Responsible Office: TIX
Contact Number: 541.885.1108
Contact Email: TitleIX@oit.edu
Revision Date: 08/14/2020

Oregon Tech Policy
OIT-01-004
Prohibited Sexual Misconduct - *INTERIM*

1. Policy Statement

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

Oregon Tech recognizes Sexual Misconduct as a form of sex discrimination. As used in this Policy and the companion procedures, the term Sexual Misconduct serves as an umbrella term for behaviors, including, but not limited to: Sexual and Gender-Based Harassment, Sexual Exploitation, Sexual Assault, Relationship Violence, and Sex and Gender-Based Stalking. (see below Sections 4, Definitions; and 5(b), Prohibited Conduct).

Sexual Misconduct is a serious offense. It has no place on Oregon Tech campuses, facilities, or within the Oregon Tech Community and it will not be tolerated. People who commit Sexual Misconduct will be held accountable.

Through this and related policies, and the more detailed companion procedures, Oregon Tech adopts protocols for responding to reports of known or suspected Sexual Misconduct; providing education and training to campus; facilitating awareness and prevention initiatives; and taking such other measures as may be prudent to prevent, deter, root out, and halt Sexual Misconduct, in any form, within the Oregon Tech Community. Oregon Tech's adopted policies and procedures are designed to assure the institution complies with its own standards and also related state and federal laws, including, among many others, Title IX of the Educational Amendments of 1972 (Title IX) and Title VII of the Civil Rights Act of 1964 (Title VII).

2. Reason for Policy/Purpose

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

This Policy outlines the basic framework that Oregon Tech uses to respond to complaints and reports of known or suspected Sexual Misconduct as follows:

- Defines prohibited Sexual Misconduct;
- Describes the process for reporting known or suspected violations of this Policy;
- Outlines the process Oregon Tech uses to investigate formal and informal complaints under this Policy;
- Outlines the administrative and disciplinary processes that apply to students, faculty, and staff who violate this Policy;
- Identifies resources available to people involved or impacted by Sexual Misconduct;
- Outlines related educational and training activities; preventative, and awareness initiatives Oregon Tech will undertake to reinforce the institution's commitment to creating and maintaining a safe, respectful, supportive, and productive environment in which to study, live, work, research, and visit.

Any person wishing to further understand the rights of Complainants, Witnesses, or Respondents or the complaint and investigation process in relation to complaints of Sexual Misconduct should refer to the corresponding procedures: Procedures for the Resolution of Sexual Misconduct Complaints against Students; Procedures for the Resolution of Sexual Misconduct Complaints against Employees, Affiliates, and Non-Affiliates.

3. Applicability/Scope

This Policy and the related procedures apply to all forms of Sexual Misconduct, as defined by this Policy. Some forms of related sex discrimination may fall under the Prohibited Discrimination and Discriminatory Harassment Policy in addition to or instead of this Policy. The Title IX Coordinator and the Chief Human Resource Officers will be responsible for determining which policy applies and some decisions may be made depending on the classification of the Respondent (i.e., student, employee, or other) and the nature of the alleged conduct. See Oregon Tech's Prohibited Discrimination and Discriminatory Harassment Policy for procedures and resources for responding to concerns about prohibited Discrimination and Discriminatory Harassment, including when based on sex.

This Policy and the related procedures apply to all current and prospective, students, faculty, staff, volunteers, visitors, contractors, and collaborators (collectively the Oregon Tech Community).

This Policy and the related procedures apply when any member of the Oregon Tech Community is known or suspected to have engaged in, or been the target of, acts of Sexual Misconduct occurring:

- On Oregon Tech property; and/or
- Off-campus, including online or electronic conduct, if the conduct:
  - Occurs in connection with an Oregon Tech-related program or activity, including Oregon Tech-related employment, education, activities, internship, or research programs;
  - May pose a serious threat of harm to any member of the Oregon Tech Community, including where the reported conduct was not directed at any member of the Oregon Tech Community, but by its nature creates a risk that may pose a serious threat of harm to any member of the Oregon Tech Community;
  - May have the effect of creating a hostile environment for any member of the Oregon Tech Community; and/or

- May have a continuing adverse effect on campus or in any Oregon Tech program or activity.

Oregon Tech may not always have authority to investigate reported incidents involving members of the Oregon Tech Community that occurred before the person was enrolled at, employed by, or otherwise engaged by Oregon Tech, particularly when the alleged incident did not occur on Oregon Tech property or in connection with an Oregon Tech program, activity, or employment. Similarly, Oregon Tech may not always have authority to take action against a student who has already graduated or otherwise ceased attending Oregon Tech or an employee who no longer works at Oregon Tech.

Oregon Tech will, however, provide resources and assistance to support the academic or employment success of any person reporting Sexual Misconduct, regardless of when the event occurred and regardless of Oregon Tech's ability to investigate the matter.

4. Definitions

Advisor: A person selected by a Complainant or Respondent who does not have any real or perceived conflicts of interest and may attend interviews, meetings, and hearings with the party whom they advise.

Anonymous Reporter: A type of Reporting Party making a report of possible Sexual Misconduct who chooses not to reveal their identity. An Anonymous Reporter may have been directly subjected to conduct prohibited by this Policy, Witnesses to such conduct, or have learned of the possible conduct from another person.

