



Office of Affirmative Action and Equal Opportunity

Oregon State University, 526 Kerr Administration Building, Corvallis, Oregon 97331-2139

T 541-737-3556 | F 541-737-0712 | <http://oregonstate.edu/dept/affact/>

Committed to promoting success for the entire campus community through equality, fairness, and understanding

OSU Sexual Harassment Policy

Introduction

Purpose

The purpose of this policy is to set forth [Oregon State University's](#) commitment to maintaining a University environment free from sexual harassment. The University realizes its moral and legal obligations to ensure that all employees and students are provided a discrimination free environment to realize their goals and to function effectively at the University.

Policy

In accordance with federal and state laws, Oregon State University prohibits discrimination on the basis of age, color, disability, gender identity or expression, marital status, national origin, race, religion, sex, sexual orientation, or veteran's status.

Any person who believes that he or she has been sexually harassed at the University may file either a formal or informal complaint in the Office of Affirmative Action & Equal Opportunity. Confidentiality will be maintained to the fullest extent permitted.

Definition

Sexual harassment is defined as: Unwelcome* sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment or education-related decisions affecting such an individual, or;
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or learning environment.

*Employee conduct directed towards a student--whether unwelcome or welcome--can constitute sexual harassment under OAR 580-015-0010(2).

Harassment-Free Environment

To maintain an environment free from sexual harassment is very important. To provide this environment, the following actions should be taken:

1. Deans, directors, department heads and supervisors should inform all employees that sexual harassment is prohibited.
2. The Sexual Harassment Policy should be emphasized by the deans in school meetings and explained by departmental chairs to academic staff, and classified and management service employees. Directors should discuss the issue in staff meetings. Those who have questions should be referred to the Office of Affirmative Action & Equal Opportunity immediately.
3. The pamphlets, *Sticks and Stones Can Break My Bones but Words Can Never Hurt Me*, and *Understanding Sexual Harassment*, as well as any other such materials for display provided by the Office of Affirmative Action and Equal Opportunity, should be widely disseminated and displayed in every department, school, and college office.
4. All head residents and resident advisors should display the posters, distribute the pamphlets, and discuss the rules with residents in their living groups.
5. Deans, department chairs, directors, head residents, and resident advisors should be encouraged to invite the director of the Office of Affirmative Action & Equal Opportunity to talk to their staffs concerning this very important issue.
6. Information regarding sexual harassment specifically for students is contained within the student code of conduct (Schedule of Classes & OSU General Catalog).

Complaint Procedures -- Basis: Sexual Harassment

Informal

Definition:

The process of gathering information to either establish a suspicion of sexual harassment or to attempt to resolve a disagreement without following a formal complaint procedure

Who May File:

Students, employees, and others, where appropriate.

Procedure:

1. The complainant completes the "Complaint of Discrimination or Harassment" form; the OAAEO advises the complainant of her/his rights to file with state and/or federal agencies.
2. The OAAEO may notify the appropriate administrator, dean, or director that an informal complaint has been initiated.

3. The OAAEO contacts the individual/entity (respondent) accused of sexual harassment to discuss the alleged harmful act.
4. The OAAEO develops a proposed resolution, if appropriate, within fifteen (15) calendar days of acceptance of the informal complaint. If appropriate, the complainant is advised that she/he may file a formal complaint.
5. The OAAEO may notify the appropriate administrator, dean, or director of the final status of the complaint.

*OAAEO refers to the Office of Affirmative Action & Equal Opportunity

Formal

Definition:

The process of investigating a case of alleged sexual harassment and making a determination as to whether or not sexual harassment occurred and, where appropriate, providing a resolution to the complaint.

Who May File:

Students and Student employees (undergraduate and graduate)

Applicable Board Rule, Division 15

Students may appeal a decision to the Chancellor's Office in a written format within two weeks of the determination.

