



## **I. Policy on Nondiscrimination and Anti-Harassment**

### **A. Policy Statement**

University of Western States (UWS) prohibits discrimination and harassment on the basis of race, color, religion, national origin, sex, pregnancy, sexual orientation, gender identity, gender expression, parental status, marital status, age, disability, citizenship status, veteran status, genetic information, reproductive health decision making, expunged juvenile record, use of leave protected by applicable law, or any other classification protected by applicable law (referred to as “protected classes”) in matters of admissions, employment, services, and the educational programs or activities UWS operates.

Specific conduct covered by the Department of Education’s Title IX Regulations, published May 19, 2020 is governed by [Policy 1016 Title IX Sexual Harassment](#) and is addressed according to the processes stated therein. All other forms of sex- or gender-based discrimination are governed by this policy, including sexual misconduct, as defined in this policy.

Other forms of misconduct not covered by this policy or [Policy 1016 Title IX Sexual Harassment](#) may be addressed by other UWS policies, such as [Policy 9001 Student Conduct](#) or the [Employee Handbook](#).

**Academic Freedom and Free Speech:** The university recognizes community members’ interest in the robust and free expression of ideas, including ideas that may be controversial or unpopular. Nothing in this definition is intended to conflict with the university commitment to academic freedom and free speech. Allegations of harassment involving elements of speech that arise in the context of its educational programs and activities are considered in keeping with [Policy 1002 Academic Freedom](#).

### **B. To Whom this Policy Applies**

This policy applies broadly to the entire UWS community, including:

1. All university students, both online and on-campus, in all aspects of their participation in university educational programs and activities (students)
2. All university employees in all aspects of their employment relationship with the university (employees).
3. All members of the Board of Trustees (trustees).
4. All contractors in all aspects of their relationship with the university (third parties).
5. All university visitors or guests including invited speakers, participants, alumni, donors and presenters, prospective students, and prospective employees (invitees).
6. All patients in UWS health centers (patients).

These groups individually or collectively are known as covered persons.



### **C. Jurisdiction**

This policy pertains to acts of prohibited discrimination, discriminatory harassment, sexual misconduct that is not covered by [Policy 1016 Title IX Sexual Harassment](#), or retaliation against covered persons when:

1. The conduct occurs on UWS premises; and/or
2. The conduct occurs in the context of a UWS employment, education, or research program or activity, including, but not limited to, application for admission or employment, UWS-sponsored internships, preceptorships, practicums, or other affiliated programs or premises; and/or
3. The conduct occurs outside the context of a UWS employment, education, or research activity, but (a) has continuing adverse effects on the UWS premises or in any UWS employment, education, or research activity, or (b) occurs in close proximity to the UWS premises and is connected to hostile conduct on the UWS premises.

For every report, UWS reviews the circumstances of the reported conduct to determine the following:

- Whether the university has jurisdiction over the parties involved;
- Which university policy is applicable to the parties and the conduct being reported; and
- The actions within the control of the university that are necessary to eliminate, prevent, and address the reported conduct.

### **D. Prohibited Conduct**

The following includes definitions of conduct prohibited under this policy. Definitions contained in other UWS policies, including [Policy 1016 Title IX Sexual Harassment](#), do not apply to conduct prohibited under this policy.

**Unlawful Discrimination:** Unlawful discrimination means excluding from participation, denying the benefits of, or otherwise subjecting an individual or group of individuals to different treatment based on their race, color, religion, national origin, sex, pregnancy, sexual orientation, gender identity, gender expression, parental status, marital status, age, disability, citizenship status, veteran status, genetic information, reproductive health decision making, or any other classification protected by law, also referred to as “protected class(es).”

Examples of unlawful discrimination include, but are not limited to:

- Refusing to hire or promote someone because of their membership in a protected class;
- Denying someone a raise or employment benefit because of their membership in a protected class;
- Reducing someone’s job responsibilities because of their membership in a protected class;
- Denying someone access to an educational program based on their membership in a protected class; or
- Denying someone access to a university facility based on their membership in a protected class.

**Discriminatory Harassment:** Discriminatory harassment means verbal comments, graphic or written statements, or physical conduct by a student, faculty, staff, or other UWS community member based on protected class(es) that is so severe or pervasive that it interferes with or limits a student, employee, or

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UWS community member's ability to participate in or benefit from the university's educational and/or employment opportunities, programs or activities. Discriminatory harassment includes sexual harassment and misconduct.