Complainant: A type of Reporting Party who alleges Sexual Misconduct has been directed against them. This term does not imply any pre-judgment that the person was subjected to prohibited Sexual Misconduct.

Confidential Resource Employees: Oregon Tech employees who are not obligated to report information that is provided to them about known or suspected Sexual Misconduct. This allows each person to explore their options in a non-pressured environment while they make informed decisions. There may be exceptions to the reporting obligations, for example in cases involving child abuse, imminent risk of serious harm, emergent hospitalization, or a court order. At Oregon Tech, Confidential Resource employees include the staff of Integrated Student Health Center acting in their capacity as a counseling or health provider. For employees, note that Employee Assistance Program (EAP) is a third-party vendor and its counselors are not considered Oregon Tech employees. Discussions with EAP counselors are confidential, but because the EAP is a vendor, those counselors are not Confidential Resource Employees under this Policy. See below Mandatory Reporting by Responsible Employees.

Consent: The voluntary, knowing, and unambiguous agreement to engage in a specific sexual activity during a sexual encounter. Consent cannot be given by someone who is: (1) sleeping; (2) unconscious, unaware, or otherwise mentally or physically helpless because of drugs, alcohol, or other contributing factors (i.e., incapacitated); (3) unable to understand the nature of the sexual activity due to a mental disease or condition (i.e., mentally incapable); (4) under duress, threat, deception, coercion, abuse of a position of authority, or force; or (5) a minor unable to give Consent, as defined by applicable state law (*e.g.*, the age of Consent is 18 in Oregon and 16 in Washington).

Dating Violence: A form of Relationship Violence that is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the person who has experienced Dating Violence. The existence of such a relationship shall be determined based on the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition: (1) Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse; (2) Dating Violence does not include acts covered under the definition of Domestic Violence.

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

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

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

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

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

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

Hostile Educational Environment (Title IX): A form of Sexual and/or Gender-Based Harassment prohibited by Title IX that is unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the

school's education program or activity. While a person who engages in harassing behavior most often has some form of power or authority over the person being harassed, that is not always the case. The harasser can be a peer of the person being harassed. Sometimes the harasser is harassing a person who has the power over them. The more severe the conduct, the less of the need there is to show a repetitive series of incidents to prove a Hostile Education Environment.

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

Incapacitation: When a person lacks the ability to make informed, rational judgments about whether to engage in sexual activity. A person who is incapacitated is unable, temporarily or permanently, to give Consent because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. A person may be incapacitated as a result of the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition. Consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated.

Incest: A form of Sexual Misconduct. This includes sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Office of Title IX Compliance: The office designated at Oregon Tech to receive, review, and investigate reports of known or suspected Sexual Misconduct. The office designated for assuring Oregon Tech's compliance with this policy, Title IX, and related state and federal laws.

Quid Pro Quo (meaning "this for that"): A form of Sexual and/or Gender-Based Harassment that can occur when it is stated or implied that an academic or employment decision about a student or employee depends upon whether the student or employee submits to conduct of a sexual nature. Quid Pro Quo sexual harassment also occurs when it is stated or implied that an individual must submit to conduct of a sexual nature in order to participate in a University program or activity. So, for example, if an employee is made to believe that a promotion is likely if the employee goes on a date with the employee's supervisor, the employee is possibly being subjected to Quid Pro Quo Sexual Harassment. Quid Pro Quo harassment can be created by persistent or pervasive conduct or by a single severe episode. The more severe the conduct, the less of the need there is to show a repetitive series of incidents to prove a hostile environment.

Rape: A form of Sexual Assault involving the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the Consent of the person who has been penetrated. This offense includes the rape of both males and females. Rape includes the crime of rape, regardless of the age of the person who has been penetrated, if the person who has been penetrated did not Consent or if the person who has been penetrated was incapable of giving Consent. If the person who has been penetrated was under the statutory age of

Consent (i.e., they are not capable of giving Consent), this is more specifically defined as Statutory Rape.

Reasonable Person: The objective viewpoint of a prudent, hypothetical person with ordinary sensitivities who embodies a community ideal of reasonable behavior.

Relationship Violence: A broad term encompassing dating violence and domestic violence. It is also sometimes referred to as intimate partner violence. Relationship Violence may also manifest in stalking, although stalking can occur outside of an intimate relationship. Relationship Violence can include any act of violence or non-physical tactics including a pattern of emotionally or financially abusive behavior that one person uses against a current or former partner in a sexual, dating, spousal, domestic, or other intimate relationship, to gain or maintain power and control over another. Relationship Violence can be a single act or a pattern of behavior within a relationship. Relationship Violence may manifest in many different forms, including Dating Violence, Domestic Violence, and Sex or Gender-Based Stalking.

Reporting Party: A person or persons who directly or indirectly make a report of Sexual Misconduct. A Reporting Party is not necessarily the Complainant. A Reporting Party may be a Third-Party Complainant (such as a Witness) or an Anonymous Reporter. In cases where there is no identified Reporting Party willing to participate in the investigative process, Oregon Tech may be identified as the Reporting Party, if the Title IX Coordinator, or designee, determines that an investigation is necessary, given the nature of the allegations made.

