



OREGON COLLEGE *of* ORIENTAL MEDICINE

ocom.edu | 75 NW Couch Street, Portland, OR 97209 | 503-253-3443

Discriminatory Harassment, Sexual Misconduct and Retaliation Policy

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I. INTRODUCTION

Oregon College of Oriental Medicine (OCOM) is committed to maintaining environments that enable a free and diverse community in which students, faculty^[1], and staff can learn, work and express themselves. Membership in the OCOM community imposes obligations on students, faculty, and staff to respect the dignity and autonomy of others and to treat one another civilly and without regard to factors irrelevant to participation in the life of the College.

This policy details and explicitly prohibits specific forms of harassment and encourages the reporting of these prohibited behaviors. OCOM will work to prevent them and their recurrence, and to correct any discriminatory effects on a complainant or others.

The prohibitions within this policy may appear to place a kind of restriction on academic freedom and individual freedom of expression. Since such freedom requires an atmosphere of trust and mutual confidence, dishonesty, intimidation, harassment, exploitation, and the use or threat of force are incompatible with the preservation of this freedom.

Except as otherwise specified herein, this policy applies to faculty, staff, students, and agents of the College while in their representative role. It also applies to patients, visitors, contractors and subcontractors, as well as to any other person who participates in or benefits from OCOM programs and activities, whether on or off campus, including academic, educational, extra-curricular, and workplace programs and activities, and to any person using OCOM premises. This policy covers behavior that occurs outside of OCOM-sanctioned events or OCOM properties when it impacts an individual's ability to access or benefit from OCOM programs and activities.

OCOM acknowledges and intends to comply with its legal responsibilities in all its programs and activities. This policy is required by, and is as a whole intended to be consistent with, Title IX of the Education Amendments of 1972, 34 CFR Part 106, and any other applicable law or regulation that prohibits discrimination on the basis of any legally protected category in the educational programs or activities of colleges and universities, in employment, or in any other relationship which is governed by law. OCOM also acknowledges and intends to comply with its legal responsibilities under federal or Oregon law, including the reporting responsibilities of the Clery Act, 34 CFR 668.46. If any provisions of this policy are contrary to or interfere with any applicable law, that law will supersede the inconsistent policy provisions. Behavior violating this policy may also separately violate federal, state, or other law; it may also violate other policies of the College.

Because of the close connection between this policy and Title IX, significant parts of the policy's enforcement are overseen by OCOM's Title IX Coordinator. Contact information may easily be found on the Title IX Resource Page and other places on the College's website. See the Title IX Resource Page (www.ocom.edu/titleix) for sources of help with questions about this policy.

II. NOTICE OF NON-DISCRIMINATION

OCOM recognizes the individual dignity of each employee, student, patient, volunteer, and job applicant. OCOM does not discriminate on the basis of race, color, religion, sex, national origin, age, disability, marital or

^[1] All references to "faculty" include teaching assistants.

familial status, sexual orientation, gender identity, veteran status, or any other basis prohibited by local, state, or federal law. OCOM does not consider any of the above attributes in administration of its employment policies, educational policies, admissions policies, scholarship and loan program, and other school-administered programs. In its policies and actions, OCOM will comply with its obligations under state and federal law including Title VI and Title VII of the 1964 Civil Rights Act, Title IX of the 1972 Education Amendments Act, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (ADA), the Uniformed Services Employment and Reemployment Rights Act (USERRA), Oregon Revised Statutes, and any other applicable law.

III. USE OF A REASONABLE PERSON STANDARD

The College will use a “reasonable person” standard when applying the definitions herein and in investigating reports and complaints of violations of this policy, both in determining facts and in assessing culpability.

A “reasonable person” is a hypothetical person who is level-headed and rational, aware of community norms, and not under the influence of a judgment-impairing substance.

This standard can be used in different ways throughout the investigation and adjudicative process. For example, since the standard is referred to in the definition of prohibited discriminatory harassment, parties investigating a report or formal complaint of discriminatory harassment will use the reasonable person standard by assessing the situation from the perspective of a reasonable person as defined above to decide if the behavior constitutes a violation of this policy. As another example, parties may use the reasonable person standard when assessing whether a reasonable person in the same context as the respondent would believe that they had consent in that context.

IV. GENERAL DEFINITIONS USED IN THIS POLICY

For purposes of this policy, certain terms are defined in a specific way. The following definitions apply where the defined terms are used in this policy, regardless of whether the terms have a different meaning in other contexts.

Agents of the College: Individuals serving as official representatives for the College in any unpaid or paid capacity.

Complainant: An individual who makes a report or a formal complaint regarding violation(s) of College policy.

Faculty: A member of the teaching or research staff who holds an academic appointment, including teaching assistants (TAs), those on visiting appointments and those on sabbatical or leave. It also includes visiting scholars and emeriti faculty who are teaching or who have an office on campus.

Respondent: An individual alleged to have violated College policy, who has been named as such in a report or a formal complaint.

Staff: Individuals employed by OCOM who are not members of the faculty.

Student: An individual who is currently enrolled, registered, on leave of absence, or has made arrangements with the Business Office to pay tuition and fees.