Examples of discriminatory harassment include, but are not limited to:

- Offensive jokes related to a protected class;
- The use of slurs and stereotypes related to a protected class;
- Name calling related to a protected class;
- Intimidation, ridicule, or mockery connected to a protected class;
- Displaying or circulating offensive objects and pictures that are based on a protected class.

**Sexual or Gender-Based Misconduct:** Sexual misconduct may include conduct that is not covered by [Policy 1016 Title IX Sexual Harassment](#). Conduct may be a violation of both policies, but if the conduct is covered by both policies, the procedures in the [Policy 1016 Title IX Sexual Harassment](#) are utilized. Sexual misconduct is any unwelcome sexual advance, request for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, electronic, or otherwise, when one or more of the following conditions are present:

1. Submission to or rejection of such conduct is either an explicit or implicit term or condition of, or is used as the basis for decisions affecting an individual's employment or advancement in employment, evaluation of academic work or advancement in an academic program, or basis for participation in any aspect of a UWS program or activity (quid pro quo); and/or
2. Such conduct is sufficiently severe or pervasive that it interferes with or limits a student, employee, volunteer or UWS community member's ability to participate in or benefit from the university's educational and/or employment opportunities, programs or activities (i.e., creates a hostile environment).

Gender-based harassment includes harassment based on sex or gender, sexual orientation, gender identity, or gender expression, which may include acts of intimidation or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature.

Examples of conduct that may constitute sexual- or gender-based misconduct under the quid pro quo or hostile environment analysis include, but are not limited to:

- Inappropriate physical conduct, including unwelcome touching or sexual advances within the working, living, or learning environment;
- Persistent and inappropriate personal attention from one person to another in the face of repeated rejection;
- Inappropriate verbal conduct, including lewd or sexually suggestive comments, jokes, or innuendoes, or unwelcome comments about an individual's sexual orientation, gender, gender identity, or gender expression; or
- Inappropriate written conduct, including letters, notes, or electronic communications, containing comments, words, jokes, or images that are lewd or sexually suggestive or relate in an



unwelcome manner to an individual's sexual orientation, gender, gender identity, or gender expression.

**Sexual Exploitation:** Sexual exploitation is purposefully taking sexual advantage of another person without consent. It may involve use of one's own or another individual's nudity or sexuality.

Examples of sexual exploitation include, but are not limited to:

- Voyeurism (such as watching or taking pictures, videos, or audio recordings of another person in a state of undress or of another person engaging in a sexual act without the consent of all parties);
- Disseminating, streaming, or posting pictures or video of another individual in a state of undress or of a sexual nature without the person's consent;
- Exposing one's genitals to another person without consent; or
- Prostituting another individual.

**Title IX Sexual Harassment:** Title IX sexual harassment is the specific form of sexual harassment that is regulated under Title IX of the Amended Education Act of 1972, which prohibits discrimination on the basis of sex in educational programs or activities. The procedures that apply to this form of sexual harassment are found in [Policy 1016 Title IX Sexual Harassment](#). Title IX sexual harassment does not include all cases of sexual harassment or other sexual misconduct. Whether [Policy 1016 Title IX Sexual Harassment](#) applies may depend on when and where the behavior occurred and the connection of the complainant and respondent to the university.

### Retaliation

Retaliation means any adverse action or threat taken or made against an individual, including through third parties and/or legal counsel, for making a report of prohibited conduct or participating in any investigation or proceeding related to this policy. Retaliation includes threatening, intimidating, harassing, or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy, such as seeking services, receiving protective measures and accommodations, and/or reporting prohibited conduct. Retaliation includes maliciously and purposefully interfering with, threatening, or damaging the academic and/or professional career of another individual before, during or after the investigation and resolution of a report of prohibited conduct under this policy in response to and/or on account of the report of the prohibited conduct. This provision applies to reports made or information provided in good faith, even if the facts alleged in the report are determined not to be accurate.

### E. Definitions

**Coercion or Force:** Coercion is verbal and/or physical conduct, including manipulation, intimidation, unwanted contact, and express or implied threats of physical, emotional, or other harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to compel someone to engage in sexual contact.

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**Complainant:** An individual (covered party) who reports they have experienced, or is reported by another person to have experienced, a violation of this policy. The complainant is the person who experienced the prohibited conduct, regardless of who makes the report of an alleged policy violation.