Respondent: A person, student organization, or entity that has been reported to be the perpetrator of conduct prohibited under this Policy. The term does not imply any pre-judgment that misconduct has occurred.

Responsible Employee: An employee or student: (1) who has the authority to take action to redress Sexual Misconduct; (2) who has been given the duty of reporting incidents of Sexual Misconduct or any other misconduct by students to the Title IX Coordinator or other appropriate school designee; or (3) a person whom a student/employee could reasonably believe has either the authority or the duty listed above. Oregon Tech requires all employees to act as responsible employees, unless they are considered a Confidential Resource.

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

Sex and Gender-Based Stalking: Engaging in a course of conduct directed at a specific person, based on a person's sex or gender, that would cause a reasonable person to: (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress. For the purposes of this definition: (1) course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property; (2) reasonable person means a reasonable person under similar circumstances and with similar identities to the person being stalked; (3) and substantial emotional distress means

significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

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

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

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

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

Sexual Contact: A form of Sexual Assault involving an intentional contact of a sexual nature with the body parts of another, causing another to touch one's intimate body parts, disrobing or exposure of another without permission. This can include contact of a sexual nature with intimate body parts such as the breasts, genitals, buttocks, groin, or mouth; however, sexual contact can occur with any part of the body that is touched in a sexual manner.

Sexual Exploitation: A form of Sexual Misconduct that occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's Consent. Examples of behavior that could rise to the level of sexual exploitation include, but are not limited to: prostituting another person; recording images (*e.g.*, video, photograph), audio, or otherwise of another person's sexual activity, intimate body parts, or the person in a state of undress; distributing images (*e.g.*, video, photograph), or audio of another person's sexual activity, intimate body parts, or the person in a state of undress; and viewing another person's sexual activity, intimate body parts, or the person in a state of undress in a place where that person would have a reasonable expectation of privacy.

Sexual Harassment: A form of Sexual Misconduct. Oregon Tech recognizes three definitions of Sexual Harassment, consistently with federal law, pursuant to Title IX and Title VII, and Oregon state law. All three definitions constitute Sexual Misconduct and are strictly prohibited. In addressing Sexual

Harassment, Oregon Tech will apply the definition and corresponding procedures that are consistent with either Oregon or federal law, depending on the nature of the offense.

- *Sexual Harassment under Federal Law (Title IX)*. Sexual Harassment under Title IX is conduct on the basis of sex that involves one or more of the following: (1) "Quid Pro Quo" Sexual Harassment (defined above); (2) Sexual Harassment in the form of a Hostile Education Environment (defined above); or (3) any form of Sexual Assault, including Domestic Violence, Dating Violence, and/or Sex or Gender-Based Stalking.

- *Sexual Harassment under Federal Law (Title VII)*. Under the Civil Rights Act of 1964, Sexual Harassment is a form of workplace Sex Discrimination that violates Title VII. Title VII is limited to workplace encounters involving employees. In this context, Sexual Harassment is (1) unwelcome sexual advances and/or requests for sexual favors (i.e., Quid Pro Quo); or (2) other verbal or physical conduct of a sexual nature constitutes Sexual Harassment when submission to or rejection of this conduct explicitly or implicitly affects a person's employment, unreasonably interferes with a person's work performance or creates an intimidating, hostile or offensive work environment (i.e., a Hostile Work Environment).

- *Sexual Harassment Oregon Law*. Sexual Harassment under Oregon law is unwelcome conduct of a sexual nature that can occur in educational or work settings. Sexual Harassment can include unwelcome sexual advances, requests for sexual favors (including quid pro quo harassment), or other verbal, nonverbal or physical conduct of a sexual nature where such conduct is sufficiently severe or pervasive that it has the effect, intended or unintended, of unreasonably interfering with an individual's work or academic performance or it has created an intimidating, hostile or offensive environment and would have such an effect on a reasonable person. Oregon law also prohibits Sexual Assault, Dating Violence, Domestic Violence, and Sex or Gender-Based Stalking.

Under the above definitions, a person's subjective belief, alone, that behavior is offensive does not necessarily mean the conduct violates this Policy. The behavior must also be objectively offensive to the Reasonable Person to meet the definition of prohibited sexual harassment under this Policy. Sexual Harassment can be based on actual or perceived sex, sexual orientation, gender, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal, non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature.

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

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

Sexual Misconduct: This umbrella term is used to describe unwanted conduct of a sexual nature that is committed without Consent or with the use of force, coercion, threats, intimidation, or manipulation. This term includes but is not limited to Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Sex and Gender-Based Stalking.

Sodomy: Oral or anal sexual intercourse with another person, without the Consent of the person, including instances where the person is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity.

Statutory Rape: A form of Sexual Assault involving sexual intercourse with a person who is under the statutory age of Consent (*e.g.*, the age of Consent is 18 in Oregon and 16 in Washington).

Support Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Support Measures are designed to restore or preserve equal access to the recipient's education program or activity and/or work environment without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment. Supportive Measures may include remedial measures that do not interfere with either party's access to education and such feasible measures that can be used to achieve the goals of this Policy.