V. DISCRIMINATORY HARASSMENT

Discriminatory harassment is unwelcome verbal, written, visual, or physical conduct based on or motivated by an individual’s or group’s actual or perceived affiliation with a protected class or category. See section II of this policy for a list of protected classes or categories.

Discriminatory harassment violates this policy if it is sufficiently severe, pervasive, or persistent that it either (1) denies, interferes with, or limits a person’s ability to participate in or benefit from the College’s programs or activities; or (2) creates a learning or working environment that a reasonable person would consider

intimidating, hostile, or offensive. Whether conduct constitutes prohibited discriminatory harassment depends upon the context of the conduct, and is a matter that is to be evaluated from the perspective of a reasonable person. The present section includes coverage of discriminatory harassment that is based on sexual orientation or gender identity, whether or not the harassing behavior is itself sexual in nature. Section VI addresses, in detail, discriminatory harassment that is sexual in nature.

Discriminatory harassment can be carried out by various means, from the use of offensive or intimidating references to a protected class (such as with slurs, epithets, or asserting offensive stereotypes) to outright threats, and by way of various mechanisms or media, whether verbal, non-verbal, written, visual, electronic or other.

VI. CONSENT AND SEXUAL MISCONDUCT

Sexual misconduct is defined as any non-consensual sexual contact or act that violates the rights of another. Sexual misconduct typically involves acts that are severe, persistent and pervasive, but also may be a one-time occurrence. Examples of sexual misconduct include non-consensual sexual contact, non-consensual sexual intercourse, sexual assault, domestic violence, dating violence, intimate partner or relationship violence, sexual exploitation, bullying, stalking, cyberbullying and sexual harassment.

Several categories of sexual misconduct are addressed below, including sexual assault, sexual exploitation, and sexual harassment. This section begins with a discussion of the crucial concept of consent, and ends with a discussion of relationships among faculty, staff, and students.

A. Consent

Consent is defined here as conscious, relevantly informed, and fully voluntary agreement to, or permission for, an act. The following points should be emphasized:

- To consent is to actively agree to, or actively give permission for, something. Though this may require explicit verbal discussion, especially in unfamiliar situations, consent can be communicated nonverbally, especially in the space of mutual recognition created by a stable, ongoing relationship. To consent is not to be in a passive state.
- Silence or inaction do not, in and of themselves, communicate consent. The absence of an explicit denial of consent does not constitute consent.
- Consent to one form of sexual activity does not by itself constitute consent to any further sexual activity.
- A person's consent to an ongoing activity can be removed by that person at any time.
- Previous or ongoing sexual relationships or encounters do not in themselves constitute consent to any current sexual acts.
- Consent cannot be forced or coerced; agreement or permission due to threat, implied threat, or intimidation does not constitute consent.
- A person who is incapacitated – whose judgment is seriously impaired by alcohol, other drugs, or other factors, such as lack of sleep – cannot give consent.
- Oregon state law considers persons under the age of 18 to be “incapable of consenting to a sexual act” (ORS §163.315.) and states that if lack of consent is solely a result of the age of the victim, it is a defense to certain crimes that the actor was less than three years older than the victim at the time of the alleged offense (ORS § 163.345).

B. Sexual Assault

Sexual assault is defined in this policy as non-consensual sexual contact or non-consensual sexual intercourse.

Sexual contact is any intentional touching of another person in a sexual manner, however light or momentary, whether that touching is direct or indirect. Sexual contact includes, but is not limited to:

- touching, in a sexual context or manner, another person's breast, buttock, groin, or genitals;
- touching, in a sexual context or manner, another person using one's own breast, buttock, groin, or genitals;

- physically causing another person to touch themselves or another with or on the breasts, buttocks, groin or genitals; or
- any intentional bodily contact made in a sexual manner, even though not involving contact with, of, or by the breasts, buttocks, groin, genitals, mouth or other orifice.

Sexual intercourse is vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight or momentary the penetration.

Sexual assault (i.e., non-consensual sexual contact or intercourse) is prohibited by this policy.

Hence, those engaging in sexual activity must ensure that the consent of anyone else involved in that activity is present. Again, see section A, above, for a discussion of consent.

For more information about the pertinent Oregon statutes on sex offenses, see ORS §163.305-479.

C. Sexual Exploitation

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another person for their own advantage or benefit, or for the benefit or advantage of anyone else. Sexual exploitation includes but is not limited to:

- Non-consensual video or audio-recording of sexual activity, or allowing a third party to observe consensual sex without all parties' knowledge of and consent to that observation;
- Prostituting another member of the College community;
- Sharing, without consent, sexually explicit images of another member of the College community (including sharing images obtained consensually but shared without consent of the person(s) in the image);
- Obtaining, owning, or sharing sexually explicit images of a minor;
- Engaging in watching or otherwise recording a person for one's own sexual gratification when that person is in a place where they would have a reasonable expectation of privacy;
- Knowingly endangering the health of another person by exposing them to a sexually transmitted infection (STI) or HIV/AIDS without notifying that person in advance;
- Non-consensual exposure of one's genitals or inducing another to engage in such exposure, or other acts of nudity, when these acts interfere with or limit a person's ability to participate in or benefit from the College's programs and activities.

Sexual exploitation is prohibited by this policy.

