

## Oregon Tech Policy OIT-01-003

### Prohibited Discrimination and Discriminatory Harassment - *INTERIM*

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#### 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 people of diverse backgrounds and experiences for its workforce and within its student body.

Oregon Tech recognizes any form of Discrimination or Discriminatory Harassment (defined below) based on protected class status is highly disruptive and contrary to the development and maintenance of a positive working and learning environment.

Discrimination or Discriminatory Harassment constitute serious offenses. Such behaviors have no place on Oregon Tech campuses, facilities, or within the Oregon Tech Community and it will not be tolerated. People who commit Discrimination or Discriminatory Harassment will be held accountable.

Through this and related policies, and the more detailed procedures adopted herewith, Oregon Tech adopts protocols for responding to complaints and reports of known or suspected Discrimination or Discriminatory Harassment. 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 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 employment for all members of the Oregon Tech Community. Oregon Tech is also committed to cultivating an educational and work environment in which all persons are treated with respect and dignity. Oregon Tech expects that all interactions between and among members of the Oregon Tech Community will be free from Discrimination and Discriminatory Harassment.

This Policy:

- Reaffirms Oregon Tech's prohibition of Discrimination and Discriminatory Harassment based on membership in a Protected Class;
- Defines prohibited behaviors constituting Discrimination and Discriminatory Harassment;
- Describes the process for reporting known or suspected violations of this Policy;

- Outlines the process Oregon Tech uses to investigate formal and informal complaints of violations of this Policy;
- Outlines the administrative and disciplinary processes for students, faculty, and staff who violate this Policy;
- Identifies resources available to members of the Oregon Tech Community involved or impacted by Discrimination and Discriminatory Harassment; and
- Described 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.

### 3. Applicability/Scope

This Policy applies to acts of Discrimination and Discriminatory Harassment on the basis of Protected Class (see below Definitions). Some forms of sexual harassment may fall under the Prohibited Sexual Misconduct Policy in addition to or instead of this Policy.

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

This Policy applies to behavior occurring at any Oregon Tech campus or facility, and off-campus during university-sponsored activities and events.

### 4. Definitions

**Discrimination:** Any act that either in form or operation, and whether intended or unintended, unreasonably target people on the basis of their known or perceived membership in a Protected Class. Discrimination can range from being blatant to being very subtle, it may also manifest through practices resulting in Disparate Treatment or Disparate Impact.

- **Disparate Treatment:** Is a form of Discrimination that occurs when a person suffers less favorable treatment than others because of the protected class.
- **Disparate Impact:** Is a form of Discrimination that occurs when a policy, although neutral on its face, adversely impacts persons in a protected class.

**Discriminatory Harassment:** Unwelcome verbal or physical conduct that: (1) occurs because of a person's Protected Class; (b) is sufficiently severe or pervasive that it unreasonably interferes with, denies, or limits a person's ability to study or work at Oregon Tech or to participate in Oregon Tech's programs or services; and (c) would be perceived by a reasonable person as having that effect. Oregon Tech's Prohibited Sexual Misconduct Policy may be applied in addition to or instead of this Policy.

**Equal Employment Opportunity (EEO):** Refers to federal and state opportunity legislation prohibiting discrimination based on protected class status. Oregon Tech's employment practices prohibit discrimination on the basis of known or perceived membership in a Protected Class.

**Protected Activity:** As used in this Policy, this refers to (1) a person’s good faith reporting of known or suspected Misconduct; (2) a person’s good faith participation in the investigation of alleged Misconduct, or (3) a person’s reasonable refusal to engage in Misconduct. See the policy on Reporting Misconduct and Prohibited Retaliation.

**Protected Class:** Refers to immutable or fundamental personal characteristics that are protected by law against discrimination or harassment, including: race, color, creed, religion, national origin, ancestry, sex, sexual orientation, gender identity, gender expression, pregnancy, pregnancy-related conditions, marital/familial/parental status, disability, age, genetic information, and military or veteran status.

