



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

Responsible Office: Equal Opportunity and Access

Effective: July 19, 2022

Last Revised: July 19, 2022

University Policy 04-100

Discrimination and Discriminatory Harassment

1. Policy Statement

- 1.1. Oregon State University (“university”) is committed to creating and maintaining an equitable and inclusive working and learning environment free of discrimination and discriminatory harassment. In furtherance of that commitment, it is the policy of the university to prohibit discrimination and discriminatory harassment.
- 1.2. All individuals who are participating in university programs and activities, and all those who apply to participate in university programs and activities, have the right to do so fully, free from prohibited discrimination and discriminatory harassment. The university prohibits unlawful discrimination on the basis of age, race, color, religion, sex, sexual orientation, gender identity or expression, national origin, citizenship, marital or family status, pregnancy, disability, genetic information, protected veteran status / service in the uniformed service, or any other status protected by law or OSU policy (individually and collectively, “Protected Status”).¹

2. Reason for Policy

- 2.1. This policy is intended to comply with state and federal nondiscrimination/equal opportunity laws and implementing regulations, including but not limited to: The Equal Pay Act of 1963; The Civil Rights Act of 1964, as amended; Age Discrimination in Employment Act of 1967, as amended; Sections 503 and 504 of the Rehabilitation

¹ Sexual/gender-based discrimination, including sexual/gender-based misconduct, are defined and addressed in University Policy 05-001 Sexual Misconduct and Discrimination. Sexual/gender-based discrimination includes discrimination based on sex, gender, gender identity (including transgender), gender expression, or sexual orientation. Sexual/gender-based misconduct includes sexual harassment, non-consensual sexual contact, non-consensual sexual intercourse, non-consensual sexual activity, intimate partner violence, stalking, and sexual exploitation. All complaints that include allegations of sexual/gender-based misconduct will be considered under Policy 05-001.

Act of 1973; Section 402 of the Vietnam Era Veterans Readjust Assistance Act (1974); Age Discrimination Act (1975); Pregnancy Discrimination Act (1978); Immigration Reform and Control Act of 1986; Americans with Disabilities Act of 1990; Civil Rights Act of 1991; Uniform Services Employment and Reemployment Act (1994); ADA Amendments Act of 2008; Genetic Information Nondiscrimination Act of 2008; and all other applicable state and federal civil rights laws.

3. Scope & Audience

- 3.1. This policy applies to all members of the university community, including, but not limited to: students, student organizations, employees, contractors, volunteers, and visitors; all applicants for university employment or for admission to educational or university-sponsored programs or activities; and all non-student and non-employee persons or groups participating in or accessing university-sponsored programs, activities, or facilities.
- 3.2. The university reserves the right to respond, in conformance with university policy and applicable law, to conduct: that occurs on property owned, controlled, or used by the university; at university associated events; in online, extended, or distance learning environments; away from the university when the conduct could have the impact of limiting or denying any university community member's ability to participate in or benefit from a university program or activity; or when it creates a hostile work or educational environment.

4. Definitions

- 4.1. **Employee:** All persons employed by the university, including, but not limited to, academic faculty, professional faculty, classified staff, temporary staff, law enforcement professionals, student employees, and graduate assistants.
- 4.2. **Student:** An admitted person demonstrating acceptance of admission through participation in orientation programs or early start programs; a person who is enrolled or dually enrolled; a person enrolled online; a person between academic terms; a graduate awaiting a degree; a person on an approved educational leave; a person currently serving a suspension, including administrative suspension; a person who is not currently enrolled but can register without re-applying; a person who withdraws while a disciplinary matter, including an investigation, is pending; and, a person who is eligible to receive any of the rights and privileges afforded a person who is enrolled.
- 4.3. **Student Organization:** A recognized student organization or department student organization.

