



OHSU POLICY MANUAL

Policy Number: 03-05-048

Policy Title: DISCRIMINATION, HARASSMENT AND RETALIATION

Effective Date: January 1, 2020

Page 1 of 4

1. Policy

OHSU recognizes the strength that comes with being diverse in people and ideas and is committed to providing respect for all OHSU Members. Any form of prohibited discrimination or harassment has no place at OHSU and shall not be tolerated.

2. Scope

This policy applies to all OHSU Members and activities. All OHSU Members are responsible for maintaining an environment free from prohibited discrimination, harassment and retaliation.

3. Definitions

- A. **Discrimination:** For purposes of OHSU policy, Discrimination is defined as treating someone differently because of their race, color, religion, national origin, disability, age, marital status, sex (including pregnancy), sexual orientation, gender, gender identity or expression, military service, making a good-faith complaint or unlawful activity, use of the Worker's compensation system, use of the Federal Family Medical Leave Act or the Oregon Medical Leave Act, or any other status protected by law. This policy applies to all employment, education, volunteer and patient-care related activities, unless in a teaching, research or service provision context, a reference to, or consideration of, an individual's or group's above-described characteristics is germane to the specific subject matter or activity.
- B. **Harassment:** For purposes of OHSU policy, Harassment is defined as any negative verbal, visual, physical, or any other kind of conduct based upon a protected status and that a reasonable person would find to be unwelcome under the same or similar circumstances and which has the effect of creating an intimidating, hostile or offensive environment.
- C. **Sexual Harassment:** Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, 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 effect on a reasonable person. Sexual harassment includes any unwelcome sexual advance, request for sexual favors, sexual assault, and other behavior of a sexual nature when:

- 1) Submission to or rejection of such conduct is used either explicitly or implicitly as a basis for any decision affecting terms or conditions of an individual's employment, receipt of services, or academic activities; or
- 2) Such conduct has the effect of unreasonably interfering with an individual's work performance, receipt of services or academic activities, or creates an intimidating, hostile or offensive environment.

- D. **Sexual Misconduct and Sexual Assault:** All sexual activity between OHSU Members must be based on consent. Engaging in any sexual activity without first obtaining consent to the specific sexual activity is Sexual Misconduct and constitutes a violation of this policy, whether or not the sexual activity violates any civil or criminal law.

Sexual misconduct includes sexual assault, which means unwanted or non-consensual conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat or intimidation, or a sexual offense has been threatened or committed as described by applicable criminal statutes.

Consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

- E. **Retaliation:** For purposes of OHSU policy, Retaliation is defined as adverse action taken against an individual in response to, motivated by or in connection with an individual's complaint of discrimination or discriminatory harassment, participation in an investigation of such complaint and/or opposition to discrimination or discriminatory harassment in the educational or workplace setting.

4. **Prohibited Conduct**

- A. Discrimination and/or Harassment can occur between any individuals associated with OHSU, e.g., between an employee and a supervisor; between co-workers; between faculty members; between a faculty, staff or student and a customer, patient, vendor, volunteer and contractor; or between a student and a faculty member or another student. It can occur within the workplace or educational

environment, outside the OHSU environment through use of its technology, equipment or relationships, or at events coordinated by or through OHSU.

B. Examples of prohibited verbal or physical conduct include, but are not limited to a pattern of conduct that causes or results in discomfort or embarrassment including:

- 1) Comments;
- 2) Explicit statements, questions, jokes, or anecdotes; and/or
- 3) Display of inappropriate materials in a location where others can see it, including using OHSU computing and telecommunications resources, when such a display or materials unreasonably interferes with a person's work, receipt of services, or academic activities.

C. Sexual harassment is just one form of harassment and can encompass any sexual attention that is unwelcome. Examples of conduct that may constitute sexual harassment include, but are not limited to a pattern of conduct that causes discomfort or embarrassment including:

- 1) Comments of a sexual nature;
- 2) Sexually explicit statements, questions, jokes, or anecdotes;
- 3) Touching, patting, hugging, brushing against a person's body, or repeated or unwanted staring;
- 4) Remarks about sexual activity, experience, or orientation;
- 5) Display of inappropriate sexual materials in a location where others can see it, including using OHSU's computing and telecommunications resources, when such conduct, comments, actions or materials unreasonably interfere with a person's work, receipt of services, or academic activities;
- 6) Direct propositions of a sexual nature and/or subtle pressure for sexual activity which is unwelcome and unreasonably interferes with a person's work, receipt of services, or academic activities; or
- 7) Direct or implied threats that submission to sexual advances will be a condition of employment, work status, receipt of services, promotion, grades, or letters of recommendation.

Related Regulations:

**Title IX of the Education Amendments of 1972, 34 CFR Part 106 and 41 CFR Part 60
Oregon Revised Statute 659A**

Related Policies and Procedures:

OHSU Code of Conduct

Policy 03-05-050, Complaints of Discrimination, Harassment and Retaliation

Policy 11-20-010, Acceptable Use of Computing and Telecommunications Resources

OHSU Sexual Harassment Pamphlet

Respect for All Resource Guide

Implementation Date: January 1, 2020

Responsible Office: Affirmative Action and Equal Opportunity Department