Third-Party Complainant: A type of Reporting Party who makes a report of possible Sexual Misconduct prohibited by this Policy but was not directly subjected to the alleged conduct. They may have been a witness to the conduct or learned of the possible conduct from another person.

Threat: Any physical, written, or verbal conduct, whether direct, indirect or conditional, that conveys intent or is reasonably perceived to convey intent to cause physical harm to property or someone or to place someone in fear of his or her safety or the safety of others. A threat encompasses the use of technology to commit this behavior. See Oregon Tech's Policy mandating a Violence-Free Campus.

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

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

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

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

Witness: A person believed to have first-hand or relevant information regarding an incident which may constitute a violation of this Policy. Most commonly, a witness is a person who may have been present when the incident occurred, someone the Reporting Party or Respondent communicated with about the incident, or someone who may have information that is otherwise relevant to alleged Sexual Misconduct.

Additional and/or expanded definitions relating to this Policy are set forth in the supporting procedural documents. See Procedures for the Resolution of Sexual Misconduct Complaints against Students; and Procedures for the Resolution of Sexual Misconduct Complaints against Employees, Affiliates, and Non-Affiliates.

5. Policy

a. Expected Conduct

All members of the Oregon Tech Community have a right to be free from Sexual Misconduct. All members of the Oregon Tech Community are required to adhere to this Policy, and to cooperate with the requirements for reporting and the procedures for responding to complaints.

Students and employees are expected to support and contribute to Oregon Tech's commitment to equal opportunity in education and employment and establishing an environment free from discrimination and harassment, including all forms of Sexual Misconduct.

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

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

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

b. Prohibited Conduct

Sexual Misconduct is prohibited. This term encompasses all forms of Sexual Exploitation, Sexual and Gender-based Harassment, Sexual Assault, and Relationship Violence. Sexual Misconduct includes a wide range of behaviors of a sexual nature. Common among them is a lack of Consent and/or the use of force, coercion, threats, intimidation, or manipulation.

Retaliation and the violation of Support Measures are also considered misconduct under the Prohibited Sexual Misconduct policy and are discussed in greater detail in the accompanying Procedures.

Sexual Misconduct is prohibited regardless of the sex, sexual orientation, gender identity, and/or gender expression of the Complainant or Respondent.

c. Notice of Sexual Assault Complainants' Bill of Rights

The "Campus Sexual Assault Victims' Bill of Rights" was signed into law by President George Bush in July of 1992. Schools found to have violated this law can be fined up to $35,000 or lose their eligibility to participate in federal student aid programs. Complaints about schools that have filed to comply with this law should be made to the U.S. Department of Education.

This law requires that all colleges and universities (both public and private) participating in federal student aid programs afford sexual assault complainants certain basic rights. This law requires colleges and universities to notify Complainants of their option to report their Sexual Assault to the proper law enforcement authorities.

At Oregon Tech, compliance with this law includes these practices:

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

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

d. Reporting Rights and Options

1. General Reporting Expectations

Members of the Oregon Tech Community who, in the course and scope of their studies or employment, witness or receive information regarding the occurrence of an incident that the employee or student reasonably believes constitutes any form of Sexual Misconduct against any member of the Oregon Tech Community, are generally expected to make a report. Oregon Tech employees who serve in a leadership position (i.e., are a member if management) are required to make a report.

This general reporting expectation does not apply to incidents where the student or employee is the person who has been the target of the Sexual Misconduct. This reporting obligation also does not apply to a Confidential Resource employee (see below).

While Complainants have the right to decide if and when they report Sexual Misconduct to Oregon Tech, all persons are encouraged to promptly report conduct that may violate this Policy. Oregon Tech strongly encourages persons to access services, such as counseling and medical help. Access and services are available to Oregon Tech Community members regardless of whether they report the incident.

Once a person alerts Oregon Tech of an alleged violation of this Policy they will be provided with written information including this Policy and the applicable procedures, their rights, reporting options, and support resources.

2. General Reporting Options

An effective and clear complaint procedure is a critical element of Oregon Tech's Policy prohibiting Sexual Misconduct.

Persons who choose to pursue action under this Policy or wish to report a known or suspected violation of this Policy should make a report to the University's Title IX Coordinator or one of the additional options provided below. These reporting options are open to all members of the Oregon Tech Community. See the Title IX Website for a complete list of current reporting options (some options may vary depending on the campus location).

Reports to Oregon Tech's Title IX Coordinator can be made via email at: TitleIX@oit.edu. Additional reporting options are outlined on the Title IX website at: https://www.oit.edu/title-ix

Additional Reporting Options for Students

The Title IX Coordinator is responsible for assessing complaints when the suspected Sexual Misconduct is conducted by a current or prospective student. Complaints against former students will be assessed in collaboration between the Title IX Coordinator and the Office of Student Affairs on a case-by-case basis to determine the appropriate response.

