

Oregon Tech Policy
OIT-01-004
PROHIBITED SEXUAL MISCONDUCT - INT ERIM

1. Policy Statement

Oregon Institute of Technology (Oregon Tech) is committed to creating and maintaining a safe, respectful, supportive, and productive environment in which to study, live, work, research, and visit. Oregon Tech strives to maintain an atmosphere that supports educational and career advancement based on reasonable, meaningful, and objective measures, such as academic and job performance. Oregon Tech strives to recruit and retain top talent and persons of diverse backgrounds and experiences for its workforce and within its student body.

Oregon Tech recognizes Sexual Misconduct as a form of sex discrimination. As used in this Policy and the companion procedures, the term Sexual Misconduct serves as an umbrella term for behaviors, including, but not limited to: Sexual and Gender-Based Harassment detailed companion procedures, Oregon Tech adopts protocols for responding to reports of known or suspected Sexual Misconduct; providing education and training to campus; facilitating awareness and prevention initiatives; and taking such other measures as may be prudent to prevent, deter, root out, and halt Sexual Misconduct, in any form, within the Oregon Tech Community. Oregon Tech's adopted policies and procedures are designed to assure the institution complies with its own standards and also related state and federal laws, including, among many others, Title IX of the Educational Amendments of 1972 (Title IX) and Title VII of the Civil Rights Act of 1964 (Title VII).

2. Reason for Policy/Purpose

Oregon Tech is committed to equal access in its academic programs, services, activities, and in employment, and to an educational and work environment in which all individuals are treated with respect and dignity. Oregon Tech expects that all interactions between and among members of the Oregon Tech Community – and between members of the community and third parties -- will be free from Sexual Misconduct.

This Policy outlines the basic framework that Oregon Tech uses to respond to complaints and

- x Defines prohibited Sexual Misconduct;
- x Describes the process for reporting known or suspected violations of this Policy;
- x

deception, coercion, abuse of a position of authority, or force; or (5) a minor unable to give Consent, as defined by applicable state law (e.g. the age of Consent is 18 in Oregon and 16 in Washington).

Dating Violence: A form of Relationship Violence that is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the person who has experienced Dating Violence. The existence of such a relationship shall be determined based on 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 Domestic Violence.

Deputy Title IX Coordinator(s): Oregon Tech employee(s) identified to assist with Oregon Tech's Title IX Compliance efforts, most frequently in areas of prevention, training, education, and the work of the Title IX Steering Committee. Deputy Title IX Coordinators are otherwise full-time Oregon Tech employees who have accepted additional Title IX duties to assist the institution in its Title IX compliance efforts. Deputy assignments may periodically rotate among Oregon Tech employees. Visit the Oregon Tech Title IX webpage for the list of persons currently serving as Deputy Title IX Coordinators.

Domestic Violence: A form of Relationship Violence that is committed by: (1) a current or former spouse or intimate partner of the person who has experienced Domestic Violence; (2) a person with whom the person who has experienced Domestic Violence shares a child in common; (3) a person who is cohabitating with, or has cohabitated with, the person who has experienced Domestic Violence as a spouse or intimate partner; (4) a person similarly situated to a spouse of the person who has experienced Domestic Violence under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or (5) any other person against an adult or minor who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the Domestic Violence has occurred.

Fondling: A form of Sexual Misconduct. This includes the touching of the private body parts of another person for the purpose of sexual gratification, without the Consent of the person alleging Fondling, including instances where the person alleging Fondling is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity.

Force: The use or threat of physical violence or intimidation to overcome a person's freedom of will to choose whether to participate in sexual activity. The use of Force negates Consent.

Gender-Based Harassment: A form of Sexual Harassment based on actual or perceived gender, gender identity, gender expression, or sexual orientation, which may include acts of aggression, intimidation, or hostility, whether verbal, non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature.

Hearing/Resolution Officer: In instances when administrative hearings are held under the procedures supporting this Policy, the Hearing/Resolution Officer is the person who conducts and presides over the administrative hearing and makes findings and recommendations to the party responsible for determining sanctions, when that is a different person.

