

WESTERN OREGON UNIVERSITY  
**SEX AND GENDER-BASED MISCONDUCT POLICY**  
FOR ALL FACULTY, STUDENTS, EMPLOYEES, AND THIRD PARTIES

Policy Contents

1. Glossary
2. Rationale for Policy
3. Jurisdiction
4. Independence and Conflict of Interest
5. Administrative Contact Information
6. Notice/Complaints of Discrimination, Harassment, and/or Retaliation
7. Supportive Measures
8. Interim Measures
9. Emergency Removal
10. Promptness
11. Confidentiality/Privacy
12. Time Limits on Reporting
13. Online Harassment and Misconduct
14. Policy on Nondiscrimination
15. Prohibited Conduct
  - A. Title IX Sexual Misconduct
  - B. Non-Title IX Sexual Misconduct
16. Retaliation
17. Reporting
18. When a Complainant Does Not Wish to Proceed
19. Federal Timely Warning Obligations
20. False Allegations and Evidence
21. Amnesty

Appendix A. Federal Statistical Reporting Obligations

Appendix B. Preservation of Evidence

**SEX AND GENDER-BASED MISCONDUCT POLICY** is effective for incidents that occur on or after September 18, 2023. Policy updated BASED ON THE ATIXA 2022 ONE POLICY, TWO PROCEDURES MODEL. ©2022 ATIXA. USED WITH PERMISSION.

## 1. Glossary

- **Advisor** A person chosen by a party or appointed by the institution to accompany the party to meetings related to the Resolution Process, to advise the party on that process, and to conduct questioning for the party at the hearing, if any.
- **Complainant** An individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected characteristic, or retaliation for engaging in a protected activity.
- **Consent, Coercion, Force and Incapacitation**
  - **Consent** Informed, voluntary agreement that is ongoing and communicated by clearly understandable words or actions to participate in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to ensure that they have received consent from all parties before engaging in the activity. Intoxication is not an excuse for failure to obtain consent.
    - *Informed*: Everyone engaged in sexual activity must have a mutual understanding of the activity and a willingness to participate. Individuals should be aware of and agree upon the type of sexual activity, safety and health risk (STIs and other transmissible illnesses), and forms of protection (birth control, internal and external condoms, and other barriers). A person who is incapacitated cannot give consent, and minors (under the age of 18) cannot consent to sexual activity except in limited circumstances as stated in [ORS 163.315](#).
    - *Voluntary*: Consent must be freely given and not obtained by force, threat of force or violence, coercion, manipulation, pressure, deception, or intimidation.
    - *Ongoing*: Individuals engaging in sexual activity must evaluate consent on an ongoing basis and communicate clearly throughout all aspects of sexual activity. Anyone engaging in sexual activity has the right to change their mind at any time. Withdrawal of consent can be expressed through words or actions that convey that an individual is hesitant, confused, uncertain, or is no longer a mutual participant. Once consent is withdrawn, all sexual activity must cease unless consent is given again. Giving consent to one sexual activity (such as kissing) does not mean consent for another sexual activity (such as intercourse), and a current or previous dating or sexual relationship is not sufficient to demonstrate consent.
    - *Communicated by words or actions*: The words or actions should be able to be interpreted by a reasonable person under similar circumstances as a willingness to engage in sexual activity. Consent cannot be inferred from silence, passivity, or lack of verbal or physical resistance.
    - Examples of consent:

- A partner nods their head when their partner asks if they want to continue sexual activity
- Having a truthful discussion about other sexual partners, preference of barrier methods, and STIs
- A sexual partner says during intercourse that they're not in the mood anymore, so the other partner stops and cuddles instead
- Examples of non-consent:
  - An individual's choice of clothing does not imply consent
  - Accepting an invitation to a meal or date does not imply consent
  - Feeling pressured to say yes to engage in sexual activities with someone because they have asked multiple times ("giving in" because of fear, sense of obligation, guilt, etc.)
  - A sexual partner stops actively engaging in sex, but the other partner continues the sexual activity
  - Assumption of consent because people are in a long-term relationship
  - Two people agree to have sex with a condom, and part way through sex, the person wearing the condom takes off the condom without the other person knowing (also known as stealthing)
- **Coercion** The use of pressure to compel or persuade another person to do something against their will. Coercion can come in many forms such as intimidation, manipulation, threats, or blackmail. Coercion might include unreasonable pressure for sexual activity, threatening to "out" someone based on sexual orientation, gender identity, or gender expression, or threatening to harm themselves if the other party leaves the relationship. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
- **Force** is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," which elicits the response, "Okay, don't hit me. I'll do what you want.>").  
Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.
- **Incapacitation** A mental or physical state that leaves a person unable to give consent because they cannot make decisions as easily, they are not aware of the potential consequences, they aren't able to make informed judgements, they lack the capacity to appreciate the nature of the sexual activity and to

understand the “who, what, when, where, why, and how” of their sexual interaction.