**Consent:** A free and willing agreement to engage in a sexual act, provided without force or coercion, between individuals who are of sufficient age and are not mentally incapable, mentally disabled, mentally incapacitated or physically helpless, or incapacitated by drugs or alcohol.

Consent is a clear and unambiguous agreement, expressed outwardly through mutually understandable words or actions, to engage in a particular activity. Consent must be voluntarily given and cannot be obtained through coercion or force, and the person initiating a specific sexual activity is responsible for obtaining consent for that activity. Consent is not to be inferred from silence, or a lack of resistance. Consent is not to be inferred from an existing or previous dating or sexual relationship. Consent to engage in one sexual activity at one time is not consent to engage in a different sexual activity or to engage in the same sexual activity on a later occasion. Consent can be withdrawn by any party at any point. Once consent is withdrawn, the sexual activity must cease immediately.

For purposes of this policy, in evaluating whether consent was freely sought and given, the issue is whether the respondent knew, or reasonably should have known, that the activity in question was not consensual or that the complainant was unable to consent due to incapacitation.

**Formal Complaint:** The term “Formal Complaint” has a very specific definition within this policy, as further defined below in [Section II](#). Whether one is filed does not depend on the label applied, but instead on whether the specific elements listed are met. A formal complaint is the act that initiates an investigation or resolution. Individuals who would like more information about filing a formal complaint may contact the Title IX Coordinator or Director of Human Resources for additional information.

**Incapacitation:** An individual who is incapacitated lacks the ability to make informed judgments and cannot consent to sexual contact. Incapacitation is the inability, temporarily or permanently, to give consent because an individual is mentally or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. Mentally helpless means a person is rendered temporarily incapable of appraising or controlling one’s own conduct. Physically helpless means a person is physically unable to verbally or otherwise communicate consent or unwillingness to an act.

Where alcohol or other drugs are involved, incapacitation is a state beyond impairment or intoxication. Where alcohol or other drugs are involved, evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects a person’s: (a) decision-making ability; (b) awareness of consequences; (c) ability to make informed, rational judgments; (d) capacity to appreciate the nature and quality of the act; or (e) level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a sober, reasonable person.

**Investigator:** A trained and impartial person designated by the university to investigate allegations of prohibited conduct.

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**Party:** A complainant or respondent in a case.

**Protected Activity:** Exercising any right or privilege under this policy. Examples of protected activities include reporting (internally or externally) a complaint of prohibited conduct in good faith, assisting others in making such a report, participating in a grievance process, acting in good faith to oppose conduct that constitutes a violation of this policy, honestly participating as an investigator, witness, decision-maker, or otherwise assisting in, an investigation or proceeding related to an alleged violation of this policy.

**Report:** Information received officially by the university from a responsible employee or from the student or employee directly, or from any other source that gives the university actual knowledge that discrimination or discriminatory harassment may have occurred.

**Respondent:** An individual against whom a complaint is filed.

**Responsible Employee:** An employee who has been designated by the university as required to report all information relating to reports of Prohibited Conduct to the Title IX Coordinator.

**Standard of Evidence:** The decision regarding a respondent's responsibility is determined by a preponderance of the evidence, meaning "more likely than not."

**Third-Party Reporter:** A person other than the complainant who reports an incident or allegation of prohibited conduct.

**Title IX Coordinator/Deputy Title IX Coordinator:** The university officials or designees charged with ensuring the university's overall compliance with Title IX and related university policies and procedures.

## II. Reporting Incidents and Filing Complaints

### A. Making a Report

UWS recognizes that deciding whether to make a report of discrimination or harassment is a personal decision. Any individual may report alleged or suspected discrimination or harassment via one or more of the designated reporting options listed below.

- Filing a written or verbal report with one of the following individuals:

<b>Student Affairs/ Title IX Coordinator</b>	<b>Elena Howells</b> Associate Vice President (AVP) of Student Affairs and Registration Title IX Coordinator 503-847-2599 <a href="mailto:ehowells@uws.edu">ehowells@uws.edu</a>
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<b>Human Resources</b>	<b>Cindy Leger</b> Director of Human Resources 503-847-2557 <a href="mailto:cleger@uws.edu">cleger@uws.edu</a>
<b>Campus Safety and Security</b>	<b>Seth Brimhall</b> Campus Operations and Safety Manager 503-251-5727 <a href="mailto:sbrimhall@uws.edu">sbrimhall@uws.edu</a>

The individuals identified above are specially trained to work with students or employees who report or are accused of discrimination and harassment and have knowledge about on- and off-campus resources, services, and options.