Procedures:

1. The complainant completes the "Complaint of Discrimination or Harassment" form. The complaint must be filed within 365 days of the alleged harmful act.
2. The OAAEO acknowledges in writing the receipt of the formal complaint; the letter includes information on the complainant's right to file with state and/or federal agencies. Copies of the letter are sent to the respondent, the appropriate administrator, dean or director, the University legal advisor, and the [Chancellor](#) of the [Oregon University System](#).
3. OAAEO shall conduct a thorough investigation of the complaint.
4. Within thirty (30) calendar days of the receipt of the formal complaint, OAAEO shall inform the complainant and all persons who were copied in #2 above, of the final status and a resolution, where appropriate. The 3-day period may be extended for an additional 30 days with the approval of the Chancellor. The letter of determination identifies the available appeal procedures for the complaint.

Who May File:

Classified employees.

Collective Bargaining Agreement, Article 22 (Not relevant for applicants)

Procedures:

1. The complainant completes the "Complaint of Discrimination or Harassment" form. The complaint must be filed within 180 days of the alleged harmful act.

2. The OAAEO acknowledges in writing the receipt of the formal complaint; the letter includes information on the complainant's right to file with the Union (for classified employees), and/or state and federal agencies. Copies of the letter are sent to the respondent, the appropriate administrator, dean, or director, the University Legal Advisor, and the director of the [Department of Human Resources](#).
3. OAAEO conducts a thorough investigation of the complaint.
4. Within fifteen (15) calendar days of the receipt of the formal complaint, OAAEO informs the complainant and all persons copied in #2 above of the final status and a resolution, where appropriate. If an extension of the 15-day time period is required, OAAEO shall notify the complainant of the anticipated date of completion of the investigation. The letter of determination identifies the appeal procedures available to the complainant.
5. A classified employee has the right to file a grievance through the Union alleging sexual harassment without filing a "Report of Discrimination or Harassment" form with OAAEO. Such a grievance will be submitted within 30 days of the date the grievant or Union knows, or by reasonable diligence, should have known of the alleged grievance, directly to the President or his designee. The President or his designee will respond within 15 calendar days after the receipt of the grievance. Assistance in the investigation of the alleged grievance may be provided by OAAEO and the Department of Human Resources.

Who May File:

Faculty employees (instructor, senior instructor, faculty research assistant, research associate, assistant professor, associate professor, professor, no rank).

Initiation of Formal Procedures, 576-50-025

1. If a grievance is not resolved to the satisfaction of the grievant at the informal stage, or if the grievant chooses to bypass the informal stage, the grievant may file a formal written grievance. A grievance shall be filed with the dean, director, or the appropriate administrator in charge of the administrative unit, except a) where the grievant is a department chair in which case the grievance shall be filed with the Provost and Executive Vice President, or b) where the grievant alleges sexual harassment against the person in charge of the administrative unit, in which case the grievance shall be filed with the next higher administrator. The grievant shall file a copy of the written grievance with the Legal Advisor in the Office of the President. The formal grievance must be filed within sixty (60) days of the time the faculty member knew or by reasonable diligence should have known, of the acts which gave rise to the grievance. Therefore, discussion or mediation at the informal stage should be initiated as soon as possible. The University shall extend the sixty-day filing requirement if the grievant is pursuing the complaint at the informal level and it appears that additional time would be beneficial in resolving the grievance. Extension by the University shall be in writing by the Legal Advisor.

2. The written grievance must contain the grievant's name and address, the date and nature of the act or omission which gave rise to the grievance, any rule, policy or procedure alleged to have been violated or misapplied, and the remedy requested by the grievant.
3. The dean, director, administrator, or the respective designee shall send a written decision to the grievant within twenty (20) days of receipt of the grievance.
4. If the sole basis of the grievance is a claim of an unlawful discriminatory employment practice or practices, the grievant may waive in writing the right to file a formal grievance under this rule and may elect instead to file a formal complaint of discrimination with the OAAEO. If the grievant elects to file with the OAAEO, the grievant shall be entitled to that office's procedures and shall have no further rights to the procedures set forth in this Division 50.

