



Responsible Executive: Title IX Coordinator

Responsible Office: Equal Opportunity and Access

Effective: September 15, 2017

Last Revised: September 15, 2023

University Policy 05-001

Sexual Misconduct and Discrimination

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 all violence, harassment, and discrimination. The university embraces and respects differences in sex, gender, gender identity, gender expression, and sexual orientation among all individuals.
- 1.2. All individuals who are participating in university programs and activities have the right to do so fully, free from sexual misconduct, discrimination, and retaliation. The university prohibits sexual misconduct of any kind, including sexual harassment; non-consensual sexual contact, activity, or intercourse; intimate partner violence; sexual exploitation; and stalking. Such misconduct violates university policy and may also violate state or federal law. When sexual misconduct occurs, the university will take steps to stop, prevent recurrence, and remedy the impacts of such behavior.

2. Reason for Policy

- 2.1. This policy is established in compliance with Title IX of the Education Amendments of 1972, the Violence Against Women Act of 1994 (“VAWA”), the Campus Sexual Violence Elimination Act of 2013 (“Campus SaVE Act”), and Title VII of the Civil Rights Act of 1964, and all other applicable state and federal civil rights laws.

3. Scope & Audience

- 3.1. This policy and associated resolution processes are applicable to all members of the university community, including, but not limited to students, student organizations, employees, contractors, volunteers, and visitors; all applicants for university employment or for admission to educational or university-sponsored programs or activities; and all non-student and non-employee persons or groups participating in or accessing university-sponsored programs, activities, or facilities.

- 3.2. The university reserves the right to respond, in conformance with university policy and applicable law, to conduct: that occurs on property owned, controlled, or used by the university; at university associated events; in online, extended or distance learning environments; away from the university when the conduct could have the impact of limiting or denying any university community member's ability to participate in or benefit from a university program or activity; or when it creates a hostile work or educational environment.

4. Definitions

- 4.1. **Complainant:** A person alleging a violation of this policy or who is allegedly the victim of a person who is alleged to have violated this policy.
- 4.2. **Consent:** Knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity.
- 4.3. **Employee:** All persons employed by the university, including, but not limited to, academic faculty, professional faculty, classified staff, law enforcement professionals, student employees, and graduate assistants.
- 4.4. **Perpetrator:** A person who engages in a prohibited activity under this policy.
- 4.5. **Respondent:** A person who is alleged to have violated this policy.
- 4.6. **Reasonable Person:** An objective standard referring to a hypothetical reasonable person with a reasonable way of interpreting and reacting to a situation.
- 4.7. **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.
- 4.8. **Student Organization:** A recognized student organizations or student groups affiliated with an academic unit.

5. Responsibilities & Procedures

5.1. General

- 5.1.1. The university shall respond promptly and effectively to all complaints of sexual discrimination, sexual misconduct, and retaliation, 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”). More information on the procedures used by EOA to investigate or otherwise resolve alleged violations of this policy can be found at: eoa.oregonstate.edu/sexual-misconduct-and-discrimination.
- 5.1.3. As determined by the Title IX Coordinator, the university reserves the right to initiate an investigation of any conduct prohibited by this policy without a formal complaint 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. Upon conclusion of EOA’s investigation and evidence gathering process, EOA will forward the final investigation report and all relevant evidence to Employee and Labor Relations (“ELR”) for matters involving employee respondents or to Student Conduct and Community Standards (“SCCS”) for matters involving student respondents. Decision-makers from ELR or SCCS, as applicable, following the relevant process (see 5.1.2), will determine if this policy was violated.
- 5.1.6. Persons who are found to have violated this policy shall be subject to sanctions commensurate with the violation, up to and including termination of employment, expulsion from the university, and/or removal of privileges to participate in university programs and activities.
 - a. If employee discipline is warranted, it shall be administered in a manner consistent with applicable collective bargaining agreements, university policies, and legal requirements.
 - 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, including, but not limited to, warning, required educational activities, university/community service work hours, behavior expectations, restitution, restriction/exclusion, no contact order, academic sanction, removal from a class, residential disciplinary probation,

university conduct probation, conduct suspension, expulsion, loss of recognition, and degree revocation.

