



## **SEXUAL HARASSMENT POLICY**

Eastern Oregon University is committed to the preservation of dignity and integrity for all students and employees; therefore this policy is issued in recognition of the University's moral and legal obligations to provide protection from and resolution of incidents of sexual harassment.

### **Policy Statement**

Sexual harassment violates the trust and respect that is required for the advancement of academic freedom within a university community and inhibits the development and success of all university members including students, faculty, and staff. In accordance with federal and state law Eastern Oregon University prohibits actions and verbal assaults that are recognized as discriminatory, harassing, or defamatory on the basis of gender and/or sexual orientation, as with all other forms of discrimination. Persons found to be in violation of this sexual harassment policy shall be subject to disciplinary action which may include, but is not limited to, an oral warning, a written reprimand, probationary status, suspension from the campus for a specified period, or permanent termination from employment or enrollment.

Eastern Oregon University is dedicated to reaching timely and just resolutions to complaints filed under this policy. Any person who believes that she or he has been sexually harassed at the University may file either a formal or informal complaint with the appropriate office, which will maintain confidentiality to the fullest possible extent throughout procedural investigations.

Persons who threaten or take retaliation toward an individual who has filed a sexual harassment complaint are subject to further disciplinary action. Such incidents should be reported immediately to a Counseling Center staff member or the Affirmative Action Officer.

### **Definition of Sexual Harassment**

Sexual harassment is defined by the Equal Employment Opportunity Commission as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a requirement of employment or participation in an academic program or activity;
2. Submission to or rejection of such conduct by an individual is used as a basis for employment or education-related decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or learning environment.

## Examples of Sexual Harassment

Sexual harassment occurs in a variety of forms and situations, in relationships between persons of unequal power as well as among equals; between persons of the same or opposite sex; and can be committed by persons of any gender. Circumstances that constitute sexual harassment might include:

1. Sexist language; including heterosexist language
2. Unwelcome sexual propositions, invitations, solicitations, and flirtations;
3. Unwelcome and inappropriate invasion of one's personal boundaries by another individual or group of individuals;
4. Graphic sexual commentary about a person's body, clothing, appearance or sexual activities;
5. Unwelcome suggestive or insulting sounds or whistles.

Additionally, case rulings by the Courts and the Office of Civil Rights have further defined, but not limited, sexual harassment to include:

- Disparaging remarks and gestures about one's gender or sexual orientation.
- Verbal sexual abuse disguised as humor.
- Physical aggression, assault, unwelcome touching.
- Subtle pressure for sexual activity or sexual innuendos.
- Display of sexually offensive or obscene pictures or behaviors.
- Repeated references to various parts of the body at inappropriate times.
- Requests for dates when the other person has made it clear that she or he is not interested.

Following the principles of academic freedom, as defined by the American Association of University Professors, faculty members at Eastern Oregon University are entitled to freedom in the classroom in discussing their subjects, but they should be careful not to introduce into their teaching controversial matter that has no relation to their respective subjects.

### **For Students:**

Sexual harassment can be very physically and emotionally damaging. Feelings of anger, fear, confusion, or guilt are not uncommon. You should understand that the perpetrator is at fault, not you, and that there is help available to you. The EOU community values and respects you, and we are here to support you. If you feel you are being sexually harassed, **talk to someone you trust**. Following are some examples of people who can give emotional support and help you navigate the reporting process:

Faculty

Staff

Student Counseling Center 8-5 M-F 962-3524

Student Health Center 8:30 – 4:30 M-F 962-3526

Student Affairs Office 8-5 m-F 962-3635

International Student Advisor 8-5 M-F 962-3141

Women's Center 9-5 M-F 962-3021

Multicultural Student Center (contact info?)

Your RA or Hall Director 24/7

Your coach or athletic trainer

## **SEXUAL HARASSMENT COMPLAINT PROCEDURE**

### **Confidentiality:**

Throughout the sexual harassment complaint procedure, all university officials will make every effort to respect the confidentiality of those involved in the process. Some officials will need to be informed of the complaint, but this will be kept to a minimum as outlined in this procedure.