D. Sexual Harassment

Sexual harassment is any unwelcome conduct of a sexual nature. It can take many forms, and includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. (Although sexual assault and sexual exploitation have been addressed specifically, acts in those categories can also be unwelcome conduct of a sexual nature and therefore may constitute sexual harassment and discriminatory harassment.)

Sexual harassment is unlawful and violates this policy if it is sufficiently severe, persistent or pervasive that it either (1) denies, interferes with, or limits a person's ability to participate in or benefit from the College's programs or activities; or (2) creates a learning or working environment that a reasonable person would consider intimidating, hostile, or offensive. Harassment in which submission to conduct of a sexual nature is made either explicitly or implicitly a term or condition of an individual's education, employment or participation in any program (*quid pro quo* harassment) is unlawful and is a violation of this policy. A single incident of any form of harassment or other misconduct may create a hostile environment.

E. Prohibited And Inappropriate Consensual Relationships

Romantic or sexual relationships that might be appropriate in other contexts may be inappropriate within the College community.

Faculty-Student Relationships

Faculty members have many professional roles with students: instructor, mentor, supervisor, evaluator, advisor, tutor and these represent the heart of the educational process in a college environment. As a matter of sound judgment and professional ethics, faculty members have a responsibility to avoid any apparent or actual conflict between their professional responsibilities and personal relationships with students.

When a faculty member or teaching assistant has a romantic and/or sexual relationship with a student, a conflict of interest arises. Because OCOM is a small campus, and the nature of classes and clinic is often intimate and personal, there may be a greater likelihood of feelings of intimacy and attraction than in some settings. Therefore, the need for clear boundaries is even greater than at a larger College.

An excerpt from the College of Michigan's policy explains the risks very clearly:

"Romantic/sexual relationships between faculty members and students can pose risks to the faculty member, the student, or to one or more third parties. When a student voluntarily consents to such a relationship, it is suspect because of the unequal power dynamic. Such relationships can also lead the student to file a claim of sexual harassment if he or she feels exploited. In addition, other faculty members, staff members, or students may worry about undue advantage or unfavorable treatment as a result of the relationship. These concerns can damage the educational environment whether the favoritism is real or perceived."

Therefore, OCOM's policy on faculty-student relationships is as follows:

No faculty member or teaching assistant shall have a romantic/sexual relationship with any OCOM student while the student is enrolled at OCOM, regardless of whether the relationship is consensual. This policy applies to all enrolled OCOM students and is not limited to students who are currently enrolled in a faculty member's class or section, or under the supervision of a faculty member. It also applies to students who are on a leave of absence.

If the administration is informed of such a relationship, the report will be investigated. If this investigation confirms the report, the faculty member or teaching assistant may be subject to disciplinary action, up to and including termination of employment.

Staff-Student Relationships

Intimate relationships between staff employees and students are generally inappropriate and are strongly discouraged, however this policy does not expressly prohibit them.

Any staff employee who forms or maintains an intimate relationship with an enrolled student must inform their manager, in writing, of the relationship. The employee and manager will meet with the Chief Human Resources Officer to develop a plan of action which will outline measures to safeguard the best interests of all parties — the student, the employee, and the college.

Employee-Employee Relationships

Intimate relationships between consenting employees are prohibited when a direct or indirect reporting association exists between them. This means that OCOM employees are prohibited from participating in an intimate relationship with any other college employee in their management chain.

Consideration of Prior Consensual Relationship in Complaint Procedures: Members of the community are reminded that the existence of a prior consensual relationship is not, in and of itself, a defense to a complaint of inappropriate conduct or violations of OCOM policy. Romantic or sexual relationships may be consensual at the outset, but consent may be withdrawn at any time. Any complaint will be evaluated based on its entire context including the nature of the relationship at the time of the conduct in question.

VII. OTHER PROHIBITED CONDUCT

Other harassing conduct violates this policy if it is sufficiently severe, pervasive, or persistent that it either (1) denies, interferes with, or limits a person's ability to participate in or benefit from the College's programs or

activities; or (2) creates a learning, working, or living environment that a reasonable person would consider intimidating, hostile, or offensive. Such harassment may include:

- violence or threat of violence, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of a member of the OCOM community, regardless of the relationship status of the parties;
- bullying, defined as repeated or aggressive behavior likely to intimidate, discomfort, or hurt another member of the OCOM community, physically or mentally;
- stalking, defined as repetitive, alarming, or menacing pursuit, harassment, or interference with the peace of mind or perceived safety of members of the community, or the perceived safety of their immediate family members or pets.

Furthermore, the use of College facilities, resources, and/or technology to engage in any behavior that violates this policy is prohibited.

In addition to the explicit prohibitions in this policy, *attempts* to commit an explicitly prohibited act that take a substantial step towards the commission of the act, in themselves constitute misconduct in violation of this policy.

VIII. RETALIATION

Retaliation is prohibited by federal and state law and by this policy. No one at the College may reprimand, retaliate, take any adverse action, or discriminate against an individual for having opposed unlawful conduct, initiated a report or complaint, provided information as a witness, or participated in the resolution of a report or complaint regarding potential violations of this policy.