General reporting options for concerns about a current, prospective, or former student's conduct include:

- Contacting the Title IX Investigator or a Title IX Deputy Coordinator (See the Title IX Website names and contact information);
- Filing an online Safe Campus Incident Reporting Form (which is routed to the Title IX Coordinator; can be used for anonymous reporting);
- Contacting Oregon Tech's Office of Student Affairs: 541.885.1011; College Union 217;
- Contacting the Director of the Student Success Center: 541.885.1790; Learning Resource Center 225;
- Contacting Oregon Tech Campus Safety Department: 541.885.0911 (emergency) or 541.885.1111 (non-emergency); Cornett Hall 231; Report an Incident Online;
- Filing an online Campus Incident Report: Login to TechWeb, click on Campus Resources, click on Report an Incident; or
- Filing an online report through Ethics-Point (can be used for anonymous reporting).

Additional Reporting Options for Employees and Oregon Tech Community Members

The Title IX Coordinator is responsible for assessing complaints when the suspected Sexual Misconduct is conducted by an Oregon Tech employee, visitor, volunteer, vendor, or collaborator. Reporting options for concerns about Sexual Misconduct perpetrated by such persons include:

- Contacting the Title IX Investigator or a Title IX Deputy Coordinator (See the Title IX Website names and contact information);
- Filing an online Safe Campus Incident Reporting Form (which is routed to the Title IX Coordinator; can be used for anonymous reporting);
- Contacting Oregon Tech's Office of Human Resources: 541.885.1120; oithr@oit.edu; Snell Hall, First Floor;
- Contacting Oregon Tech Campus Safety Department: 541.885.0911 (emergency) or 541.885.1111 (non-emergency); Cornett Hall 231; Report an Incident Online;
- Filing an online Campus Incident Report: Login to TechWeb, click on Employee Central, click on Incident Report; or
- Filing an online report through Ethics-Point (can be used for anonymous reporting).

Additional Information on Anonymous Reporting Options

Any person may make a report of known or suspected violations of this Policy without disclosing their identity. Depending on the level of information available about the incident or the persons involved, the University's ability to respond to an anonymous report may be limited. Oregon Tech will, however, take whatever steps it deems appropriate and in the best interests of the Oregon Tech Community, consistent with the information available. Any person can make an anonymous report by submitting a Safe Campus Reporting Form; Ethics-Point complaint, or a Student Affairs Anonymous Report Form.

Additional Information on Reporting to Campus Safety/Local Law Enforcement

For incidents including threats or acts of Sexual Assault, persons may make a report to Oregon Tech Campus Safety in person, by phone, or online: 541.885.0911 (emergency) or 541.885.1111 (for the officer on duty); located in Cornett Hall 231, or online Safe Campus Reporting Form (can be used for anonymous reporting).

Some forms of Sexual Misconduct may also constitute a violation of criminal law. Anyone who reports Sexual Misconduct will be notified of their right to speak to the appropriate law enforcement agency and file a report for possible criminal prosecution. This is a separate process from making a report of alleged Sexual Misconduct under this Policy. Campus Safety can assist persons wishing to report potentially criminal acts to local law enforcement.

Clery Act Reporting Obligations

Pursuant to the Clery Act, the University includes statistics about certain offenses in its annual security report and provides those statistics to the United States Department of Education in a manner that does not include any personally identifying information about persons involved in an incident. The Clery Act also requires Oregon Tech to issue timely warnings to Oregon Tech Community about certain crimes that have been reported and may continue to pose a serious or continuing threat to campus safety. Consistent with the Clery Act, Oregon Tech withholds the names and other personally identifying information of Complainants when issuing timely warnings to the Oregon Tech Community. See Clery Act Compliance Policy.

3. Amnesty to Students when Reporting Prohibited Conduct

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

4. Confidential Resource Employee

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

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

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

For employees, note that Employee Assistance Program (EAP) counselors are a third-party vendor and are not Oregon Tech employees. Discussions with EAP counselors are confidential, but EAP counselors are not Confidential Resources under this Policy.

Discussing or disclosing details of Sexual Misconduct to a Confidential Resource Employees or EAP counselor **does not** constitute making a report, filing a complaint, or otherwise putting Oregon Tech on notice of the alleged misconduct.

e. Responsible Employee Reporting Obligations

At Oregon Tech, a Responsible Employee is an employee: (1) who has the authority to take action to redress Sexual Misconduct; (2) who has been given the duty of reporting incidents of Sexual Misconduct or any other misconduct by students to the Title IX Coordinator or other appropriate school designee; or (3) a person whom a student/employee could reasonably believe has either the authority or the duty listed above.

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

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

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

Note: the term Mandatory Reporter, as used herein, is not analogous to mandatory reporting obligations related to the known or suspected abuse and neglect of minors under state law. See Mandatory Reporting of Child Abuse; Oregon Child Abuse Reporting Statutes, ORS 419B.005–419B.017.

f. Timeframe for Reporting Incidents and Concerns

To promote timely and effective review, Oregon Tech strongly encourages all members of the Oregon Tech Community to promptly report any and all known or suspected violations of this Policy. The older the allegations are, the more difficult it will be for Oregon Tech to identify and gather relevant and reliable information.

Although a report of known or suspected violations of this Policy may be made at any time, if the alleged policy violator is no longer a student or employee at Oregon Tech at the time of the report, Oregon Tech may not be able to take action against that person.