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

- **Employee** all individuals employed by Western Oregon University in any capacity, such as faculty, unclassified and classified staff, students and volunteers.
- **Decision Maker** the person or panel who hears evidence, determines relevance, and makes the final determination of whether this Policy has been violated and/or assigns sanctions.
- **Formal Resolution** a method of formal resolution designated by the University to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations ([34 C.F.R. § 106.45](#)) and the [Violence Against Women Act § 304](#).
- **Hostile Environment** a hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual’s educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, and/or physical conduct that is severe or pervasive and objectively offensive.
- **Informal Resolution** a complaint resolution agreed to by the Parties and approved by the Title IX Coordinator (or designee) that occurs prior to a formal Final Determination being reached. Informal Resolution is only available in cases between students.
- **Reasonable Person** an average person's reaction to the actual circumstances of alleged illegal activities such as harassment, negligence, or discrimination.
- **Relevant Evidence** is evidence that tends to prove (inculpatory) or disprove (exculpatory) an issue in the complaint.
- **Resolution** means the result of an Informal Resolution or Formal Grievance Process.
- **Respondent** an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected characteristic, or retaliation for engaging in a protected activity under this Policy.
- **Responsible Employee** Most WOU employees are considered responsible employees unless otherwise specified below. Student employees who have positional responsibility for the welfare of others, such as Resident Assistants, peer mentors (such as Destination Western, Multicultural Representative, and Discover Leadership), WOU Crew, and student government leaders are also considered responsible employees. Student

employees are considered responsible employees while they are performing their job responsibilities and/or if the incident is disclosed to an employee due to their perceived or actual role.

Faculty, Classified Staff, Unclassified Staff and Resident Assistants are always considered responsible employees, even if they are not performing their job duties at the time of a report.

Responsible employees are required to report any information personally witnessed or learned through the disclosure of others related to possible or alleged instances of sexual misconduct to the Title IX Coordinator within two business days. Responsible employees should not attempt to investigate the alleged incident.

Exceptions:

- Confidential Resource: Professional staff in Abby's House and providers in the Student Health and Counseling Center are confidential, and are not considered responsible employees.
  - Interpreters and translators: Interpreters and translators are not considered responsible employees when acting in their professional capacity and translating or interpreting for someone else.
  - Academic Discussions/Assignments: If a student discloses an incident of sexual misconduct in an academic assignment or during a class discussion, the instructor is not required to initiate a report to the DEI/Title IX office. Instructors are encouraged to provide the student with resources such as Abby's House and contact information for the DEI/Title IX office so the student can still be fully informed as to their reporting options and support resources.
  - Public Awareness Events: Disclosures made at public awareness events (such as "Take Back the Night" and "Denim Day") are not required to be reported to the DEI/Title IX office. If a disclosure is made directly to a responsible employee during an awareness event, the responsible employee is encouraged to provide support resources.
  - Institutional Review Board Institutional: Review Board-approved human subjects research protocols focused on prohibited discrimination are not required to be reported to the DEI/Title IX office.
- 
- *Responsible employees are not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibilities. [Mandatory Reporting](#)*
  - **Sanction** means a consequence imposed on a Respondent who is found to have violated this Policy.

- **Sexual Harassment** is an umbrella category including the offenses of sexual harassment, sexual assault, stalking, dating violence, and domestic violence.
- **Student** is an individual who is registered for one or more credit hours, including online courses, is enrolled in a special non-credit program approved by the University, or who has been accepted for admission, housing, financial aid, or any other service or benefit provided by the University which requires Student status.
- **Support Person** is a person offering moral support to a party during a Resolution Process. This individual might be a friend, mentor, colleague, or anyone offering support to a party. A support person is optional. They are chosen by a party and do not actively participate in the Resolution Process.
- **Unwelcomeness** is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced. This definition is broad enough to potentially encompass forms of sex-based disparate treatment, even if not harassing in nature.

## 2. Rationale for Policy

Western Oregon University (WOU) is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination and harassment based on a protected characteristic, and retaliation for engaging in a protected activity.

To ensure compliance with federal, state, and local civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the education program or activity, WOU has developed policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of a protected characteristic, and for allegations of retaliation.

All students and employees at WOU have the right to be free from all forms of sexual misconduct. Sexual misconduct is an umbrella term encompassing a range of behaviors which might include, but are not limited to acts of sexual assault, gender identity and/or gender expression-based harassment and discrimination, sexual exploitation and indecent exposure. WOU prohibits any sexual misconduct that is listed in this Policy.

The Assistant Director of Diversity, Equity and Inclusion/Title IX Coordinator serves as WOU's Title IX Coordinator. The Title IX Coordinator has the primary responsibility for coordinating WOU's efforts related to the intake, investigation, resolution, and implementation of

supportive measures to stop, remedy, and prevent discrimination, harassment, and retaliation prohibited under this Policy. WOU will promptly and equitably respond to all reports of sexual misconduct.

### **3. Jurisdiction**

This Policy applies to WOU's education program and activities, to conduct that takes place on property owned or controlled by WOU, at WOU sponsored events, and in buildings owned or controlled by WOU's recognized student organizations. The Respondent must be a member of WOU's community in order for this Policy to apply.

This Policy can also be applicable to the effects of off-campus misconduct that effectively deprives a person of access to WOU's education program or activities. WOU may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator (or a designee) determines that the conduct affects a substantial WOU interest.

Regardless of where the conduct occurred, WOU will address notices/complaints to determine whether the conduct occurred in the context of its employment, education program, or activity and/or has continuing effects on campus (including virtual learning and employment environments) or in an off campus sponsored program or activity. A substantial WOU interest includes:

- 1) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
- 2) Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student, employee, or other individual.
- 3) Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
- 4) Any situation that substantially interferes with the educational interests or mission of WOU.