### **Procedure:**

Any faculty member, administrative faculty, staff member, or student who believes that she or he is being sexually harassed should, if feasible, inform the alleged harasser that the conduct is unwelcome and must stop. However, in some circumstances this course of action may not be feasible, may be unsuccessful, or the individual may be uncomfortable dealing with the matter in this way. To encourage persons experiencing alleged sexual harassment to come forward, EOU provides several options for both informal and formal complaint resolution. Any student, faculty, administrative faculty, or staff member who chooses to file a complaint of sexual harassment should have an advocate who can advise them and offer support throughout the process.

### **Informal Complaint Procedure:**

The first step to resolve the conflict informally is to make an appointment with a member of the Counseling Center staff, the Affirmative Action Officer, or the Grievance Counselor and report the incident(s). In the informal phase, the Affirmative Action Officer will begin the process of gathering information to either establish a suspicion of sexual harassment or to attempt to resolve the disagreement without following a formal complaint procedure.

The *informal* procedure below applies to students, employees, applicants for employment, and others, where appropriate.

Procedure:

1. The complainant completes the "Complaint of Discrimination or Harassment" form at the following link (under construction); the Affirmative Action Officer or the campus Grievance Counselor acting in the role of an ombudsman, can advise the complainant of her/his options for the procedure and rights to file with state and/or federal agencies.
2. The appropriate administrator, dean, or director will be notified that an informal complaint has been initiated.
3. The AA Officer must contact the individual/entity (respondent) accused of sexual harassment to discuss the alleged harmful act.
4. Following the informal discussion, and before any final resolution is made, a faculty/Administrative faculty member, staff or student may request a peer review (see

formal complaint procedure). The review panel shall be selected following the appropriate procedure defined for each employee group.

5. The AA Officer develops a proposed resolution, if appropriate, within fifteen (15) calendar days of acceptance of the informal complaint. If the complainant is not satisfied by the resolution then she/he may file a formal complaint.
6. The AA Officer will notify the appropriate administrator, dean, or director of the final status of the informal complaint.

### **Formal Complaint Procedure:**

The first step in the process is for the complainant to meet with the Affirmative Action Officer. The filing of a complaint of sexual harassment is required for the matter to be formally investigated and to determine whether there has been a violation of the policy prohibiting sexual harassment at Eastern Oregon University. A formal complaint of sexual harassment must be made no later than 365 calendar days following the alleged act.

All formal complaints of sexual harassment, whether they are filed against a student, faculty, administrative faculty, staff member, or a third party, will result in essentially the same process. The Affirmative Action Officer, or other appointed university official will conduct a full, impartial and timely investigation within 30 calendar days. The appointed officer will provide the person against whom the complaint is made (the respondent) with a written statement of the allegations, to which that individual will be required to respond within fourteen calendar days. The appointed officer may extend this timeline up to five calendar days if necessary. During the course of the investigation the appointed officer will interview the complainant, the respondent, and witnesses identified by each party. To the extent possible, complaints will be handled confidentially, with the allegations and facts made available only to those who have a compelling need to know for purposes of investigation or resolution of the matter.

#### Complaint Against a Student

To bring a formal complaint of sexual harassment against a student an individual should meet with the Affirmative Action Officer who will inform the Vice President for Student Affairs. Sexual harassment is deemed student misconduct and is subject to the disciplinary conditions of the EOU Student Code of Conduct. The Affirmative Action Officer will provide a written report to the Vice President of Student Affairs within twenty-one calendar days of receipt of the complaint. This timeline may be extended up to ten days with the approval of the President or designee. Following the investigation and prior to any formal submission of the report, the student may request a peer review through the ASEOJ Judicial Board or other appropriate ASEOJ designated group.. The panel will hear the complainant, the respondent, and witnesses identified by each party, and will examine all evidence it deems necessary. The rights of all parties will be observed and confidentiality will be protected to the fullest extent possible. A final report will be submitted to the Vice President for Student Affairs.