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

**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 that protected activity.

## 5. Policy

### a. Efforts to Address Discrimination and Discriminatory Harassment

Acts of Discrimination and Discriminatory Harassment are unacceptable at Oregon Tech. To prevent and appropriately respond to known or suspected acts of this nature, Oregon Tech will, at a minimum:

- Work to prevent acts of Discrimination and Discriminatory Harassment from occurring through related policies, statements, training and educational, awareness-raising efforts, and thoughtful recruitment and candidate screening practices (see also Affirmative Action Policy);
- Establish and maintain an easy and clear process for members of the Oregon Tech Community to ask questions, offer suggestions, and request additional training.
- Establish options for members of the Oregon Tech Community to report concerns, report known or suspected misconduct, and make complaints;
- Create a fair and transparent process for investigating complaints of misconduct; and
- Apply strong measures against substantiated acts of Discrimination and Discriminatory Harassment.

To prevent and respond to such conduct, Oregon Tech Community Members are asked to:

- Actively work to promote a safe campus climate and work environment that is open to and welcomes all persons;
- Model the type of collegial, inclusive, welcoming, and respectful behavior that is expected of all persons at Oregon Tech;
- Strive to address and resolve disputes and misunderstandings in a respectful and open manner befitting a university, through the use of discourse, mediation, and education where appropriate;

- Promptly and clearly speak out against Discrimination and Discriminatory Harassment when such conduct is observed; and
- Promptly report all known or suspected acts of Discrimination and/or Discriminatory Harassment.

**b. Prohibited Conduct**

Oregon Tech prohibits any act, whether intentional (*e.g.*, conscious or explicit bias) or unintentional (*e.g.*, unconscious or implicit bias), that unreasonably differentiates or targets a person based on their known or perceived membership in a Protected Class. Prohibited conduct includes conduct that is sufficiently severe or pervasive that it has the effect, intended or unintended, of unreasonably interfering with a person’s work or academic performance because it has created an intimidating, hostile, or offensive environment and would have such an effect on a Reasonable Person of that person’s status.

**Discrimination:** Oregon Tech prohibits Discrimination. Discrimination may include but is not limited to the following, when the decision occurs because of a person’s Protected Class:

- Failure to hire, promote, or admit;
- Termination, demotion, or expulsion; and
- Poor performance reviews or grades.

**Discriminatory Harassment:** Oregon Tech prohibits Discriminatory Harassment, including but not limited to:

- Offensive or degrading written statements, verbal abuse, or other hostile behaviors such as insulting, teasing, mocking, degrading or ridiculing another person or group;
- Racial slurs, derogatory remarks about a person’s accent, or display of racially offensive symbols;
- Unwelcome or inappropriate comments, questions, advances, jokes, epithets or demands;
- Unwelcome or inappropriate physical contact or physical abuse or stalking (see also Violence Free Campus);
- Displays or electronic transmission of derogatory, demeaning or hostile materials;
- Unwillingness to train, evaluate, assist, or work with an employee or student based on their known or perceived membership in a Protected Class;
- Telling someone that they are too old to understand new technology;
- Teasing or mocking a person with a disability;
- Ridiculing a person’s religious beliefs;
- Vandalizing or defacing property with language or symbols intended to insult, intimidate, or degrade;
- Placing written or visual material, such as a swastika or a homophobic epithet, on the door of a person’s living or work area;
- Chalking anti-Semitic language on a campus sidewalk or parking lot;
- Social media posts targeting a member of the Oregon Tech Community based on their perceived membership in a Protected Class; and

- Making threatening telephone calls, writing threatening e-mail messages, or leaving threatening voice mail messages.

Oregon Tech also addresses behavior that substantially contributes to a harassing environment, even if that behavior is not by itself sufficiently severe or pervasive that it actually rises to the level of Discriminatory Harassment. This is because Discriminatory Harassment often occurs as a result of the actions of multiple perpetrators and cannot be effectively addressed if each person's actions are excluded from scrutiny. In addressing behavior that substantially contributes to a harassing environment, Oregon Tech takes care to apply this Policy in a way that does not violate rights to academic freedom and freedom of expression.

Oregon Tech also reserves the right to administratively address conduct that may not rise to the level of a violation of this Policy but is nevertheless inappropriate in a professional work or educational environment; this includes inappropriate behavior that does not occur on the basis of a Protected Class.

This Policy, and Oregon Tech's standards adopted herein, do not create person or group rights, whether contractual or otherwise, that do not exist under existing law.