Acts may be retaliatory if they reasonably act as, or could act as, a deterrent to further protected activity, for example, by

- disadvantaging or restricting a person in that person's status as a student, employee, patient, or visitor or in the ability to gain benefits or opportunities available at the College;
- precluding a person from pursuing discrimination claims;
- ostracizing a person who has complained or participated as a witness or otherwise;
- pressuring someone to drop or not support a complaint or to provide false or misleading information; or
- adversely altering the educational or work environment of someone who has complained or participated in the complaint process.

IX. REPORTING

Reporting to the Portland Police is NOT required of any victim of sexual assault, domestic or interpersonal violence with the exception of child or elder abuse. However, reporting to the Portland Police is always an option.

Any reports of sexual misconduct towards or of a MINOR MUST be reported directly to campus safety and security and/or the Portland Police Bureau immediately. There are no exceptions to this policy. The Portland Police Bureau's non-emergency phone number is: 503-823-0000.

On-Campus Reporting Options:

Reporting experienced, observed, or disclosed harassment or apparent violations of this policy, is strongly encouraged. Any student who believes that they are being or may be subjected to sexual harassment, discrimination, or misconduct in violation of this policy should immediately report it to any one of the following:

- Title IX Coordinator
- Dean of Students
- Dean of Master's Studies
- Associate Dean of Clinical Education
- Assistant Dean of Master's Studies
- Dean of Doctoral Studies
- Associate Dean of Doctoral Studies

Reports can also be filed online at <http://www.ocom.edu/titleix>. Any report submitted online should include a summary of the incident (**anonymous reports are accepted**) and referrals provided to the complainant within 24 hours of interaction to the Title IX Coordinator (or designee thereof) or program dean. Information should not be shared with ANY department, faculty, or administrator unless requested by the student or determined by the Title IX Coordinator. Upon receipt of the report, the Title IX Coordinator will determine if there is a campus safety issue and act accordingly, as well as determine next steps of action.

Reporting is not the same as filing a formal complaint (though, for some purposes, a formal complaint may function both as a report and a formal complaint). This and the following three sections give additional information on reporting an incident, how to proceed with informal or formal complaints, and considerations of amnesty and confidentiality.

All internal reports will receive prompt attention. In response to the nature of the report, the Title IX Coordinator (or designee thereof) will determine the type of investigation to follow. Investigations will not in themselves result in disciplinary action; disciplinary action may arise only through the resolution of formal complaints. Investigations may yield the initiation of a formal complaint by the Title IX Coordinator (or designee). During the investigation of a report, non-disciplinary steps may be taken to protect individuals from harassment, such as separating an alleged harasser from someone alleged to have been harassed. Investigations of reports may yield a response by the College that is non-disciplinary in nature, but designed to remedy or to prevent prohibited harassment.

In addition to assessing individual reports, the Title IX Coordinator (or designee) will review reports in the aggregate in order to discover and address patterns of behavior that create or threaten to create a hostile environment.

Off-Campus Resources

- Portland Police Bureau: 911 or 503-823-3333
- Portland Women's Crisis Line: 888-235-5333
- Sexual Assault resource Center: 503-640-5311
- Multnomah County Crisis Line: 503-988-4888
- Oregon Health and Science University (OHSU) Emergency Room: 503-494-7551
- Multnomah County Victim Assistance: 503-988-3222

X. AMNESTY

Amnesty is intended to support the practice of students reporting incidents of prohibited discriminatory harassment, sexual misconduct, and other violations of this policy, and to protect student safety. Individuals experiencing or witnessing violations of this policy while themselves violating another College policy (for example, policy concerning drug use) are encouraged to report the violations of this policy that they experienced or witnessed. Normally, the College will not impose disciplinary sanctions for the other policy violation(s), provided those violations did not put the health and safety of any other person at risk. (In appropriate circumstances, the College may even grant amnesty for other violations that did put the health and safety of another person at risk.) The Title IX Coordinator (or designee) is responsible for determining whether amnesty applies in any given circumstance.

XI. CONFIDENTIALITY

OCOM recognizes its obligations to adopt, implement and enforce policies and protocols to address discrimination, sexual misconduct and discriminatory harassment, but also understands that its responsibilities are at times inconsistent with the desires of complainants, witnesses, or others to maintain confidentiality and individual privacy. Anonymous reports are accepted.

Members of the community should understand that there can be circumstances in which acts that constitute policy violations are handled externally (in addition to or separate from internal handling) and, as a result, the College may not always have control over confidentiality. For example, acts that constitute policy violations may also lead to criminal proceedings or civil lawsuits, in which affected or knowledgeable individuals may be required to provide information or testimony.

The following are guidelines that summarize how confidentiality will be addressed. In all cases OCOM will comply with applicable law if that law imposes obligations that are different from this policy.

A. General inquiries

Any individual may make a confidential, nonspecific inquiry about policies or procedures to a College official. Inquiries about the application of Title IX may be referred to the Title IX Coordinator or designee thereof.

B. Medical or mental health professionals

Under most circumstances, communications between a person seeking care and a medical or mental health professional are confidential. The medical licensed professionals at OCOM respect and protect confidential communications from patients, students, faculty, and staff to the extent they are legally able to do so. There may be some situations, however, when these professionals are not permitted to hold information in confidence; for example, the professional may not be permitted to keep confidential information about an immediate and serious threat to any person or property. In addition, if information is provided to a licensed professional outside of the patient/practitioner relationship, that professional may not be permitted to keep it confidential.

