

## POLICY TRACKING WORKSHEET

**Policy Title(s):** Student Sexual and Gender-Based Harassment and Violence Complaint and Response

**Policy Number(s):** V.II.06

**Proposed Action:** New

**Proposed By:** University Senate

**Rationale:** This policy improves the University's response to gender-based/sex-based discrimination experienced by its students. This policy defines the process that employees at the University must follow when a student discloses sexual harassment, including sexual or gender-based violence.

**Responsible Executive Officer(s):** Vice President for Finance and Administration and Vice President for Student Life

**Policy Consultation and Review Completed By:**

Name	Office	Date

**Date Reviewed and Approved by University Senate (if applicable):** 4/12/17

**Date Reviewed and Approved by PAC:** 5/3/17

**Date Posted for Public Comment:** NA

**Office of the General Counsel:**

 5-9-17  
Signature Date

**Executive Officer(s) or Designee(s):**

 5/12/17  
Signature Date

**Executive Officer(s) or Designee(s):**

 5/12/17  
Signature Date

**Presidential Approval:**

 5/22/17  
Signature Date

**Effective Date:** 9/15/17



## **Student Sexual and Gender-Based Harassment and Violence Complaint and Response**

Policy Number: X.XX.XX

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### **Reason for Policy:**

The University has policies for the prompt, fair, and impartial resolution of complainants of prohibited discrimination. This policy improves the University's response to gender-based/sexbased discrimination experienced by its students. This policy defines the process that employees at the University must follow when a student discloses sexual harassment, including sexual or gender-based violence. It amends any existing policy to the extent that such policy is inconsistent with it, including Temporary Emergency Policy Number V.11.02, Discrimination Complaint and Response, or the preexisting policy, UO Policy 571-003-0025 (2004) and UO Policy 580-015 0015 et seq.

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### **Entities Affected by this Policy:**

All members of the UO community.

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### **Web site Address for this Policy:**

### **Responsible Office:**

For questions about this policy, please contact the Office of Affirmative Action and Equal Opportunity (541-346-3123) or the Title IX Coordinator (541-346-8136).

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

Enacted by the University Senate on \_\_\_\_\_ and approved by the UO President as a policy on April \_\_, 2017.

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### **Introduction:**

The University of Oregon recognizes that sexual and gender-based harassment and violence are contrary to its core principles and therefore has zero tolerance for sexual and gender-based harassment and violence. The University's response to incidents of sexual and gender-based harassment and violence of and by students is governed by a comprehensive set of policies and procedures intended to provide integrated wraparound services and support to survivors while also holding accountable those who commit acts of discrimination. This particular policy explains in detail the reporting obligations of University employees when they learn of sexual and gender-based harassment and violence involving students, including student employees as part of that comprehensive structure.

Other policies govern the processing of such reports, the obligations of some employees pursuant to the Clery Act to gather information about crimes on University controlled properties,

and the University's procedures for handling disclosures of sexual harassment by non-student employees. Those policies can be found here:

1. For information about how the University's Title IX Coordinator and Student Conduct Office process reports received under this policy that are made by students against students, see the Student Conduct Code, the Student Conduct Sexual Misconduct Standard Operating Procedures, and the Student Discrimination Process.
2. For information about how the University's Title IX Coordinator and the Office of Affirmative Action process reports received under this policy that are made by students against employees, see UO policy 580-015.
3. For information about the obligations of employees who are "Campus Security Authorities" under the Clery Act, see "Clery Act" under Other Resources below.
4. For information about the reporting and processing of complaints about sexual harassment in the workplace involving a non-student employee, see the University discrimination complaint and response policy. (The reporting obligations for student employees are covered in Section X of this policy and require designated reporters *and* employees who supervise a reporting student and/or who supervise the alleged harasser to pass information on to the Title IX coordinator.).

In general, any questions about the intersection or applicability of any of these other policies and procedures can be directed to the University's Title IX Coordinator, [TitleIXcoordinator@uoregon.edu](mailto:TitleIXcoordinator@uoregon.edu) or (541)346-8136. However, one of the most frequently asked questions regarding reporting obligations relates to what happens after information is shared by a designated reporter. To address that concern, this introduction briefly shares a few important points about the University's response once an employee reports to the University's Title IX Coordinator (the University's response is explained more completely in the policies referenced above in points 1 and 2).

Once a report is made, the University's response begins by providing the student who has experienced sexual or gender-based harassment immediate access to measures designed to allow the student to continue with his or her education. All students who have experienced prohibited discrimination will be provided with remedial and supportive measures, regardless of whether or not they choose to participate in a formal University process. These measures include but are not limited to confidential crisis outreach at any time of day or night, counseling services, academic accommodations, residential modifications, mutual no contact orders and other measures necessary to ensure that the student is able to fully and fairly access the student's education. If a formal University process is later initiated, protective measures, which are actions that directly impact the alleged perpetrator, will also be provided as appropriate, such as prohibiting or restricting the alleged perpetrator's presence at certain places on campus.