## **B. Procedures to File a Formal Complaint**

To file a complaint of harassment or discrimination, including sexual misconduct as defined in this policy, an individual who chooses to pursue a formal complaint alleging violations of the discrimination and/or harassment should file a complaint with the appropriate representative of the university (as outlined above in Section II, A above). A formal complaint is a complaint in writing made that contains the following information.

1. The identity of the complainant.
2. The complainant's digital or physical signature, or an indication that the complainant is the person filing the formal complaint, or a signed complaint from the AVP of Student Affairs/Title IX Coordinator or the Director of Human Resources.
3. An allegation of prohibited conduct as defined under this Policy. This may include the following, if known:
  - a. Where the incident(s) occurred;
  - b. What incident(s) occurred; and
  - c. When the incident(s) occurred
4. Identity of respondent, if known.

In the event that a complainant chooses to not move forward with a formal complaint, and the university determines that an investigation is necessary, the AVP of Student Affairs/Title IX Coordinator or the Director of Human Resources has the discretion to sign the formal complaint and initiate an investigation. When a university official signs a formal complaint, that official does not become the "complainant" for purposes of this policy.

A formal complaint may be filed immediately after an alleged act of discrimination or harassment has taken place, or after efforts to reach an informal resolution have been unsuccessful.

Once a formal complaint is filed, the appropriate university representative (e.g., the Director of Human Resources, or AVP of Student Affairs/Title IX Coordinator) determines whether the university has

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jurisdiction, whether the allegations if true would constitute a violation of university policy, and whether the university will initiate a formal investigation into the underlying allegations.

To file a formal complaint of Title IX Sexual Harassment, see [Policy 1016 Title IX Sexual Harassment](#).

### C. Time Frame for Reporting or Filing Formal Complaints

There is no time limit on reporting or filing complaints of violations of this policy, although the ability of the university to respond fully may be limited with the passage of time. If the respondent is no longer affiliated with UWS (e.g., a report is made after a student has left or graduated or an employee no longer works for UWS), the university provides reasonably available supportive or remedial measures, assists the complainant in identifying external reporting options, and may take other action as appropriate.

### D. Confidential Resources

The following confidential resources are available for individuals to discuss incidents and issues related to discrimination, harassment, and/or sexual misconduct on a confidential basis. Confidential resources are not obligated to disclose reports of harassment, discrimination, or sexual misconduct to UWS (under any circumstance) or to law enforcement (except in very limited situations, such as when failure to disclose the information would result in imminent danger to the individual or to others, or as otherwise required by law). **Making a report to a confidential resource is not a report to the university.**

For students	Visit: <a href="https://www.wellconnectforyou.com">WellConnectForYou.com</a> (code: UWS) Call: 866-640-4777
For employees	Call: 800-433-2320

### E. Reporting Incidents to Law Enforcement

An individual who has experienced sexual misconduct or discriminatory conduct that constitutes a crime has the right to choose whether to file a police report. UWS encourages individuals to report such incidents to local law enforcement. Filing a police report can result in the investigation of whether sexual violence or other related crimes occurred. Timely reporting to the police is an important factor in successful investigation and prosecution of crimes, including sexual violence.

### F. Reporting Obligations (Responsible Employees)

Any university employees (including student employees) who observe conduct prohibited by this policy, or who knows of, or is informed of alleged discrimination, harassment, or sexual misconduct must promptly notify the Title IX Coordinator or the Director of Human Resources of the allegation.

University employees should not attempt to resolve an incident or complaint without assistance from the Title IX Coordinator, Director of Human Resources, or appropriate university official. Employees must also comply with their obligations to report any child abuse or neglect consistent with state law, as well as campus security authority reporting obligations.

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### **G. Emergency Action**

Making a report does not require an individual to decide whether to pursue a formal complaint or to request a specific course of action. However, when there is a risk of imminent harm to an individual or others, or if there is a threat to the safety of the campus, UWS may take immediate action upon receipt of a report and/or complaint. In such circumstances, the reasons and steps UWS takes are explained to the individual(s) making the report.

### **H. Emergency Removal**

If at any time the university determines that conduct arising from the alleged prohibited conduct poses a risk of immediate physical harm to one or more members of the university community or to the university educational environment, the Title IX Coordinator or designated official consults with appropriate university officials to determine whether interim measures including a leave or restrictions from specific programs or activities, or emergency removal from the physical or virtual campus may be required.