Appeal to the Faculty Grievance Committee, 576-50-030

1. If the decision of the dean, director, or administrator is not satisfactory to the grievant, the grievant may file a written appeal with the Faculty Grievance Committee within ten (10) days of receipt of the written decision, stating why the response at the previous level was deficient. This step is optional with the grievant. The grievant may bypass the Committee and file the appeal directly with the President.
 1. The committee shall send to the grievant a written notice of the time and place of the hearing at least seven (7) days prior to the hearing.
 2. At the committee hearing, the faculty member shall present his or her case first, followed by the person or persons who are the object of the grievance. Thereafter, the faculty member shall have an opportunity to respond.
 3. Each party shall have a right to call and examine witnesses, to introduce exhibits or other documents. The members of the Committee may question any witness and may call additional witnesses.
 4. If the grievant so chooses, he or she may be accompanied by or represented at the hearing by any other person.
 5. Either party may provide for and obtain a sound recording of the hearing.
 6. The hearing shall be open to the public at the option of the grievant to the extent allowed by law. However, deliberations of the Grievance Committee shall not be open to the public or the parties.

Decision by the Committee and Appeal to the President, 576-50-035

1. The Committee's decision shall be made in the form of a written recommendation to the President. It shall be based only upon evidence

presented at the hearing. The recommendation shall include a description of the complaint, the evidence the Committee collected, and its conclusions and recommendation for disposition of the case. The recommendations shall be sent to the grievant, to the President, and to the dean, director, or administrator in charge of the unit out of which the grievance arose within sixty (60) days of receipt of the appeal to the Committee.

2. The President or his or her designee shall review the decision of the Committee and the President shall deliver a written decision to the grievant, to the Grievance Committee, and to the dean, director, or administrator in charge of the unit out of which the grievance arose within thirty (30) days of receipt of the Committee's recommendation. Prior to issuing a decision the President, or designee, may interview any person concerning the grievance to supplement the record whether or not the person testified at the hearing, provided that the decision shall list each person so interviewed. In addition, the President or designee may review any documents, provided that the decision shall identify any such documents that were not introduced at the Committee hearing. The grievant shall be informed of any additional information obtained by the President and given seven (7) days to respond. If the President rejects or modifies the recommendations of the Committee, the reasons shall be stated in the decision.
3. If the grievant chooses to appeal the decision of the dean, director, or administrator directly to the President, the President shall proceed to review the matter and reach a decision as set out in section (2) of this rule, provided that all persons interviewed and all documents reviewed must be identified in the decision. The President shall issue a decision within thirty (30) days of receipt of the grievant's appeal.
4. The decision of the President shall be final except as provided in OAR 576-050-0035(5).
5. If the grievance is directed at the President as the immediate supervisor of the grievant or at the President in his or her administrative capacity (as contrasted to appellate capacity), the grievant may appeal to the Chancellor of the Oregon University System as provided in OAR 580-021-005 (10).

Effects of Time Limits, 576-50-045

If the University fails to respond within the time limits at any step in this grievance process, the grievant may appeal to the next step.

Non-Retaliation, 576-50-050

An individual filing a grievance in good faith or otherwise participating in any of the actions authorized under these grievance rules shall not be subject to retaliatory action of any kind by any employee of the University, the Oregon University System, or the State Board of Higher Education.

Two-Year Review, 576-50-055

Not later than two years from the adoption of these rules, the Provost and Faculty Senate Executive Committee shall jointly appoint a faculty committee

to review the effectiveness of this grievance procedure and to recommend any changes.

Applicable Board Rule, Division 21

*OAAEO refers to the Office of Affirmative Action & Equal Opportunity

Sanctions

Academic Employees

Academic employees found to have engaged in sexual harassment may be subject to an oral or written warning or reprimand in accordance with OAR 580-21-320.