In all cases, the University's response is designed to consider the victim's preferences regarding the University's response, and to provide deference to a victim's wishes wherever possible. Once the University's processes are initiated after a report under this policy, students who have experienced sex discrimination, including sexual harassment and sexual violence, have the right to request confidentiality and/or that the University not take action in response to the underlying report. The University will evaluate a student's request as described in its sexual

misconduct standard operating procedures, referenced above and available here. The University may also intervene less formally where an alternative resolution can be equally effective in stopping the harassment, preventing its recurrence and remedying any effects. Regardless of the type of response, the reporting student will be consulted and kept informed as to any actions taken by the University.

Finally, the University's response will protect from retaliation students and employees who make good faith reports under this policy or who participate in a University process initiated in response to a report of prohibited discrimination.

Policy:

## **I. Policy Statement**

The University is committed to maintaining an environment free of harassment and discrimination based on sex, sexual orientation, gender, perceived gender, or gender identity that would violate Title IX (hereafter "prohibited conduct"). The University is committed to ensuring equal access to programs, course offerings, facilities, admission and employment for all of its students by providing educational and employment environments free from harassment and discrimination.

In order to create these environments and comply with Title IX, a well-designed "responsible employee" policy is an integral part of an effective response to prohibited conduct. An effective response also requires the clear identification of the roles of administrators, faculty, staff, and student staff, so that students can make a clear and informed decision about whom to contact for support, institutional response, and/or resources.

This policy will ensure clarity and transparency as well as compliance with Title IX by precisely identifying "designated reporters," thereby allowing students to make informed decisions about whether to disclose information to employees who are required to report any and all disclosures to the Title IX office. Identifying "confidential employees" with precision allows students to know who is able to keep disclosures confidential. Designating all other employees as "student-directed employees," with specific response obligations, including the provision of support and resources, maximizes students' access to supportive University personnel and affords students another avenue by which they can initiate a report to the Title IX coordinator if they so choose.

Under this policy every University employee falls into one of three categories: designated reporter, student-directed employee, or confidential employee. These terms will be defined in more detail below, but in summary they are:

**Designated Reporters:** This policy designates as "responsible employees" for Title IX purposes those employees who have the authority to address prohibited conduct and whom students would reasonably expect to have the authority to remedy prohibited conduct in light of this policy. The University of Oregon refers to responsible employees as "Designated Reporters" because they are always obligated to report student disclosures to the Title IX office if they have "reportable evidence" of prohibited conduct.

**Student-Directed Employees:** This policy places other employees in the category of “Student-Directed Employees” and requires that Student-Directed Employees offer students information, resources, support, and the ability to report if that is the student’s choice. While Student-Directed Employees are required to provide resources and to support a student’s choice, Student-Directed Employees do not have the ability to address the discrimination or to implement corrective measures in response to a disclosure.

**Confidential Employees:** This policy designates as “Confidential Employees” those employees who have a professional commitment and/or legal privilege that may enable them to oppose successfully an application for a court order seeking disclosure of communications. Confidential employees have the same obligations as Student-Directed Employees in terms of offering students information, resources, support, and the ability to report, but their professional obligations and/or commitment to confidentiality provides an additional layer of confidentiality for students who desire it.

This policy is intended to encourage reporting by students who have experienced prohibited conduct because it clearly identifies responsible employees for reporting purposes, respects the wishes of students when they talk to other employees, and makes all employees at the institution part of the solution to prohibited conduct.

Discriminatory harassment, including sexual harassment, regardless of the relative power of the harasser, is disruptive of workplace and campus life and denies students equal educational opportunity. Prohibited Discrimination and retaliation impede the realization of the University’s educational mission and shall not be tolerated at the University of Oregon.

## **II. Definitions**

**A. Prohibited Discrimination** is defined as any act that either in form or operation, and whether intended or unintended, unreasonably discriminates among individuals on the basis of sex, sexual orientation, marital or family status, pregnancy, pregnancy-related conditions, gender, perceived gender, gender identity, or the use of leave protected by state or federal law. "Unintentional discrimination" is a concept applicable only to situations where a policy, requirement, or regularized practice, although neutral on its face, can be shown to have disparately impacted members of a protected class.

**B. Discriminatory Harassment** is defined as any conduct that either in form or operation unreasonably discriminates among individuals on the basis of sex, sexual orientation, marital or family status, pregnancy, pregnancy-related conditions, gender, perceived gender, gender identity, or the use of leave protected by state or federal law and that is sufficiently severe or pervasive that it interferes with work or participation in any University program or activity, including academic activities because it creates an intimidating, hostile, or degrading working or University environment for the individual who is the subject of such conduct, and where the conduct would have such an effect on a reasonable person who is similarly situated.