- 5.1.7. 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 SCCS or ELR processes, and in compliance with applicable law or collective bargaining agreement.
- 5.1.8. The Executive Director of EOA & Title IX Coordinator is responsible for implementation of and compliance with this policy, and 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 sexual misconduct and discrimination consistent with this policy.
- 5.1.9. 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, the Title IX Investigation Process should not be understood to limit the legal rights of the parties during or after resolution. The university may not, by federal law, prohibit either party from disclosing the final outcome after any appeal is concluded. All other conditions for disclosure are governed by applicable state and federal law.
- 5.1.10. Almost all university employees are required by university policy to immediately report a possible violation of this policy to EOA. However, the university makes several confidential offices available to assist individuals who have been affected by sexual misconduct or discrimination. See Section 6.3 Confidential Resources below for more information on university offices that do not report sexual assaults or other sexual misconduct or discrimination to other university offices. These offices can confidentiality assist and/or refer students and employees to resources and services both within the university and within the community.
- 5.1.11. In compliance with the Oregon Workplace Fairness Act, the university is required to notify employees that employees who pursue legal action against the university

based on alleged unlawful employment practice prohibited by ORS 659A.030, 659A.082 or 659A.112 (unlawful discrimination or sexual assault) must do so no later than five (5) years after the occurrence of the alleged unlawful employment practice. The university may not require or coerce a former, current, or prospective employee to enter into a nondisclosure or nondisparagement agreement that has the purpose or effect of preventing the individual from disclosing or discussing conduct prohibited by ORS 659A.030, 659A.082 or 659A.112 (unlawful discrimination or sexual assault) when that conduct occurred between employees or between an employer and an employee in the workplace or at certain work-related events; or that occurred between an employer and an employee off the employment premises, **except**, (1) When an employee claiming to be aggrieved by unlawful conduct requests to enter into a settlement, separation, or severance agreement which contains a nondisclosure, nondisparagement, or “no-rehire” provision and will have seven (7) calendar days to revoke the agreement; or (2) If an employer makes a good faith determination that an employee has engaged in conduct prohibited by ORS 659A.030, ORS 659A.082 or 659A.112.

5.2. Amnesty

- 5.2.1. Oregon State University encourages all community members to report behavior associated with sexual misconduct. To support such reporting, except for the specific reasons noted below, the university will not pursue student conduct proceedings against a reporting student, a complainant, or a witness for personal use of alcohol, marijuana or other drugs, trespassing or unauthorized entry of university-owned or operated facilities, or other violations of the Code, occurring at or near the time of the alleged incident of sexual misconduct. Additionally, the university will not pursue student conduct proceedings against a respondent for personal use of alcohol, marijuana, or other drugs at or near the time of the incident. Oregon State University may, however, initiate an educational discussion with any student regarding any behavior that, without reporting amnesty, could violate the Code.
- 5.2.2. Exceptions: At the discretion of the Director of Student Conduct and Community Standards, or their designee, a reporting party, a complainant, a witness, or a respondent will not be granted reporting amnesty if their behavior placed the health or safety of any other person at risk, if the university determines that the report of sexual misconduct was not made in good faith, or the violation of the Code was egregious.

5.3. Prohibited Conduct – OSU Sexual Misconduct and Discrimination¹

- 5.3.1. **Sex/Gender-Based Discrimination.** Conduct, either intentional or unintentional, based on sex, gender, gender identity (including transgender), gender expression, or sexual orientation, 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 pregnancy or a pregnancy-related medical condition may constitute discrimination.
- 5.3.2. **Sex/Gender-Based Discriminatory Harassment.** Conduct towards an individual (or group of individuals), based on sex, gender, gender identity (including transgender), gender expression, or sexual orientation, 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. Sex/gender-based 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. Sex/gender-based 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.