Such a determination includes a consideration of applicable disability procedures, as well as less restrictive alternatives and supportive measures. Decisions regarding emergency removal are communicated in writing to the respondent, and as appropriate to the complainant, along with a rationale for the action taken.

#### **1. Opportunity to Respond:**

- a. For Student Respondents:** Within three (3) business days of the interim suspension, students should contact the Provost, who will explain the university process for challenging the emergency removal.
- b. For Employee Respondents:** Employees may contact the Director of Human Resources to discuss the emergency removal.

#### **2. Administrative Leave:** The university has the authority to place any employee respondent on an administrative leave of absence pending the outcome of an investigation and hearing.

The decision to place any respondent on an interim suspension or administrative leave is not to be considered as evidence that any determination has been made regarding potential responsibility for violating this policy.

### **III. Remedial, Supportive and Protective Measures**

UWS takes and/or makes available reasonable and appropriate measures to protect the complainant and the complainant's access to UWS employment or education programs and activities regardless of whether they choose to file a formal complaint (refer to [Section II](#) above). These measures may be both supportive (designed to address a complainant's safety and well-being and continued access to educational opportunities) or protective (involving action against a respondent). Supportive and protective measures, which are typically temporary during the course of the resolution process, may

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include counseling and emotional support, no-contact and no-communication directives, academic schedule modification, academic adjustments or assistance, escorts, voluntary leave, interim suspension, administrative leave, restrictions on campus activities, work schedule modifications, and other measures as reasonable and appropriate.

UWS provides similar measures for respondents where reasonable and appropriate. The Title IX Coordinator retains the discretion to ensure the appropriateness of any necessary measures related to allegations of sex- or gender-based discrimination and harassment.

#### **IV. Confidentiality, Privilege and Privacy**

Confidentiality, privilege and privacy have distinct meanings under this Policy.

##### **A. Confidentiality**

Confidentiality generally means that information shared with a campus designated confidential resource (i.e., counseling services) is not revealed to any other person or office, including during an investigation, unless written permission is granted by the individual to share their information. Not all confidential resources have a legal privilege that protects information from disclosure in other settings.

##### **B. Privilege**

Privilege generally refers to licensed professional health care providers, including mental health care providers, and personal attorneys, all of whom must keep information confidential as required by their professions and licenses. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others, or if a report involves suspected abuse of a minor under the age of 18. In addition, legal privilege protects communications made between the professional and the student or employee, as well as records created or maintained in the course of providing services to the student or employee, from disclosure in a court or law.

##### **C. Privacy**

Privacy generally means that information related to a report of harassment, discrimination, or sexual misconduct is shared only with a limited circle of trained individuals who “need to know” in order to assist in the assessment, investigation, or resolution of the report or complaint. While not bound by confidentiality, these individuals are discreet and respect the privacy of all individuals involved in the process.

The privacy of student education records is protected in accordance with the Family Educational Rights and Privacy Act (FERPA), as outlined in [Policy 1232 Privacy and Confidentiality of Student Records \(FERPA\)](#). The privacy of an individual’s medical and related records may be protected by the Health Insurance Portability and Accountability Act (HIPAA), except for health records protected by FERPA. Access to an employee’s personnel records may be restricted by applicable state and federal law.

While there are certain limitations on privacy, the university generally does not release the names of the complainant or respondent to the general public without express written consent or absent another



exception consistent with the law. The release of names is guided by applicable law, including the Family Educational Rights and Privacy Act (FERPA) and the Clery Act.

No information is released from a proceeding to enforce this policy except as required or permitted by law and University Policy.

## **V. Anonymous Reports**

Any individual may make an anonymous report concerning an act of harassment, discrimination, or sexual misconduct. The university designated official and/or Title IX Coordinator receives the anonymous report and determines appropriate steps to be taken, in compliance with university policy and Clery Act obligations.

### **A. Amnesty for Students**

A student complainant or third party who reports a violation of this policy, or a student respondent or any student participant in an investigation or hearing under this policy, is not subject to [Policy 1008 Drugs and Alcohol](#) concerning alcohol or other drug use for personal consumption at or near the time of the alleged prohibited conduct, unless the drug or alcohol violation placed the health or safety of another at risk.

