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Type: University Policy
Division: Human Resources
Classification: GOVERNANCE & LEGAL

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TITLE	
Discrimination and Harassment	
POLICY NUMBER	
GL-05-002	
RESPONSIBLE OFFICER	UNIVERSITY CONTACT
Vice President and General Counsel	The Office of Human Resources
SUMMARY	
<p>Western Oregon University is committed to cultivating an educational and work environment in which all individuals are treated with respect and dignity. Each individual has the right to learn and work in an atmosphere that promotes equal educational and employment opportunities and prohibits discriminatory practices, including harassment. Western Oregon University expects relationships across campus will be free from bias, prejudice and harassment. This policy statement is intended to: (a) reaffirm Western Oregon University's prohibition against discrimination and harassment, (b) clarify federal and state protected classes, (c) clarify types of prohibited conduct, and (d) provide an effective complaint procedure to individuals who believe they have been subject to or have observed prohibited conduct.</p>	
APPLICABLE TO	
The Campus Community	
DEFINITIONS	
AUTHORITY	
Oregon Revised Statute Chapter 351, Division 10	
Oregon Administrative Rules	
Chapter 580, Division 15 and 22	
FULL STATEMENT OF AUTHORITY	
POLICY STATEMENT	
<p>It is the policy of Western Oregon University to provide a campus environment free from illegal discrimination and harassment on the basis of an individual's characteristics within a protected class as defined by Federal and/or State law.</p> <p>DEFINITIONS:</p>	

Academic Freedom/Freedom of Expression: This policy shall be applied in a manner that protects academic freedom and freedom of expression within the university. Nothing in this policy shall be construed to limit the expression of ideas, however controversial, that can reasonably be demonstrated to service legitimate education purposes.

Collective Bargaining Agreement (CBA): A written agreement between the University and a labor union. References to CBAs contained in this policy are applicable only to employees covered by a CBA.

Complainant: A person or persons allegedly subjected to discrimination, workplace harassment, or sexual harassment.

Campus Community Member: Employees, students, contractors, volunteers, board members, individuals visiting the campus or attending events on campus or sponsored by the campus.

Contractor: For the purpose of this policy, a contractor is an individual or business with whom the University has entered into an agreement or contract to provide goods or services. Qualified rehabilitation facilities who by contract provide temporary workers to the University are considered contractors. Contractors are not subject to ORS 240 but must comply with all federal and state laws. All contractors and contractors' employees are required to adhere to Western Oregon University's policy prohibiting discrimination and sexual harassment in their interactions with members of the campus community.

Discrimination: Discrimination, for the purposes of this policy, is defined as any act or practice, in form or operation, whether intended or unintended, that illegally differentiates among persons on the basis of characteristics within a protected class such as race, color, religion, national origin, age, sex, gender, marital status, sexual orientation, veteran status or disability or any other status protected under law. In employment, making decisions related to hiring, firing, transferring, promoting, demoting, benefits, compensation, and other terms and conditions of employment, based on or because of an employee's protected class status.

Employee: Any person employed by the University in any capacity, such as faculty, unclassified, classified, temporary, students and volunteers.

Higher Standard: Applies to managers and supervisors. Proactively taking an affirmative posture to create and maintain a discrimination and harassment free workplace.

Manager/supervisor: Those who supervise or have authority or influence to effect employment decisions.

Protected Classes Under Federal Law: Race; color; national origin; sex (includes gender, pregnancy, and sexual harassment); religion; age (40 and older); disability; a person who uses leave covered by the Federal Family and Medical Leave Act; a person who uses Military Leave; a person who associates with a protected class; a person who opposes unlawful employment practices; files a complaint or testifies about violations or possible violations; and any other protected class as defined by federal law.

Protected classes Under Oregon State Law: All Federally protected classes, additionally; age (18 and older); physical and mental disability; injured worker; a person who uses leave covered by the Oregon family Leave Act; marital status; family relationship; sexual orientation; whistleblower, expunged juvenile record; and any other protected class as defined by state law.

Sexual Harassment: Sexual harassment is a form of discriminatory harassment. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical behavior of a sexual nature when directed toward an individual because of that individual's sex when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of the individual's employment, grade, or used as the basis for any employment or academic decision; or

b. Such conduct is unwelcome, unwanted or offensive and has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creates an intimidating, hostile or offensive work or academic environment.

Examples of Prohibited Conduct - Sexual Harassment, includes but are not limited to:

- a. Unwelcome, unwanted or offensive touching or physical contact of a sexual nature, such as closeness, leaning over, cornering, impending or blocking movement, assaulting or pinching.
- b. Sexual gestures, innuendos, teasing and other sexual talk such as jokes, intimate inquiries, persistent and unwanted courting, and sexist put-downs or insults; epithets; slurs; or derogatory comments.

Sexual Orientation under Oregon State Law: An individual/s actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual's gender identity, appearance, expression or behavior differs from that traditionally associated with the individual's sex at birth.

Workplace Harassment: Unwelcome, unwanted or offensive conduct based on or because of a campus community member's protected status that creates an intimidating, hostile, or degrading environment that would interfere with the work or academic performance of a reasonable person.

Harassment may occur between a manager/supervisor and a subordinate, between employees, between faculty and student, and among non-employees who have business contact with employees. A complainant does not have to be the person harassed, but could be a person affected by the offensive conduct.

Examples of harassing behavior include, but are not limited to, derogatory remarks, slurs or jokes about an individual's protected class status as listed above for protected classes under Federal and State laws.