¹ These prohibited conduct definitions are used for university sexual misconduct and discrimination allegations that do not fall within the Title IX prohibited conduct as defined in section 5.4.2.

5.3.3. **Sexual Misconduct.** Sexual harassment, non-consensual sexual contact, non-consensual sexual intercourse, non-consensual sexual activity, intimate partner violence, stalking and sexual exploitation are considered sexual misconduct and are prohibited.

a. **Sexual Harassment.** Any unwelcome sexual advance, request for sexual favor, or other verbal or physical conduct of a sexual nature when:

- i. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education;
- ii. Submission to or rejection of such conduct by an individual is used as the basis for employment or education-related decisions affecting such an individual; or
- iii. Such 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 because it has created an intimidating, hostile, or offensive environment and would have such an effect on a reasonable person of that individual's status.
- iv. A single isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to establish the existence of a hostile environment, particularly if the harassment is physical. Conduct that is pervasive or persistent, even if not severe, may also create a hostile environment.
- v. Employee conduct directed towards a student, whether unwelcome or welcome, may constitute sexual harassment, and may also violate the Consensual Relationships Policy (eoa.oregonstate.edu/consensual-relationships-policy).
- vi. The university may consider the effects of off-campus conduct when evaluating hostile environment sexual harassment on campus.

b. **Non-Consensual Sexual Contact.** Any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual contact includes intentional contact with the breasts, buttocks, groin or genitals, or touching others with any of these body parts, or making others touch another or themselves with or on any of these body parts, or any other intentional bodily contact made in a sexual manner.

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- c. **Non-Consensual Sexual Intercourse.** Any sexual intercourse, with any object, by a person upon another person that is without consent, and/or by force. Intercourse includes vaginal or anal penetration by a penis, object, tongue, or finger and mouth-to-genital contact, no matter how slight the penetration or contact.
- d. **Non-Consensual Sexual Activity.** Any sexual activity, including, but not limited to kissing, touching intimate body parts, and fondling without first obtaining consent to the specific activity. Such activity constitutes sexual misconduct under this policy whether or not the conduct violates any civil or criminal law.
- e. **Intimate Partner Violence.** Intimate Partner Violence (“IPV”), includes dating violence, domestic violence, and other types of relationship violence. IPV is violence or a threatened act of violence against a person who is, or has been involved in, a sexual, dating, or other intimate relationship with the alleged perpetrator.
- i. If there is a question whether a relationship exists, EOA will make a determination based on the complainant’s description of the relationship, respondent’s description of the relationship, frequency of interaction between the parties, and consideration of the length and type of the relationship.
 - ii. IPV can encompass a broad range of behavior, including all prohibited behavior in this policy. It may involve one act or an ongoing pattern of behavior. IPV may take the form of threats, assault, property damage, violence, or threat of violence to oneself, one’s sexual or romantic partner, or to family members or friends of the sexual or romantic partner.
- f. **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their or others’ safety or to suffer substantial emotional distress. For purposes of this definition:
- i. Course of conduct means two or more acts, including but not limited to, acts in which the alleged perpetrator directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property;
 - ii. Reasonable person means a reasonable person under similar circumstances and with the same protected status(es) as the complainant;
 - iii. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling;

- iv. Stalking includes cyber-stalking, a particular form of stalking in which the alleged perpetrator uses electronic media such as the internet, social media, blogs, cell phones, texts or other electronic devices or platforms to engage in the activity.
- g. **Sexual Exploitation.** Non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:
 - i. Without consent, purposefully observing another individual's nudity or listening to or observing the sexual activity of individuals, or purposefully allowing another to observe or listen to consensual sexual activity, which is conducted in a private space, without the knowledge and consent of all parties involved;
 - ii. Viewing or possessing, or enabling or facilitating the viewing, creation, or trafficking of child pornography;
 - iii. Non-consensual photographing, recording, sharing, or streaming of images, photography, video, or audio recording of sexual activity or nudity conducted in a private space, or distribution of such without the knowledge and consent of all parties involved;
 - iv. Exposing one's genitals or inducing another to expose their own genitals in non-consensual circumstances;
 - v. Knowingly exposing another individual to a sexually transmitted infection, or disease, without their knowledge;
 - vi. Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity; or
 - vii. Prostituting another person.