If the Respondent is unknown or is not a member of the WOU community, the Title IX Coordinator (or a designee) will assist the Complainant in identifying appropriate institutional and local resources and support options. If criminal conduct is alleged, WOU can assist in contacting local or institutional law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of WOU's community, supportive measures, remedies, and resources may be provided to the Complainant by contacting the Title IX Coordinator or students may contact Abby's House, Center for Equity & Gender Justice

(Werner University Center 106, [abbyshouse@wou.edu](mailto:abbyshouse@wou.edu), 503.838.8219), and employees may contact Human Resources (Lieuallen Administration 305, [hr@wou.edu](mailto:hr@wou.edu), 503.838.8490)

In addition, WOU may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from WOU property and/or events.

All vendors serving WOU through third-party contracts are subject to the policies and procedures of their employers [and/or to these Policies and procedures to which their employer has agreed to be bound by their contracts].

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator (or a designee) can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

Similarly, the Title IX Coordinator (or a designee) may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to WOU where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse.

#### **4. Independence and Conflict of Interest**

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and related procedures. All University appointed coordinators, investigators, and hearing panelists are vetted and trained to ensure they are not biased for or against Complainants and/or Respondents, generally or in specific cases.

Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any University appointed deputy coordinator, investigator, hearing panelist, or other Title IX Team member should be raised with the Title IX Coordinator. To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact the Executive Director of Diversity, Equity and Inclusion or other appropriate official, such as the Executive Director of Human Resources or the office of the General Counsel.

#### **5. Administrative Contact Information**

Complaints or notice of alleged Policy violations, or inquiries about or concerns regarding this Policy and procedures, may be made internally to the Office of Diversity, Equity and Inclusion/Title IX Office, contact information as follows:

Lieuallen Administration Building 302  
345 Monmouth Ave N, Monmouth, OR 97361  
503.838.8002 | [titleix@wou.edu](mailto:titleix@wou.edu)

Inquiries may be made externally to:  
Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

The Office for Civil Rights/Office for Civil Rights  
Seattle Office, U.S. Department of Education  
915 Second Avenue, Room 3310  
Seattle, WA 98174-1099  
or by calling 206- 607-1600  
or by emailing [OCR.Seattle@ed.gov](mailto:OCR.Seattle@ed.gov)

For complaints involving employee-on-employee conduct: [Equal Employment Opportunity Commission](#)

## **6. Notice/Complaints of Discrimination, Harassment, and/or Retaliation**

Notice or complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

- 1) File a report or Formal Complaint with, or give verbal notice to, the Title IX Coordinator (or a designee)  
Lieuallen Administration Building 302  
345 Monmouth Ave N, Monmouth, OR 97361  
503.838.8002 | [titleix@wou.edu](mailto:titleix@wou.edu)

Such a report or Formal Complaint may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail, to the office listed for the Title IX Coordinator.

- 2) Report online, using the reporting form posted at: [www.wou.edu/dei](http://www.wou.edu/dei) or [https://cm.maxient.com/reportingform.php?WesternOregonUniv&layout\\_id=1](https://cm.maxient.com/reportingform.php?WesternOregonUniv&layout_id=1). Anonymous reports are accepted, but may limit supportive measures. WOU tries to provide supportive measures to all Complainants, which may be impossible with an anonymous report that does not identify the Complainant.

Because reporting carries no obligation to initiate a formal response, and because WOU respects Complainant requests to dismiss complaints unless there is a compelling threat

to health and/or safety, the Complainant is largely in control and should not fear a loss of confidentiality by making a report that allows WOU to discuss and/or provide supportive measures.

As used in this Policy, the term “Formal Complaint” means a document or electronic submission (such as by electronic mail or through an online portal provided by WOU for this purpose that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that WOU investigate the allegations. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator (or a designee) will contact the Complainant to ensure that it is filed correctly.

## **7. Supportive Measures**

WOU will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available. They are offered, without fee or charge to the parties, to restore or preserve access to WOU’s education program or activity, including measures designed to protect the safety of all parties and/or WOU’s educational environment and/or to deter harassment, discrimination, and/or retaliation.

Supportive measures can be accessed without filing a Formal Complaint. At the time that supportive measures are offered, WOU will inform the Complainant, in writing, that they may file a Formal Complaint either at that time or in the future, if they have not done so already. WOU will work with the Complainant to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

WOU will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair WOU’s ability to provide those supportive measures. WOU will act to ensure as minimal an academic/employment impact on the parties as possible. WOU will implement measures in a way that does not unreasonably burden the other party.

Various departments at the University can offer supportive measures. These departments include the Office of DEI/Title IX, the Office of Student Conduct, and Abby’s House (or appropriate designees identified by these offices). The University will maintain contact with the parties to ensure that all concerns regarding safety and emotional or physical well-being are being addressed.

Supportive measures include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance

- Student financial aid counseling
- Education to the University community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation assistance
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Class schedule modifications, withdrawals, incompletes, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- If a party would like to request a supportive measure not listed, they should request that measure for consideration with the offices listed above.

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing complaint under this Policy.

## **8. Interim Measures**

WOU will determine the necessity and scope of any interim measures. Even if a Complainant or Respondent does not specifically request that an interim action be taken, WOU may choose to impose interim measures at its discretion to ensure the safety of any individual, the broader University community, or the integrity of the review process.

All individuals are encouraged to report concerns about failure of another individual to abide by any restrictions imposed by an interim measure. WOU will take immediate and responsive action to enforce measures previously ordered or implemented by the University.