**C. Sexual Harassment** is a type of sex discrimination which is defined as any sexual advance, any request for sexual favors, or other verbal or physical conduct of a sexual nature when:

1. 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;
2. Submission to or rejection of such advances, requests, or conduct by an individual is used as a basis or condition for employment, participation in any University program or activity or academic experience; or
3. Such conduct is unwelcome and sufficiently severe or pervasive that it interferes with work, participation in any University program or activity and/or academic experience because it creates an intimidating, hostile, or offensive working, University or academic environment for the individual who is the subject of such conduct, and where the conduct would have such an effect on a reasonable person who is similarly situated.
4. Sexual harassment includes sex and gender-based stalking, sexual misconduct, as defined in the Student Conduct Code, sex and gender-based harassment and bullying, dating violence, and domestic violence. Sexual harassment may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation, and/or gender identity of those involved. In addition to sexual misconduct, as defined in the Student Conduct Code, sexual harassment is defined as follows:
  - i. *Sex and gender based stalking* occurs when, based on a person's sex or gender: (1) a person knowingly alarms or coerces another person or a member of that person's immediate family or household by engaging in repeated and unwanted contact with the other person; (2) it is objectively reasonable for a person in the complainant's situation to have been alarmed or coerced by the contact; and (3) the repeated and unwanted contact causes the complainant reasonable apprehension regarding the personal safety of the complainant or a member of the complainant's immediate family or household.
  - ii. *Sex and gender-based harassment and bullying* means any act that: (1) Substantially interferes with work or academic performance; (2) Has the effect of: a. Physically harming a student or employee or damaging their property; b. Knowingly placing a person in reasonable fear of physical harm to the person or damages the person's property; or c. Creating a hostile environment, including interfering with the psychological well-being of a person; and (3) May be based on, but not be limited to, the sex, sexual orientation, or gender identity of the person. Gender-based harassment and bullying includes cyberbullying, which means the use of any electronic communication device to perform gender-based harassment or bullying.
  - iii. *Dating Violence* means violence committed by a person 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 the complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of the interaction between the persons involved in the relationship. For the purpose of this definition: (1) Dating violence includes, but is not limited to, causing or

attempting to cause sexual or physical abuse, placing another in fear of imminent sexual or physical abuse or the threat of such abuse; and (2) Dating violence does not include acts covered under the definition of Domestic Violence.

iv. *Domestic Violence* means violence between family or household members. Family or household members means: Spouses or former spouses; adults related by blood, marriage or adoption; persons cohabitating or who have cohabitated; persons in a past or present sexually intimate relationship; unmarried parents of a child. Abuse means: The occurrence of one or more of the following acts within a domestic or dating relationship: a. Attempting to cause or intentionally, knowingly or recklessly causing bodily injury. b. Intentionally, knowingly or recklessly placing another in fear of imminent bodily injury. c. Causing another to engage in involuntary sexual relations by force or threat of force.

**D. Designated Reporter:** The following individuals are a Designated Reporter, known under federal law as a “responsible employee,” for any disclosures made by a student victim directly to the employee about sexual harassment, sex and gender-based stalking, sex and gender-based harassment and bullying, dating violence, and/or domestic violence. A person on this list is not a Designated Reporter if that individual is also a Confidential Employee.

- All members of the Board of Trustees (including student, faculty, and staff members)
- President
- Senior Vice President and Provost
- Vice Presidents
- Associate Vice Presidents
- Senior Vice Provost
- Vice Provosts
- Athletic Director (Director of Intercollegiate Athletics)
- Senior Associate and Deputy Athletic Directors
- Associate Athletic Directors
- Assistant Athletic Directors
- All Coaches of NCAA Intercollegiate Sports (except that a coach below the level of head coach is a Student-directed Employee instead of a Designated Reporter when a student-athlete on that coach’s team discloses [having experienced prohibited discrimination to that coach](#))
- Director of Student Conduct
- Student Conduct Code Officers
- Title IX Coordinator
- Deputy Title IX Coordinators
- Title IX Appeals Officer
- Director of Affirmative Action and Investigators (EEO Specialists)
- Director of Campus Operations
- Director of Housing



- Director of Residential Life & Educational Initiatives
- Senior Associate Director of Housing
- Senior Director of Employee and Labor Relations
- Deans
- Associate Deans responsible for more than one academic unit, such as the following: Senior Associate Dean for Faculty and Operations; Associate Dean for Humanities; Associate Dean for Undergraduate Education; Associate Dean for Sciences; Associate Dean for Social Sciences
- Assistant Dean, Administration and Operations (CAS)
- Dean of Students
- Department Heads
- Chief Human Resource Officer
- Director of Fraternity and Sorority Life
- Director of Study Abroad
- Associate Provost, Portland Campus
- General Counsel and all attorneys in that office
- Resident Assistants and Orientation Leaders
- University of Oregon Police Officers

