



Division: Human Resources

Classification: Governance & Legal

Department phone: 503-838-8490

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TITLE	
Title IX Policy	
POLICY NUMBER	
GL-05-064	
RESPONSIBLE OFFICER	UNIVERSITY CONTACT
Executive Director of Human Resources	Title IX Coordinator
SUMMARY	
To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the education program or activity, WOU has developed the Title IX Policy and linked procedures that provide for prompt, fair, and impartial resolution of allegations of sex discrimination, sex-based harassment, or retaliation.	
APPLICABLE TO	
All Western Oregon University employees, students, and other individuals participating in or attempting to participate in Western Oregon University's program or activities, including education and employment.	
DEFINITIONS	
<ul style="list-style-type: none"> • Advisor. Any person chosen by a party, or appointed by the institution, who may accompany the party to all meetings related to the Resolution Process and advise the party on that process. • Appeal Decision-maker. The person who accepts or rejects a submitted appeal request, determines whether any of the grounds for appeal are met, and directs responsive action(s) accordingly. • Complainant. A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sex-based harassment, or retaliation under the Policy; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination, sex-based harassment, or retaliation under the Policy and who was participating or attempting to participate in WOU's education program or activity at the time of the alleged sex discrimination, sex-based harassment or retaliation. • Complaint. An oral or written request to WOU that can objectively be understood as a request for WOU to investigate and make a determination about the alleged Policy violation(s). • Confidential Employee. 	

- o An employee whose communications are privileged or confidential under federal or state law. The employee's confidential status, for purposes of this definition, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
- o An employee whom WOU has designated as confidential under this Policy for the purpose of providing services to persons related to sex discrimination, sex-based harassment, and/or retaliation. If the employee also has a duty not associated with providing those services, the employee's confidential status only applies with respect to information received about sex discrimination, sex-based harassment, and/or retaliation in connection with providing those services; or
- o An employee who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination, sex-based harassment, and/or retaliation. The employee's confidential status only applies with respect to information received while conducting the study.

- **Consent, Coercion, Force and Incapacitation**

- o **Consent.** Informed, voluntary agreement that is ongoing and communicated by clearly understandable words or actions to participate in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to ensure they have received consent from all parties before engaging in the activity. Intoxication is not an excuse for failure to obtain consent.
 - *Informed.* Everyone engaged in sexual activity must have a mutual understanding of the activity and a willingness to participate. Individuals should be aware of and agree upon the type of sexual activity, safety and health risk (STIs and other transmissible illnesses), and forms of protection (birth control, internal and external condoms, and other barriers). A person who is incapacitated cannot give consent, and minors (under the age of 18) cannot consent to sexual activity except in limited circumstances as stated in ORS 163.315.
 - *Voluntary.* Consent must be freely given and not obtained by force, threat of force or violence, coercion, manipulation, pressure, deception, or intimidation.
 - *Ongoing.* Individuals engaging in sexual activity must evaluate consent on an ongoing basis and communicate clearly throughout all aspects of sexual activity. Anyone engaging in sexual activity has the right to change their mind at any time. Withdrawal of consent can be expressed through words or actions that convey that an individual is hesitant, confused, uncertain, or is no longer a mutual participant. Once consent is withdrawn, all sexual activity must cease unless consent is given again. Giving consent to one sexual activity (such as kissing) does not mean consent for another sexual activity (such as intercourse), and a current or previous dating or sexual relationship is not sufficient to demonstrate consent.
 - *Communicated by words or actions.* The words or actions should be able to be interpreted by a reasonable person under similar circumstances as a willingness to engage in sexual activity. Consent cannot be inferred from silence, passivity, or lack of verbal or physical resistance.
 - Examples of consent:
 - A partner nods their head when their partner asks if they want to continue sexual activity
 - Having a truthful discussion about other sexual partners, preference of barrier methods, and STIs
 - A sexual partner says during intercourse that they're not in the mood anymore, so the other partner stops and cuddles instead
 - Examples of non-consent:
 - An individual's choice of clothing does not imply consent
 - Accepting an invitation to a meal or date does not imply consent

- Feeling pressured to say yes to engage in sexual activities with someone because they have asked multiple times (“giving in” because of fear, sense of obligation, guilt, etc.)
 - A sexual partner stops actively engaging in sex, but the other partner continues the sexual activity
 - Assumption of consent because people are in a long-term relationship
 - Two people agree to have sex with a condom, and part way through sex, the person wearing the condom takes off the condom without the other person knowing (also known as stealthing)
 - **Coercion.** The use of pressure to compel or persuade another person to do something against their will. Coercion can come in many forms such as intimidation, manipulation, threats, or blackmail. Coercion might include unreasonable pressure for sexual activity, threatening to “out” someone based on sexual orientation, gender identity, or gender expression, or threatening to harm themselves if the other party leaves the relationship. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
 - **Force.** The use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”). Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.
 - **Incapacitation.** A mental or physical state that leaves a person unable to give consent because they cannot make decisions as easily, they are not aware of the potential consequences, they aren’t able to make informed judgements, they lack the capacity to appreciate the nature of the sexual activity and to understand the “who, what, when, where, why, and how” of their sexual interaction. Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.
- **Course of Conduct.** 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 communicate to or about a person, or interferes with a person’s property.
 - **Dating Violence.** violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship,
 - The type of relationship, and
 - The frequency of interaction between the persons involved in the relationship
 - **Day.** A business day when WOU is in normal operation. All references in the Policy to days refer to business days unless specifically noted as calendar days.
 - **Decision-maker.** The person or panel who hears evidence, determines relevance, and makes the Final Determination of whether the Policy has been violated and/or assigns sanctions.
 - **Disciplinary Sanctions.** Consequences imposed on a Respondent following a determination under Title IX that the Respondent violated WOU’s prohibition on sex discrimination, sex-based harassment, and/or retaliation.