#### Complaint Against a Faculty, Administrative Faculty, or Staff Member

Formal complaints of sexual harassment against a member of the faculty, administrative faculty, or staff are to be filed with the Affirmative Action Officer. The Affirmative Action officer will provide a written report of findings within twenty-one calendar days of receipt of the complaint. This timeline may be extended up to ten calendar days with the approval of the President or designee.

a. Complaint Against a Faculty Member

In a matter involving a complaint against a faculty member, the Affirmative Action Officer will present a written report to the faculty member's Dean, the Provost/Vice President for Academic Affairs, and the President. The report will include a statement of the allegations, the process followed in the investigation and the evidence collected in the case. The President, in consultation with the appropriate Dean and the Provost/Vice President for Academic Affairs, will determine whether reasonable cause exists to initiate proceedings concerning the alleged actions of the faculty member. If proceedings are deemed warranted, the faculty member will be entitled to an adjudicative hearing before a panel of at least three tenured members of the faculty to be chosen by a random selection from a pool of eligible tenured teaching faculty. The campus grievance counselor acting in the role of an ombudsman shall initiate the selection process. Any hearing committee member perceiving a conflict of interest must excuse themselves from the proceedings, and a replacement shall be selected from the remaining pool of tenured teaching faculty. The complainant or the respondent may also have an opportunity to challenge and replace one panel member. If a challenge is initiated then another faculty member will be selected from the available pool. The hearing panel will take testimony and hear witnesses. The complainant and the respondent are entitled to an advocate and have the right to question all witnesses. The hearing panel will ascertain the validity of the evidence, the consistency of the testimony, the credibility of the witnesses and will forward its findings to the President within ten calendar days after the completion of proceedings. The hearing panel shall offer in its report the number of members voting for each finding. If the hearing committee finds that sexual harassment has taken place, it may recommend to the President appropriate disciplinary action, including, but not limited to, public acknowledgement and/or apology, a letter of warning, a formal letter of reprimand, required counseling, suspension for a definite period of time, reduction of responsibilities, or proceedings to dismiss the offender. Either the complainant or the respondent may submit a formal grievance of the outcome.

b. Complaint Against an Administrative Faculty Member

In a matter of an investigation of a complaint against an administrative faculty member, the affirmative action officer will present to the appropriate administrative official(s) a written report which will include a statement of the allegations, the process followed in the investigation, the evidence collected in the case. The validity of the evidence, the consistency of the testimony, and the credibility of the witnesses should be determined by a peer review panel to be appointed by the Administrative Faculty Council as delineated in the Administrative Faculty of Eastern Oregon University Charter and Bylaws. The administrative official(s) will determine whether the policy was violated, take necessary action, and inform the complainant and the respondent of the final disposition of the complaint. The President will determine whether to initiate proceedings to consider sanctions against the accused faculty members.