#### **c. 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.

#### **d. Reporting Concerns and Filing Complaints**

##### **Who Should Report and What to Report**

Oregon Tech encourages and expects all members of the Oregon Tech Community to promptly report concerns about possible acts of Discrimination or Discriminatory Harassment. Any Oregon Tech employee serving in a supervisory capacity is required to promptly report any known or suspected violations of this Policy and forward concerns and complaints to the appropriate office (identified below) when presented with concerns or complaints covered by this Policy.

## Reporting Concerns or Complaints Directed against a Student

The Office of Student Affairs is responsible for assessing complaints when the suspected Misconduct is conducted by a current or prospective student. Complaints against former students will be assessed on a case-by-case basis to determine the appropriate response. General reporting options for concerns about a student's conduct include:

- 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;
- Filing an online [Safe Campus Incident Reporting Form](#) (can be used for anonymous reporting);
- Filing an online report through [Ethics-Point](#) (can be used for anonymous reporting).

## Reporting Concerns or Complaints Directed against an Employee or Oregon Tech Community Member

The Office of Human Resources is responsible for assessing complaints when the suspected misconduct is conducted by an Oregon Tech employee, visitor, volunteer, vendor, or collaborator. Anyone may make a complaint by:

- Contacting Oregon Tech's Office of Human Resources: 541.885.1120; [oithr@oit.edu](mailto:oithr@oit.edu); Snell Hall, First Floor.

Additional reporting options for concerns about the Discrimination and/or Discriminatory Harassment include:

- 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;
- Filing an online [Safe Campus Incident Reporting Form](#) (can be used for anonymous reporting); or
- Filing an online report through [Ethics-Point](#) (can be used for anonymous reporting).

### e. Processing Concerns and Complaints

Oregon Tech is committed to promptly addressing complaints of Discrimination and Discriminatory Harassment and providing a thoughtful, thorough, and neutral investigation of alleged Misconduct, whenever an investigation is conducted.

## **Reviewing and Investigating Concerns or Complaints Directed against a Student**

To address complaints of Discrimination or Harassment by a current or prospective Oregon Tech student, the Office of Student Affairs uses the expectations and procedures in Oregon Tech's [Student Code of Conduct](#).

## **Reviewing and Investigating Concerns or Complaints Directed against an Employee or Campus Community Member**

Oregon Tech's Office of Human Resources (OHR): (1) investigates complaints of Discrimination and Discriminatory Harassment when the suspected Misconduct is conducted by an Oregon Tech employee, visitor, volunteer, vendor, or collaborator; (2) takes steps to stop any Discrimination or Discriminatory Harassment; and (3) takes steps to remedy its effects, and to prevent future instances. OHR's actions comply with applicable state and federal law, related Oregon Tech policies, and any applicable contracts, including collective bargaining agreements.

After receiving a complaint of Discrimination or Harassment, OHR meets with reporting parties to assess the matter and determine if it may be informally or formally resolved. If a formal investigation is required, OHR takes steps to protect the reporting party, assure the responding party receives notice and due process, and gather sufficient information to determine whether the complaint or concern can be substantiated.

Full details about the investigative process can be accessed in Oregon Tech's Procedures for the Resolution of Discrimination and Discriminatory Harassment Complaints against Employees, Affiliates, and Non-Affiliates.

### **f. Support Measures**

Regardless of what type of University response is taken upon receipt of a formal or informal complaint, Oregon Tech provides support measures, as appropriate, to reporting and responding parties.

For students, support measures may include academic accommodations, housing accommodations, workplace or transportation accommodations, reasonable protective measures, health and counseling services, financial aid, safety planning, and information regarding other on and off-campus resources.

For employees, support measures may include change of employment conditions, information and assistance regarding employee resources and other reasonable measures. In deciding which support measures to implement, Oregon Tech attempts to mitigate the impact on all reporting parties, while also balancing the rights of the responding parties.

### **g. Substantiated Misconduct and Corrective Action**

If Oregon Tech determines that an Employee, Student, or another member of the Oregon Tech Community has engaged in Discrimination or Discriminatory Harassment, it will take prompt and appropriate corrective action.

Oregon Tech's [Student Code of Conduct](#) provides details on disciplinary procedures and related matters when the misconduct is committed by a student.