- **Domestic Violence.** Felony or misdemeanor crimes committed by a person who is a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of the state of Oregon or a person similarly situated to a spouse of the Complainant; is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; shares a child in common with the Complainant; or commits acts against a youth or adult Complainant who is protected from those acts under the family or domestic violence laws of the state of Oregon
- **Education Program or Activity.** Locations, events, or circumstances where WOU exercises substantial control over the context in which sex discrimination, sex-based harassment, and/or retaliation occurs, and also includes any building owned or controlled by a student organization that WOU officially recognizes.
- **Employee.** A person employed by WOU either full- or part-time, permanent or temporary, including but not limited to student employees when acting within the scope of their employment, tenure and non-tenure faculty, classified and unclassified staff, interns, volunteers, and graduate assistants.
- **Final Determination.** A conclusion by the Preponderance of the Evidence that the alleged conduct did or did not violate Policy.
- **Finding.** A conclusion by the Preponderance of the Evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).
- **Formal Resolution.** A method of formal resolution designated by WOU to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations ([34 C.F.R. § 106.45](#)), Oregon law, and the [Violence Against Women Act § 304](#).
- **Hostile Environment.** An environment with sex discrimination, sex-based harassment, and/or retaliation that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This effect results from conduct that is severe or pervasive and objectively offensive.
- **Informal Resolution.** A resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a Final Determination in the Resolution Process. Informal Resolution is only available in cases between students.
- **Investigation Report.** The Investigator's summary of all relevant evidence gathered during the investigation. Variations include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) authorized by WOU to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report.
- **Knowledge.** When WOU receives Notice of conduct that reasonably may constitute sex discrimination, sex-based harassment, and/or retaliation in its Education Program or Activity.
- **Notice.** When an employee, student, or third party informs the Title IX Coordinator of the alleged occurrence of sex discrimination, sex-based harassment, and/or retaliation under the jurisdiction of WOU.
- **On the Basis of Sex.** conduct that is sexual in nature, or that is directed to the Complainant because of his/her/their actual or perceived sex or gender identity.
- **Parties.** The Complainant(s) and Respondent(s), collectively.

- ***Pregnancy or Related Conditions.*** Pregnancy, childbirth, termination of pregnancy, or lactation, medical conditions related thereto, or recovery therefrom.
- ***Relevant Evidence.*** Evidence that may aid a Decision-maker in determining whether the alleged sex discrimination, sex-based harassment, and/or retaliation occurred, or in determining the credibility of the Parties or witnesses.
- ***Remedies.*** Typically, post-resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore or preserve equal access to WOU's Education Program or Activity.
- ***Resolution.*** The result of an Informal Resolution or Formal Resolution Process.
- ***Resolution Process.*** The investigation and resolution of allegations of prohibited conduct under this Policy, including Informal Resolution, Administrative Resolution, and/or Hearing Resolution.
- ***Respondent.*** A person who is alleged to have engaged in conduct that could constitute sex discrimination, sex-based harassment, and/or retaliation under this Policy.
- ***Responsible Employee.*** A WOU employee who is obligated by Policy to share Knowledge, Notice, and/or reports of sex discrimination, sex-based harassment, and/or retaliation with the Title IX Coordinator. (Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of persons with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under this Policy.)

Most WOU employees are considered responsible employees unless otherwise specified below. Student employees who have positional responsibility for the welfare of others, including but not limited to Resident Assistants, peer mentors (such as Destination Western, Multicultural Representative, and Discover Leadership), WOU Crew, and student government leaders are also considered Responsible Employees. Student employees are considered Responsible Employees while they are performing their job responsibilities and/or if the incident is disclosed to an employee due to their perceived or actual role.

Faculty, Classified Staff, Unclassified Staff and Resident Assistants are always considered Responsible Employees, even if they are not performing their job duties at the time of a report.

Responsible Employees are required to report any information personally witnessed or learned through the disclosure of others related to possible or alleged instances of sex discrimination, sex-based harassment, and/or retaliation to the Title IX Coordinator within two business days. Responsible Employees should not attempt to investigate the alleged incident.

Exceptions:

- Confidential Resource: Professional staff in Abby's House and providers in the Student Health and Counseling Center are confidential, and are not considered Responsible Employees.
- Interpreters and translators: Interpreters and translators are not considered responsible employees when acting in their professional capacity and translating or interpreting for someone else.
- Academic Discussions/Assignments: If a student discloses an incident of sex discrimination, sex-based harassment, and/or retaliation in an academic assignment or during a class discussion, the instructor is not required to initiate a report to the Title IX Coordinator. However, instructors are encouraged to provide the student with resources such as Abby's House and contact information for the Title IX Coordinator so the student can still be fully informed as to their reporting options and support resources.

- Public Awareness Events: Disclosures made at public awareness events (such as "Take Back the Night" and "Denim Day") are not required to be reported to the Title IX Coordinator. If a disclosure is made directly to a Responsible Employee during an awareness event, the Responsible Employee is encouraged to provide support resources.
 - Institutional Review Board: Institutional Review Board-approved human subjects research protocols focused on prohibited discrimination are not required to be reported to the Title IX Coordinator.
- **Title IX Retaliation.** An adverse action against any person by WOU, a student, or an employee or other person authorized by WOU to provide aid, benefit, or service under WOU's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.
 - **Sanction.** A consequence imposed on a Respondent who is found to have violated this Policy.
 - **Sex.** Sex assigned at birth, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
 - **Sex Discrimination.** Conduct directed at an individual or group that is based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity and 1) excludes or denies an individual from participating in or benefiting from a university program or activity, or 2) otherwise adversely affects a term or condition of an employee's employment or education.
 - **Sex-based Harassment/Sexual Harassment.** A form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity and is sufficiently severe or pervasive to create a work, educational, or living environment that a reasonable person would consider threatening, hostile, or abusive. Types of sex-based harassment/sexual harassment are:
 - 1) *Quid pro quo sex-based harassment.* An employee, agent, or other person authorized by WOU to provide an aid, benefit, or service under WOU's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
 - 2) *Hostile environment sex-based harassment.* Unwelcome sex-based conduct that a reasonable person would consider threatening, intimidating, hostile, offensive, or abusive, and that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from WOU's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - (i) The degree to which the conduct affected the complainant's ability to access WOU's education program or activity;
 - (ii) The type, frequency, and duration of the conduct;
 - (iii) The parties' ages, roles within WOU's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - (iv) The location of the conduct and the context in which the conduct occurred; and
 - (v) Other sex-based harassment in WOU's education program or activity
 - 3) Specific offenses.
 - (i) Sexual assault
 - (ii) Dating violence
 - (iii) Domestic violence

(iv) Stalking

- **Sexual Assault.** an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation
- **Stalking.** A course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress. In the context of stalking, a Complainant is not required to obtain medical or other professional treatment and counseling is not required to show substantial emotional distress.
- **Student.** Any individual who is registered for one or more credit hours, including online courses, is enrolled in a special non-credit program approved by WOU, or who has been accepted for admission, housing, financial aid, or any other service or benefit provided by WOU which requires Student status.
- **Support Person.** A person offering moral support to a party during a Resolution Process. This individual might be a friend, mentor, colleague, or anyone offering support to a party. A support person is optional. They are chosen by a party and do not actively participate in the Resolution Process.
- **Supportive Measures.** Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:
 - 1) Restore or preserve that party's access to WOU's education program or activity, including measures that are designed to protect the safety of the parties or WOU's educational environment; or
 - 2) Provide support during WOU's grievance procedures or during an informal resolution process.
- **Title IX Coordinator.** At least one official designated by WOU to ensure ultimate oversight of compliance with Title IX and WOU's Title IX policy. References to the Title IX Coordinator throughout the Policy may also encompass a designee of the Title IX Coordinator for specific tasks.
- **Violence.** Intentionally or recklessly causing the Complainant physical, emotional, or psychological harm. Legitimate use of violence for self-defense is not chargeable under this Policy because the purpose is safety, not harm. Consensual use of violence, such as in kink relationships, would also not meet this definition, in most circumstances.