Oregon Tech's inability to investigate or decision not to investigate a report of possible misconduct does not negate the reporting party's right and access to receive support, resources, and/or assistance, if that person is a member of the Oregon Tech Community.

g. Procedures for Responding to Reports of Sexual Misconduct

Fundamental to Oregon Tech's processes for Complainants and Respondents, alike, are the notions of fairness and equitable treatment. It is important to assure that no party is deprived of equal access to educational programs and activities or employment without due process. Although this is an administrative—not legal—process, due process is a cornerstone of its structure. Consequently, Oregon Tech strives to balance taking seriously every report of possible Sexual Misconduct, while also not presuming misconduct of those against whom allegations are made.

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

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

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

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

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

h. Complaint Options

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

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

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

Informal Complaint may be an appropriate route for less pervasive or less severe allegations of Sexual Harassment that may be addressed and informally resolved. Oregon Tech does not require the parties to participate in an informal resolution process if any party prefers a formal process.

Technical Support: A request for support measures may be appropriate when the Reporting Party is the Complainant and they are seeking support and resources, rather than wanting to file a complaint, or see that Oregon Tech initiate an investigation or review. This may be an appropriate option if, for example, the allegations represent relatively low-grade Sexual Misconduct and the Respondent has already left Oregon Tech, making it unlikely that Oregon Tech can take action against them. While action against the Respondent may not be possible or practical, the Complainant may still benefit from support measures and resources.

i. In-Take Process

Irrespective of the type of complaint the Reporting Party prefers, the in-take process is very similar. Upon receipt of a complaint or request for Technical Support, the Title IX Coordinator, or designee, will have an in-take conversation with the Reporting Party, and the Complainant, if that is a different person from the Reporting Party.

The purpose of the in-take conversation is to gather additional details about the complaint or request for Technical Support. The in-take process provides the opportunity for the Reporting Party to confirm the kind of complaint they wish to file. Additionally, the in-take process will also help assess whether any immediate Support Measures should be taken. See below Section k, Support Measures.

Upon receipt of an initial complaint or request for Technical Support, the Title IX Coordinator will also make an immediate assessment of the risk of harm to the parties or to the broader Oregon Tech Community and will take steps necessary to address any risks. These steps may include establishing Support Measures (such as emergency removals) to provide for the safety of the parties and the Oregon Tech Community and, where appropriate, referral to Campus Safety, the Office of Human Resources, the Office of Student Affairs, the Office of the Provost, and/or the Integrated Student Health Center to assess whether any person poses a serious threat of disruption to the workplace or a continuing danger to self, to other members of the Oregon Tech Community, or to Oregon Tech property.

j. Notice to the Parties

When the Title IX Coordinator determines either a formal or informal complaint process is appropriate, based on the information gathered through the complaint itself and the in-take process, the Parties will each receive formal notice.

Notice includes a variety of details, including, but not limited to: a summary of the allegations; information about resources and support; and copies of applicable policies and procedures. If an informal resolution process (such as mediation or restorative justice) is available, details of that option will also be provided. For a full outline of what is included in formal Notices, see Procedures for the Resolution of Sexual Misconduct Complaints against Students; or Procedures for the Resolution of Sexual Misconduct Complaints against Employees, Affiliates, and Non-Affiliates.

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

k. Support Measures

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

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

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

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

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

Supportive Measures may include, but are not limited to:

- Facilitating access to counseling and medical services;
- Extensions of deadlines or other course-related adjustments;
- Change in class schedule, including the ability to transfer course sections or withdraw from a course.
- Modifications in the Complainant's or Respondent's work schedule or job assignment;
- Assistance in arranging or rescheduling of exams and assignments and extensions of deadlines;
- Academic support, including disability auxiliary aids and services, if applicable;
- Escort and other safety planning steps;

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

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

Once in place, impacted parties are expected to honor and comply with Support Measures. Violations of Support Measures constitute a form of misconduct.

l. Investigative Process

During the investigation, the Title IX Investigator(s) gathers facts and makes a determination, by a preponderance of the evidence, as to whether or not the respondent engaged in Sexual Misconduct. A "preponderance of the evidence" means that it is more likely than not the Sexual Misconduct occurred.

The investigative process will vary depending on the classification of the Respondent (i.e., a current or former student, employee, volunteer, visitor, contractor, or collaborator). A Title IX Investigator act as impartial, neutral fact-finder. The primary investigative role is to collect and assess information material to the specific allegations of misconduct. In general, Oregon Tech strives to complete the investigations as quickly as possible. However, each complaint is different and unique and may require more or less time depending on variables such as the complexity of the allegations, timeframe involved, number of witnesses, volume of supporting documentation, etc. Typically, Oregon Tech will attempt to resolve complaints and issue draft investigative reports within ninety (90) calendar days of noticing the Respondent. The investigation may take longer if good cause exists for a delay. If the investigation takes longer than ninety (90) calendar days, Oregon Tech will notify the parties of the delay and the reasons for the delay.

To explore the detailed investigative processes, see Procedures for the Resolution of Sexual Misconduct Complaints against Students; or Procedures for the Resolution of Sexual Misconduct Complaints against Employees, Affiliates, and Non-Affiliates.