C. Confidentiality and victims of policy violations

The College is sensitive to the interests of alleged victims who do not wish their names or other identifiable information to be disclosed to anyone else. In such circumstances, the College will attempt to respect these wishes, but may be limited in its ability to respond to a report or complaint while doing so. Further, OCOM must consider its responsibility to provide a safe and non-discriminatory environment for all students, faculty, staff, patients, and visitors, attending to such factors as the seriousness of the alleged conduct, whether there have been other complaints against the same individual, and the extent of any threat to the College community; because of these considerations, it may not always be able to respect the wish for complete confidentiality.

D. Confidentiality and reporters and witnesses

OCOM will endeavor to protect the confidentiality of individuals who provide information about policy violations but must also comply with its obligations and responsibilities under this policy and applicable law. Members of the community should understand that the College has obligations to investigate reports of policy violations and to take reasonable steps to prevent prohibited discrimination, discriminatory harassment, sexual misconduct, or retaliation, and that the desire for confidentiality can conflict with these obligations.

E. Confidentiality and respondents

OCOM will similarly attempt to protect the confidentiality of respondents, again to the extent that it can while complying with its obligations, during and after investigation and formal complaint resolution. Applicable law can limit the protection of the confidentiality of respondents in particular.

XII. PROCEDURES FOR THE RESOLUTION OF COMPLAINTS

Overview of Reports Concerning Discrimination and/or Harassment

The College does not permit discrimination or harassment in its programs and activities on the basis of race, color, national origin, sex, gender identity, gender expression, sexual orientation, disability, veteran status, predisposing genetic characteristic, age, religion, pregnancy status or any other characteristic protected by College policy or state, local, or federal law. Anyone who believes they have been subjected to discrimination or harassment in violation of this policy should follow the procedure outlined in this policy to report these concerns.

This process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the College will initiate an investigation that is thorough, reliable, impartial, prompt and fair. This investigation determines whether the College nondiscrimination policy has been violated. If so, the College will promptly implement an effective remedy designed to end the discrimination, prevent its recurrence and address its effects.

The College aims to bring all allegations to a resolution within a sixty (60) business day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator with notice to the parties.

Interim Remedies/Actions

The Title IX Coordinator (or designee thereof) may provide interim remedies intended to address the short-term effects of harassment, discrimination and/or retaliation, i.e., to redress harm to the alleged victim and the community and to prevent further violations. The College will keep interim remedies and actions as private as possible.

These remedies may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Offering adjustments to academic deadlines, course schedules, etc.
- Altering work arrangements for employees
- Implementing contact limitations between the parties
- Education to the community

The College may interim suspend a student, employee or organization pending the completion of an investigation and resolution, particularly when in the judgment of the Title IX Coordinator, the safety or well-being of any member(s) of the campus community may be jeopardized by the on-campus presence of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension is imposed, the student, employee or student organization will be given the opportunity to meet with the Title IX Coordinator prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Title IX Coordinator will work with the appropriate administrator(s) to implement or stay an interim suspension and to determine its conditions and duration. Violation of an interim suspension under this policy is grounds for expulsion or termination.

During an interim suspension or administrative leave, a student or employee may be denied access to College campus/facilities/events. This restriction can include classes and/or all other College activities or privileges for which the student might otherwise be eligible. Alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.

The College will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the College's ability to provide the accommodations or protective measures.

Formal and Informal Resolution Procedure for Reports of Misconduct

This procedure applies to any member of the College community (student, faculty, staff, administration) who engages in discrimination or harassment. Any person can report alleged harassment or discrimination, including faculty, students, staff, administration, guests, visitors, etc. All allegations of misconduct not involving

harassment or discrimination will be addressed through the procedures elaborated in the respective student, faculty and employee handbooks.

Informal Resolution

Before pursuing the Formal Resolution Process, every reasonable effort should be made to constructively resolve conflict with students, faculty, staff, or administrators. Informal resolution means that no formal investigation occurs and disciplinary action is not required to remedy the situation. The person impacted should keep a written log that can aid in later investigation and resolution. Whenever possible and safe, the problematic behavior, conflict or misconduct should first be discussed by the impacted person and the person engaged in the problematic behavior, conflict or misconduct. The Title IX Coordinator will facilitate such conversations, upon request, and monitor them for safety. Various conflict resolution mechanisms are available, including mediation. Mediation is not used when violent behavior is involved, when the Coordinator determines a situation is not eligible, or the parties are reluctant to participate in good faith. The College does not require an impacted party to contact the person involved or that person's supervisor if doing so is impracticable, or if the impacted party believes that the conduct cannot be effectively addressed through informal means.

If informal efforts are unsuccessful, the formal resolution process may be initiated. An individual may opt to pursue the formal process at any time. However, the Title IX Coordinator may institute a formal process at any time if they determine that the conduct that is described in the complaint is severe, part of a pattern of persistent misconduct, and/or presents a safety concern to the broader College community.

Formal Resolution Process for Reports of Misconduct by Employees

The College formally will resolve complaints that allege severe misconduct or a pattern of persistent misconduct. Formal resolution involves the submission of a written complaint, a formal investigation into the facts alleged in the complaint, and the possibility of the imposition of disciplinary action on the respondent.