AUTHORITY

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

STATEMENT OF AUTHORITY

1. Purpose

Western Oregon University ("WOU") is committed to providing an educational and employment environment, as well as other benefits, programs, and activities, that are free from sex discrimination, sex-based harassment, and/or retaliation for engaging in protected activity.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the education program or activity, WOU has developed policies and procedures that provide for

prompt, fair, and impartial resolution of allegations of sex discrimination, sex-based harassment, or retaliation.

WOU values and upholds the equal dignity of all members of its community and strives to balance the rights of the Parties in the resolution process during what is often a difficult time for all involved.

All faculty, staff, and administrators (“Employees”), as well as students and third parties at WOU have the right to be free from all forms of sex discrimination and/or sex-based harassment. WOU prohibits any sex discrimination and/or sex-based harassment.

2. Notice of Nondiscrimination

WOU adheres to all federal, state, and local laws, regulations, and ordinances prohibiting sex discrimination in public higher education institutions.

WOU does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of actual or perceived sex.

This Policy covers sex discrimination in both employment and access to educational opportunities. Therefore, any member of the WOU community whose acts deny, deprive, unreasonably interfere with or limit the education or employment, residential and/or social access, benefits, and/or opportunities of any member of the WOU community, guest, or visitor on the basis of that person’s actual or perceived sex, is in violation of this policy.

WOU will promptly and effectively address any such sex discrimination of which it has Knowledge/Notice using the resolution process detailed in the Resolution Process for Alleged Violations of the Title IX Policy (“Resolution Process”).

3. Title IX Contact

WOU has appointed a Title IX Coordinator to coordinate WOU’s compliance with federal, state, and local sex discrimination laws and ordinances:

Title IX Coordinator
Human Resources Department
Lieuallen Administration Building 305
345 Monmouth Ave N
Monmouth, OR 97361
503.838.8490
titleix@wou.edu
www.wou.edu/hr/title-ix

The Title IX Coordinator (or a designee) is responsible for providing comprehensive sex discrimination education and training; coordinating WOU’s timely, thorough, and fair response, investigation, and resolution of all alleged prohibited conduct under this Policy; and monitoring the effectiveness of this Policy and related procedures to ensure an education and employment environment free from sex discrimination, sex-based harassment, and retaliation.

WOU recognizes that allegations under this Policy may include multiple forms of sex discrimination, sex-based harassment, and retaliation, as well as violations of other WOU policies; may involve various combinations of students, employees, and other members of the WOU community; and may require the simultaneous attention of multiple WOU departments. Accordingly, all WOU departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable WOU policies, to provide uniform, consistent, efficient, and effective responses to alleged sex discrimination, sex-based harassment, and/or retaliation.

4. External Contact Information

Concerns about the WOU's application of this Policy and compliance with certain federal civil rights laws may also be addressed to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

The Office for Civil Rights/Office for Civil Rights
Seattle Office, U.S. Department of Education
915 Second Avenue, Room 3310
Seattle, WA 98174-1099
206.607.1600
Email: OCR.Seattle@ed.gov

For Complaints involving employee-on-employee conduct:

Equal Employment Opportunity Commission (EEOC)
Website: <https://www.eeoc.gov>
Tel: 800-669-4000 or 510-735-8909 (Deaf/hard-of-hearing callers)

Oregon Bureau of Labor & Industries (BOLI)
800 NE Oregon St., Suite 1045, Portland, OR 97232;
Website: <https://www.oregon.gov/boli/workers/Pages/complaint.aspx>
Tel: 971-673-0761
Email: BOLI_help@boli.oregon.gov

5. Mandated Reporting and Confidential Employees

All WOU employees (including student-employees), other than those deemed Confidential Employees, are Mandated Reporters (hereinafter "Responsible Employees") and are expected to promptly report all known details of actual or suspected sex discrimination, sex-based harassment, and/or retaliation to the Title IX Coordinator immediately, although there are some limited exceptions described below. Supportive measures may be offered as the result of such disclosures without formal WOU action.

Making a report gives notice to the University to provide resources and initial support. Making a report is not the same as filing a Formal Complaint. The filing of a Formal Complaint is part of the Complaint Resolution process described in the Resolution Process.

Complainants who are unsure whether they are ready to report may want to carefully consider whether they share personally identifiable details with Responsible Employees, as those details must be shared with the Title IX Coordinator. If a Complainant is unsure whether they are ready to report, they should consider seeking the assistance of a Confidential Employee as described herein, so they are able to discuss options and seek resources without jeopardizing their confidentiality.

If a Complainant expects formal action in response to their allegations, reporting to any Responsible Employee (excluding Confidential Employees) can connect them with resources to report alleged crimes and/or Policy violations, and these employees will immediately pass Notice to the Title IX Coordinator (and/or police, if desired by the Complainant or required by law), who will act when an

incident is reported to them. It is important to note, a report to a WOU employee, including the Title IX Coordinator, is not a report to criminal law enforcement. If a Complainant wants to report to law enforcement, they should specifically discuss this desire with the Title IX Coordinator so the Title IX Coordinator and Complainant can discuss the logistics of filing a complaint with criminal law enforcement.

The following sections describe WOU's reporting options for a Complainant or third party (including parents/guardians when appropriate):

A. Responsible Employees

All WOU employees are considered Responsible Employees unless otherwise specified below.

Student employees are considered Responsible Employees while they are performing their job responsibilities and/or if the incident is disclosed to an employee due to their perceived or actual role as an employee of WOU.

Employees and student employee Resident Assistants/Residence Hall student staff are always considered Responsible Employees, even if they are not performing their job duties at the time of a report.

Responsible Employees are required to report any information personally witnessed or learned through the disclosure of others related to possible or alleged instances of sex discrimination and/or sex-based harassment to the Title IX Coordinator within two business days. Responsible Employees should not attempt to investigate the alleged incident(s).

Failure of a Responsible Employee, as described above in this section, to report actual or suspected sex discrimination, sex-based harassment, and/or retaliation of which they become aware is a violation of WOU Policy and can be subject to disciplinary action for failure to comply/failure to report. This also includes situations when a harasser is a Responsible Employee. Such individuals are obligated to report their own misconduct, and failure to do so is a chargeable offense under this Policy.

A Responsible Employee who is themselves a target of harassment or other misconduct under this Policy is not required to report their own experience, though they are encouraged to do so.

Responsible Employee Exceptions

Confidential Resources: Confidential advocates in Abby's House, healthcare providers (including interns) in the Student Health and Counseling Center, and employees of Abby's House and/or the Student Health and Counseling Center who are contacted in an effort to obtain confidential assistance are confidential (i.e., front office staff), and are not considered Responsible Employees.