PROCEDURES

Reporting

Complaints: An effective and clear complaint procedure is a critical element of Western Oregon University's policy against discrimination and harassment. The complaint procedure is open to all employees, applicants and students, except as collective bargaining agreements with the Service Employees International Union and the Federation of Teachers take precedence to address, investigate, and remedy allegations of discrimination or harassment. A formal complaint may also be filed with the Bureau of Labor and Industries (BOLI) or the equal Employment Opportunity Commission (EEOC) or if applicable, the United States Department of Labor Civil Rights Center.

Use of an informal process may be used as the first step in resolving a discrimination or harassment concern. The complainant should contact the respondent (who may be a person, office or organization) responsible for the policy, practice or act considered discriminatory or harassing within five days of the alleged act. The complainant may also seek assistance from Human Resources. If an informal resolution is not reached, or the complainant chooses, a formal discrimination or harassment complaint can be filed.

A formal complaint of discrimination or harassment must be filed orally or in writing within 12 months (180 days) of the alleged discriminatory or harassing act. If the complaint is received orally, the Director of Human Resources/Affirmative Action Officer, or designee, will convert it to written form. The written form will contain the following information:

- 1.) Complainant's name, address, status, and telephone number;
- 2.) The date(s) of the alleged act(s) of discrimination or harassment;

- 3.) a detailed description of the conduct or action that is believed to be discriminatory or harassing;
- 4.) Names of all parties involved, including witnesses;
- 5.) A description of the remedy proposed by the complainant;
- 6.) Complainant's signature.

Investigation

The Director of Human Resources/Affirmative Action Officer will coordinate and conduct, or delegate responsibility for coordinating and conducting, an investigation.

- Written copies of the alleged acts will be given to the complainant and the respondent (the person responsible for the alleged discriminatory or harassing act).
- All complaints are taken seriously and the investigation will be initiated as quickly as possible.
- The appropriate supervisors, managers, deans, directors, and/or Vice Presidents will be notified a complaint has been filed and will aid in taking any needed steps to ensure all are protected from further potential discrimination or harassment.
- All involved will be notified that retaliating against a person for filing a complaint, or being involved in the investigation, will not be tolerated.
- All complaints will be dealt with in a discreet and confidential manner, to the extent possible.
- All parties will be expected to cooperate with the investigation and keep information regarding the investigation confidential.
- The Director of Human Resources /Affirmative Action Officer will then investigate the complaint, and develop a recommended course of action.
- The complainant and respondent will receive written notice that the investigation has been completed from the Director of Human Resources /Affirmative Action Officer within ~~30~~ 90 days after the receipt of the complaint unless an extension is needed.
- The report and recommendation will be forwarded to the appropriate dean, director and vice president, and the VP and General Counsel for review. Appropriate and immediate action will be taken if a complaint is substantiated, in whole or in part.
- The University will inform the complainant if any part of a complaint is substantiated and that action has been taken. The complainant will not be given the specifics of the action.
- The University will inform the complainant and the respondent will be notified if a complaint is not substantiated.
- The decision can be appealed to the president of the university.

Penalties

Conduct in violation of this policy will not be tolerated.

- For employees, prohibited conduct may result in disciplinary action, up to and including dismissal.
- For students, prohibited conduct may result in disciplinary action under Western Oregon University's Code of Student Responsibility:-
- Managers and supervisors who know or should know of conduct in violation of this policy, and who fail to report it, or fail to take prompt, appropriate corrective action, are subject to disciplinary action, up to and including dismissal.
- Temporary employees and volunteers who engage in conduct in violation of this policy may be subject to termination of their working or volunteer relationship with the University.
- An employee who engages in harassment of other employees while away from the workplace and outside of working hours may be subject to the provisions of this policy if that conduct has a negative impact on the work and/or working relationships.
- If a complaint involves the conduct of a contracted employee or a contractor, the University Human Resources director or designee must inform the contractor of the problem behavior and require prompt,

appropriate action.

- If a complaint involves the conduct of a client, customer, or visitor the university should follow its own internal procedures and take prompt, appropriate action.

NON-RETALIATION

This policy prohibits retaliation against individuals who file a complaint about prohibited conduct, participate in an investigation, or report observing discrimination, workplace harassment or sexual harassment.

- Individuals who believe they have been retaliated against because they filed a complaint, participated in an investigation, or reported observing discrimination, workplace harassment or sexual harassment should report this behavior to the Human Resources office or the office of the VP and Legal Counsel. Complaints of retaliation will be investigated promptly.
- Employees found to have engaged in retaliatory action or conduct will be subject to discipline, up to and including dismissal.
- Temporary employees and volunteers who retaliate against others may be subjected to termination or their working or volunteer relationship with the university.

Policy Notification and Training

All employees including temporary employees and volunteers shall:

- be given a copy of the policy or the information to locate the policy on the Western Oregon University website
- given direction to read the policy
- given the location of the on-line discrimination and harassment policy training
- provide direction about how to ask questions regarding the policy
- include this information in all orientation opportunities

REFERENCED OR RELATED POLICIES

RELEVANT DOCUMENTS AND LINKS

HISTORY

APPROVAL DATE:

EFFECTIVE DATE: 09/01/1995

LAST UPDATED: 09/15/2022

HISTORICAL DETAIL NOTES:

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 2-1982, f. & ef. 4-20-82; HEB 2-1988, f. & cert. ef. 3-16-88; HEB 11-1990(Temp), f. & cert. ef. 10-3-90; HEB 15-1990, f. & cert. ef. 11-7-90; HEB 16-1990, f. & cert. ef. 12-18-90; HEB 4-1991, f. & cert. ef. 8-15-91; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 5-1996, f. & cert. ef. 12-18-96

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FOR POLICY WEBSITE INPUT (public audience keyword search)

discriminatory practices, sexual harassment, Derogatory remarks, discrimination