Sanctions more severe than an oral or written warning or reprimand, such as removal from an assigned post and reassignment, suspension or termination shall be imposed in accordance with OAR 580-21-325 through 520-21-385.

Classified Employees

Classified employees found to have engaged in sexual harassment may be subject to disciplinary action in accordance with current collective bargaining agreements. If a proven incident of sexual harassment occurs, sanctions in accord with the progressive discipline concept shall be instituted, including written reprimand, suspension, reductions of pay, demotion, and finally, termination of service.

Students

Students found to have engaged in sexual harassment may be subject to sanctions under the Student Conduct Code, OAR 576-15-030. These sanctions may include a warning, required educational activities, restrictions, disciplinary probation, suspension and/or expulsion.

Appendices

Legislation and Policies Pertaining to Sexual Harassment

Title VII of the 1964 Civil Rights Act, Sec. 703

Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.)

Department of Education (34 C.F.R. Part 106)

Department of Energy (10 C.F.R. Part 1040)

Department of Agriculture (7 C.F.R. Part 15a)

Executive Order EO-81-7 State of Oregon, 1981

OAR 580-21-310 to 580-21-470

Equal Employment Opportunity Commission: Guidelines on Discrimination Because of Sex (29 C.F.R. Part 1604.11 (a) November 10, 1980)

Oregon State University Policy Against Discriminatory Harassment, September 1992

Oregon State University Student Conduct Code, OAR 576

Equal Employment Opportunity Commission Guidelines on Sexual Harassment

Section 1604.11 - Sexual Harassment

- a.) Harassment on the basis of sex is a violation of Sec. 703 of Title VIII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
- b.) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the records as a whole and the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts on a case by case basis.
- c.) Applying general Title VII principles, an employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the employer know or should have known of the occurrence. The Commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity.
- d.) With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have know of the conduct, unless it can be shown that it took immediate and appropriate corrective action.
- e.) An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing,¹ these cases, the Commission will consider the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of such non-employees.
- f.) Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raises the issue of harassment under Title VII, and developing methods to sensitize all concerned.

g.) Other Related Principles: Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

These sexual harassment guidelines are on section of the Equal Employment Opportunity Commission's Sex Discrimination Guidelines, which are codified as 29 C.F.R. 1604.

1 The principles involved here continue to apply to race, color, religion, or national origin.

Executive Order EO-81-7

Office of the Governor

State of Oregon

Executive Order EO-81-7

Sexual Harassment

The State of Oregon through its public policy is dedicated to a work environment free from discrimination based on race, religion, national origin, age, sex, marital status or a physical or mental handicap.

Personal policies, practices, and laws require working conditions to be conducive to the performance of duties in an atmosphere free from discrimination, intimidation or coercion in any form.

Sexual harassment, a form of sex discrimination, is an unacceptable and unlawful practice for which legal remedies are available under Title VII of the Civil Rights Act of 1964 and ORS 659.030.

For the purpose of this Executive Order, sexual harassment is defined as any sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made, either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or
3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

IT IS ORDERED AND DIRECTED THAT;

1. The Executive Department develop and disseminate personnel policy prohibiting sexual harassment in the workplace;
2. State agencies disseminate such policy to all state employees;
3. The Executive Department develop training and educational programs for the purpose of assisting agencies to eliminate any sexual harassment in state government service;
4. State agencies inform their employees of the internal complaint process;
5. State agencies inform their employees that sexual harassment complaints will be received by the Governor's Affirmative Action Office, Bureau of Labor-Civil Rights Division, or EEOC;
6. The Governor's Affirmative Action Office be available to counsel complainants on more appropriate procedures and remedies (160 State Capitol, Salem, telephone 378-5336); and
7. This order takes effect immediately.

Done at Salem, Oregon, this 23rd day of September, 1981

/S/ V. Atiyeh

Governor

ATTEST:

/S/ Norma Paulus