Professional staff who have taken the 40-hour Confidential Advocate course and are employed in Abby's House in roles other than Confidential Advocate are considered confidential *only* to the extent those employees receive information that a possible Policy violation has occurred and they immediately notify the Complainant that they are not a Confidential Advocate, but will schedule them with a Confidential Advocate within the office. Further communication regarding Policy violations are reportable as a Responsible Employee.

All of the above confidentiality only applies to the extent the parties are in a confidential relationship, such that they are within the scope of their licensure, professional ethics, or confidential role at the time of receiving the Notice. These individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a

minor, elder, or individual with a disability, or when required to disclose by law or court order. Those designated by WOU as Confidential Resources are not required to report actual or suspected sex discrimination, sex-based harassment, or retaliation. They should, however, provide the Complainant with the Title IX Coordinator's contact information and offer options and resources without any obligation to inform an outside agency or WOU official unless a Complainant has requested the information be shared.

Confidential Employees of WOU who have confidentiality as described above, and who receive Notice within the scope of their confidential roles, will timely submit anonymous statistical information for Clery Act and/or state of Oregon required reporting purposes unless they believe it would be harmful to their client or patient. This information will be passed to the Clery compliance team or state compliance team without identifying information to maintain confidentiality while complying with the requirements of Clery's federal regulation.

Interpreters and translators: Interpreters and translators are not considered Responsible Employees when acting in their professional capacity and translating or interpreting for someone else.

Academic Discussions/Assignments: If a student discloses an incident of sex discrimination or sex-based harassment in an academic assignment or during a class discussion, the instructor is not required to initiate a report to the Title IX office. Instructors are encouraged to provide the student with resources such as Abby's House and contact information for the Title IX office so the student can still be fully informed as to their support resources and options for what the University can provide.

Public Awareness Events: Disclosures made at public awareness events (such as "Take Back the Night" or "Complainant Speak Outs") are not required to be reported to the Title IX office. If a disclosure is made directly to a Responsible Employee during an awareness event, the Responsible Employee is encouraged to provide resources to the Complainant.

Institutional Review Board: Institutional Review Board-approved human subjects research protocols focused on prohibited sex discrimination are not required to be reported to the Title IX office.

B. Confidential Employees and Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with the following Confidential Employees and/or Confidential Services:

University Based:

For Students

Confidential Advocates in Abby's House
Abby's House, Center for Equity & Gender Justice
Werner University Center (WUC) 106
345 Monmouth Avenue N
Monmouth, Oregon 97361
503.838.8219 | abbyshouse@wou.edu

Professional Staff and Interns in Student Health and Counseling Center
Student Health and Counseling Center

345 Monmouth Avenue N
Monmouth, Oregon 97361
503.838.8313 | health@wou.edu

For Employees:

Employee Assistance Program (EAP) is a confidential counseling and referral service that is provided to WOU employees as a pre-paid benefit. Three referral/counseling visits are available at no charge to WOU employees, household members, and dependents per year to help with personal or job-related issues. This service is completely confidential and operates separately from the University.

Canopywell Employee Assistance Programs
<https://canopywell.com/PEBB-EAP-Services>
Phone Number: 800-433-2320

Community-based (non-university employees):

Confidential Victim Services:

Sable House (Dallas, OR) 503-623-4033
Center for Hope and Safety (Salem, OR) 503-399-7722
Center Against Rape and Domestic Violence (Corvallis, OR) 541-758-0219

Medical and Health Services:

West Valley Hospital (Dallas, OR) 503-623-8301
Planned Parenthood (Salem, OR) 888-875-7820
Salem Hospital (Salem, OR) 503-561-5200
Sarah's Place (Albany, OR) 541-812-4420
Good Samaritan Hospital (Corvallis, OR) 541-768-5111

Criminal Law Enforcement Reporting Resources:

Polk County Victim Assistance Services (Dallas, OR) 503-623-9268
Monmouth Police Department (Monmouth, OR) 503-838-1109

Additional resources to consider:

In addition, Complainants may speak with individuals unaffiliated with WOU without concern that this Policy will require them to disclose information to the institution without permission:

Licensed professional counselors and other medical providers
Local rape crisis counselors
Domestic violence resources
Local or state assistance agencies
Clergy/Chaplains
Attorneys

C. Mandatory Reporters

Mandatory reporters are people who are required by law to report to authorities any suspected child abuse, elder abuse, or vulnerable adult abuse. Most mandatory reporters are persons whose job has frequent interaction with children, elderly, or vulnerable adults. Mandatory reporters who suspect abuse or neglect should call 855-503-SAFE (7233) to report this to the Oregon Department of Human Services (ODHS). The hotline is open 24 hours a day, 365 days a year. For more information on mandatory reporters, go to: www.oregon.gov/odhs/report-abuse/pages/mandatory-reporting.aspx.

6. Scope

This Policy is only applicable to alleged incidents that occur after August 1, 2024. For alleged incidents of sex discrimination, sex-based harassment, and/or retaliation occurring prior to August 1, 2024, the policy and procedures in place at the time of the alleged incident apply. Applicable versions of those policies and procedures are available from the Title IX Coordinator and at this www.wou.edu/hr/title-ix.

This Policy applies to all employees, students, and other individuals participating in or attempting to participate in WOU's program or activities, including education and employment.

This Policy prohibits all forms of sex discrimination, sex-based harassment, and/or retaliation and may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed in accordance with this policy.

7. Jurisdiction

This Policy applies to WOU's education programs and activities (defined as including locations, events, or circumstances in which WOU exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where WOU has disciplinary authority, and to misconduct occurring within any building owned or controlled by a WOU recognized student organization. At the discretion of the Title IX Coordinator, Complainant does not have to be a member of the WOU community to file a Complaint. Further, in certain instances, WOU may be named as the Complainant or Respondent.

This Policy may also apply to the effects of off-campus misconduct that limit or deny a person's access to WOU's education program or activities. The Policy may address off-campus conduct when the behavior or the presence of the individual or student organization, in the WOU's sole judgment, impairs, obstructs, or interferes with the mission, processes, or functions of the WOU. The Policy will apply to all matters affecting WOU, including, but not limited to, events occurring during the time WOU is in session, events occurring between academic terms, and at WOU-sponsored events.

If a student or student organization breaks a law that also violates the Policy, that student or student organization may be held accountable by both civil authorities and WOU, regardless of whether the alleged behavior occurred on or off WOU premises. WOU may, at its sole discretion, elect to pursue disciplinary action against the student or student organization before, at the same time as, or following criminal proceedings, even if criminal charges involving the same incident are pending, have been dismissed, or were reduced.