- 4.4. **Complainant:** A person alleging a violation of this policy or who is allegedly the victim of a person who is alleged to have violated this policy.
- 4.5. **Respondent:** A person who is alleged to have violated this policy.
- 4.6. **Protected status:** A legally protected category or characteristic of an individual or group of individuals. The university prohibits unlawful discrimination on the basis of these protected statuses: age, race, color, religion, sex, sexual orientation, gender identity or expression, national origin, citizenship, marital or family status, pregnancy, disability, genetic information, protected veteran status / service in the uniformed service, or any other status protected by law or OSU policy.
- 4.7. **Reasonable person:** An objective standard referring to a hypothetical reasonable person with a reasonable way of interpreting and reacting to a situation. A reasonable person is assumed to exercise average care, skill, and judgement.

5. Responsibilities & Procedures

5.1. General

- 5.1.1. The university shall respond promptly to all complaints of prohibited discrimination and discriminatory harassment, and shall take appropriate action to prevent, correct, and sanction conduct that violates this policy.
- 5.1.2. Alleged violations of this policy will be investigated by the Office of Equal Opportunity and Access (“EOA”). See *8. Related Information* below for additional information.
- 5.1.3. As determined by the Executive Director of EOA, the university reserves the right to initiate an investigation of any conduct prohibited by this policy without a formal report from or participation by the complainant.
- 5.1.4. The applicable evidentiary standard for all violations of this policy is preponderance of the evidence. That standard is met when the evidence shows that it is “more likely than not” that the alleged misconduct occurred.
- 5.1.5. Persons who are found to have violated this policy are subject to sanctions commensurate with the violation, up to and including termination of employment, expulsion from the university, and/or removal of privileges to participate in university programs and activities. Sanctions will be applied to stop further discrimination and discriminatory harassment, and to prevent future violations.

- a. If employee discipline is warranted, it shall be administered in a manner consistent with applicable collective bargaining agreements, university policies, and legal requirements.
 - b. If student discipline is warranted, it shall be administered in accordance with the Code of Student Conduct (“Code”). All sanctions listed in the Code are available as outcomes for student violations of this policy.
- 5.1.6. The university may impose an interim administrative suspension on a student/student organization or may impose an interim change in the employment arrangements of an employee, pending the completion of an investigation and resolution. Such interim administrative suspension or change in employment arrangements will be initiated in accordance with Student Conduct and Community Standards (“SCCS”) or Employee and Labor Relations (“ELR”) processes, as applicable, and in compliance with applicable law.
- 5.1.7. The Executive Director of EOA is responsible for implementation of and compliance with this policy. The Executive Director is responsible for publishing this policy, developing and conducting training, and establishing an administrative structure that facilitates the prevention, response to, mitigation of effects, and elimination of discrimination and discriminatory harassment consistent with this policy.
- 5.1.8. Complainants and respondents are not restricted from discussing or sharing information with others who may support or assist them during the process, nor are they prohibited from seeking resolution in court or with an applicable state or federal agency. However, reproduction of documents and/or disclosure of information contained in documents made available for review in the process is prohibited, and any breach of this restriction is subject to disciplinary action by ELR and/or SCCS, as appropriate. All parties are encouraged to exercise discretion in sharing information in order to safeguard the integrity of the process and to avoid retaliation or the appearance of retaliation. While discretion is encouraged, this policy should not be understood to limit the legal rights of the parties during or after resolution. All other conditions for disclosure are governed by applicable state and federal law.

5.2. Prohibited Conduct

- 5.2.1. **Discrimination.** Conduct, either intentional or unintentional, based on a protected status that:
- a. Excludes an individual from participation in any university program or activity for which they are otherwise eligible; or

- b. Denies the individual the benefits of a university program or activity for which they are otherwise eligible; or
- c. Otherwise adversely affects a term or condition of an individual's employment, education, on-campus housing, or participation in a university program or activity.
- d. The failure to provide reasonable accommodations required by law or university policy based on disability, pregnancy or religious practice may constitute discrimination.