5.3.4. **Retaliation.** Retaliation against a complainant, respondent, or any individual or group of individuals for any manner of participation with the university under this policy is prohibited. Retaliation includes any action that adversely affects the employment, education, or access to a university program or activity of an individual due to the individual's engagement in protected activity.

- a. Adverse action is any action that is reasonably likely to deter a reasonable person in the same circumstances as the individual from engaging in protected

activity. Adverse action does not include (1) petty slights or trivial annoyances; or (2) action, including employment or academic action, which would have been taken regardless of the individual's engagement in protected activity.

- b. Protected activity, as used in this policy, includes (1) filing a complaint or report with an official Oregon State University office or a state or federal agency, or otherwise participating in the university's or a state or federal agency's inquiry, investigation, or other dispute resolution process pertaining to discrimination, harassment, or other conduct prohibited by university policy, the Code of Student Conduct, or applicable law; (2) opposing conduct that the individual reasonably believes is prohibited by law; or (3) participating in the university's reasonable accommodation processes under the Americans with Disabilities Act (ADA).
- c. The university will impose sanctions on any individual subject to this policy who is found to have engaged in retaliation, or individuals who encourage third parties to retaliate on their behalf or are found to have engaged in conduct that would discourage a reasonable person from participating in an investigation or resolution.

5.4. Prohibited Conduct – Title IX Sexual Misconduct²

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

- a. The allegation meets the definition of sexual harassment as outlined in 5.4.2;
- b. The matter alleges conduct in a university program or activity over which the university exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred;
- c. The incident occurred against a person in the United States who, at the time of filing the complaint, was participating in or attempting to participate in a university education program or activity; and
- d. A written, signed formal complaint describing the allegations is submitted to EOA or signed by the Title IX Coordinator.

² Title IX Discriminatory Sexual Misconduct definitions are only for allegations falling within the definitions of Title IX prohibited conduct, as defined in section 5.4.2.

- 5.4.2. **Title IX Sexual Harassment.** Any conduct on the basis of sex that satisfies one or more of the following:
- a. A university employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
 - b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a university educational program or activity;
 - c. **Title IX Sexual Assault.** An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
 - i. Sex Offenses, Forcible. Any sexual act directed against another person, without the consent of the complainant including instances where the complainant is incapable of giving consent.
 1. Forcible Rape. Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant.
 2. Forcible Sodomy. Oral or anal sexual intercourse with another person, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the complainant is incapable of giving consent because of age or because of their temporary or permanent mental or physical incapacity.
 3. Sexual Assault With An Object. To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the complainant is incapable of giving consent because of age or because of their temporary or permanent mental or physical incapacity.
 4. Forcible Fondling. The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the complainant is incapable of giving consent because of age or because of their temporary or permanent mental or physical incapacity.

- ii. Sex Offenses, Nonforcible. Nonforcible sexual intercourse.
 - 1. Incest. Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - 2. Statutory Rape. Nonforcible sexual intercourse with a person who is under the statutory age of consent.

- d. **Title IX Dating Violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant.
 - i. The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition:
 - 1. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - 2. Dating violence does not include acts covered under the definition of Title IX domestic violence.