Adjudication of allegations of Policy violations will sometimes occur before or simultaneously with adjudication within an off-campus system of justice. Should criminal charges be dismissed, reduced, or resolved in favor of the criminal law defendant in a case involving the same facts that give rise to a violation of WOU rules, WOU's determinations or sanctions shall not be subject to change unless an appeal is properly filed and approved.

For disciplinary action to be issued under this Policy, the Respondent must be a WOU employee or student at the time of the alleged incident. If the Respondent is unknown or is not a member of the WOU community, the Title IX Coordinator (or a designee) will offer to assist the Complainant in identifying appropriate institutional and local resources and support options, and will implement appropriate supportive measures and/or remedial actions (e.g., trespassing a person from campus). Students may also contact:

Abby's House, Center for Equity & Gender Justice
Werner University Center 106
abbvshouse@wou.edu

503.838.8219

Employees may contact

Human Resources
Lieuallen Administration 305
hr@wou.edu
503.838.8490.

WOU can also assist in contacting local law enforcement or campus safety if the individual would like to file a police report about criminal conduct.

All vendors serving WOU through third-party contracts are subject to this Policy.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator (or a designee) can assist the Complainant in contacting the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences sex discrimination, sex-based harassment, and/or retaliation in an externship, study abroad program, or other environment external to WOU where sex discrimination, sex-based harassment, and/or retaliation policies and procedures of the facilitating or host organization may give the Complainant recourse. If there are effects of that external conduct that impact a student or employee's work or educational environment, those effects can often be addressed by the Title IX Coordinator, or designee, if brought to their attention.

8. Supportive Measures

WOU will offer and implement appropriate and reasonable supportive measures to the Parties upon Notice of alleged sex discrimination, sex-based harassment, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available. They are offered, without fee or charge to the Parties, to restore or preserve access to WOU's education program or activity, including measures designed to protect the safety of all Parties and/or WOU's educational environment and/or to deter sex discrimination, sex-based harassment, and/or retaliation.

The Title IX Coordinator (or a designee), will promptly make supportive measures available to the Parties upon receiving Notice/Knowledge or a Complaint if supportive measures are available. At the time that supportive measures are offered, if a Complaint has not been filed, WOU will inform the Complainant, in writing, that they may file a Complaint with WOU either at that time or in the future. The Title IX Coordinator (or a designee) will work with the Party(ies) to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

WOU will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair WOU's ability to provide those supportive measures. WOU will act to ensure as minimal an academic/employment impact on the Parties as possible. WOU will implement measures in a way that does not unreasonably burden any party to the extent possible.

Supportive measures may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)

- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Implementing contact limitations (no contact orders) between the Parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator. If a party would like to request a supportive measure not listed, they may request that measure for consideration.

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing Complaint under this Policy.

The Parties are provided with a timely opportunity to seek modification or reversal of WOU's decision to provide, deny, modify, or terminate supportive measures applicable to them. A request to do so should be made in writing to the Title IX Coordinator. An impartial employee other than the employee who implemented the supportive measures, who has authority to modify or reverse the decision, will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the definition of supportive measures in §106.2 of the federal Title IX Regulations. WOU will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances change materially. WOU typically renders decisions on supportive measures within seven (7) business days of receiving a request and provides a written determination to the impacted party(ies) and the Title IX Coordinator.

9. Online Sex Harassment and Misconduct

WOU policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors limit or deny a person's access to WOU's education program or activities.

Although WOU may not control websites, social media, and other venues through which sex-based harassing communications are made, when such communications are reported to WOU, it will engage in a variety of means to address and mitigate the effects. These means may include use of the Resolution Process to address off-campus conduct whose effects contribute to limiting or denying a person access to WOU's education program or activity.

Nothing in this Policy is intended to infringe upon or limit a person's rights to free speech. Any online posting or other electronic communication by students, including technology-facilitated bullying, stalking, harassment, etc., occurring completely outside of WOU's control (e.g., not on WOU networks, websites, or from/or to WOU email accounts) will only be subject to this Policy when such online conduct is defined as sex discrimination or sex-based harassment and can be shown to limit or deny a person's access to WOU's education program or activities. Otherwise, such communications may be considered speech protected by the First Amendment or may be governed under another WOU policy. Supportive measures for Complainants will be provided where deemed appropriate.

Off-campus sex-based harassing speech by employees, whether online or in person, may be regulated by WOU only when such speech is made in an employee's official or work-related capacity.

Members of the WOU community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites; sharing inappropriate content via social media; unwelcome sexual or sex-based messaging; distributing, or threatening to distribute, nude or

semi-nude photos or recordings; breaches of privacy; or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another.

10. Inclusion Related to Gender Identity/Expression

WOU is committed to fostering a safe, inclusive, and respectful environment for everyone in our community. We recognize and celebrate the diversity of gender identities and expressions, including intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse individuals. Our goal is to ensure that all students and employees feel valued and supported in their working and learning experiences.

Sex discrimination, sex-based harassment, and/or retaliation on the basis of gender identity or expression is not tolerated by WOU. If a member of the WOU community believes they have been subjected to sex discrimination, sex-based harassment, and/or retaliation under this Policy, they should follow the appropriate reporting process described herein.

In upholding the principles of equity and inclusion, WOU supports the full integration and healthy development of those who are intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse individuals and seeks to eliminate any stigma related to gender identity and expression.

WOU is committed to fostering a climate where all identities are valued, contributing to a more vibrant and diverse community. The purpose of this Policy is to have WOU administratively address issues that some students and employees, including those identifying as intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse, may confront as they navigate systems originally designed around the assumption that gender is binary. As our society's understanding of gender evolves, so do WOU's processes and policies.

Concepts like misgendering and deadnaming may not be familiar to all, but understanding them is essential to WOU's goal of being as welcoming and inclusive a community as possible.

This Policy should be interpreted consistent with the goals of maximizing the inclusion of intersex, nonbinary, transgender, agender, two-spirit, and gender-diverse students and employees, including:

- Maintaining the privacy of all individuals consistent with law;
- Ensuring all students have equal access to educational programming, activities, and facilities, including restrooms and locker rooms;
- Ensuring all employees and/or applicants for employment have equal access to employment opportunities and work, service, or health-related facilities;
- Providing professional development for employees and education for students on topics related to gender inclusion; and
- Encouraging all students and employees to respect the pronoun usage and identities of all members of the WOU community

WOU uses several interventions to address concerns that are raised related to gender-based sex discrimination and/or harassment, including problem-solving, intervention, confrontation, investigation, and Policy enforcement. When conflicts arise between the right of members of the community to be free from gender-identity sex discrimination and/or harassment and those exercising their right to religious freedom, WOU will try to balance rights and interests to find mutually agreeable outcomes or compromises. When that is not possible, WOU will offer remedial solutions or enforce its Policies while also respecting the rights of all members of its community.