WOU may impose any remedy that can be tailored to the involved parties to achieve the goals of this Policy, even if not specifically listed here. The range of interim measures may include but is not limited to:

- No Contact Order (NCO)
- Interim removal from University Housing
- Interim suspension from the University
- Temporarily re-assigning an employee
- Temporarily restricting a student's or employee's access to and/or use of facilities or equipment
- Authorizing an administrative leave

- Temporarily suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural/club athletics
- Trespass, Persona Non Grata (PNG), or Be-On-the-Lookout (BOLO) orders

## **9. Emergency Removal**

WOU can act to remove a Respondent from its education program, employment, or activities—partially or entirely—on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Office of DEI/Title IX, Office of Student Conduct or designee in conjunction with the CARE Team using its standard risk assessment procedures.

The Office of DEI/Title IX, Office of Student Conduct, or other designee have sole discretion under this Policy to implement or modify an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this Policy will be grounds for discipline within the student or employee conduct processes, which may include expulsion or termination.

WOU will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. At the discretion of the Office of DEI/Title IX, Office of Student Conduct, or designee, alternative coursework options may be pursued to ensure as minimal an academic impact on the parties as possible.

When the Respondent is an employee, or a student employee, accused of misconduct in the course of their employment, an emergency removal will be administered in a manner consistent with applicable collective bargaining agreements, University policies, and legal requirements.

## **10. Promptness**

Once WOU has received notice of a Formal Complaint, all allegations are promptly acted upon. Complaints typically take 60-90 business days to resolve. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but WOU will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in WOU procedures will be delayed, WOU will provide written notice to the parties of the delay, the cause for the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

## **11. Confidentiality/Privacy**

The Title IX Coordinator (or a designee) will seek consent for a Formal Complaint from the Complainant before beginning a formal resolution process. If the Complainant requests confidentiality or asks that the report not be pursued, the University will take all reasonable steps to investigate and respond to the report consistent with the request for confidentiality or the request not to pursue an investigation.

The University will evaluate such requests in the context of its responsibility to provide a safe and a nondiscriminatory environment for all members of the community. Thus, the University may weigh the request for confidentiality against factors including but not limited to the following: the seriousness of the alleged harassment; the Complainant's age; whether there have been other harassment complaints about the same individual; and the alleged Respondent's rights to receive information about the allegations if the information is maintained by the school as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99.15

If the University determines that it cannot ensure confidentiality, it will notify the Complainant of that determination. If a Complainant insists that their name or other identifiable information not be disclosed to the Respondent, the University will inform the Complainant that the University's ability to respond may be limited. Even if the University cannot take disciplinary action against the alleged Respondent because the Complainant insists on confidentiality, the University will attempt to pursue other steps to limit the effects of the misconduct and prevent its recurrence.

## **12. Time Limits on Reporting**

There is no time limitation on providing notice/complaints to the Title IX Coordinator or a designee. However, if the Respondent is no longer subject to WOU's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be limited or not possible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator (or a designee), who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, WOU will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint. Typically, this Policy is only applied to alleged incidents that occurred on or after September 18, 2023. For alleged incidents that occurred prior to September 18, 2023, previous versions of this Policy will apply. Those versions are available from the DEI/Title IX office.

### **13. Online Harassment and Misconduct**

WOU policies are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on WOU's education program and activities or when they involve the use of WOU networks, technology, or equipment.

Although WOU may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to WOU, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites; sharing inappropriate content via social media; unwelcome sexual or sex-based messaging; distributing, or threatening to distribute, nude or semi-nude photos or recordings; breaches of privacy; or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the WOU community.

### **14. Policy on Nondiscrimination**

WOU adheres to all federal, state, and local civil rights laws and regulations prohibiting discrimination in public higher education institutions.

At Western Oregon University (WOU), we strive to have a diverse and inclusive campus. It is the policy of WOU to provide a campus environment free from discrimination and harassment on the basis of actual or perceived race/ethnicity, color, religion, sex, sexual orientation, gender identity or expression, national origin, marital status, age, expunged juvenile record, performance of duty in a uniformed service, physical or mental disability, or any other characteristic protected by under law ("Protected Class Status").

Title IX is a federal law that provides, "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

The University must define and respond to Title IX Misconduct as required by regulations issued in May 2020 by the U.S. Department of Education to implement Title IX of the Education Amendments of 1972, codified at 34 C.F.R. Part 106 (the "Title IX Regulations"). The Title IX Regulations allow the University to define and regulate Prohibited Conduct that falls outside the definition of Title IX Misconduct, but which the University is committed to addressing as a matter of University Policy and/or as required by other applicable law. Accordingly, the University's Policy prohibiting Sexual and Gender-Based Misconduct and Title IX Misconduct is consistent with the Title IX Regulations, as well as the University's mission and commitment to ensuring a safe and non-discriminatory campus community.

This Policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the WOU community whose acts deny, deprive, or limit the educational, employment, residential, and/or social access, benefits, and/or opportunities of any member of the WOU community, guest, or visitor on the basis of that person's actual or perceived protected characteristics, is in violation of WOU's Discrimination and Harassment Policy ([GL-05-002](#)).

When brought to the attention of the Title IX Coordinator (or designee), any such discrimination will be promptly and fairly addressed and remedied according to the appropriate grievance process.

#### **A. Inclusion Related to Gender Identity/Expression**

WOU strives to ensure that all individuals are safe, included, and respected in their working and learning environments, regardless of their gender identity or expression, including intersex, transgender, agender, and gender diverse students and employees.