- e. **Title IX Domestic Violence.** An act of violence committed by:
 - i. A current or former spouse or intimate partner of the complainant,
 - ii. A person with whom the complainant shares a child in common,
 - iii. A person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner,
 - iv. A person similarly situated to a spouse of the complainant under applicable law,
 - v. Any other person against a complainant who is protected from that person's acts under applicable domestic or family violence laws.

- f. **Title IX Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - i. Fear for their safety or the safety of others; or
 - ii. Suffer substantial emotional distress.

iii. For the purposes of this definition:

1. Course of conduct means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
2. Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.
3. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

5.4.3. **Title IX Retaliation.** Intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the university's Title IX Investigation and Resolution process.

5.5. Evaluation of Consent

5.5.1. All sexual activity between members of the university community must be based on consent. Obtaining the consent of all sexual partners is crucial to prevent sexual misconduct and is required by this policy.

5.5.2. When determining whether consent was present, the university will consider whether a sober, reasonable person in the same position should have known whether the other party could or could not consent to the sexual activity.

5.5.3. To be effective, consent must be all of the following:

- a. Informed and reciprocal. All parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are consenting and a willingness to do the same thing, at the same time, in the same way. Consent cannot be informed when one is unaware that the act is being committed.
- b. Freely and actively given. An individual cannot consent who is incapacitated by any drug or intoxicant; or who has been compelled by force, threat of force, or deception; or whose ability to consent is compromised because of a mental or physical condition; or who is coerced by grading, supervisory, or disciplinary authority.

- c. Mutually understandable. Communication regarding consent consists of mutually understandable words and/or actions that indicate an unambiguous willingness to engage in sexual activity. In the absence of clear communication or outward demonstration, there is no consent. Consent may not be inferred from silence, passivity, lack of resistance, or lack of active response. An individual who does not physically resist or verbally refuse sexual activity is not necessarily giving consent. Relying solely upon non-verbal communication can lead to a false conclusion as to whether consent was sought or given.
 - d. Present and ongoing. Recognizing the dynamic nature of sexual activity, individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout all stages of sexual activity. Withdrawal of consent can be expressed orally or can be based on an outward demonstration that conveys that an individual is hesitant, confused, uncertain, or is no longer a mutual participant. Once consent is withdrawn, the sexual activity must cease immediately and all parties must obtain mutually expressed or clearly stated consent before continuing further sexual activity.
- 5.5.4. The existence of prior sexual activity or relationship does not, in and of itself, constitute consent. Consent to some sexual acts does not constitute consent to others, nor does past consent to a given act constitute present or future consent.
- 5.5.5. A person is unable to give consent when there is sufficient evidence of force, coercion, or incapacitation. For the purposes of determining consent:
- a. “Force” is the use or threat of physical violence or intimidation to overcome an individual’s freedom of will to choose whether or not to participate in sexual activity. For the use of force to be demonstrated, there is no requirement that a complainant resists the sexual advance or request; however, resistance by the complainant will be viewed as a clear demonstration of non-consent.
 - b. “Coercion” is the improper use of pressure to compel another individual to initiate or continue sexual activity against their will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. A person’s words or conduct are sufficient to constitute coercion if they wrongfully impair another individual’s freedom of will and ability to choose whether or not to engage in sexual activity. Coercion includes but is not limited to threatening to “out” someone based on sexual orientation, gender identity or gender expression; and threatening to harm oneself if the other party does not engage in the sexual activity.
 - c. “Incapacitation” is a state where an individual cannot make an informed and rational decision to consent to sexual activity. Incapacitation can be caused by:

- i. Age (generally under the age of 18 in Oregon);
- ii. Disability that impairs the individual's ability to give consent; or,
- iii. Physical condition, such as when an individual is asleep, unconscious, or, otherwise unaware that sexual activity is occurring.