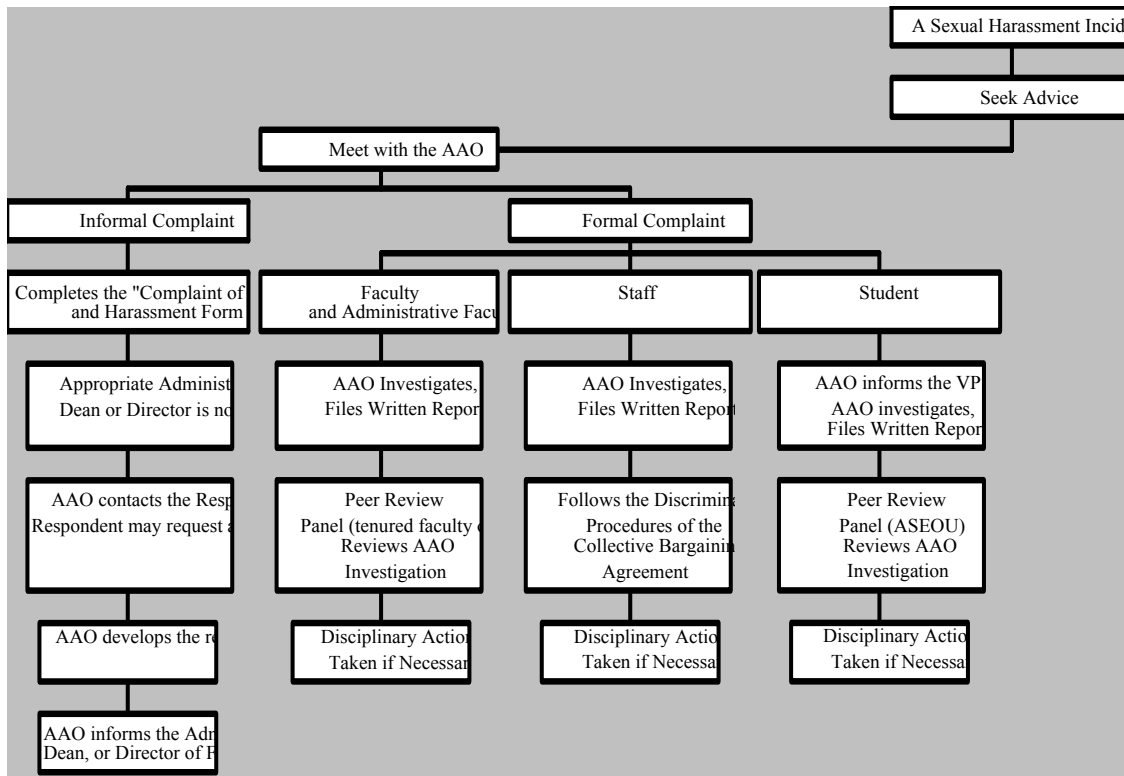
### c. Complaint Against a Staff Member

In a matter of an investigation of a complaint against a staff member, the appointed officer will present to the appropriate administrative official(s) a written report that will include a statement of the allegations, the process followed in the investigation, the evidence collected in the case. The validity of the evidence, the consistency of the testimony, and the credibility of the witnesses should be determined in accordance with any existing collective bargaining agreements regarding discrimination. The administrative official(s) will determine whether the policy was violated, take necessary action, and inform the complainant and the respondent of the final disposition of the complaint. If the complaint is against the Affirmative Action Officer, the complaint shall be filed with the President, who will appoint an alternative official to investigate and take action as necessary.

### Complaint Against a Third Party

Complaints regarding alleged sexually harassing behavior toward EOU students, faculty or employees by members of the public such as vendors and contractors, visiting student or citizen groups, and private individuals while on EOU premises or activities should be reported to the Affirmative Action Officer. The appointed officer shall conduct a full and impartial investigation to the extent indicated and possible and submit a report of findings and recommended actions to the complainant and to the Vice President for Business, Finance and Facilities within twenty-one calendar days of receipt of the complaint. This timeline may be extended up to ten calendar days with the approval of the President or designee.

### Sexual Harassment Complaint Procedure



### **Post Complaint Grievance**

At the conclusion of either the informal or the formal sexual harassment procedure, the complainant or respondent may choose to initiate a formal grievance of the reported outcome of the complaint procedure.

### **Alternative Investigation Process**

In the event of a potential or actual conflict of interest on the part of the Affirmative Action Officer, or if requested by the complainant or respondent, the President may appoint an alternate individual to conduct the investigation and issue a report of findings and recommendations as set forth in this policy.

Alternatively, the President may appoint an *ad hoc* panel to conduct the investigation and issue a report of findings and recommendations. This investigation panel shall consist of a chair and four members, two males and two females. The chair will normally be non-voting, but will cast the tie-breaking vote when necessary. The purpose of the panel is to determine, to the best of its ability, the facts regarding the alleged sexual harassment. Prior to the hearing, the panel will meet to determine procedures for the conduct of the hearing in consultation with the parties involved. The panel will hear the complainant, the respondent, and witnesses identified by each party, and will examine all evidence it deems necessary. The rights of all parties will be observed and confidentiality will be protected to the fullest extent possible.