11. Prohibited Conduct

Students and employees are entitled to an employment and educational environment that is free of sex discrimination, sex-based harassment, and retaliation. This Policy is not meant to inhibit or prohibit

educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited sex discrimination, sex-based harassment, and retaliation that are also prohibited under WOU Policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of WOU Policy, though supportive measures, if available, will be offered to those impacted.

All offense definitions below encompass actual and/or attempted offenses.

Any of the following offenses can be charged as or combined as pattern offenses, in which case the Notice of Investigation and Allegation (NOIA) will clearly indicate that both individual incidents and a pattern of conduct are being investigated. A pattern may exist and be charged when there is potentially a substantial similarity to incidents where the proof of one could make it more likely that the other(s) occurred, and vice-versa. Patterns may exist based on target selection, similarity of offense, or other factors. Where a pattern is found, it can be the basis to enhance sanctions, accordingly.

A. Sex Discrimination

Sex discrimination is different treatment with respect to an individual's employment or participation in an education program or activity based, in whole or in part, upon the individual's actual or perceived sex.

Sex Discrimination can take two primary forms:

1. Disparate Treatment Sex Discrimination:

- Any intentional differential treatment of a person or persons that is based on an individual's actual or perceived sex and that:
 - o Excludes an individual from participation in;
 - o Denies the individual benefits of; or
 - o Otherwise adversely affects a term or condition of an individual's participation in a WOU program or activity.

2. Disparate Impact Sex Discrimination:

- Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on the basis of sex that:
 - o Excludes an individual from participation in;
 - o Denies the individual benefits of; or
 - o Otherwise adversely affects a term or condition of an individual's participation in a WOU program or activity.

B. Sex-based Harassment

Sex-based Harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, dating violence, domestic violence, and stalking.

1. **Quid Pro Quo:** an employee agent, or other person authorized by WOU to provide an aid, benefit, or service under WOU's education program or activity, explicitly or impliedly conditions the provision of such aid, benefit, or service, on a person's participation in unwelcome sexual conduct
2. **Hostile Environment Harassment:** unwelcome sex-based conduct that based on the totality of the circumstances is subjectively and objectively

offensive, and is so severe or pervasive, that it limits or denies a person's ability to participate in or benefit from WOU's education program or activity

WOU reserves the right to address offensive sex-based conduct and/or sex-based harassment that (1) does not rise to the level of creating a hostile environment, or (2) that is of a generic nature and not based on a protected characteristic. Addressing such conduct will not result in the imposition of discipline under WOU Policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other Informal Resolution mechanisms.

For assistance with Alternative Resolution and other Informal Resolution techniques and approaches, contact the Title IX Coordinator.

3. Sexual Assault:

Any sexual act, including Rape, Sodomy, Sexual Assault with an Object, or Fondling directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent; also unlawful sexual intercourse. This definition of sexual assault does not constitute a chargeable offense under the Policy. It is a description encompassing the six chargeable offenses listed below:

- a. **Rape:** Penetration, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity
- b. **Sodomy:** Oral or anal penetration of the Complainant by the Respondent without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity
- c. **Sexual Assault with an Object:** Respondent's use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of the Complainant without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity
- d. **Fondling:** The touching of the private body parts (breasts, buttocks, groin) of the Complainant by the Respondent, or causing the Complainant to touch the Respondent's private body parts, intentionally for a sexual purpose without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity or physical incapacity
- e. **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Oregon law
- f. **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent of the state of Oregon
- g. **Dating Violence:** Violence on the basis of sex committed by a person who is in or has been in a social relationship of a romantic or intimate

nature with the Complainant, and where the existence of such a relationship shall be determined based on a consideration of the following factors: length of the relationship, type of relationship, frequency of the interaction between the Parties involved in the relationship. For purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence

- h. **Domestic Violence:** Felony or misdemeanor crimes committed by a person who is a current or former spouse or intimate partner of the Complainant under the family or domestic violence laws of the state of Oregon or a person similarly situated to a spouse of the Complainant; is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; shares a child in common with the Complainant; or commits acts against a youth or adult Complainant who is protected from those acts under the family or domestic violence laws of the state of Oregon
- i. **Stalking:** A course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress. In the context of stalking, a Complainant is not required to obtain medical or other professional treatment and counseling is not required to show substantial emotional distress

C. Sexual Misconduct

- 1. **Sexual Exploitation:** an individual taking non-consensual or abusive sexual advantage of another, that does not constitute sex-based harassment as defined above, for their own benefit or for the benefit of anyone other than the person being exploited

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing)
- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of

compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity

- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child sexual abuse images or recordings
- Creating or disseminating synthetic media, including images, videos, or audio representations of individuals doing or saying sexually-related things that never happened, or placing identifiable real people in fictitious pornographic or nude situations without their consent (e.g., Deepfakes)
- Creating or disseminating images or videos of child sexual abuse material

2. Other Prohibited Conduct

- a. **Retaliation:** Adverse action, including intimidation, threats, coercion, or discrimination, against any person, by WOU, a student, employee, or a person authorized by WOU to provide aid, benefit, or service under WOU's education program or activity, for the purpose of interfering with any right or privilege secured by law or Policy, or because the person has engaged in protected activity, including reporting information, making a Complaint, testifying, assisting, or participating or refusing to participate in any manner in an investigation or Resolution Process under the Title IX Procedures, including an Informal Resolution process, or in any other appropriate steps taken by WOU to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects.

The exercise of rights protected under the First Amendment does not constitute retaliation. It is also not retaliation for WOU to pursue Policy violations against those who make materially false statements in bad faith in the course of a resolution under the Sex and Gender Based Misconduct Policy. However, the determination of responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Acts of alleged retaliation should be reported immediately. Notice or complaints of retaliation may be made by filing a report or Formal Complaint with the Title IX Coordinator (or a designee)

Title IX Coordinator
Human Resources Department
Lieuallen Administration Building 305
345 Monmouth Avenue N, Monmouth, OR 97361
503.838.8490
titleix@wou.edu

Such a report or Formal Complaint may be made at any time, including during non-business hours, by using the telephone number, email address, or by mail, to the office listed for the Title IX Coordinator and/or designee. WOU will take appropriate and available steps to assist individuals who fear they may be subjected to retaliation.

- b. **Unauthorized Disclosure:** Distributing or otherwise publicizing materials created or produced during an investigation or Resolution Process except as required by law or as expressly permitted by WOU; or Publicly disclosing a party's personally identifiable information without authorization or consent.

Nothing in this section restricts the ability of the Parties to: obtain and present evidence, including by speaking to witnesses (as long as it does not constitute retaliation under this Policy), consult with their family members, confidential resources, Advisors, or otherwise prepare for or participate in the Resolution Process.