5.5.6. Evaluation of incapacity

- a. The use of alcohol or other drugs does not, in and of itself, negate a person's ability to give consent, but a level of intoxication can be reached short of losing consciousness, in which a person's judgment is so impaired that they become incapacitated and thus are not capable of giving consent. The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs impact an individual's:
 - i. Decision-making ability;
 - ii. Awareness of consequences;
 - iii. Ability to make informed judgments; and
 - iv. Capacity to appreciate the nature of the act.
- b. Because the use of alcohol and other drugs can have a cumulative effect over time, a person who may not have been incapacitated at the beginning of sexual activity may become incapacitated and therefore unable to give effective consent as the sexual activity continues.
- c. Evaluating incapacitation also requires an assessment of whether the respondent, or a sober, reasonable person in the respondent's position, knew or should have known, that the complainant was incapacitated. If the person who wants to engage in sexual activity is too intoxicated to judge another's communications about consent, that person has an obligation to cease the activity.

- 5.5.7. A person's responsibility for obtaining consent is not diminished by their use of alcohol or other drugs. Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual harassment, sexual misconduct, stalking, or dating and domestic violence and does not diminish one's responsibility to obtain consent.

6. Reporting and Resources

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

6.1. University Reporting

- 6.1.1. EOA documents any reports made to it that involve potential sexual misconduct or discrimination. 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:

Title IX Coordinator and Executive Director
Office of Equal Opportunity and Access
330 Snell Hall
Corvallis, OR 97331
541-737-3556
Email: equal.opportunity@oregonstate.edu

- 6.1.2. A full list of reporting options can be found at: eoa.oregonstate.edu/sexual-misconduct-resources-and-information
- 6.1.3. In the event an incident involves alleged sexual misconduct or discrimination by the Title IX Coordinator, reports should be made directly to the university president or their designee (The current designee is Rebecca Gose, General Counsel, Office of the General Counsel, Rebecca.Gose@oregonstate.edu.)
- 6.1.4. Even if a complainant chooses not to report formally and/or chooses not to participate in an investigation process (through EOA or law enforcement), the complainant can contact EOA for information and assistance accessing on or off campus support resources and for information on available assistance.

6.2 Other Reporting Options

- 6.2.1. Anyone experiencing sexual misconduct or discrimination also has the right to file a formal complaint with government authorities but should be aware that deadlines may apply.
- a. **U.S. Department of Education, Office for Civil Rights, Seattle Office.**
915 Second Avenue, Room 3310, Seattle, WA 98174-1099
Telephone: 206-607-1600
Email: OCR.Seattle@ed.gov

Website: ed.gov/about/offices/list/ocr/index.html

- b. **U.S. Department of Justice, Civil Rights Division.**
950 Pennsylvania Avenue, NW, Washington, D.C. 20530
Telephone: 202-514-3847
Email: education@usdoj.gov
Website: civilrights.justice.gov

- c. **Oregon Bureau of Labor and Industries, Civil Rights Division**
800 NE Oregon Street, Suite 1045, Portland, OR 97232
Telephone: 971-673-0764
Email: help@boli.state.or.us
Website: oregon.gov/BOLI

- d. **U.S. Equal Employment Opportunity Commission, Seattle Office**
Federal Office Building, 909 First Avenue, Suite 400, Seattle, WA 98104-1061
Telephone: 1-800-669-4000
Website: eeoc.gov

6.3 Confidential Resources

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

6.3.1. Corvallis Campus and Area

- a. **OSU Center for Advocacy, Prevention & Education (CAPE)**
Contact: 541-737-2030 or survivoradvocacy@oregonstate.edu
Website: cape.oregonstate.edu
Location: 3501 Student Experience Center

Available from 8:00 am to 5:00 pm, Monday through Friday. CAPE provides confidential advocate services that serve as a first point of contact for survivors and their allies, in order to provide needed information about their choices and their rights and can assist with referral to desired services. OSU Assist (crisis responders) are also trained as advocates and designated as a confidential resource.