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

- The Title IX Investigator(s) interview the Complainant, the Respondent(s), and any Witnesses, including those identified by the Complainant and Respondent, as appropriate.
- The Title IX Investigator(s) also gather and review any information they deem pertinent, as well as any information submitted by the Complainant, the Respondent(s), and/or any Witnesses.
- The Title IX Investigator(s) ensure that both the Complainant and Respondent have reasonable and equitable access to all information directly related to the alleged violation in Oregon Tech's possession, including any statements made by the Complainant or by other persons, information stored electronically, written or electronic communications, social media posts, or physical evidence, redacted as necessary to comply with any applicable federal or state law regarding confidentiality.
- If, during the course of an investigation, additional actions that may constitute a violation of Policy are identified, Oregon Tech will determine on a case-by-case basis whether and how to investigate those allegations. Facts used to make this determination include, but are not limited to, the type of action identified and whether the actions occurred during the same incident or during a separate incident.
- Upon completion of the fact-finding component of the investigation, the Title IX Investigator(s) will draft an investigative report or memo (depending on the complexity of the case). Both parties will receive a copy of the document and have the opportunity, but are not required, to respond. Parties are granted ten (10) calendar days in which to file a response noting any error or omission of fact contained in the report or memo. Any such responses will be reviewed by the Title IX Investigator(s) prior to issuing the final report.

If the Respondent is a student and withdraws or graduates while a Sexual Misconduct matter is pending, Oregon Tech may not end the process or issue a transcript to the student until a final determination of responsibility is reached and will expedite the Sexual Misconduct complaint process as necessary to accommodate both the student's and the Complainant's interest in a speedy resolution.

If the Respondent is an employee and resigned while a Sexual Misconduct matter is pending, the investigation will typically stop. The Title IX Office, in consultation with the Office of the Provost and/or the Office of Human Resources, will determine whether the resignation may be considered a resignation in lieu of disciplinary action. When such a determination is made, the person may not be eligible for rehire at Oregon Tech.

m. Investigative Outcomes

Where allegations, if substantiated by the applicable decision-maker, are likely to require a formal disciplinary hearing, the reports will only contain findings of fact applying the preponderance standard. The decision-maker varies, depending on the classification of the Respondent. See accompanying procedures for additional details on the designation of decision-makers.

Upon completion of the investigation, the hearing process will then begin. The hearing process varies depending on the classification of the Respondent. For details on the hearing process, see Procedures

for the Resolution of Sexual Misconduct Complaints against Students; or Procedures for the Resolution of Sexual Misconduct Complaints against Employees, Affiliates, and Non-Affiliates.

For allegations that do not rise to the level that a formal hearing is mandated, such reports will also contain determinations of whether the Respondent more likely than not violated this Policy and other implicated policies. If it is determined that this Policy was violated, appropriate action will be recommended in an effort to eliminate Sexual Misconduct, prevent its recurrence, and address its effects. Even if it is determined that this Policy was not violated, a recommendation may be made that a Respondent undertake educational initiatives and/or trainings.

Once findings have been made, either party to the complaint may request to the Title IX Coordinator to inspect the investigative file.

n. Hearings

Where a hearing is mandated by law (such as formal complaints falling under Title IX), the hearing process will be initiated promptly upon the conclusion of the investigation. When a formal hearing occurs in cases mandated by Title IX, the decisionmaker will be a person other than the Title IX Investigator and Coordinator. The decisionmaker objectively evaluates all relevant information both inculpatory and exculpatory, and independently reaches a determination regarding responsibility without giving deference to the investigative report. The decisionmaker may or may not actually administer the hearing as a Hearing Officer.

Generally, hearing procedures provide a framework assuring equal access and due process to both parties. The hearing process, and accompanying rights related thereto, varies depending on the status of the Respondent (i.e., student, faculty, staff, etc.).

To access the detailed hearing processes, see Procedures for the Resolution of Sexual Misconduct Complaints against Students; or Procedures for the Resolution of Sexual Misconduct Complaints against Employees, Affiliates, and Non-Affiliates. See also Oregon Tech's Student Code of Conduct.

o. Title IX Steering Committee

The Title IX Steering Committee is a collaborative and multi-disciplinary team charged with advancing a culture of respect, responsibility, and safety at Oregon Tech. The Committee consists of students, faculty, and staff, including the Title IX Coordinator, the Title IX Investigator(s), all Deputy Title IX Coordinators, and Campus Safety personnel.

The Committee provides the Title IX Coordinator with recommendations on promoting a positive campus culture and in identifying and deploying effective measures to prevent and address all forms of Sexual Misconduct. The Committee offers recommendations and guidance to the Title IX Coordinator to inform policy and procedures; identify and improve Support Measures; expand training, education, outreach, and prevention efforts; and ensure positive compliance with Title IX and other laws, regulations, and policies related to sexual and gender-based issues.

p. Prevention, Training, and Education

Oregon Tech expects all community members to take reasonable and prudent actions to prevent or stop an act of Sexual Misconduct. Taking action may include direct intervention, calling law

enforcement, or seeking assistance from a person in authority. Members of the Oregon Tech Community who intervene to prevent or stop Sexual Misconduct will be supported by Oregon Tech and protected from retaliation.

In connection with its commitment to eradicating Sexual Misconduct, Oregon Tech is committed to ensuring appropriate training for its Title IX Coordinator, Title IX Investigator(s), Deputy Title IX Coordinators, Campus Safety personnel, Responsible Employees, Advisors, and others involved in responding to, investigating, or adjudicating Sexual Misconduct complaints.