Hostile Educational Environment (Title IX): A form of Sexual and/or Gender-Based Harassment prohibited by Title IX that is unwelcome conduct that a reasonable person would determine is subjectively and objectively offensive and severe or pervasive in nature that it effectively results in a limitation or denial of a person's ability to participate in or benefit from the school's education program or activity. While a person who engages in harassing behavior most often has some form of power or authority over the person being harassed, that is not always the case. The harasser can be a peer of the person being harassed. Sometimes the harasser is harassing a person who has the power over them. The more severe the conduct, the less of the need there is to show a repetitive series of incidents to prove a Hostile Education Environment.

Hostile Work Environment (Title VII): A form of Sexual and/or Gender-Based Harassment prohibited by Title VII that can occur when unwelcome conduct of a sexual nature creates an intimidating, threatening, or abusive working environment or is so severe, persistent, or pervasive that it affects a person's ability to participate in, perform in, or benefit from a University program or activity. While a person who engages in harassing behavior most often has some form of power or authority over the person being harassed, that is not always the case. The harasser can be a peer of the person being harassed. Sometimes the harasser is harassing a person who has the power over them. The more severe the conduct, the less of the need there is to show a repetitive series of incidents to prove a Hostile Work Environment.

by a single severe episode. The more severe the conduct, the less of the need there is to show a

Retaliation: Any action (beyond a petty slight or trivial annoyance) taken against a person because of the person's participation in a protected activity that would discourage a reasonable person from engaging in a protected activity. A protected action would include filing a complaint and/or participating in an investigation or hearing pertaining to Sexual Misconduct.

Sex-Based Harassment: A form of sex-based discrimination that includes conduct defined as sexual harassment and other harassment on the basis of sex. See definitions for Hostile Environment Sexual Harassment, Quid Pro Quo, and other VAWA offenses.

Sex and Gender-Based Stalking: Engaging in a course of conduct directed at a specific person, based on a person's sex or gender, that would cause a reasonable person to: (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress. For the purposes of this definition: (1) course of conduct means two or more acts, including, but not limited to, acts in which the stalker 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 person being stalked; (3) and substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Sex Discrimination: Conduct that denies or limits a person's ability to benefit from or fully participate in educational programs or activities or employment opportunities on the basis of sex stereotypes, sex characteristics, Pregnancy or related conditions, a person's known or presumed sex, gender, gender identity, gender expression, or sexual orientation. Sexual Misconduct is a form of Sex Discrimination, but it is not the only form. Forms of Sex Discrimination that do not constitute Sexual Misconduct under this Policy are addressed in Oregon Tech's Policy on Prohibited Discrimination and Discriminatory Harassment.

Sexual Assault: Any attempted or actual sexual act, including: vaginal or anal intercourse; anal, oral or vaginal penetration with an object; oral-genital contact; or other sexual contact, directed against another person without their Consent, including instances where the person is incapable of giving Consent. Several different acts can fall within the definition of Sexual Assault, including, but not limited to, Fondling, Incest, Rape, Sexual Assault, Sexual Assault with an Object, Sexual Contact, Sodomy, and Statutory Rape.

Sexual Assault with an Object: The use of an object to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the Consent of the person assaulted, including instances where the person is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity. An "object" is anything used by the Respondent other than the Respondent's genitalia, such as a finger or a stick.

Sexual Coercion: Conduct, including intimidation and express or implied threats of immediate or future physical, emotional, reputational, financial, or other harm to the Complainant or others, that would reasonably place a person in fear, and that is employed to compel someone to engage in sexual activity. The use of Coercion negates Consent. See also Threats, below.

Sexual Contact: A form of Sexual Assault involving an intentional contact of a sexual nature with the body parts of another, causing another to touch one's intimate body parts, disrobing or exposure

of another without permission. This can include ~~act~~ of a sexual nature with intimate body parts such as the breasts, genitals, buttocks, groin, or

the Reasonable Person to meet the definition of prohibited sexual harassment under this Policy. Sexual Harassment can be based on actual or perceived sex, sexual orientation, gender, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal, non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature.