The **Title IX Coordinator** is designated to formally investigate reports or notice of discrimination and/or harassment by employees, to address inquiries and coordinate the College's compliance efforts regarding employee-related reports.

Any member of the community can provide notice of discrimination and/or harassment in person, by phone, via email, or in writing to: **Stephanie Driggs**, 75 NW Couch Street, Portland, OR 97209; **stephanie.driggs@ocom.edu**; 503-253-3443 x137. Discriminatory harassment, sexual misconduct and retaliation complaints can also be made online at: **<http://www.ocom.edu/titleix>**.

The following are recommended elements of a report:

- Clear and concise description of the alleged incident(s) (e.g.: when and where it occurred);
- Any supporting documentation and evidence;
- Clear demonstration of all informal efforts, if any, to resolve the issue(s) with the person involved and the person's supervisor;
 - This includes names, dates and times of attempted or actual contact along with a description of the discussion and the manner of communication made in the course of each effort;
 - If contacting the person involved and/or the supervisor is impracticable, the reporting party should state the reasons why;
- The desired remedy sought;
- Name and all contact information for the reporting party;
- Signed (or submitted online) by the reporting party.

If the reporting party wishes to pursue a formal resolution or if the College, based on the alleged policy violation, wishes to pursue a formal resolution, then the Title IX Coordinator appoints trained investigators (typically using a team of two investigators), to conduct the investigation, usually within two business days of determining that a resolution should proceed. Investigations are completed expeditiously, normally within 10-14 business days of the completion of the preliminary inquiry by the Title IX Coordinator. Investigations may take longer when, for example, initial reports fail to provide direct first-hand information or in complex situations.

The College's resolution will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. However, the College may undertake a short delay (several days to weeks) in its investigation or resolution process, to comply with a law enforcement request for cooperation (e.g.: to allow for criminal evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The College will promptly resume its investigation and processes once notified by law enforcement that the initial evidence collection process is complete.

All investigations will be thorough, reliable and impartial, and will entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, if necessary.

The investigator will take the following steps (not necessarily in order):

- Determine the identity and contact information of the reporting party;
- Identify the exact policies allegedly violated;
- Conduct an immediate initial inquiry to determine if there is reasonable cause to charge the responding party, and what policy violations should be alleged as part of the charge;
 - If there is insufficient evidence to support reasonable cause, the report will be closed with no further action;
- Meet with the reporting party to finalize their statement, and
- Prepare the notice of charges on the basis of the initial inquiry;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline of 10-14 business days;
- Provide regular updates to both the reporting and responding parties, as appropriate, throughout the investigation;
- Make a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not) and prepare a draft report of finding
- Share draft report of finding with all parties, allowing for a period of comment before the report is finalized;
- Share the final report of findings with the responding and reporting parties.

At any point during the investigation, if it is determined there is no reasonable cause to believe that College policy has been violated, the Title IX Coordinator has authority to terminate the investigation and end resolution proceedings.

Where the responding party is found not responsible for the alleged violation(s), the investigation will be closed. Where a violation is found, the College will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the College community. All parties will receive written notification of the outcome, to the extent permitted by or mandated by law. In cases involving sexual misconduct, sexual harassment, stalking and/or intimate partner violence, the written notification includes the finding, any resulting responsive actions, and the rationale for the decision. This written notification of final decision is delivered to the parties without undue delay between the notifications and explains appeals options.

Formal Resolution Process for Reports of Misconduct by Students

The Title IX Coordinator is designated to formally investigate reports of discrimination and/or harassment by students, to address inquiries and to coordinate the College's compliance efforts regarding reports of misconduct by students, regardless of the College role of the reporting party, who may be another student, faculty, staff, patient, guest or visitor.

Notice of a formal report can be made in person, by phone, via email or in writing to: **Stephanie Driggs**, 75 NW Couch Street, Portland, OR 97209; **stephanie.driggs@ocom.edu**; 503-253-3443 x137. Discriminatory

harassment, sexual misconduct and retaliation complaints can also be made online at: <http://www.ocom.edu/titleix>. Upon receipt of a report, the Title IX Coordinator will confer with the appropriate administrator on interim action, accommodations for the reporting party (at no cost to the reporting party where possible), or other necessary remedial short-term actions.

If the reporting party wishes to pursue a formal resolution or if College, based on the alleged policy violation, wishes to pursue a formal resolution, then the Title IX Coordinator appoints trained investigators (typically using a team of two investigators), to conduct the investigation, usually within 2 business days of determining that a resolution should proceed. Investigations are completed expeditiously, normally within 10-14 business days of notice to the Title IX Coordinator. Investigations may take longer depending on their nature or complexity.

The College's resolution will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. However, the College may undertake a short delay (several days to weeks) in its investigation or resolution process, to comply with a law enforcement request for cooperation (e.g.: to allow for criminal evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The College will promptly resume its investigation and processes once notified by law enforcement that the initial evidence collection process is complete.

All investigations will be thorough, reliable and impartial, and will entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, if necessary.