Oregon Tech has developed training programs for students and employees to assist them in recognizing Sexual Misconduct, teaching them how to respond to reports of Sexual Misconduct, and assuring that they are aware of available on and off campus resources. Learn more about prevention, education, and outreach efforts and options and to access training materials, visit the Title IX website.

q. Relevant Policies and Procedures

Oregon Tech retains the discretion to determine which Oregon Tech policies apply and whether action will be taken under multiple policies.

Some alleged conduct may result in separate investigations or investigations through the review of multiple policies. For example, some conduct may fall under both this Policy and others, such as the Violence-Free Campus Policy and/or the Prohibited Discrimination and Discriminatory Harassment Policy. It is possible an act that violates this Policy may be followed by acts constituting retaliation, which would then also implicate possible violations of the policy addressing Reporting Misconduct and Non-Retaliation. A partial list of related policies can be found below in Section 6.

This Policy provides only an outline of Oregon Tech's response to known and suspected acts of Sexual Misconduct. For details on reporting options, investigative process, hearings, and the rights and responsibilities of parties, see: Procedures for the Resolution of Sexual Misconduct Complaints against Students; and Procedures for the Resolution of Sexual Misconduct Complaints against Faculty, Staff, Affiliates, and Non-Affiliates.

r. Confidentiality

To the extent possible, Oregon Tech will maintain the confidentiality of the identity of any person who has made a report or complaint of Sexual Misconduct, including any person who has made a report or filed a formal complaint of Sexual Harassment, any Complainant, any person who has been reported to be the Respondent in a claim of Sexual Misconduct, any Respondent, and any Witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g and 34 CFR part 99, or as otherwise required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

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

s. Non-Retaliation and False Claims

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

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

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

t. Violations of this Policy

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

Violations of this Policy may also constitute violation of state law. Oregon Tech may refer such violations to the appropriate authorities.

Although third parties (*e.g.*, volunteers, visitors, contractors, collaborators, etc.) are not subject to discipline under the University's internal processes, they are required to comply with this Policy while on Oregon Tech property or engaged in Oregon Tech activities. The University will take prompt corrective action to address violations of this Policy by third parties.

u. External Complaints

Oregon Tech encourages anyone with a pertinent complaint to follow the process in this Policy. Filing a complaint of discrimination and harassment with Oregon Tech does not preclude a person from filing with other federal or state agencies. However, a person may always choose to make a discrimination complaint directly with outside agencies, such as the U.S. Department of Education's Office for Civil Rights; the U.S. Equal Employment Opportunity Commission (EEOC); and/or Oregon's Bureau of Labor and Industries (BOLI).or, when applicable, law enforcement.

6. Links to Related Procedures, Forms, or Information

Related Policies & Procedures
Affirmative Action *(forthcoming)*
Appropriate Use *(forthcoming)*
Background Checks *(forthcoming)*
Clery Act Compliance *(forthcoming)*
Leave for Victims
Prohibited Discrimination and Harassment
Reporting Misconduct and Non-Retaliation
Procedures for the Resolution of Sexual Misconduct Complaints against Students

Procedures for the Resolution of Sexual Misconduct Complaints against Faculty, Staff, Affiliates, and Non-Affiliates
Procedures for the Resolution of Discrimination and Discriminatory Harassment Complaints against Faculty, Staff, Affiliates, and Non-Affiliates
Student Code of Conduct
Unclassified Staff – Timely Notice
Affirmative Action *(forthcoming)*
Appropriate Use *(forthcoming)*
Background Checks *(forthcoming)*
Clery Act Compliance *(forthcoming)*

Related Laws
Campus Sexual Violence Elimination Act (SaVE Act)
Family Educational Rights and Privacy Act (FERPA)
Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
Oregon House Bill 3415
Oregon Revised Statutes 350.255
Oregon Revised Statutes 419B.005–419B.017
Oregon Revised Statutes 659 and 659A
Title VII of the Civil Rights Act of 1964
Title IX of the Educational Amendments of 1972
Violence Against Women Reauthorization Act of 2013 (VAWA)

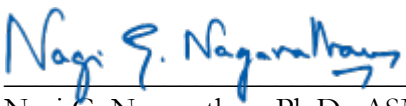
7. Policy Review/Consultation/Responsible Officer

This Policy was adopted on an interim basis as a result of new federal regulations applying to Title IX and requiring compliance by August 14, 2020. This Policy was drafted by the Title IX Compliance Task Team and reviewed by various stakeholders. This Policy was then reviewed and approved by Oregon Tech's President under his authority to revise and enact policies when prompted by the necessity of law.

The Responsible Officer for this Policy is the University's Title IX Coordinator (ph: 541.885.1108; e: TitleIX@oit.edu).

8. Policy Approval

Approved by the President on August 12, 2020.



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

Adoption Date
August 12, 2020 (Effective August 14, 2020)

Supersedes, Renames, and Renumbers
OIT-21-325, Policy on Sexual Harassment, Adopted 11/01/02; Revised 02/24/06, 10/18/05

Revision Dates