Sexual Intimidation: Threatening or emotionally distressing conduct based on sex including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording. The use of Sexual Intimidation negates Consent. See also Threats, below.

Sexual Manipulation: A person's attempt to use a superior position to obtain sexual favors from a subordinate could be described as a Sexual Manipulation. Instead of physical force, they may use wit, charm, and verbal adeptness to manipulate intended targets; they may engage in name-calling or dates to manipulate intended the person being manipulated; they may also make threats of self-harm to manipulate intended target. The use of Sexual Manipulation negates Consent. See also Coercion, above.

Sexual Misconduct:

Title IX Coordinator: The Oregon Tech employee identified to oversee Oregon Tech's commitment to establishing and maintaining an academic and working environment free from Sexual Misconduct. The Title IX Coordinator supervises the Title IX Investigator and, when applicable, other Title IX personnel, and coordinates activities involving Deputy Title IX Coordinators. The Title IX Coordinator serves as the chair of the Title IX Steering Committee. The Title IX Coordinator can be reached via email at: TitleIX@oit.edu.

Title IX Investigator(s): The person(s) engaged by Oregon Tech to serve as the lead investigator where complaints of known or suspected Sexual Misconduct warrant investigation. A Title IX Investigator is charged with conducting fair, neutral, impartial and unbiased investigations. A Title IX Investigator serves as a neutral and impartial party in the Title IX process. The Title IX Investigator reports to the Title IX Coordinator.

Title IX Steering Committee: The standing committee comprised of faculty, staff, and students that reviews Title IX programs, including policies, procedures, education and training materials, proactive and reactive initiatives, and related activities. The Title IX Steering Committee is not actively involved in the complaint, investigation, or disciplinary processes relating to allegations of Sexual Misconduct.

Violence: Includes any intentional or reckless act that physically harms a person or persons or an intentional or reckless act resulting in damage to property. See Oregon Tech's Policy mandating a Violence-D.00Motor

Oregon Tech expects all members of the Oregon Tech Community to cooperate with the Sexual Misconduct complaint and investigation process. Students are also asked to report conduct or behavior that they believe to be in violation of Oregon Tech's expectations relating to Sexual Misconduct.

Oregon Tech takes seriously all allegations of Sexual Misconduct and takes prompt action when complaints are made. Oregon Tech is dedicated to establishing and facilitating a process that assures both parties are given appropriate support and fair treatment. Sexual Misconduct **will not be tolerated** at Oregon Tech. At the same time, Oregon Tech supports a process that offers due process to all parties. This makes Oregon Tech's role in this process a complex one. Oregon Tech must simultaneously protect Reporting Parties, Respondents, and Witnesses.

Reporting Parties, including Complainants, deserve support, assistance, and a process that can vindicate good-faith and valid claims, where sufficient information exists to substantiate a finding of Sexual Misconduct. Similarly, Respondents deserve support, assistance, and a process that appropriately addresses claims that are not made in good faith, are not valid, or where insufficient information exists to substantiate a finding of Sexual Misconduct.

b. Prohibited Conduct

Sexual Misconduct is prohibited. This term encompasses all forms of Sexual Exploitation, Sexual and Gender-based Harassment, Sexual Assault, and Relationship Violence. Sexual Misconduct includes a wide range of behaviors of a sexual

- x Complainants shall be notified of their options to report acts of Sexual Assault to local law enforcement;
- x Complainants shall be informed of the right to seek medical treatment and information on preserving potentially key forensic and other evidence;
- x Both parties shall be notified of available counseling services;
- x Both parties shall be notified of options for changing academic and living situations;
- x Both parties shall be informed of Oregon Tech's procedures and have access to resources and Support Measures;
- x Both parties shall be informed of the informal resolution process;
- x Both parties must have the same opportunity to have others present in interviews and hearings;
- x Both parties shall be informed of the outcome of any investigatory process and/or any disciplinary proceeding;
- x Both parties shall be informed of Oregon Tech's prohibition against retaliation and that Oregon Tech will take prompt action when retaliation is reported, and how to report suspected acts of retaliation; and
- x Both parties shall be informed of the right to meet with the Title IX Coordinator to discuss resources, rights, and any procedural options.