The investigators will take the following steps (not necessarily in order):

- Determine the identity and contact information of the reporting party;
- Identify the exact policies allegedly violated;
- Conduct an immediate initial inquiry to determine if there is reasonable cause to charge the responding party, and what policy violations should be alleged as part of the report;
 - If there is insufficient evidence to support reasonable cause, the inquiry should be closed with no further action;
- Meet with the reporting party to finalize their statement and
- Prepare the notice of charges on the basis of the initial inquiry;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline of ten (10) business days;
- Provide regular updates to both the reporting and responding parties, as appropriate, throughout the investigation;
- Make a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not) and prepare a draft report of finding
- Share draft report of finding with all parties, allowing for a period of comment before the report is finalized;
- Share the final report of findings with the responding and reporting parties;

The responding party may accept the findings, accept the findings in part and reject them in part, or may reject all findings.

At any point during the investigation, if it is determined there is no reasonable cause to believe that College policy has been violated, the Title IX Coordinator has authority to terminate the investigation and end resolution proceedings.

Where the responding party is found not responsible for the alleged violation(s), the investigation will be closed.

Where the responding party is found responsible and accepts the finding of the investigation, the appropriate administrator will impose appropriate sanctions for the violation, after consultation with the Title IX Coordinator,

when applicable. The College will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the College community.

The parties will receive written notification of the outcome, to the extent permitted or mandated by law. In cases involving sexual misconduct, sexual harassment, stalking and/or intimate partner violence, the written notification includes the finding, any resulting sanctions, and the rationale for the decision. This written notification of final decision is delivered to the parties without undue delay between the notifications, explains appeals options and procedures, and any changes to the results that could occur before the decision is finalized.

In the event that the responding party is found responsible and rejects the findings in part or entirely, the appropriate administrator will convene a hearing panel (composed of the administrator and two Title IX investigators) to determine whether the responding party is in violation of the contested aspects of the report. At the hearing, the findings of the investigation will be admitted, but are not binding on the decider(s) of fact. The investigator(s) may give evidence. The hearing will determine whether it is more likely than not that the responding party violated the policies forming the basis of the charge. The goal of the hearing is to provide an equitable resolution via an equitable process, respecting the civil and legal rights of all participants.

The hearing panel has final decision-making authority with regard to formal reports, subject to appeal. Where the responding party is found in violation as the result of a hearing, the appropriate administrator will impose appropriate sanctions for the violation, after consultation with the Title IX Coordinator, when applicable. The College will act to end the discrimination, prevent its recurrence, and remedy its effects on the victim and the College community.

Appeal proceedings as described below apply to all parties to the report. The parties will receive written notification of the outcome of the hearing, to the extent permitted or mandated by law. In cases involving sexual misconduct, sexual harassment, stalking and/or intimate partner violence, the written notification includes the finding, any resulting sanctions, and the rationale for the decision. This written notification of final decision is delivered to the parties without undue delay between the notifications, explains appeals options and procedures, and any changes to the results that could occur before the decision is finalized.

Participation of Advocate in the Resolution Process

All parties are entitled to an advocate of their choosing to guide and accompany them throughout the campus resolution process. The advocate may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is both eligible and available. People who will be called as witnesses may not serve as advocates.

The parties are entitled to be accompanied by their advocate in all meetings and interviews at which the party is entitled to be present, including intake, interviews, hearings and appeals. Advocates should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. The College cannot guarantee equal advisory rights, meaning that if one party selects an advocate who is an attorney, but the other party does not, or cannot afford an attorney, the College is not obligated to provide one.

Reporting parties may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>), or
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association

Responding parties may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>)

All advocates are subject to the same campus rules, whether they are attorneys or not. Advocates may not present on behalf of their advisee in a meeting, interview or hearing and should request or wait for a break in the proceeding if they wish to interact with campus officials. Advocates may confer quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advocates should ask for breaks or step out of meetings to allow for private conversation. Advocates will

typically be given a timely opportunity to meet in advance of any interview or hearing with the administrative officials conducting that interview or meeting. This pre-meeting will allow advocates to clarify any questions they may have, and allows the College an opportunity to clarify the role the advocate is expected to take.

Advocates are expected to refrain from interference with the College investigation and resolution. Any advocate who steps out of their role in any meeting under the campus resolution process will be warned once and only once. If the advisor [or advocate] continues to disrupt or otherwise fails to respect the limits of the advisor role, the advocate will be asked to leave the meeting. When an advocate is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the advocate may be reinstated, may be replaced by a different advocate, or whether the party will forfeit the right to an advocate for the remainder of the process.

The College expects that the parties will wish the College to share documentation related to the allegations with their advocate. The College provides a consent form that authorizes such sharing. The parties must complete this form before the College is able to share records with an advocate. The parties are not otherwise restricted from discussing and sharing information relating to allegations with others who may support them or assist them in preparing and presenting. Advocates are expected to maintain the privacy of the records shared with them by the College. These records may not be shared with 3rd parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any advocate who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

The College expects an advocate to adjust their schedule to allow them to attend College meetings when scheduled. The College does not typically change scheduled meetings to accommodate an advocate's inability to attend. The College will, however make provisions to allow an advocate who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advocates during the process, and is not locked into using the same advocate throughout.

