **3. Student Employees**

While at work, upon receipt of a disclosure of Discriminatory Misconduct, Student Employees must do one of the following:

- a. File a report with the Office of Equal Opportunity and Access;
- b. Consult with their supervisor about the appropriate steps to take without revealing the name of the person who made the disclosure. If the supervisor determines that a report to the university is necessary, the Student Employee must disclose the name of the person and the information disclosed to their supervisor.

## **VIII. University Response to Reports of Discriminatory Misconduct**

The university will respond promptly and effectively to reports of Discriminatory Misconduct. This may include taking appropriate corrective action, where possible. 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 policies, 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 Equal Opportunity & Access, 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 complainant and 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 university programs and activities, and to 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 a change in 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 or the university's Ombudsperson program.

## **2. Interim Actions and Emergency Removal**

After receiving a report of Discriminatory Misconduct, the university may implement interim actions as necessary to address an imminent and serious threat of harm to persons or property, when there are reasonable concerns that an investigation may be compromised, or to prevent the recurrence of similar alleged conduct during the pendency of an investigation. 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 actions 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 when 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, remote work, or changing reporting lines. Administrative leave may commence immediately following receipt of a report or when an investigation is initiated.

## **3. Investigation of Complaints**

The Office of Equal Opportunity & Access 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 substantiated, 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 of whether the Policy has been violated, 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. Informal resolution is not available in cases where one party is a student, and the other party is an employee.

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; (2) restrictions on a respondent's participation in one or more university programs or activities or attendance at specific events; and (3) educational activities to be undertaken by the Respondent.

## **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.

## **7. 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.

## **8. Remedial Measures**

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.

Remedial non-disciplinary measures may also be available where reported conduct has created a hostile environment for campus community members, but the reported conduct



cannot be sanctioned by the university for one or more reasons, including because the reported conduct is protected by the First Amendment.

## **9. 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.

## **IX. Workplace Fairness**

In compliance with the Oregon Workplace Fairness Act, the university notifies 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.

## **X. 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.

## **XI. 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 state and federal law, including but not limited to the Oregon's Veterans Preference laws.

**Chapter/Volume:**

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

**Related Resources:**

**Student Resources:**

[Resources for Students and Employees, Including Confidential Resources](#)

**Reports to the Office of Equal Opportunity & Access (and Chief Civil Rights Officer and Title IX Coordinator) may be submitted:**

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

**Related Reporting Obligations:**

- Employees who have been designated as [Campus Security Authorities](#) also have reporting obligations under the Clery Act.
- All University of Oregon employees are [mandatory reporters](#) 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).

**Related Policies and Procedures:**

- [Student Conduct Code](#)
- [Standard Operating Procedures for Student Discriminatory Misconduct Allegations](#)
- [Employee Formal Process](#)
- [Conflicts of Interest and Abuses of Power: Sexual, Physically Intimate, or Romantic Relationships with Students Policy](#)
- [Faculty Records Policy](#)
- [Student Records Privacy Policy](#)
- [Employee Grievance Policy](#)
- [Academic Freedom](#)
- [Freedom of Inquiry and Free Speech](#)
- [Community Standards Affirmation](#)
- [Proscribed Conduct Policy](#)
- [Protection of Minors](#)
- [Unions – Collective Bargaining Agreements](#)

**Miscellaneous Information:**

- [Information on the Clery Act](#)
- [Information on Child Abuse Reporting](#)
- [Information on Anonymous Reporting to the UO Police](#)
- [Information on Minors on Campus](#)
- Information on Title VI (link to come)
- [Information on Title IX](#)
- [Information on Safe Ride Program](#)
- [Information on UOPD Safety Escorts](#)
- [Information on filing a complaint with the Office for Civil Rights](#)
- [FAQs and Support Resources](#)
- [List of Confidential Employees in Colleges and Departments](#)

**Original Source:**

UO Policy Statement