**E. Confidential Employee:** The following employees are Confidential Employees, meaning that in addition to the fact that they will not report to the Title IX office without the student's permission, they have a professional commitment and/or legal privilege that may enable them to oppose successfully an application for a court order seeking disclosure of communications. Confidential Employees will not share information disclosed to them with others unless requested to do so by the student, required by applicable law and professional codes of ethics or responsibilities, or because the information falls under Section III.C.11 of this policy (imminent risk of serious harm). Confidential Employees may still have reporting obligations under the Clery Act. For information about the Clery Act and who is a Campus Security Authority with reporting obligations, who is a confidential employee for Clery Act purposes, and what the reporting obligations are for a Campus Security Authority (Clery reports generally do not contain personally identifying information), see Related Resources, "Clery Act," below. For the purposes of this policy, Confidential Employees are the following:

- Health care professionals working at the UO, including at the Health Center;
- Counseling professionals working at the University Counseling and Testing Center;
- Mental health professionals working at the UO, including those working in the Psychology Clinic, Couples and Family Therapy (CFT) Clinic, Child and Family Clinic (CFC), and Early Childhood CARES (including graduate students who are participating in the diagnoses and treatment of a person under the direction of a licensed mental health professional);
- Professionals working in Crisis Intervention and Sexual Violence Support Services;

- The University’s Ombudsperson and program staff (Note: The Ombudsperson does not have a legal privilege of confidentiality, but under its professional code of ethics the Ombudsperson must take steps to avoid, whenever possible, disclosure of confidential records and information);
- Attorneys working with Student Survivor Legal Services in the Domestic Violence Clinic; and,
- Attorneys working in Office for Student Advocacy and ASUO Student Legal Services.

**Note regarding limits to legal privilege:** There are other employees on campus who are members of a profession that have a legal privilege of confidentiality when the employee is acting in that professional role. In many instances, employees will not be acting in that professional role. Employees should inform students regarding these legal privileges and their limits at the start of any conversations about matters covered under this policy.

**Important Note regarding the University’s Ombudsperson:** While disclosure to the ombudsperson does not constitute a report or notice to the University,, the privacy protections provided to the ombudsperson are based in policy and not law. Therefore, while the University considers conversations with the ombudsperson to be private, some records may be disclosed pursuant to a search warrant or subpoena and may not be legally confidential. In addition, the ombudsperson will periodically report non-personally identifiable information about sexual and gender-based and harassment and violence it has received to the Title IX Coordinator to keep the Title IX Coordinator informed of the general extent and nature of reported misconduct on and off campus. This will help the Title IX Coordinator track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses.

**F. Student-Directed Employee.** A “student-directed employee” is any employee who is not a Designated Reporter or a Confidential Employee. This includes most faculty, staff, administrators and student-staff.

**G. Reportable Evidence:** Except for the four exceptions outlined below, Designated Reporters are required to share any information about suspected sexual or gender-based harassment or violence, whether based on a direct disclosure by a student, observed conduct, information provided by a third party or other source of information. This information is “Reportable Evidence.” The requirement to report is not based on a determination of credibility of the report, nor should the Designated Reporter take action to investigate the veracity of the reported information.

Designated Reporters are NOT required to share information obtained under the following circumstances and this information is not Reportable Evidence: (1) during public awareness events (for example, “Take Back the Night,” “SWAT” presentations, and “survivor speakouts”); (2) as part of an Institutional Review Board-approved human subjects research protocol focused on Prohibited Discrimination; (3) from a class the student is taking (Note: If a faculty member who is a Designated Reporter believes that a class assignment or discussion may elicit a disclosure that would trigger obligations under this policy, that faculty member should make clear to students that an account provided in

response to a class assignment or discussion, without more information, will not result in the University taking any action in response to the disclosure. This means that the University will not investigate the incident, offer interim measures or otherwise take step to remediate the behavior.); and (4) information obtained during a conversation that is otherwise privileged or confidential under state or federal law. Examples of this exclusion include, but are not limited to: attorneys, who are not required to disclose information covered by the attorney-client privilege; union stewards and union representatives, who are not required to disclose information obtained during a conversation with a member regarding workplace issues (including grievances); and licensed mental health professionals (counselors, psychologists, etc.), who are not required to disclose information covered by an applicable privilege.

**H. Student:** For purposes of this policy, the term Student has the meaning set forth in the Student Conduct Code.

**I. Employee:** A person in an employment relationship with the University.

**J. Campus Community Member:** Campus Community Member means a person participating in a University-sponsored program or activity, attending or wanting to attend an event on University-owned or leased property, an independent contractor or vendor, a volunteer, a person applying for admission, a person applying for employment, or a campus visitor or a person living on University-owned property. The term Campus Community Member excludes Employees and Students.