Discrimination on the basis of gender identity or expression is not tolerated by WOU. If a member of the WOU community feels they have been subjected to discrimination under this Policy, they should follow the appropriate reporting/Formal Complaint process described above.

In upholding the principles of equity and inclusion, WOU supports the full integration and healthy development of those who are transgender, transitioning, or gender diverse, and seeks to eliminate any stigma related to gender identity and expression.

WOU is committed to fostering a climate where all identities are valued and create a more vibrant and diverse community. The purpose of this Policy is to have WOU administratively address issues some students and employees, including those identifying as intersex, transgender, agender, and gender diverse, may confront as they navigate systems originally designed around the assumption that gender is binary. As our society's understanding of gender evolves, so do WOU's processes and policies.

Concepts like misgendering and deadnaming may not be familiar to all but understanding them is essential to WOU's goal of being as welcoming and inclusive a community as possible.

Misgendering is the intentional or unintentional use of pronouns or identifiers that are different from those used by an individual. Unintentional misgendering is usually resolved with a simple apology if someone clarifies their pronouns for you. Intentional misgendering is inconsistent with the type of community we hold ourselves to be. We all get to determine our own gender identity and expression, but we don't get to choose or negate someone else's.

Deadnaming, along with misgendering, can be very traumatic to a person who is transgender, transitioning, or gender diverse. Deadnaming means using someone's birth-assigned (cisgender) name, rather than the name they have chosen.

To a person who is transgender, transitioning, or gender diverse, their cisgender identity may be something that is in their past, dead, buried, and behind them. To then revive their deadname could trigger issues, traumas, and experiences of the past that the individual has moved past, or is moving past, and can interfere with their health and well-being.

Again, unintentional deadnaming can be addressed by a simple apology and an effort to use the person's chosen name. Intentional deadnaming could be a form of bullying, outing, or otherwise harassing an individual, and thus should be avoided.

This Policy should be interpreted consistent with the goals of maximizing the inclusion of intersex, transgender, transitioning, agender, and gender diverse students and employees, including:

- Maintaining the privacy of all individuals consistent with law
- Ensuring all students equal access to educational programming, activities, and facilities, including restrooms and locker rooms
- Ensuring all employees equal access to employment opportunities and work, service, or health-related facilities
- Providing professional development for employees and education for students on topics related to gender inclusion
- Encouraging all students and employees to respect the pronoun usage and identities of all members of the WOU community

WOU has set forth its specific processes for implementing this Policy through the accompanying Title IX-related procedures.

## **15. Prohibited Conduct**

Prohibited conduct undermines the character and purpose of Western Oregon University (WOU) and WOU will take appropriate prompt and effective action to eliminate prohibited conduct, prevent its recurrence, and remedy its effects. Prohibited conduct may also constitute crimes that violate federal and state law.

This Policy classifies sexual misconduct into two categories: (a) sexual misconduct that is covered by Title IX, a federal law; and (b) other sexual misconduct not covered by Title IX. The Title IX regulations issued by the United States Office for Civil Rights provide definitions of specific conduct prohibited under Title IX. The University's commitment to eradicating sexual misconduct extends to other conduct that does not fall within those definitions.

If conduct falls under both categories, Title IX and its procedures govern. The distinction between sexual misconduct governed by Title IX and other sexual misconduct is relevant because the procedures for resolving complaints differ in important ways, whether Title IX applies or not.

#### **A. Title IX Sexual Misconduct**

Title IX Sexual Misconduct refers to behaviors that potentially violate Title IX of the Education Amendments of 1972. This includes Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence and Stalking.

**Title IX Sexual Harassment** is any unwelcome sexual advance, request for sexual favors, or other unwanted verbal or physical conduct of a sexual nature. Title IX Sexual Harassment also includes harassment based on actual or perceived gender, sexual orientation, gender identity or gender expression, which may include but is not limited to: acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex/gender or sex/gender-stereotyping, even if the acts do not involve conduct of a sexual nature.

- 1) **Quid Pro Quo:** A University employee implicitly or explicitly conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
- 2) **Unwelcome Conduct:** Conduct that is determined by a reasonable person to be so severe, pervasive, AND objectively offensive that it effectively denies a person equal access to the University's education program, activity or employment.

**Title IX Sexual Assault** is defined as any sexual act directed against another person, without that person's consent (including instances where the person is incapable of giving consent).

- 1) **Rape:** 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 their consent, including instances where they are incapable of giving consent because of age or temporary or permanent mental or physical incapacity.
- 2) **Forcible Sodomy:** Oral or anal sexual intercourse with another person, forcibly and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances where the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

- 3) **Sexual Assault with an Object:** The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- 4) **Forcible Fondling:** The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances where the person is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- 5) **Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- 6) **Statutory Rape:** Nonforcible sexual intercourse with a person who is under the statutory age of consent of 18 as defined in ORS 163.315.

**Title IX Dating Violence** is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of 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:

- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

**Title IX Domestic Violence** is a felony or misdemeanor crime of violence committed:

- By a current or former spouse or intimate partner of the Complainant;
- By a person with whom the Complainant shares a child in common;
- By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
- By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Oregon;
- By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Oregon.