### **B. Protection Against Retaliation**

Retaliation occurs when members of the university, including employees, trustees, agents, contractors and students, intimidate, threaten, coerce, or in any way discriminate against an individual because the individual has brought a concern or reported a possible violation of a federal civil right. This includes formal or informal reports of a violation and reports regarding a violation of the individual's rights or the rights of others.

No individual who seeks information about this policy or who files a complaint against another member of the university community is subjected to restraints, interference, coercion, or reprisal. University officials advise the complainant of their rights in this matter, and, where warranted, investigate a complaint of alleged retaliation in the same manner as is described herein for other discrimination complaints. Any student or employee who retaliates against anyone involved in an investigation is subject to disciplinary action, up to and including dismissal from the university.

### **C. Provision of False Information**

All participants have the responsibility to be completely truthful with the information they share at all stages of the process. Any individual who knowingly or intentionally provides false information or statements as part of a report or investigation under this policy is subject to disciplinary action. False information and statements include statements that omit a material fact, as well as statements that the participant knows to be untrue.



## **VI. Investigation and Complaint Resolution Process**

### **A. Participation Expectations**

The university invites complainants, respondents, and witnesses to participate fully in the investigation and complaint resolution process. To investigate a complaint and/or enable a respondent to fully respond to the allegations, most situations require the complainant's participation and that the identity of the complainant be disclosed to the respondent.

When individuals report allegations of prohibited conduct to the university and do not consent to the disclosure of their names and/or do not disclose the identity of the alleged offenders or identifiable information about the alleged offenders, the ability of the university to respond to the reports is limited. If a complainant wants the university to conduct an investigation under these procedures but does not wish to participate in the investigation, the university determines whether it is possible to move forward without the complainant's participation. In some cases, it may not be possible to do so.

If an individual reporting discrimination, harassment, or sexual misconduct requests anonymity or does not wish to proceed with an investigation, the university defers as much as possible to an individual's request for anonymity, or choice regarding whether to pursue a formal investigation. However, the university must balance the wishes of the individual who reported the alleged misconduct with its obligation to provide an educational and work environment free from discrimination and harassment.

In cases alleging misconduct by an employee, the university may determine that it must move forward with an intervention designed to stop the misconduct, prevent its recurrence, and remedy the effects of the misconduct. These steps may allow for alternative resolutions, including facilitated dialogues, mediation, or other informal mechanisms (e.g., where the parties voluntarily agree to alternative resolution or disciplinary action is not contemplated). In some cases, the university may determine it is necessary to move forward with a formal investigation even without the participation of a complainant.

In instances when the university determines that the institution must proceed with an investigation, against the wishes of the complainant, including potentially disclosing the identity of the complainant, the university does not compel the complainant to participate in the investigation. The university considers the following factors in reaching a determination on whether to proceed with an investigation against the wishes of the complainant:

- The totality of the known circumstances;
- The nature and scope of the alleged conduct, including whether the reported behavior involves the use of a weapon, violence, force, or threat of violence or force;
- The respective ages and roles of the complainant and respondent;
- The risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- Whether there have been other reports of other prohibited conduct or other misconduct by the respondent;
- Whether the report reveals a pattern of misconduct at a given location or by a particular group;

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- The complainant's interest in the university's not pursuing an investigation or disciplinary action and the impact of such actions on the complainant;
- Whether the university possesses other means to obtain relevant evidence;
- Fairness considerations for the complainant and the respondent;
- The university's obligation to provide a safe and non-discriminatory environment; and
- Any other available and relevant information.

The university invites respondents to participate fully in all aspects of the complaint resolution process. If a respondent elects not to participate in any part of the process, that decision in and of itself is not held against the respondent and is not considered as the basis for any determination regarding responsibility. If the respondent elects not to participate, the university may proceed with the resolution process without the respondent's participation. Respondents are held accountable for any outcomes issued, even if they decline to participate.

**Selective Participation:** The university does not draw any adverse inference against a party who chooses to remain silent during the process. However, if a party or witness chooses to answer some material questions but not others, or chooses to participate in some portions of the process but not others, the university may consider the selective participation in evaluation of information provided, including while evaluating a party's credibility.