**K. Supervisor:** For purposes of this policy, a Supervisor is a person who has the power to take tangible employment actions against an employee, *i.e.*, to effect a significant change of employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits. It is important to note that just because person's title contains the word supervisor, that person is not necessarily a supervisor for purposes of this policy. Only those people with the duties previously mentioned are Supervisors for purposes of this policy.

**L. Resident Assistant.** Resident Assistants (RAs) are live-in student leaders in the residence halls, employed by University Housing.

**M. Orientation Leaders.** Orientation Leaders are part of the Student Orientation Staff (SOS). They are current undergraduate students who represent the University of Oregon and guide new students through a smooth transition to life on campus.

### **III. Obligations of Employees**

#### **A. Obligations of All Employee**

As a caring community, and to promote a compassionate campus community, we expect employees of the University of Oregon to do the following when responding to disclosures:

1. Respond with respect and with kindness.

2. Listen to what the student wants to tell you before handing out referrals and information.
3. Be sensitive to the needs of the survivor, without being judgmental, paternalistic, discriminatory, or retaliatory.
4. At the outset of the conversation, if a student appears under 18, ask the student if the student is 18 years of age or older. If the student is under 18, explain that all employees, except for Confidential Employees operating in that professional role, have 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.

**Note for Students Who Are Minors:** If a faculty or staff member receives information from a student under 18 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, the faculty or staff member shall follow state law (See Related Resources below, “Child Abuse,” for information about state law on mandatory reporting). In addition, if a student who is a minor discloses prohibited conduct under this policy, the employee shall follow this policy. We encourage employees to make extra efforts to connect students who are minors with Crisis Intervention and Sexual Violence Support Services so that the minor is connected with age-appropriate services. Additional effort can include strongly encouraging the student to permit such a referral and staying connected to the student until the student is in fact connected with Crisis Intervention and Sexual Violence Support Services. For guidance on responses to minors who are not students but visitors on campus, see the University’s guidance entitled “Minor on Campus” under Other Resources below.

## **B. Obligations of Designated Reporters**

1. All Designated Reporters shall affix a sticker to their door, provided by the Title IX office, that identifies them as a Designated Reporter.
2. Designated Reporters who receive Reportable Evidence of Prohibited Discrimination, such as Sexual Harassment of a Student (including sex and gender-based stalking, sexual misconduct as defined in the Student Conduct Code, sexual and gender-based harassment and bullying, dating violence and/or domestic violence), must report any information received to the Title IX Coordinator..

Students should be aware that the Title IX Coordinator is tasked with ensuring compliance with this policy and state and federal law, and ensuring the equity and fairness of all Title IX response processes for all students. Therefore, while the Title IX Coordinator will work with students to ensure that they understand their complaint options, are protected from retaliation and are provided with interim measures as appropriate, the Title IX coordinator is not an advocate for individual students participating in the process.

### **C. Obligations of Student-Directed Employees**

- 1. General.** Faculty and staff who are not a Designated Reporter or a Confidential Employee (as defined under II.E) also have responsibilities when students disclose Reportable Evidence of Prohibited Discrimination, such as Sexual Harassment, (including sex and gender-based stalking, sexual misconduct as defined in the Student Conduct Code, sex and gender-based harassment and bullying, dating violence, and/or domestic violence). Although Student-Directed Employees have obligations when a disclosure is made, they do not have the authority to address the discrimination or to implement corrective measures to stop the behavior.
- 2. Informed Consent re Imminent Risk of Serious Harm.** At the outset of the conversation, explain to the student that if you believe that any person is at imminent risk of serious harm, you may have to report the incident to ensure the safety of the persons involved.
- 3. No Report, No University Response.** When appropriate in the conversation, inform the student that unless there is a report made to a Designated Reporter or the Title IX office, the University probably cannot take action to stop the discrimination or harassment, remedy its effects, or prevent future instances of discrimination and harassment, because it will likely not know about the underlying behavior. With a report, the University will be obligated to take action on the report.
- 4. Resources.** Provide the student with an approved brochure or card, or other resources provided by the Dean of Students and the UO Title IX Coordinator AND/OR refer the student to the [safe.uoregon.edu](http://safe.uoregon.edu) Web site.
- 5. Ask About Reporting.** Explicitly ask the student if the student would like you to report the incident to the Title IX Coordinator.
- 6. Ask About Services.** Explicitly ask the student if the student would like you to connect the student with confidential resources at Crisis Intervention and Sexual Violence Support Services.
- 7. Follow the Student's Wishes.** If the student wants you either to make a report to the Title IX coordinator or connect the student with Crisis Intervention, or both, contact the appropriate office while the student is with you if possible, but in no event later than 24 hours after the student expressed this wish. If the student does not give consent to make such a connection, then the employee shall not disclose the information to others except as described below. If there is any ambiguity about the student's answer, the employee should engage the student in further conversation to get clarification.
- 8. Closing Words.** At the end of the conversation, let the student know that the student can contact you again in case the student has further questions, identifies other needs for resources or assistance, or decides to report the incident.
- 9. Call to Confidential Resource.** In order to insure that the above has been done properly and because a faculty or staff member may need assistance responding to the student, the employee must contact either Crisis Intervention and Sexual Violence

Support Services or another confidential resource who is identified by the Title IX Coordinator and listed on the [safe.uoregon.edu](http://safe.uoregon.edu) Web site, preferably immediately and when the student is still with the employee. Conversations with the professional at Crisis Intervention and Sexual Violence Support Services or with the other confidential resource should occur in a de-identified manner (*i.e.*, without identifying identities or detail). The employee should explain the purpose of the call to the student and inform the student that the person being called is a confidential resources.