The "Campus Sexual Assault Victims' Bill of Rights" exists as a part of the campus security reporting requirements, commonly known as the Jeanne Clery Act. See Oregon Tech's policy addressing Clery Act Compliance and the [Campus Safety website](#).

d. Reporting Rights and Options

1. General Reporting Expectations

Members of the Oregon Tech Community who, in the course and scope of their studies or employment, witness or receive information regarding the occurrence of an incident that the employee or student reasonably believes constitutes any

Additional Reporting Options for Employees and Oregon Tech Community Members

The Title IX Coordinator is responsible for assessing complaints when the suspected Sexual Misconduct is conducted by an Or

manner that does not include any personally identifying information about persons involved in an incident. The Clery Act also requires Oregon Tech to issue timely warnings to Oregon Tech Community about certain crimes that have been reported and may continue to pose a serious or continuing threat to campus safety. Consistent with the Clery Act, Oregon Tech withholds the names and other personally identifying information of Complainants when issuing timely warnings to the Oregon Tech Community. See Clery Act Compliance Policy.

3. Amnesty to Students when Reporting Prohibited Conduct

When applicable, Oregon Tech offers amnesty to student Complainants and Witnesses. While Oregon Tech does not condone underage drinking or violations of other Oregon Tech student conduct expectations, it considers reporting Sexual Misconduct to be of paramount importance. Complainants and Witnesses should not allow their participation in underage drinking to deter them from making a report when Sexual Misconduct occurs. Consequently, Oregon Tech extends limited immunity to student Complainants and Witnesses to foster reporting and adjudication of Sexual Misconduct.

4. Confidential Resource Employee

Confidential Resource Employees are those campus and community professionals who can maintain legally protected confidentiality within Oregon Tech for the person who shared the information, including information concerning Sexual Misconduct. Confidentiality means that information shared by a person with a Confidential Resource Employee cannot be revealed to any other person without express permission of the person, or as otherwise permitted or required by law.

Confidential Resource Employees are prohibited from disclosing confidential information unless: (1) given permission by the person who disclosed the information; (2) there is an imminent threat of harm to self or others; (3) the conduct involves suspected abuse of a minor under the applicable age of Consent; or (4) as otherwise required or permitted by law or court order.

At Oregon Tech, Confidential Resource Employees include the staff of Integrated Student Health Center acting in their capacity as a counseling or health provider.

For employees, note that Employee Assistance Program (EAP) counselors are a third-party vendor and are not Oregon Tech employees. Discussions

Oregon Tech requires all employees to act as Responsible Employees, unless they are considered a Confidential Resource. Any student employed by Oregon Tech and serving in any position of authority is also considered a Responsible Employee (such as a Resident Assistant in Housing).

Oregon Tech employees serving in supervisory roles have an elevated burden to report any known or suspected Sexual Misconduct occurring by a member of the Oregon Tech Community or occurring on Oregon Tech property. If an Oregon Tech employee serving in a supervisory capacity fails to report known or suspected Sexual Misconduct, that failure to report will, itself, be considered misconduct.

In addition to the reporting responsibilities discussed in this Policy, all Oregon Tech employees have an obligation to report known or suspected child abuse and neglect consistent with Oregon state law.

administrative—not legal—process, due process is a cornerstone of its structure. Consequently, Oregon Tech strives to balance taking seriously every report of possible Sexual Misconduct, while also not presuming misconduct of those against whom allegations are made.

