



## OHSU POLICY MANUAL

**Policy Number:** 03-05-048

**Policy Title:** DISCRIMINATION, HARASSMENT AND RETALIATION

**Effective Date:** June 9, 2021

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### 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, harassment, including sexual harassment and sexual misconduct, and retaliation 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 of 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 unreasonably interfering with an individual's work performance, receipt of services or academic activities, or creating an intimidating, hostile or offensive environment. Harassment may include, but is not limited to:
- 1) Conduct, whether verbal, physical, written, graphic, or electronic that threatens, intimidates, offends, belittles, denigrates, or shows an aversion toward an individual or group, including microaggressions and

misgendering;

- 2) Epithets, slurs, and/or negative stereotyping, jokes, or nicknames;
- 3) Written, printed, or graphic material that contains offensive, denigrating, and/or demeaning comments, and/or pictures;
- 4) The display of offensive, denigrating, and/or demeaning objects, e-mails, text messages, and/or cell phone pictures.

C. **Microaggression:** Verbal, behavioral or environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory or otherwise negative prejudicial slights and insults toward any individual or group, particularly culturally marginalized individuals and groups.

D. **Misgendering:** When a person is referred to using a pronoun, form of address, or other language that is inconsistent with the gender in which they identify.

E. **Racism:** Discrimination or prejudice on the basis of a person's identification with a marginalized racial or ethnic group. Racism can be structural, institutional, or individual and can be inadvertent or intentional.

F. **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.
- 3) For purposes of complaints which fall under the jurisdiction of the Title IX of the Education Amendments of 1972 ("Title IX") investigation procedures, sexual harassment is defined as conduct on the basis of sex that satisfies one or more of the following:
  - a) An employee conditions the provision of aid, benefit or service on an individual's participation in unwelcome sexual conduct; and/or

- b) Unwelcome conduct, determined by a reasonable person, is sufficiently severe, persistent and pervasive, such that it effectively denies a person equal access to OHSU's education program or activity; and/or
  - c) Sexual Assault, Domestic Violence, Dating Violence, and Stalking.
- 4) For purposes of complaints which may fall under the jurisdiction of the Title IX investigation procedures, the following definitions of "Sexual Assault," "Domestic Violence," "Dating Violence," and "Stalking" apply:
- a) "Sexual Assault" means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, which includes any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent.
  - b) "Domestic Violence" means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Oregon, or by any other person against an adult or youth victim who is protected from that person's acts under Oregon domestic or family violence laws.
  - c) "Dating Violence" means violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; and (iii) The frequency of interaction between the persons involved in the relationship.
  - d) "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress.
- G. **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.

- H. **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. **Policy Violations**

- A. Discrimination and Harassment are prohibited and violate this policy. 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.

5. **Member Expectations**

- A. All OHSU Members have an important role in promoting an inclusive environment free from all types of discrimination and harassment and are expected to do so in the following ways:
  - 1) Build positive and supportive relationship with colleagues that maintain healthy boundaries;
  - 2) Increase awareness of implicit biases and how others may be inadvertently harmed by these biases;
  - 3) Be open to listening and learning from others;
  - 4) Continuously learn about the experiences of marginalized communities;
  - 5) Intervene and speak up when you witness suspected discrimination, harassment, and sexual harassment;
  - 6) Apologize when mistakes are made and when your impact on others does not mirror your intent.
- B. Employees are expected refrain from microaggressive behavior and misgendering in the following ways:
  - 1) Refraining from making offensive statements to coworkers and customers and learning about common microaggressions;
  - 2) Use the affirmed name and pronoun of the other person and ask if unsure;

- 3) Increasing awareness of personal biases and beliefs that are offensive to others, and statements or phrases commonly used that inadvertently demean others;
  - 4) Speaking out in the moment when observing offensive statements made towards someone;
  - 5) Apologizing and learning about the impact if an offensive comment is made;
  - 6) Refraining from making comments to others that discount or inappropriately emphasize or generalize the other person's background, knowledge, physical attributes, feelings, or perspective based on their identification with a marginalized group.
- C. OHSU Members who experience or witness discrimination, harassment, or retaliation are strongly encouraged to report such conduct according to Policy 03-05-050 Complaints of Discrimination, Harassment, and Retaliation.
- D. Supervisors, managers, faculty, executives and leaders are expected to take an active role by:
- 1) Ensuring OHSU members are aware of this policy, the process for filing complaints and resources for resolving their concerns;
  - 2) Taking concerns of discrimination, harassment and retaliation seriously, and responding to reported concerns in a supportive manner;
  - 3) Reporting such conduct according to Policy 03-05-050 (Complaints of Discrimination, Harassment, and Retaliation) and the [Respect for All Reporting Guide](#).

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**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  
Information Privacy Policy IPP-07, Refraining from Intimidation or Retaliation  
[AAEO Website on Sexual Misconduct and Title IX](#)  
[Respect for All Reporting Guide](#)**

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**Responsible Office: Affirmative Action and Equal Opportunity Department**