- c. **Failure to Comply/Process Interference:**

- Intentional failure to comply with the reasonable directives of the Title IX Coordinator or anyone acting in agency with the Title IX office (i.e., investigators, decision-makers, etc.) in the performance of their official duties, including with the terms of a no contact order
- Intentional failure to comply with emergency removal or interim suspension terms
- Intentional failure to comply with sanctions
- Intentional failure to adhere to the terms of an agreement achieved through informal resolution
- Intentional failure to comply with mandated reporting duties as defined in this Policy
- Intentional interference with the Title IX resolution process, including but not limited to:
 - Destruction of or concealing of evidence
 - Actual or attempted solicitation of knowingly false testimony or providing false testimony or evidence
 - Intimidating or bribing a witness or party

3. Consent, Force, and Incapacitation

As used in this Policy, the following definitions and understandings apply:

- a. **Consent:** knowing, voluntary, and with clear permission by word or action, to engage in sexual activity.

Individuals may perceive and experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent is evaluated from the perspective of what a reasonable person would conclude are mutually understandable words or actions. Reasonable reciprocation can establish consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to be kissed back.

Consent can also be withdrawn once given, if it is reasonably and clearly communicated. If consent is withdrawn, sexual activity should stop immediately.

Silence or the absence of resistance alone should not be interpreted as consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Consent to some sexual contact (such as kissing or fondling) cannot be assumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected. For example, if a sexual partner shares the clear expectation for the use of a condom, or to avoid internal ejaculation, and those expectations are not honored, the failure to use a condom, removing a condom, or internal ejaculation can be considered acts of sexual assault.

Proof of consent or non-consent is not a burden placed on either Party involved in a Complaint. Instead, the burden remains on WOU to determine whether its Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Going beyond the boundaries of consent is prohibited. Thus, unless a sexual partner has consented to acts such as slapping, hitting, hair pulling, strangulation, or other physical roughness during otherwise consensual sex, those acts may constitute dating violence or sexual assault. Note: Consent in relationships must also be considered in context. When Parties consent to BDSM (bondage, discipline, sadism, masochism) or other forms of kink, non-consent may be shown by using a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual.

b. Force

Force is the use of physical violence and/or physical imposition to gain sexual access. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Force is conduct that, if sufficiently severe, can negate consent.

Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” which elicits the response, “Okay, don’t hit me. I’ll do what you want.”).

Coercion is unreasonable pressure for sexual activity. Coercive conduct, if sufficiently severe, can render a person’s consent ineffective, because it is not voluntary. When someone makes clear that they do not want to engage in sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive. Coercion is evaluated based on the frequency, intensity, isolation, and duration of the pressure involved.

c. Incapacitation

Incapacitation is a state where a person is incapable of giving consent. An incapacitated person cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction). A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including because of alcohol or other drug consumption.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

Incapacitation is determined through consideration of all relevant indicators of a person’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

If the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated, the Respondent is not in violation of this Policy. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

12. Standard of Proof

WOU uses the preponderance of the evidence standard of proof when determining whether a Policy violation occurred. This means that WOU will decide whether it is more likely than not, based upon the available information at the time of the decision, that the Respondent is in violation of the alleged Policy violation(s).

13. Reports/Complaints of Sex Discrimination, Sex-Based Harassment, and/or Retaliation

A Report provides notice to WOU of an allegation or concern about sex discrimination, sex-based harassment, and/or retaliation and provides an opportunity for the Title IX Coordinator (or a designee) to provide information, resources, and supportive measures. A Formal Complaint provides notice to WOU that the Complainant would like to initiate an investigation or other appropriate resolution procedures. A Complainant or individual may initially make a Report and may decide later to make a Formal Complaint. Reports or Complaints of sex discrimination, sex-based harassment, and/or retaliation may be made using any of the following options:

- A. File a Report or Formal Complaint with, or give verbal Notice directly to, the Title IX Coordinator or to any member of the Title IX Team at:

Title IX Coordinator
Human Resources Department
Lieuallen Administration Building 305
345 Monmouth Ave N, Monmouth, OR 97361
Phone: 503.838.8490
Email: titleix@wou.edu

Such a Complaint may be made at any time, including during non-business hours, by using the telephone number, email address, or by mail to the Title IX office or any other Title IX team member listed in this Policy.

- B. Report online, using the reporting form posted at www.wou.edu/hr/title-ix. While anonymous Notice is accepted, the Notice may give rise to a need to try to determine the Parties’ identities. Further, anonymous Notice typically limits WOU’s ability to

investigate, respond, and provide remedies, depending on what information is shared. Measures intended to protect the community or redress or mitigate harm may be enacted. It also may not be possible to provide supportive measures to Complainants who are the subject of anonymous Notice.

- C. Complete and submit the Sex Discrimination and/or Sex-based Harassment Report form. This form, typically printed on yellow paper, is available at the Human Resources office, Abby's House, Student Health and Counseling Center, Werner University Center Information Desk, and other locations around campus. Once completed, the form can be delivered to the Title IX office, Abby's house, Student Health and Counseling Center, or Human Resources. Alternatively, the form may be mailed to any of the above offices at [name of office], 345 Monmouth Ave. N., Monmouth, OR 97361.

Reporting carries no obligation to initiate a Formal Complaint, and in most situations, WOU will respect a Complainant's request to not initiate a Resolution Process. However, there may be circumstances, such as a pattern of behavior, allegations of severe misconduct, or a compelling threat to health and/or safety, where WOU may need to initiate a Resolution Process. If a Complainant does not wish to file a Formal Complaint, WOU will maintain the privacy of information to the extent possible. The Complainant should not fear a loss of confidentiality by giving Notice that allows WOU to discuss and/or provide supportive measures, in most circumstances.

14. Time Limits on Reporting

There is no time limitation on providing Notice/Complaints to the Title IX Coordinator (or a designee). However, if the Respondent is no longer subject to WOU's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

Acting on Notice/Complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Policy) is at the Title IX Coordinator's (or a designee) discretion; they may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When Notice/Complaint is affected by significant time delay, WOU will typically apply the Policy in place at the time of the alleged misconduct and the procedures in place at the time of Notice/Complaint. Typically, this Policy is only applied to alleged incidents that occurred on or after August 1, 2024. For alleged incidents that occurred prior to August 1, 2024, previous versions of this Policy will apply. Those versions are available from the Title IX office.

15. False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

Additionally, witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation, hearing, or resolution process (formal or informal) can be subject to discipline under appropriate WOU policies.

16. Confidentiality/Privacy

WOU makes every effort to preserve the Parties' privacy. WOU will not share the identity of any individual who has made a Complaint of sex discrimination, sex-based harassment, or retaliation, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, sex-based harassment, or retaliation, any Respondent, or any witness, except as permitted by, or to fulfill the purposes, of applicable laws and regulations (e.g., Title IX), Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, or as required by law. This includes any

investigation, or resolution proceeding arising under these policies and procedures. Additional information regarding confidentiality and privacy can be found in Appendix E.