To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

**Title IX Stalking** is 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
- Suffer substantial emotional distress.

For the purposes of this definition:

- 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.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

## **B. Non-Title IX Sexual Misconduct**

Non-Title IX Sexual Misconduct is a broad, non-legal term that encompasses a wide range of behaviors that are prohibited by this Policy or federal and state law, including but not limited to, sexual harassment, sexual assault, rape, stalking, and relationship violence (including dating and domestic violence). Non-Title IX Sexual Misconduct includes conduct occurring both on-campus and off-campus, if the conduct was in connection with a University or University-recognized education program or activity, or if the conduct may have the effect of creating a hostile environment for a member of the WOU community.

It is a violation of University Policy and/or applicable law to commit or to attempt to commit any of the acts listed below.

**Sexual/Gender-Based Discrimination.** No person shall be excluded from participation in or be denied the benefits of any University program or activity because of sexual discrimination, including discrimination based on sex, gender, gender identity, gender expression, or sexual orientation.

**Non-Title IX Sexual Assault** is any intentional sexual contact, however slight, by a person upon another person, without consent.

- 1) **Sexual Assault with Penetration:** is any sexual intercourse which includes: vaginal or anal penetration or being made to penetrate by a penis, object, tongue or finger, and mouth to genital contact, no matter how slight the penetration or contact, by a person upon another person without consent.
- 2) **Sexual Assault without Penetration:** is intentional bodily contact in a sexual manner, however slight, including, but not limited to: contact with another person's breasts, buttock, groin or genitals, or touching another person, or making another person touch themselves or anyone else without consent.

*See the glossary for the definitions of consent, incapacitation, coercion, and force.*

**Non-Title IX Sexual Harassment** involves any type of unwelcome conduct of sexual nature, including but not limited to: sexual advances, requests for sexual favors, or verbal and/or physical conducts of a sexual nature, when:

- Submission to such advances, requests, or conduct is made either explicitly or implicitly a term or condition of an individual's equal access to education, employment, or participation in a University activity (quid pro quo);
- Such conduct is sufficiently severe or pervasive that it has the effect, intended or unintended, of interfering with an individual'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 individual's status.
- A single, isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show that the conduct was persistent or pervasive in nature. Conduct that is pervasive or persistent, even if not severe, may also create a hostile environment.
- Employee conduct directed towards a student, whether unwelcome or welcome, may constitute sexual harassment, and may also violate the [Consensual Relationships Policy](#).

**Non-Title IX Sexual Exploitation** occurs when one person takes non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited.

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

- Invasion of sexual privacy (such as doxxing)
- Sexually trafficking another person
- Non-consensual photographing, digital, video or audio recording of nudity or sexual activity when there is a reasonable expectation of privacy
- Unauthorized sharing or distribution of digital, video or audio recording of nudity or sexual activity

- Sexual voyeurism without consent (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or any sexually transmitting infection (STI), without informing the other person of the virus, disease, or infection
- Intentionally or recklessly exposing one's genitals in nonconsensual circumstances
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation
- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections to receive sexual benefits or take sexual advantage of another person (spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly creating, possessing, or disseminating child pornography
- Knowingly soliciting a minor for sexual activity

**Non-Title IX Stalking** includes repeated conduct involving unwanted attention, harassment, physical or verbal contact or any other repeated conduct that would place a reasonable person in fear of physical, emotional or psychological harm.

- Repeated Conduct means two or more acts, including but not limited to: acts in which the alleged respondent 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;
- Cyberstalking is a particular form of stalking in which electronic media such as the Internet, social networks, blogs, cell phones, texts or other similar devices or forms of contact are used to pursue, harass or to make unwelcome contact with another person

Examples of stalking include, but are not limited to:

- Unwelcome, repeated, and intentional visual or physical proximity to a person
- Repeated threats
- Extortion of money or valuables
- Unwelcome/unsolicited written communication, including but not limited to: letters, cards, text messages, emails, and/or social media

- Unwelcome/unsolicited communications about a person, their family, friends or co-workers
- Sending/posting unwelcome/unsolicited messages with an assumed identity
- Physical, visual, and/or verbal threats against a Complainant or a Complainant's loved ones
- Vandalism
- Trespassing
- Unsolicited and unwanted gifts
- Manipulative and controlling behaviors such as threats to harm oneself, or someone close to the Complainant

**Non-Title IX Intimate Partner Violence** refers to any act of violence or threatened act of violence, sexual or otherwise, against a person who is, or has been involved in a sexual, dating, domestic or other intimate relationship with that person. The prohibited conduct of this Policy includes a broad range of behavior. Intimate partner violence can encompass a broad range of behavior, including, but not limited to: physical violence, sexual violence, emotional violence, and economic abuse. Intimate partner violence may take the form of threats, assault, property damage, violence or threat of violence to one's self, one's sexual or romantic partner, and/or to the family members or friends of the sexual or romantic partner. Intimate partner violence affects individuals of all genders, gender identities and expressions, sexual orientation, and racial, ethnic, social, and economic backgrounds.

Intimate partner violence is also referred to as dating violence or relationship violence. Intimate partner violence includes:

- Any act of violence or threatened act of violence against a person who is or has been involved in a sexual, dating, or other intimate relationship by the other person in the relationship.
- One act or an ongoing pattern of behavior.

**Non-Title IX Domestic Violence** is a pattern of abusive behaviors that are used to gain or maintain power and control over an intimate partner. A charge of misconduct occurs when the domestic violence is perpetrated by:

- A current or former spouse or intimate partner of the Complainant;
- An adult who is related to the Complainant by blood or marriage;
- A person with whom the Complainant shares a child in common;
- A person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner;
- A person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the State of Oregon;

- By any other person against an adult or youth Complainant who is protected from that person's acts under the Oregon Domestic Violence laws of the State of Oregon.