5.2.2. **Discriminatory Harassment.** Conduct towards an individual (or group of individuals), based on protected status, that is unwelcome and sufficiently severe or pervasive that:

- a. It creates an intimidating, hostile, or offensive environment in which to work, learn, or participate in a university program or activity; or,
- b. It unreasonably interferes with the individual's academic pursuits, employment, or participation in a university program or activity; and
- c. A reasonable person in the same circumstance would be similarly affected by the conduct.
- d. Discriminatory harassment may take many forms, including verbal acts such as name calling, oral statements, and visual, electronic, or written statements, or other conduct that a reasonable person would find physically threatening, harmful, or humiliating. Discriminatory harassment does not have to involve the intent to cause harm, be directed at a specific individual, or involve repeated incidents in order to be prohibited.

5.3. Reporting

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

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

- 5.3.2. Even if a complainant chooses not to report formally and/or chooses not to participate in an investigation or resolution process, the complainant can contact EOA for information and assistance accessing on or off campus support resources and for information on available assistance.
- 5.3.3. In the event an incident involves alleged discrimination or discriminatory harassment by the Executive Director of EOA, reports should be made directly to OSU's President or their designee: Rebecca Gose, General Counsel, Office of the General Counsel, Rebecca.Gose@oregonstate.edu.
- 5.3.4. **Other Reporting Options.** Anyone experiencing discrimination or discriminatory harassment also has the right to file a formal complaint with government authorities, but should be aware that deadlines may apply. In compliance with the Oregon Workplace Fairness Act, OSU is required to notify employees that employees who pursue legal action against OSU based on alleged unlawful employment practice prohibited by ORS 659A.030, 659A.082 or 659A.112 (unlawful discrimination or sexual assault) must do so no later than five (5) years after the occurrence of the alleged unlawful employment practice.
- a. U.S. Department of Education, Office for Civil Rights, Seattle Office
915 Second Avenue, Room 3310
Seattle, WA 98174-1099
Telephone: 206-607-1600
Telecommunications Device for the Deaf (TDD/TTY): 800-877-8339
Email: OCR.Seattle@ed.gov
Website: www2.ed.gov/about/offices/list/ocr/index.html
- b. U.S. Department of Justice, Civil Rights Division
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Telephone: 202-514-3847
Telecommunications Device for the Deaf (TDD/TTY): 202-514-0716
Email: education@usodj.gov
Website: civilrights.justice.gov
- c. Oregon Bureau of Labor and Industries, Civil Rights Division
800 NE Oregon Street, Suite 1045,
Portland, OR 97232
Telephone: 971-673-0764
Telecommunications Device for the Deaf (TDD/TTY): TTY Relay 711
Email: help@boli.state.or.us
Website: www.oregon.gov/BOLI

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

6. Forms & Tools

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

7. Frequently Asked Questions

- 7.1. None.

8. Related Information

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

9. History

- 9.1. Adopted by OSU: July 1, 2014 as University Policies 580-015 *Nondiscrimination* and 580-022-0050 *Employment Discrimination, Faculty* from Oregon Administrative Rule 580-015 et seq. and 580-022-0050.
- 9.2. Amended: University Policies 580-015 *Nondiscrimination* and 580-022-0050 *Employment Discrimination, Faculty* were amended, consolidated and renumbered as University Policy 04-100 Discrimination and Discriminatory Harassment on July 19, 2022.
- 9.3. Next scheduled review date: July 2025.

10. Website

10.1. eoa.oregonstate.edu/discrimination-concerns

11. Contacts

Department	Phone Number	Website
Equal Opportunity and Access	541-737-3556	eoa.oregonstate.edu
Report Discrimination or Discriminatory Harassment to:		
The Office of Equal Opportunity and Access 330 Snell Hall Corvallis, OR 97331		
Submit a report of alleged discrimination or discriminatory harassment electronically at: cm.maxient.com/reportingform.php?OregonStateUniv&layout_id=4		