- a. **Exemption.** The Title IX Coordinator has the authority, and absolute discretion, to grant an exemption from this requirement for employees who seek it. The granting of the exemption shall be based upon the employees' knowledge of this policy and knowledge of the University's resources and response protocol.

**10. Confidentiality Unless there is a Request to Report or Imminent Risk.** Unless a student asks a Student-Directed Employee to share disclosed information with a specified office or person, the Student-Directed Employee shall not do so, unless the employee believes the student has conveyed information about an imminent risk of serious harm or the student is under 18 years of age and the student discloses "abuse" as defined by state law.

- a. In the instance when the student has conveyed information about an imminent risk of serious harm, the employee shall ask the student for permission to convey the information to an appropriate office, such as Crisis Intervention and Sexual Violence Support Services or law enforcement, and shall discuss with the student other ways in which the risk can be minimized. If the student refuses to have an appropriate office contacted, and the employee feels that an imminent risk of serious harm remains, then the employee may call the appropriate office and disclose the information received.
- b. In the instances where the student is under 18 years of age and discloses "abuse," the employee shall follow state law. See Other Resources, "Child Abuse Reporting," below.

**Note:** Student-Directed Employees may still have certain reporting obligations under the Clery Act. For information about the Clery Act and who is a Campus Security Authority with reporting obligations, who is a confidential employee for Clery Act purposes, and what the reporting obligations are for a Campus Security Authority (*e.g.*, Clery reports generally do not contain personally identifying information), see Related Resources, "Clery Act," below.

**Note:** While students have the option to share their experience with a Student-Directed Employee who is not a Designated Reporter, a Student-Directed Employee is not meant to be someone who can redress the prohibited conduct. Consequently, in almost all instances, these employees are not permitted to report the underlying actions to others unless the student asks for that to occur, which means that the University may not be able to take action to stop the discrimination or harassment, remedy its effects or prevent future instances of the discrimination and harassment because the University will likely not know about the underlying behavior.

Further, students who discuss their situations with a Student-Directed Employee always retain the choice to make a complaint directly to the Title IX office (see Related Resources, “Title IX Coordinator,” below) or to seek support services from another appropriate office (such as Crisis Intervention and Student Survivor Support Services). Students who file complaints or otherwise receive support services from the University will be protected from retaliation.

#### **D. Obligations of Confidential Employees**

1. Students and Employees have the option to share their experience with a Confidential Employee. Confidential Employees have the same obligations as Student-Directed Employees. These obligations are described above under Part III.C.
2. However, Confidential Employees’ professional obligations may provide students with a greater level of confidentiality because these employees have a professional obligation to maintain client confidences and often a legal privilege of confidentiality. Prior to the student’s disclosure, Confidential Employees should explain to the student the Confidential Employee’s professional obligations regarding confidentiality and the limits of those obligations.

**Note:** Unless the student requests that the Confidential Employee report to the Title IX office, in most instances, Confidential Employees will not report the underlying actions to others, which means that the University may not be able to take action to stop the discrimination or harassment, remedy its effects or prevent future instances of discrimination and harassment because the University will likely not know about the underlying behavior.

Further, Students who report to Confidential Employees always retain the choice to make a complaint, as explained in Related Policies and Procedures, “Discrimination Complaint and Response,” below. Students, Employees and Campus Community Members with questions regarding the University’s processes are encouraged to contact the Title IX Coordinator. For further information regarding Confidential Employees’ privacy practices, please visit the Web site referenced below under Other Resources, “Privacy Practices.”

**Note:** We recognize that students who experience Prohibited Discrimination, Discriminatory Harassment or Sexual Harassment within departments, institutes, programs, residence halls, employment or sports teams face unique obstacles. The University wants to ensure that students know they can report their experiences and/or seek support outside their academic departments or units in which they work or go to school as well as outside their residence halls, programs, or teams. With this in mind, we encourage students experiencing Prohibited Discrimination, Discriminatory Harassment or Sexual Harassment to utilize the confidential resources available to them in order to explore forms of support and protection and to fully understand their options relating to filing a complaint or seeking out support outside their own work, academic, or other similar environment. In addition, students may choose to file a complaint directly with the Title IX Coordinator, or to seek out a Designated Reporter or Student-Directed Employee in another unit, or directly contact Crisis Intervention and Sexual Violence Support Services.