Oregon Tech's Procedures for the Resolution of Discrimination and Discriminatory Harassment Complaints against Employees, Affiliates, and Non-Affiliates provides details on disciplinary procedures and related matters when the misconduct is committed by an employee. When conduct results in disciplinary action, certain collective bargaining agreements may also apply.

#### **h. Confidentiality**

To the extent possible, Oregon Tech will protect the confidentiality of reporting parties, witnesses, and responding parties and, if information is disclosed, will disclose it on a need to know basis. However, Oregon Tech may need to reveal the identity of the reporting party and relevant witnesses to investigate the matter and provide the other party with notice of the underlying allegations and an opportunity to respond. Additionally, because Oregon Tech is a public entity, certain information may be subject to disclosure in response to properly submitted public record requests once an investigation is closed.

#### **i. Relevant Policies and Procedures**

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 (*e.g.*, the Violence-Free Campus Policy and/or the Prohibited Sexual Misconduct Policy). If a person is retaliated against for participating in processes under this Policy, Oregon Tech may take action under the Reporting Misconduct and Non-Retaliation Policy. A partial list of related policies can be found below in Section 6.

At all times, it is within Oregon Tech's discretion to determine which policies apply and whether action will be taken under multiple policies.

#### **j. Non-Retaliation and False Claims**

Oregon Tech does not retaliate against anyone who makes a good-faith report of alleged Discrimination or Harassment or participates in processes under this Policy. Oregon Tech strictly prohibits such retaliation by any member of the Oregon Tech Community. 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. See policy on Reporting Misconduct and Prohibited Retaliation.

Willfully making a false or frivolous report (*e.g.*, a report that is not made in good faith, lacks any merit, is fabricated, etc.) of Discrimination or Harassment violates this Policy and also constitutes serious misconduct.

#### **k. 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 also be subject to removal from Oregon Tech Premises.

Violations of this Policy may also constitute violation of state law. Where appropriate, Oregon Tech may pursue criminal and/or civil remedies.

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, which could include actions such as removal or trespassing from Oregon Tech properties.

## **1. 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 Sexual Misconduct

Reporting Misconduct and Prohibited Retaliation

Procedures for the Resolution of Sexual Misconduct Complaints against Students

Procedures for the Resolution of Sexual Misconduct Complaints against Employees, Affiliates, and Non-Affiliates

Procedures for the Resolution of Discrimination and Discriminatory Harassment Complaints against Employees, Affiliates, and Non-Affiliates

Student Code of Conduct

Unclassified Staff – Timely Notice

Violence-Free Campus (*forthcoming*)

Weapons on Campus (*forthcoming*)

### **Related State and Federal Laws**

Americans with Disabilities Act (ADA) of 1990, as amended by the ADA Amendments Act of 2008

Campus Sexual Violence Elimination Act (SaVE Act)

Family Educational Rights and Privacy Act (FERPA)

Genetic Information Nondiscrimination Act of 2008

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act  
Office of Federal Contract Compliance Programs (OFCCP), 41 CFR Chapter 60  
Oregon Workplace Fairness Act, OAR 839-005-0010(3)(A) & OAR 839-005-0030(4)  
Oregon House Bill 3415  
Oregon Revised Statutes 350.255  
Oregon Revised Statutes 659 and 659A  
Rehabilitation Act of 1973, as amended  
Title VII of the Civil Rights Act of 1964,  
Title IX of the Education Amendment of 1972  
Uniformed Services Employment and Reemployment Rights Act, as amended  
Vietnam Era Veterans Readjustment Assistant Act of 1974, as amended  
Violence Against Women Reauthorization Act of 2013 (VAWA)

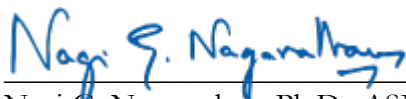
## **7. Policy Review/Consultation/Responsible Officer**

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 Oregon Tech's Chief Human Resource Officer (ph: 541.885.1108; e: [oithr@oit.edu](mailto:oithr@oit.edu)).

## **8. Policy Approval**

Approved by the President on August 12, 2020.



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

### **Adoption Date**

August 12, 2020 (Effective August 14, 2020)

### **Supersedes, Renames, and Assigns Policy Number**

Discrimination Grievance Procedure (last revised September 2010)

### **Revision Dates**