The Title IX Coordinator oversees the initial response and assessment of reports of Sexual Misconduct through the applicable procedures, determined by the status of the Respondent. See Procedures for the Resolution of Sexual Misconduct Complaints against Students; Procedures for the Resolution of Sexual Misconduct Complaints against Employees, Affiliates, and Non-Affiliates.

Both sets of procedures are guided by the same general principles of fairness and respect for all parties. However, outcomes vary depending on the Respondent's role within the Oregon Tech Community.

Respondents are never presumed responsible for any conduct alleged. Instead, a determination concerning a respondent's responsibility is always made at the conclusion of the complaint process.

Resources are available for students who may be Reporting Parties, Respondents, or Witnesses. Resources are available throughout the investigation and resolution of a Sexual Misconduct complaint.

Oregon Tech personnel who work as decisionmakers, investigators, or facilitators of formal or informal processes supporting this Policy are selected with care to be free from conflicts of interest or biases for or against reporting parties, complainants or respondents generally or individual reporting parties, complainants or respondents.

h. Complaint Options

When complaints of known or suspected Sexual Misconduct are made to the Title IX Coordinator, the Reporting Party may denote their preference for how the report will be processed. Reporting options including: (1) Formal Complaints, (2) Informal Complaints, or (3) Technical Support. While Oregon Tech reserves the right to review and investigate any complaint as it determines necessary to best protect the Oregon Tech Community, tremendous deference will be given to the Reporting Party, whenever possible.

Formal Complaints: This is a formal complaint document filed by a Complainant directly with the Office of Title IX Compliance alleging Sexual Misconduct against a Respondent and requesting that Oregon Tech investigate the Sexual Misconduct allegation(s). Oregon Tech has a Formal Complaint Form containing certain language necessary to comply with legal requirements associated with this type of complaint.

Informal Complaints: An informal complaint implies that an informal review will be initiated to assess the allegation. This typically involves, at a minimum, the interviews of the Complainant and Respondent. However, key Witnesses may also be involved in informally reviewing allegations. Depending on the substantiated facts, an investigative report or memo may document the review. For example, an informal complaint may not be appropriate for allegations of Sexual Assault but an Informal Complaint may be an appropriate route for less pervasive or less severe allegations of

Sexual Harassment that may be addressed and informally resolved. Oregon Tech does not require the parties to participate in an informal resolution process if any party prefers a formal process.

Technical Support: A request for support measures may be appropriate when the Reporting Party is the Complainant and they are seeking support and resources, rather than wanting to file a complaint, or see that Oregon Tech initiate an investigation or review. This may be an appropriate option if, for example, the allegations represent relatively low-grade Sexual Misconduct and the Respondent has already left Oregon Tech, making it unlikely that Oregon Tech can take action against them. While action against the Respond

Typically, there will also be an initial conversation with the Respondent to assure they understand the allegations directed against them, the process and procedures involved, their rights, an explanation of Oregon Tech's prohibition of retaliation, and discuss and determine whether any Support Measures may be necessary or helpful. Additional information about due process afforded to students and employees is provided in greater detail in the corresponding procedures.

k. Support Measures

The Office of Title IX Compliance may offer support measures, when deemed necessary. Support Measures—previously referred to as Interim Measures—are those temporary services, adjustments, and other assistance Oregon Tech puts in place after receiving notice of alleged Sexual Misconduct, but before any final outcomes (investigatory, disciplinary, or remedial) have been determined.

Support Measures are non-disciplinary, non-punitive individualized services offered to Complainants and Respondents, as appropriate, and as reasonably available. Support Measures may be considered before or after a Formal or Informal Complaint is filed or Technical Support is requested.

During the initial intake meetings with the parties, witnesses, or other impacted community members, the Title IX Coordinator, Deputy Coordinator, or Title IX Investigator will share information about Support Measures.

If a person is interested in Support Measures, the Title IX Coordinator, or designee, will typically collaborate with the appropriate offices (e.g. the Dean of Students, the Center for Academic and Engagement Resources (CARES), Office of the Registrar, Residence Life, etc.) to discuss what Support Measures may be feasible. When Support Measures are adopted, the impacted parties will be informed in writing of the measures and their duration. Impacted parties are expected to comply with the Support Measures so long as they remain in effect.