At the conclusion of its investigation and within twenty-one calendar days of receipt of the complaint, the panel will issue a written report to the President and to the appropriate Vice President or other appropriate administrative official to whom the respondent reports. This timeline may be extended up to ten calendar days with the approval of the President or designee. If the complainant or respondent is a student, the report will also be submitted to the Vice President for Student Affairs. The panel's report will detail the statement of the allegations, the process followed in the investigation, the evidence collected in the case, the validity of the evidence, the consistency of the testimony, and the credibility of the witnesses. The administrative official(s) receiving the report will determine whether there has been a violation of the policy prohibiting sexual harassment, and will take whatever disciplinary action is necessary and appropriate.

### Appeals and Grievances

Should a complainant or respondent be dissatisfied with the findings or actions resulting from the investigation process set forth in this policy, an appeal/grievance may be presented to the President within fifteen calendar days of their receipt of the written report. The President shall take what actions s/he deems necessary to address the appeal and shall issue a determination within thirty calendar days. The decision of the President may be appealed, in writing, to the State Board of Higher Education within fifteen calendar days of receipt of the President's decision for hearing in accordance with OAR 580-21-055.

Grievances relating to action taken under this policy are subject to the grievance procedures set forth in EOU handbooks:

#### Grievance Procedure

<http://www.eou.edu/assembly/constitution/SECTIONS/12GRIEVE.HTM>

#### Formal Grievance Hearing

<http://www.eou.edu/assembly/constitution/SECTIONS/12PROC.HTM>

If a grievance is made pursuant to a collective bargaining agreement or a remedy is sought through a judicial or administrative process other than specified herein, EOU in its sole discretion may discontinue its obligations pursuant to this policy.

### Records

The Affirmative Action Officer shall maintain secure records of complaints and investigations in keeping with relevant statute, regulation and policy. Records of disciplinary actions resulting from violations of this policy shall be maintained in the student, faculty or staff records as set forth in relevant statute, regulation and policy. An annual report shall be submitted to the State Board of Higher Education identifying a summary of sexual harassment action taken on the EOU campus during the preceding academic year.

## **Sanctions**

### **Academic Employees (Faculty and Administrative Faculty)**

Academic employees found to have engaged in sexual harassment may be subject to an oral or written warning or reprimand. Sanctions more severe than an oral or written warning or reprimand, such as removal from an assigned post and reassignment, suspension or termination shall be imposed in accordance with OAR 580-21-325 through 580-21-385.

### **Classified Employees**

Classified employees found to have engaged in sexual harassment may be subject to disciplinary action in accordance with current collective bargaining agreements. If a proven incident of sexual harassment occurs, sanctions in accord with the progressive discipline concept shall be instituted, including written reprimand, suspension, reductions of pay, demotion, and finally, termination of service.

### **Students**

Students found to have engaged in sexual harassment may be subject to sanctions under the Student Code of Conduct, OAR 579-040-005 through 579-040-0045. These sanctions may include a warning, required educational activities, restrictions, disciplinary probation, suspension and/or expulsion.

### **Malicious and False Accusations**

A complainant whose allegations are found to be both false and brought with malicious intent will be subject to disciplinary action, which may include, but is not limited to, written warning, demotion, transfer, suspension, probation, dismissal or expulsion.

### **Definitions:**

Heterosexism: language, behavior, etc., which assumes that heterosexuality is the only acceptable form of sexual expression and therefore disparages persons that do not identify as heterosexual.

## **REVIEW OF SEXUAL HARASSMENT POLICY**

**The policy will be reviewed by the university on a biennial basis.**

### **Sexual Harassment Policy Training**

**All employees (including Faculty, Administrative faculty, and staff) and students will receive training pertaining to the sexual harassment policy on an annual basis beginning in the fiscal year of 2005. The Provost working with other vice presidents and consulting with faculty, staff, and student groups will develop this training.**