**Non-Title IX Sex and Gender Based Bullying** includes, but is not limited to, any intentional electronic, written, verbal or physical act or a series of acts directed at another person or persons on the basis of sex, gender, gender identity or sexual orientation, that is severe, persistent or pervasive and that has the intended effect of substantially interfering with a person's education or work; creating a threatening environment; or substantially disrupting the orderly operation of the University.

**Non-Title IX Sex and Gender Based Intimidation** includes but is not limited to any verbal, written or electronic threats of violence or other threatening behavior directed toward another person or group on the basis of sex, gender, gender identity or sexual orientation that reasonably leads the person(s) in the group to fear for their physical well-being.

**Non-Title IX Indecent Exposure** occurs when a person exposes their genitals in any public place or in any place where there are other persons present under circumstances in which one knows or should know that this conduct is likely to offend, affront or alarm.

## **16. Retaliation**

The University prohibits any forms of retaliation against an individual or the individual's family or friends for the purpose of interfering with that individual's rights or privileges secured under Title IX. This means that the University will not tolerate any form of retaliation taken against anyone who reports or publicly opposes conduct prohibited by this Policy, or anyone who cooperates in the investigation of a report of conduct prohibited by this Policy. Examples of retaliation can include, but are not limited to: bullying, intimidation, threats, coercion, force, etc., and include third party retaliation.

Acts of alleged retaliations should be reported immediately. Notice or complaints of retaliation may be made by filing a report or Formal Complaint with the Title IX Coordinator or designee ([titleix@wou.edu](mailto:titleix@wou.edu), 503.838.8002, Lieuallen Administration Building 302, 345 Monmouth Avenue N, Monmouth, OR 97561). Such a report or Formal Complaint may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail, to the office listed for the Title IX Coordinator and/or designee. WOU will take appropriate and available steps to assist individuals who fear that they may be subjected to retaliation.

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

## 17. Reporting

All Western Oregon University (WOU) employees are expected to report actual or suspected discrimination, harassment, and/or retaliation to appropriate officials immediately, although there are some limited exceptions.

WOU strongly supports and encourages prompt reporting of sexual misconduct. Prompt reporting helps to provide immediate resources to Complainants and contributes to keeping the campus safe. Additionally, prompt reporting helps to ensure preservation of evidence that may assist in proving a violation of University Policy and/or a criminal offense. However, there are **no time limitations** for making reports of sex and gender-based misconduct.

Making a report gives notice to the University to provide resources and initial support. Making a report is not the same as filing a Formal Complaint. The filing of a Formal Complaint is part of the Complaint Resolution process described in the Sex and Gender-Based Misconduct Procedures.

If a Complainant expects formal action in response to their allegations, reporting to any Responsible Employee can connect them with resources to report alleged crimes and/or Policy violations, and these employees will immediately pass reports to the Title IX Coordinator or a designee (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

The following sections describe the WOU reporting options for a Complainant or third party (including parents/guardians when appropriate):

### **A. Responsible Employees**

Most WOU employees are considered responsible employees unless otherwise specified below. Student employees who have positional responsibility for the welfare of others, such as Resident Assistants, peer mentors (i.e Destination Western, Multicultural Representative, and Discover Leadership), WOU Crew, student government leaders, and students who are in supervisory positions are also considered responsible employees. Student employees are considered responsible employees while they are performing their job responsibilities and/or if the incident is disclosed to an employee due to their perceived or actual role.

Faculty, Classified staff, Unclassified staff and Resident Assistants are always considered responsible employees, even if they are not performing their job duties at the time of a report.

Responsible employees are required to report any information personally witnessed or learned through the disclosure of others related to possible or alleged instances of

sexual misconduct to the Title IX Coordinator within two business days. Responsible employees should not attempt to investigate the alleged incident.

## **B. Responsible Employee Exceptions**

- 1) **Confidential Resources:** Professional staff in Abby's House and providers in the Student Health and Counseling Center are confidential, and are not considered responsible employees
- 2) **Interpreters and translators:** Interpreters and translators are not considered responsible employees when acting in their professional capacity and translating or interpreting for someone else.
- 3) **Academic Discussions/Assignments:** If a student discloses an incident of sexual misconduct in an academic assignment or during a class discussion, the instructor is not required to initiate a report to the DEI/Title IX office.
  - Instructors are encouraged to provide the student with resources such as Abby's House and contact information for the DEI/Title IX office so the student can still be fully informed as to their options and what the University can provide.
- 4) **Public Awareness Events:** Disclosures made at public awareness events (such as "Take Back the Night" or "Complainant Speak Outs") are not required to be reported to the DEI/Title IX office. If a disclosure is made directly to a responsible employee during an awareness event, the responsible employee is encouraged to provide resources to the Complainant.
- 5) **Institutional Review Board:** Institutional Review Board-approved human subjects research protocols focused on prohibited discrimination are not required to be reported to the DEI/Title IX office.