Unauthorized Disclosure of Information

Parties and Advisors are prohibited from unauthorized disclosure of information obtained by WOU through the Resolution Process, to the extent that information is the work product of WOU (meaning it has been produced, compiled, or written by WOU for purposes of its investigation and resolution of a Complaint). It is also a violation of WOU Policy to publicly disclose work product or a party's personally identifiable information without authorization or consent. Violation of this Policy is subject to significant sanctions.

17. Emergency Removal/Interim Actions/Leaves

WOU can act to remove a student Respondent accused of sex discrimination, sex-based harassment, or retaliation from their education program or activities, partially or entirely, on an emergency basis when an individualized safety and risk analysis has determined that an imminent and serious threat to the health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator, Office of Student Conduct, or a designee, and may be done in conjunction with the Campus Assessment, Response, and Education Team ("CARE Team") using its standard objective violence risk assessment procedures. At the discretion of the Title IX Coordinator, Office of Student Conduct, or designee, alternative coursework options may be pursued to ensure as minimal an academic impact on the parties as possible. When the Respondent is an employee, or a student employee, accused of misconduct in the course of their employment, an emergency removal will be administered in a manner consistent with applicable collective bargaining agreements, University policies, and legal requirements. Employees are subject to existing procedures for interim actions and leaves.

The Title IX Coordinator, Office of Student Conduct, or a designee have sole discretion under this Policy to implement or modify an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this Policy will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

WOU will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns.

18. Federal Timely Warning Obligations

WOU must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the WOU community.

WOU will ensure that a Complainant's name and other identifying information is not disclosed to the extent possible and allowable/required under state and federal law, while still providing enough information for community members to make safety decisions in light of the potential danger.

19. Amnesty

The WOU community encourages the reporting of sex and/or gender-based misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to give Notice to WOU officials or participate in Resolution Processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the WOU community that Complainants choose to report sex and/or gender-based misconduct to WOU officials, that witnesses come forward to share what they know, and that all Parties be forthcoming during the process.

To encourage reporting and participation in the process, WOU maintains a Policy of offering Parties and witnesses amnesty from minor policy violations, such as underage alcohol consumption or the use of illicit drugs, related to the incident.

Granting amnesty is a discretionary decision made by WOU, and amnesty may not apply to more serious allegations, such as physical abuse of another or illicit drug distribution.

A. Students

Because students may be hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to Campus Public Safety), WOU maintains an amnesty policy for students who offer help to others in need.

B. Employees

Sometimes employees are hesitant to report sex discrimination, sex-based harassment, or retaliation they have experienced for fear of getting in trouble themselves. For example, an employee who has violated the Consensual Relationships Policy and is then assaulted in the course of that relationship might hesitate to report the incident to WOU officials.

WOU may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis.

20. Preservation of Evidence

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining/protective orders, and it is particularly time sensitive. WOU will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

Sexual Assault

- Seek forensic medical assistance at the nearest hospital, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if done.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic may destroy evidence) or a secure evidence container (if provided one by law enforcement).
- Seeking medical treatment can be essential, even if it is not for the purposes of collecting forensic evidence.

Stalking/Dating Violence/Domestic Violence/Sex-Based Harassment

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
 - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
 - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media correspondence, including notifications related to account access alerts.
- Take time stamped photographs of any physical evidence, including notes, gifts, etc., in place when possible.
- Save copies of any messages, including those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and Title IX Coordinator, the importance of taking these actions will be discussed, if timely. However, the lack of physical evidence or the timeliness of collection of physical evidence should not deter reporting.

21. Federal and State Statistical Reporting Obligations

Certain institutional officials have a duty to report the following for state and federal statistical reporting purposes (Clery Act and Oregon House Bill 4164). All identifying information is removed and confidentiality maintained in these statistical reports. The following must be reported:

- All “primary crimes,” which include criminal homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson
- Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property
- Violence Against Women Act (VAWA-based crimes), which include sexual assault, domestic violence, dating violence, and stalking
- Arrests and referrals for disciplinary action for weapons law violations, liquor law violations, and drug law violations

All personally identifiable information is kept private, but statistical information regarding the type of incident and its general location (on- or off-campus or in the surrounding area, but no addresses are given) must be shared with WOU’s Clery Coordinator and/or Campus Public Safety at 503-838-8481 or safety@wou.edu for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include all employees.

22. Independence and Conflicts of Interest

The Title IX Coordinator (or a designee) acts with independence and authority, free from bias and conflicts of interest. The Title IX Coordinator (or a designee) oversees all resolutions under this Policy and related procedures. All WOU appointed coordinators, investigators, and hearing panelists are vetted and trained to ensure they are not biased for or against any specific cases, party in a specific Complaint, or for or against Complainants and/or Respondents, generally.

Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any University appointed deputy coordinator, investigator, hearing panelist, or other Title IX Team member should be raised with the Title IX Coordinator. To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact the Executive Director of Human Resources or other appropriate official, such as General Counsel.

23. Revision of this Policy

This Policy succeeds previous policies addressing sex discrimination, sex-based harassment, and/or retaliation, though previous policies and procedures remain in force for incidents occurring before August 1, 2024. The Title IX Coordinator reviews and updates these policies and procedures regularly. WOU reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

If government laws or regulations change or court decisions alter the requirements in a way that impacts this document, this document will be construed to comply with the most recent government laws, regulations, or court holdings.

This document does not create legally enforceable protections beyond the protections of the background state and federal laws that frame such policies and codes, generally.

REFERENCED OR RELATED POLICIES

[WOU Consensual Relationships Policy](#)
Pregnancy and Related Conditions and Parenting Student Policy

RELEVANT DOCUMENTS AND LINKS

[Resolution Process for Alleged Violations of the Title IX Policy](#)
[Title IX regulations, 34 C.F.R. § 106.45](#)
[Violence Against Women Act § 304.](#)
[Clery Act, 34 CFR 668.46](#)
[Oregon House Bill 4164](#)
[Online Sex Discrimination and/or Sex-Based Harassment Report Form](#)
[ODE LGBTQ2SIA+ Student Success Plan](#)

HISTORY

APPROVAL DATE: 08/01/2024

EFFECTIVE DATE: 08/01/2024

LAST UPDATED: 07/26/24

HISTORICAL DETAIL NOTES: Replaces Sex and/or Gender Based Misconduct Policy for incidents alleged to occur August 1, 2024 forward.

SOURCE:

KEYWORDS

Title IX, Sex Discrimination, Sex-based Harassment, Retaliation, Domestic Violence, Dating Violence, Stalking, Sexual Assault, Rape, Consent, Responsible Employee, Mandatory Reporter, Hostile Environment, Gender, Supportive Measures, VAWA, Violence Against Women Act,