## **B. Investigation into Complaints of Prohibited Conduct**

Investigations into alleged prohibited conduct are managed in accordance with university procedures and processes. Depending on the nature of the complaint and the parties involved, the investigation follows either the (a) discrimination and harassment investigation procedures associated with this policy, or the (b) Title IX investigation and adjudication procedures outlined in [Policy 1016 Title IX Sexual Harassment](#). In general, the purposes of an investigation are to determine:

1. Whether discrimination or harassment, as defined under a university policy, has occurred;
2. Whether there is an ongoing risk of harm for further discrimination or harassment (and if so, what steps should be taken to prevent its recurrence); and
3. Whether university-wide changes to policies, practices, or training need be considered and implemented.

## **C. Investigation and Complaint Resolution Timeline**

The university strives to resolve all complaints in a prompt and timely manner. Although the length of each investigation varies based on the circumstances of the case, the university strives to complete each investigation within sixty (60) business days of sending the written notice of investigation. The timeline for a case may be affected by breaks in the academic calendar, availability of the parties and witnesses (including due to a leave from the university), scope of the investigation, need for interim actions, and other unforeseen or exigent circumstances. In cases where there is a simultaneous law enforcement investigation, the university may temporarily delay its investigation while law enforcement gathers evidence. However, the university generally proceeds with its investigation and resolution of a complaint during any law enforcement investigation.

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#### **D. Standard of Evidence used in Investigations and Adjudications**

The university uses the preponderance of the evidence (“it is more likely than not”) standard in investigations and adjudications of complaints alleging discrimination, harassment, sexual misconduct, Title IX sexual harassment, and any related violations.

#### **E. No Conflict of Interest or Bias**

Any individual carrying out this policy must be free from any actual conflict of interest or demonstrated bias that would impact the handling of this matter. No investigator, hearing administrator (if applicable), or appeal officer is permitted to make findings or determinations in a case in which they have a material conflict of interest or bias. Should any investigator, hearing administrator (if applicable), or appeal officer have a conflict of interest, the individual is to notify the Title IX Coordinator or designated university official (e.g., Director of Human Resources) upon discovery of the conflict.

Should the Title IX Coordinator have a conflict of interest, the Title IX Coordinator is to immediately notify the Provost who will designate another individual to act in the role of acting Title IX Coordinator for purposes of carrying out the handling and finalization of the matter at issue.

### **VII. Workplace Fairness**

In compliance with the Oregon Workplace Fairness Act, the university notifies employees of the following:

- Oregon state law requires that any legal action taken on alleged discriminatory conduct (specifically that prohibited by ORS 659A.030, 659A.082 or 659A.112) commence no later than five years after the occurrence of the violation. Claims against the university are subject to the notice provisions set forth in ORS 30.275, which typically requires notice to the university within 180 days of the incident.
- The university does not require an employee to enter into any agreement if the purpose or effect of the agreement prevents the employee from disclosing or discussing conduct constituting discrimination, harassment, or sexual assault.
- An employee claiming to be aggrieved by discrimination, harassment, or sexual assault may, however, voluntarily request to enter into a settlement, separation, or severance agreement which contains a nondisclosure, nondisparagement, or no-rehire provision and will have at least seven days to revoke any such agreement.
- Employees are encouraged to document any incidents involving conduct that constitutes prohibited discrimination under applicable law.

### **VIII. Title IX Coordinator**

The Title IX Coordinator is charged with monitoring compliance with Title IX; providing education and training; tracking and reporting on all Title IX and related incidents in violation of this policy; and coordinating UWS investigations, responses, and resolutions of all reports under this policy.





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## **IX. External Complaints**

The university encourages all individuals with a pertinent complaint to follow the process in this policy. However, individuals may always choose to make a discrimination complaint directly to outside agencies or law enforcement, including, but not limited to, the Bureau of Labor and Industries' Civil Rights Division, the Office for Civil Rights of the U.S. Department of Education, the U.S. Equal Employment Opportunity Commission, or the Educational Opportunities Section of the Civil Rights Division of the U.S. Department of Justice.

**Related Policies:**    [Policy 1002 Academic Freedom](#)  
                              [Policy 1003 Accident, Injury, Incidence Response and Reporting](#)  
                              [Policy 1016 Title IX Sexual Harassment](#)  
                              [Policy 3019 Timely Warning Notification](#)  
                              [Policy 3412 Employee Complaint](#)  
                              [Policy 3414 \(B\) Whistleblower Protection](#)  
                              [Policy 9001 Student Conduct](#)  
                              [Policy 9002 Title IX Pregnancy and Pregnancy-Related Conditions](#)  
                              [Policy 9009 Student Appeal of a University Decision](#)

**Key Words:**    discrimination, harassment, Title IX