Support Measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter Sexual Misconduct. Support Measures will be individualized and appropriate based on the information gathered by the Title IX Office, making every effort to avoid depriving any student of their education or employees of their employment status. The measures needed by each party may change over time, and the Title IX Office will communicate with parties throughout an investigation to ensure that any Support Measures are necessary and effective based on the parties' evolving needs.

- x Escort and other safety planning steps;
- x Mutual “no contact order,” an administrative remedy designed to curtail contact and communications between two or more people;
- x Changes in work or housing locations;
- x Voluntary leave of absence or paid administrative leave;
- x Increased security and monitoring of certain areas of the campus;
- x Guidance in obtaining a sexual assault forensic examination;
- x Allow either a Complainant or a Respondent to drop a class in which both parties are enrolled in the same section;
- x Referral to resources to assist in obtaining a protective order;
- x Referral to resources to assist with any financial aid, visa or immigration concerns;
- x Assistance to connect with other Oregon Tech and community resources; and/or
- x Any other remedial measure that does not interfere with either party’s access to education can be used to achieve the goals of this Policy.

Where there are concerns of additional acts of misconduct, for example, where reports include allegations of on-going Sexual Assault or Relationship Violence, the Office of Title IX Compliance will discuss with the Complainant options for making reports to local law enforcement and/or Campus Safety.

Once in place, impacted parties are expected to honor and comply with Support Measures.

Violations of Support Measures constitute a Title IX violation.

Absent extenuating circumstances, an investigation will begin upon receipt of a complaint of alleged Sexual Misconduct. While varying from case to case, investigations often include these general steps:

- x The Title IX Investigator(s) interview the Complainant, the Respondent(s), and any Witnesses, including those identified by the Complainant and Respondent, as appropriate.
- x The Title IX Investigator(s) also gather and review any information they deem pertinent, as well as any information submitted by the Complainant, the Respondent(s), and/or any Witnesses.
- x The Title IX Investigator(s) ensure that both the Complainant and Respondent have reasonable and equitable access to all information directly related to the alleged violation in Oregon Tech's possession, including any statements made by the Complainant or by other persons, information stored electronically, written or electronic communications, social media posts, or physical evidence, redacted as necessary to comply with any applicable federal or state law regarding confidentiality.
- x If, during the course of an investigation, additional actions that may constitute a violation of Policy are identified, Oregon Tech will determine on a case-by-case basis whether and how

34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

It is important to understand that to investigate the matter and provide the other party with notice of the underlying allegations and an opportunity to respond, Oregon Tech may need to reveal the identity of the Reporting Party and relevant Witnesses. Additionally, once an investigation is closed, certain information may be subject to disclosure when in receipt of properly submitted public record requests.

s. Non-Retaliation and False Claims

Oregon Tech adheres to a strict policy of non-retaliation and prohibits retaliation, and threats or attempts to retaliate against anyone who makes a good-faith report under this Policy, or who participates in, cooperates with, or contributes to efforts to investigate and resolve such reports.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Any person who believes that they are being penalized for making a report under this Policy, or for participating in, cooperating with, or contributing to efforts to investigate or resolve a report, should immediately contact the Office of Human Resources (if an employee) or the Dean of Students (if a student).

t. Violations of this Policy

A violation of this Policy constitutes serious misconduct. Failure to comply with this Policy could result in disciplinary action, up to and including termination for employees and expulsion for students. Violators may be subject to removal from Oregon Tech Premises. Violations of this Policy

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8. Policy Approval

Approved by the President on July 31, 2024.

Nagi G. Naganathan, Ph.D., ASME Fellow
President

Supersedes, Renames, and Renumbers

OIT-01-004, Revised 11/4/21; OIT-21-325, Policy on Sexual Harassment, Adopted 11/01/02;
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