The parties must advise the investigators of the identity of their advocate at least two (2) business days before the date of their first meeting with investigators. The parties must provide subsequent timely notice to the investigators if they change advocates at any time. No audio or video recording of any kind other than as required by institutional procedure is permitted during meetings with campus officials.

Requesting an Appeal

In the event that the responding party accepts the findings of the investigation, those findings cannot be appealed. Post-investigation, sanctions imposed by the appropriate administrator can be appealed by any party whether or not the responding party accepts the findings of the investigation. Post-hearing, any party may appeal the findings and/or sanctions ONLY under the grounds described below.

All sanctions imposed by the original administrator will be in effect during the appeal. A request may be made to the appropriate administrator to delay implementation of the sanctions until the appeal is decided, but the presumptive stance of the College is that the sanctions will go into effect immediately. Graduation, study abroad, internships/externships, etc. do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal. In cases where the appeal results in reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the student to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

The decision of the hearing panel may be appealed by petitioning the Vice President of Communications and Academic Services (VPCAS). Any party who files an appeal request must do so in writing to the VPCAS, within 3 business days of receiving the written decision, for a review of the decision or the sanctions imposed. The written decision will be provided 1) in person and/or mailed to the local mailing address of the respective party as indicated in College records and emailed to the parties' College-issued email accounts. If there is no local address on file, mail will be sent to the parties' permanent address. Once received in person, mailed or emailed, the notice of decision will be deemed presumptively delivered.

The appropriate administrator will share the appeal request with the other party (e.g., if the responding party

files an appeal, the appeal is shared with the reporting party, who may also wish to file a response and/or bring their own appeal on separate grounds; this response or appeal will be shared with the initial appealing party). Based on the written requests/responses or on interviews as necessary, the VPCAS will send a letter of outcome for the appeal to all parties. The VPCAS can take one of three possible actions. The VPCAS may dismiss an appeal request as untimely or ineligible, may grant an appeal and remand the finding and/or sanction for further investigation or reconsideration, or may modify a sanction.

The original finding and sanction will stand if the appeal request is not timely or substantively eligible, and that decision is final. The party requesting appeal must show clear error as the original finding and/or a compelling justification to modify a sanction, as both finding and sanction are presumed to have been decided reasonably and appropriately during the original process.

The ONLY grounds for appeal are as follows:

1. A procedural error occurred that significantly impacted the outcome of the process (e.g. substantiated bias, material deviation from established procedures, etc.);
2. To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included;
3. The sanctions imposed fall outside the range of sanctions designated for this offense and the cumulative conduct history of the responding party.

If remanded to re-open the investigation, the results of a revised investigation can be subsequently forwarded for reconsideration at the hearing level. If the appeal remands to the original hearing body for review, the reconsideration of the hearing body is not appealable.

In rare cases where a procedural error cannot be cured by the original hearing body (as in cases of bias), the VPCAS may order a new hearing with a new body of hearing officers. The results of a reconvened hearing cannot be appealed. The results of a new hearing can be appealed, once, on any of the three applicable grounds for appeals outlined above.

The procedures governing the hearing of appeals include the following:

- All parties should be timely informed of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision;
- Every opportunity to return the appeal to the original hearing body for reconsideration (remand) should be pursued;
- Appeals are not intended to be full re-hearings of the allegation (de novo). In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal;
- Appeals decisions are to be deferential to the original hearing body, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so;
- An appeal is not an opportunity for the VPCAS to substitute their judgment for that of the original hearing body merely because they disagree with its finding and/or sanctions.
- Sanctions imposed are implemented immediately unless the VPCAS stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
- The VPCAS will typically render a written decision on the appeal to all parties within five (5) business days from hearing of the appeal. The VPCAS's decision to deny an appeal request is final.

External remedies

The above procedures supplement, and do not replace, other remedies for acts which constitute violations of this policy. Students and employees have the option at all times to file a criminal complaint with law enforcement or to seek a civil remedy, in addition to or in place of using the College's procedures.

Individuals also always have the right to file a formal complaint with the United States Department of Education (for violations of Title VI of the *Civil Rights Act of 1964*, Title IX of the *Education Amendments of 1972*, Section 504 of

the *Rehabilitation Act of 1973*, and Title II of the *Americans with Disabilities Act of 1990*, and the *Age Discrimination Act of 1975*):

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
FAX: 202-453-6012
TDD: 800-877-8339
Email: OCR@ed.gov
Website: <http://www.ed.gov/ocr>

Or

Seattle Office for Civil Rights
U.S. Department of Education
915 Second Avenue
Room 3310
Seattle, WA 98174-1099
Telephone: 206-607-1600
FAX: 206-607-1601
TDD: 800-877-8339
Email: OCR.Seattle@ed.gov

Individuals with complaints of a violation of this policy in the context of employment (Title VII of the *Civil Rights Act of 1964*, the *Americans with Disabilities Act of 1990*, *Age Discrimination in Employment Act*, or the *Equal Pay Act*) may also file a complaint with the Equal Employment Opportunity Commission (EEOC):

Equal Employment Opportunity Commission
Seattle Field Office
Federal Office Building
909 First Avenue
Suite 400
Seattle, WA 98104-1061
Telephone: (800) 669-4000
TTY: (800) 669-6820

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