**Note:** In some instances, employees who are not Designated Reporters, including Confidential Employees, will have reporting obligations under the Clery Act as Campus Security Authorities. For more information, see Other Resources, “Clery Act,” below.

## **VIII. General Obligations of Employees and Faculty**

**A. Syllabus.** If a faculty member or instructor has a syllabus, then the faculty or instructor is strongly encouraged to put the following statement on the syllabus:

“Any student who has experienced sexual assault, relationship violence, stalking, and/or sexual harassment may seek information and help at <https://safe.uoregon.edu/>. A student can also call 541 346-SAFE, UO’s 24 hour hotline to be connected to a counselor.” Faculty should remove from their syllabi language that inaccurately identifies them as a “responsible employee”/Designated Reporter. Faculty are encouraged to make clear on their syllabi that GTFs are not Designated Reporters (*i.e.*, responsible employees) under this policy. If a faculty member is a Designated Reporter, the faculty member is strongly encouraged to make that status clear on the syllabus.

**B. Training.** All employees shall take periodic training offered by the Title IX office and the Office of Human Resources regarding this policy, available resources, and trauma-informed responses to student disclosures. The training shall be approved by the Title IX Coordinator after consultation with a committee of experts in the field of sexual and gender-based violence and the Vice President for Equity and Inclusion. The frequency and timing of these trainings will be determined by the Title IX Coordinator and the Office of Human Resources and will not conflict with restrictions or obligations set forth in the University’s collective bargaining agreements.

**C. Annual De-identified Reports.** In order to identify patterns or systemic problems, the Office of the Title IX Coordinator will solicit annual reports from Student-Directed Employees of aggregate data, including general information about incidents of sexual violence such as the nature, time, date and general location of incidents if identified during conversations. These reports should not include personally identifiable information about students, and employees should consider what information needs to be withheld to protect identities. For this reason, Employees should keep de-identified information that will be responsive to the Title IX Coordinator’s request for data.

**D. Failure to Comply:** If the University finds that an Employee has failed to comply with the provisions of this policy, it will take immediate and appropriate corrective action. This means that Designated Reporters who fail to report as required by this policy may be subject to discipline, which may include a letter of reprimand or other appropriate corrective measures. Student-Directed Employees who fail to comply with the terms and obligations set forth in this policy may be subject to discipline, which may include a letter of reprimand or other appropriate corrective measures. Confidential Employees who fail to comply with the terms and obligations set forth in this policy may also be subject to discipline, which may include a letter of reprimand or other appropriate corrective measures.



## **IX. Obligations of the University Administration**

- A. Update Materials.** The University shall update written materials and [SAFE.uoregon.edu](http://SAFE.uoregon.edu) to have clear and accessible information for students and employees that reflects this policy. The University shall also add information to the Web site relating to the statute of limitations for reporting harassment and sexual or domestic violence to the University, police, or civil courts, as well as how to access assistance for issues specific to minors.
- B. FAQs.** The University shall provide specific examples relating to the policies and procedure to illustrate how the policy works. The materials shall include a FAQ section for employees and students.
- C. Web-based Reporting.** As soon as reasonably possible, the University shall make accessible to students a secure and confidential Web-based reporting system. This system should include a way for students to confidentially store their disclosures in an information escrow system, preferably through a third-party vendor. This system should also include an on-line reporting option, an option for students to trigger a report when the name of an accused person is reported more than once to the system, and links to both on-campus and off-campus resources. The Title IX Coordinator or designee shall enter all received reports into the information escrow system as soon as practicable to minimize the chance of any orphan reports.
- D. Title IX Ambassadors.** The University shall consider using “Title IX Ambassadors” who would supplement the training provided by the University. Title IX Ambassadors would be employees of the University who, under the direction of the Title IX Coordinator, would provide information to other University employees on the policy, resources, and the mechanics of a trauma-informed response. This would constitute service to the University and should be recognized as such.
- E. Stickers.** The University shall provide stickers to all Designated Reporters for their door to identify themselves as Designated Reporters.
- F. Periodic Review.** The University Administration shall initiate a review of this policy, in consultation with the University Senate, at least once every seven years.
- G. Contract Consistency.** To the extent that this policy is inconsistent with any existing contractual obligations of employees, the University shall renegotiate those terms as soon as practicable and to the extent possible.
- H. Indemnification of Employees.** Consistent with and subject to the limitations set forth in ORS § 30.285, the University shall defend, hold harmless and indemnify employees subject to an action arising out of an alleged act or omission occurring in the performance of the employee’s duties, including their duties described in this policy.