- b. **OSU Student Health Services (SHS)**
Contact: 541-737-9355
Website: studenthealth.oregonstate.edu
Location: 850 SW 26th Street, Corvallis OR 97331

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

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

Contact: 541-737-2131

Website: counseling.oregonstate.edu

Location: 500 Snell Hall

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

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

Contact: 541-754-0110

Website: cardv.org

A community resource that provides 24/7 confidential crisis response. CARDV can assist in the process of obtaining a restraining/stalking protection order or Sexual Abuse Protection Order (SAPO), accessing emergency shelter, providing support as a personal representative during medical examinations or reporting procedures, and more.

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

Contact: 541-812-4420

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

Location: 1046 Sixth Avenue SW Albany, OR 97321

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

6.3.2. Bend Campus and Area

a. **Saving Grace**

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

Website: saving-grace.org

A community resource that provides 24/7 confidential crisis response. Saving Grace can assist with court advocacy, emergency shelter, emergency transportation, therapy, and more.

b. **OSU-Cascades Counseling Services**

Contact: 541-322-2047

Location: Graduate & Research Center

Website: osucascades.edu/counseling-clinic

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

c. **St. Charles Emergency Department**

Contact: 541-382-4321

Location: 2500 NE Neff Road, Bend, OR 97701

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

6.3.3. Hatfield Marine Science Center and Newport Area

a. **My Safe Place**

Contact: 541-994-5959

Website: msplincolncounty.org

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

6.4 Law Enforcement

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

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

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

6.4.1. Corvallis Campus and Area

a. OSU Department of Public Safety

24/7 Dispatch / Non-Emergency: 541-737-7000

Emergency: 911 or 541-737-7000

Website: publicsafety.oregonstate.edu

Location: 200 Cascade Hall, 601 SW 17th Street, Corvallis, Oregon 97333

b. Corvallis Police Department

Non-Emergency: 541-766-6924

Emergency: 911

Website: corvallisoregon.gov/police

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

6.4.2. Bend Campus and Area

a. OSU-Cascades Department of Public Safety

Non-Emergency: 541-322-3110

Emergency: 911

Website: osucascades.edu/campus-safety

Location: 1500 SW Chandler Avenue, Bend, Oregon 97702

b. Bend Police Department

Non-Emergency: 541-693-6911

Emergency: 911

Website: bendoregon.gov/government/departments/police

Location: 555 NE 15th Street, Bend OR 97703

6.4.3. Hatfield Marine Science Center and Newport Area**a. Newport Police Department**

Non-Emergency: 541-265-4231

Emergency: 911

Website: newportoregon.gov/dept/npd

Location: 169 SW Coast Highway, Newport, OR 97365

7. Frequently Asked Questions

7.1. None.

8. Related Information

8.1. Office of Equal Opportunity and Access Sexual Discrimination and Misconduct Investigation and Resolution Process: eoa.oregonstate.edu/sexual-misconduct-and-discrimination.

8.2. Code of Student Conduct: studentlife.oregonstate.edu/studentconduct.

8.3. Responsible Employee Policy: eoa.oregonstate.edu/responsible-employee-policy.

8.4. Consensual Relationships Policy: eoa.oregonstate.edu/consensual-relationships-policy.

9. History

9.1. Adopted by OSU: University Policy 05-001 *Sexual Misconduct and Discrimination* was adopted on September 15, 2017.

9.2. Amended: Housekeeping, February 2019; Housekeeping, August 2020.

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

9.4. Amended: Housekeeping, September 15, 2023.

9.5. Next scheduled review date: August 2025.

10. Website

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

11. Contacts

Department	Phone Number	Website
Equal Opportunity and Access	541-737-3556	eoa.oregonstate.edu
Report Sexual Misconduct and Discrimination to:		
<p>Executive Director and Title IX Coordinator Equal Opportunity and Access 330 Snell Hall Corvallis, OR 97331</p> <p>Contact EOA at: equal.opportunity@oregonstate.edu</p> <p>Report Sexual Misconduct or Discrimination at: eoa.oregonstate.edu</p>		