## **C. Confidential Resources**

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- **For Students: Professional staff in Abby's House**  
Abby's House, Center for Equity & Gender Justice  
Werner University Center (WUC) 106  
345 Monmouth Avenue N  
Monmouth, Oregon 97361  
503.838.8219 | [abbyshouse@wou.edu](mailto:abbyshouse@wou.edu)

- **For Students: Professional staff in Student Health and Counseling Center**  
 Student Health and Counseling Center  
 345 Monmouth Avenue N  
 Monmouth, Oregon 97361  
 503.838.8313 | [health@wou.edu](mailto:health@wou.edu)
  
- For Employees: [Employee Assistance Program \(EAP\)](#) is a confidential counseling and referral service that is provided to WOU employees as a pre-paid benefit. Three referral/counseling visits are available at no charge to WOU employees, household members, and dependents per year to help with personal or job-related issues. This service is completely confidential and operates separately from the University.
  
- Community-based (non-university employees):
  - Confidential Victim Services:
    - Sable House (Dallas, OR)
    - Center for Hope and Safety (Salem, OR)
    - Center Against Rape and Domestic Violence (Corvallis, OR)
  - Medical and Health Services:
    - West Valley Hospital (Dallas, OR)
    - Planned Parenthood (Salem, OR)
    - Salem Hospital (Salem, OR)
    - Sarah's Place (Albany, OR)
    - Good Samaritan Hospital (Corvallis, OR)
  - Reporting Resources:
    - Polk County Victim Assistance Services (Dallas, OR)
  - Additional resources to consider
    - Licensed professional counselors and other medical providers
    - Local rape crisis counselors
    - Domestic violence resources
    - Local or state assistance agencies
    - Clergy/Chaplains
    - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, professional credentials, or official designation, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

Institutional counselors and/or the Employee Assistance Program are available to help free of charge and may be consulted on an emergency basis during normal business hours.

#### **D. Mandated Reporter**

Mandatory reporters who suspect abuse or neglect should call **855-503-SAFE (7233)** to report this to the Oregon Department of Human Services (ODHS). The hotline is open 24 hours a day, 365 days a year.

#### **Learn more about mandatory reporting:**

- [Mandatory reporting of child abuse](#)
- [Mandatory reporting of abuse of adults with developmental disabilities](#)

#### **18. When a Complainant Does Not Wish to Proceed**

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, and/or does not want a Formal Complaint to be pursued, they may make such a request to the Title IX Coordinator (or a designee), who will evaluate that request in light of the duty to ensure the safety of the institution and to comply with state or federal law.

The Title IX Coordinator (or a designee) has ultimate discretion over whether WOU proceeds when the Complainant does not wish to do so, and the Title IX Coordinator (or a designee) may sign a Formal Complaint to initiate a grievance process.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. WOU may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator (or a designee) must also consider the effect that non-participation by the Complainant may have on the availability of evidence and WOU's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator (or a designee) executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this Policy.

When WOU proceeds, the Complainant (and/or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant

throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

Note that WOU ability to remedy and respond to notice may be limited if the Complainant does not want WOU to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing WOU's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow WOU to honor that request, WOU may offer Informal Resolution options, supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action. Informal Resolution is only available in cases between students.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a Formal Complaint at a later date. Upon making a Formal Complaint, a Complainant has the right, and can expect, to have allegations taken seriously by WOU, and to have the incidents investigated and properly resolved through these procedures. Delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

## **19. Federal Timely Warning Obligations**

WOU must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

WOU will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

## **20. False Allegations and Evidence**

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation, hearing, or informal resolution can be subject to discipline under appropriate WOU policies.

## **21. Amnesty**

The WOU community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to WOU officials or

participate in resolution processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interest of the WOU community that Complainants choose to report misconduct to WOU officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, WOU maintains a policy of offering parties and witnesses amnesty from minor policy violations—such as underage consumption of alcohol or the use of illicit drugs—related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution.

#### **A. Students**

Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to Campus Public Safety).

#### **B. Employees**

Sometimes, employees are hesitant to report harassment, discrimination, or retaliation they have experienced for fear that they may get in trouble themselves. For example, an employee who has violated the [Consensual Relationships Policy](#) and is then assaulted in the course of that relationship might hesitate to report the incident to WOU officials.

WOU may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis.

## **Appendix A: Federal Statistical Reporting Obligations**

Certain institutional officials—those deemed Campus Security Authorities—have a duty to report the following for federal statistical reporting purposes (Clery Act):

- 1) All “primary crimes,” which include criminal homicide, rape, fondling, incest, statutory rape, robbery, aggravated assault, burglary, motor vehicle theft, and arson
- 2) Hate crimes, which include any bias-motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property
- 3) [Violence Against Women Act § 304](#) based crimes, which include sexual assault, domestic violence, dating violence, and stalking
- 4) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug law violations

All personally identifiable information is kept private, but statistical information must be shared with Campus Public Safety regarding the type of incident and its general location (on or off campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log. Campus Security Authorities include: student affairs/student conduct staff, Campus Public Safety, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

## **Appendix B: Preservation of Evidence**

The preservation of evidence in incidents of sexual assault and stalking is critical to potential criminal prosecution and to obtaining restraining/protective orders and is particularly time sensitive. WOU will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

### **Sexual Assault**

- Seek forensic medical assistance at Student Health and Counseling Center or a local hospital, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or secure evidence container
- Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

### **Stalking**

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
  - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
  - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media correspondence, including notifications related to account access alerts.
- Take time stamped photographs of any physical evidence including notes, gifts, etc. in place when possible.
- Save copies of any messages, including those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and the Title IX Coordinator or a designee, the importance of taking these actions will be discussed, if timely.