## **X. Obligations of Supervisors Relating to Workplace Harassment of Student**

**Employees.** Because of Title VII and state employment law, and consistent with University policy, sexual harassment in the workplace is strictly prohibited. Supervisors of student employees impacted by or accused of Prohibited Discrimination in the workplace and Designated Reporters are always required to report Reportable Evidence of Prohibited Discrimination in the workplace to the Title IX Coordinator. Employees, including student employees, who have been subject to workplace harassment or other forms of Prohibited Discrimination are always encouraged to file complaints with their supervisor or with the University directly. See below, Related Policies and Procedures, for more information regarding how to file complaints. All Employees reporting sexual harassment in the workplace will be protected from retaliation.

Procedures for reporting workplace harassment of student employees are as follows:

- 1. Report to Direct Supervisor.** If the student employee discloses information regarding workplace harassment to the student's Supervisor, as defined in this policy, or to the Supervisor of the alleged harasser, or to a Designated Reporter, the Supervisor or Designated Reporter must promptly report to the Title IX office. This is true even if the Supervisor is a Confidential Employee.
- 2. Report to All Other Supervisors.** If a student employee discloses information regarding workplace harassment to a Supervisor other than the student's own Supervisor or the Supervisor of the alleged harasser, the Supervisor should perform the duties outlined above based on the Supervisor's status as either a Student-Directed Employee (see Section III.C.) a Designated Reporter (see Section III.B.), or Confidential Employee (see Section III.D).
- 3. Supervisors Who Witness Sex Discrimination in the Workplace.** Supervisors who do not receive a disclosure from a student employee but who witness sexual harassment or sex discrimination in the workplace should immediately report the behavior to the Title IX Coordinator.

## CONTACT INFORMATION FOR RELATED RESOURCES

This section may be updated and kept current by the University Secretary without constituting a change in the policy.

### A. UO Administration

#### **Title IX Coordinator**

[TitleIXcoordinator@uoregon.edu](mailto:TitleIXcoordinator@uoregon.edu)

106 Johnson Hall (1098 E. 13th Ave.) (541) 346-8136

### B. Confidential Employees with Legal Protections of Confidentiality

#### **Crisis Intervention and Sexual Assault Support**

**Services** 164 Oregon Hall (1585 E. 13<sup>th</sup> Avenue)  
(541) 346-8194

#### **UO Counseling and Testing**

**Center** 1590 E. 13<sup>th</sup> Avenue  
(541) 346-3227

#### **UO Health**

**Center** 1590 E.  
13<sup>th</sup> Avenue  
(541)346-2770

#### **Student Survivor Legal Services**

(541) 346-8619

### C. Confidential Employees without Legal Protections of Confidentiality, but with Ethical Obligations of Confidentiality

#### **Ombudsperson**

[ombuds@uoregon.edu](mailto:ombuds@uoregon.edu)

1685 E. 17<sup>th</sup> Street  
(541) 346-6400

### D. Other Resources

Information on the Clery Act:

<https://police.uoregon.edu/content/campus-security-authorities>.

Information on the Family Educational Rights and Privacy Act (FERPA):

<http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

Information on filing a complaint with the Office for Civil Rights:

<http://www2.ed.gov/about/offices/list/ocr/docs/howto.html>

Information on Child Abuse Reporting:

[http://www.oregon.gov/dhs/abuse/pages/mandatory\\_report.aspx](http://www.oregon.gov/dhs/abuse/pages/mandatory_report.aspx)

Information on Anonymous Reporting to the UO Police:

<http://police.uoregon.edu/anonymous-sexual-assault-report>

Information on Minors on Campus:

<https://hr.uoregon.edu/minors-campus>

Information on how to file a complaint with the University and the

University's retaliation policy: [https://policies.uoregon.edu/vol-5-](https://policies.uoregon.edu/vol-5-human-resources/ch-11-human-resources-other/discrimination-complaint-and-response)

[human-resources/ch-11-human-resources-other/discrimination-](https://policies.uoregon.edu/vol-5-human-resources/ch-11-human-resources-other/discrimination-complaint-and-response)

[complaint-and-response](https://policies.uoregon.edu/vol-5-human-resources/ch-11-human-resources-other/discrimination-complaint-and-response) and <https://policies.uoregon.edu/grievance-procedures>

## **RELATED POLICIES AND PROCEDURES**

Student Conduct Code: <https://policies.uoregon.edu/vol-3-administration-student-affairs/ch-1-conduct/student-conduct-code>

Sexual Misconduct Standard Operating Procedures: <https://dos.uoregon.edu/sexual-misconduct>

Interim Policy, Discrimination Complaint and Response: <https://policies.uoregon.edu/vol-5-human-resources/ch-11-human-resources-other/discrimination-complaint-and-response>

University Policy on "Prohibited Discrimination, Discriminatory Harassment, and Sexual Harassment," Parts L and M and others of <http://policies.uoregon.edu/grievance-procedures>

Conflict of Interest Policy and Abuses of Power Policy: <https://policies.uoregon.edu/conflicts-interest-and-abuses-power-sexual-or-romantic-relationships-students>

April 6, 2017