HUMAN RESOURCES / EMPLOYMENT POLICY

Discriminatory Misconduct Policy and Protocol for Employees (1.08)
(Including Harassment, Sexual Harassment/Misconduct or Illegal Discrimination)

Purpose:
Willamette University strives to provide a community where students, faculty, staff and others work, learn, and live together in an environment free of all forms of harassment, exploitation, intimidation and discrimination. Harassment and discrimination is demeaning to all persons involved, and subverts the mission of the University. Tolerance and respect for individual dignity and worth are guiding principles for our relations with each other.

The University can fulfill its distinctive mission only in an arena where ideas are vigorously debated, including those which some may find offensive, and where staff, students, and faculty respect one another's dignity in their common membership in a community of inquiry. We must take great care neither to stifle discussion nor to make it dangerous to speak one's mind. However, discriminatory harassment, as described herein, creates the potential of hostile employment or educational environments, compromising academic freedom and damaging the trust that we place in one another and will not be tolerated. Furthermore, discriminatory harassment is a violation of state and federal law.

Policy:
Willamette University prohibits and will not tolerate harassment or discrimination against any individual in the University community, including employees, applicants for employment or admission, students, volunteers, visitors, contractors, or other people engaged in University activities. This policy applies to all Willamette University employees and addresses all types of discriminatory misconduct, including harassment based on race, color, religion, sex, national origin, marital status, veteran status, veteran status, actual or perceived sexual orientation, gender identity, gender expression or status with regard to pregnancy, disability, age, or any other basis protected by applicable local, state or federal law. This prohibition includes sexual harassment and discrimination.

The University also prohibits other forms of sexual misconduct including non-consensual sexual contact, non-consensual sexual intercourse and sexual exploitation, which includes domestic violence, sexual assault, dating violence, and stalking. These prohibitions may extend to reports of such behaviors outside Willamette’s employment environment such that employees may be subject to adverse employment actions for these violations even if occurring away from the workplace.

This policy addresses discriminatory misconduct between supervisors and employees, between fellow employees, between employees and students, between employees and candidates for employment, and between third parties such as vendors or visitors and employees or students. Willamette expects contractors and other third-party employers doing business on Willamette’s campus to abide by this policy. This policy applies to conduct which is or could be a violation of Title IX (gender), Title VI (race, color and national origin-based discrimination), Title VII of the Civil Rights Act, the Rehabilitation Act and Americans with Disabilities Act (disability-based discrimination), and to any other classifications protected by federal, state law, or Willamette University policy.
Procedure:

1. Policies concerning discriminatory misconduct involving Willamette University students, whether enrolled or visiting, may be found under the student policy titled (and linked) “Sexual Misconduct Policy & Protocol for Students”. If a complaint involves both employee(s) and student(s), or a student who is also an employee of the University, a determination will be made as to the applicable policy and process. In general, if the respondent in a complaint is an employee, this policy shall govern. If the respondent is a student, the student policy shall govern. If the complaint is made by or about a student employee involved in a potential violation that has occurred in the course of his/her job, this policy will also govern. In any of these cases, both the Office of Human Resources and Campus Life will typically be involved in the process of inquiry and any investigation where both students and employees are involved in the matter as respondents or complainants.

2. Any staff member, faculty member or student who believes he or she has been the subject of discrimination or harassment by an employee of the University should report the circumstances immediately to his/her supervisor, the supervisor of the person with whom he/she is having difficulty, or the Director of Human Resources. Likewise, any employee who feels that he/she has been harassed by a student or another member of the community should report such circumstances to his/her supervisor and/or Human Resources.

3. The University will not tolerate any retaliatory treatment or adverse consequences against a person who in good faith reports harassment or discrimination, provides information related to an incident, or participates in an investigation of an incident. Retaliation is a very serious violation and will result in disciplinary action if a person is found to be in violation of this policy, up to and including discharge.

4. Reports of harassment or retaliation will be promptly, thoroughly and impartially investigated. The University may be required to act upon receiving a report, even if the claimant does not want the University to take action. Inquiries will proceed pursuant to the, Procedural Guidelines for Addressing Claims of Harassment Involving Staff or Faculty at Willamette University (1.08a), which are considered part of this policy.

5. Prompt and appropriate corrective action will be taken for any conduct determined to be in violation of this policy. Sanctions for policy violations will take into account the respondent’s history including any other policy violations, as well as the severity of the conduct found to be a policy violation and could include termination of employment. The university will take remedial action to protect against and eliminate the adverse effects of policy violations. Sanctions may include, but are not limited to warning (verbal or written), performance improvement plan, required counseling, required training or education, probation, loss of annual pay increase, loss of position or demotion, suspension with pay, suspension without pay, or termination.

6. Confidentiality will be maintained to the extent possible. Dissemination of information concerning complaints, investigations, and corrective actions will be limited to those with a legitimate operational need-to-know.

7. Any employee affected by prohibited conduct may contact the following confidential resources for aid or assistance, including assistance in deciding whether or not to come forward with a complaint:

   a. University Employee Assistance Program: (800) 433-2320
b. Salem Hospital: Sexual Assault Nurse Examiner (SANE Program): Confidential medical response, 24/7, at the Emergency Department. No appointment necessary. Location: 890 Oak St. Salem (across Bellevue St. on the south-side of campus. You have a right to have a support person during the process. Support advocates are available from the Marion County District Attorney's Office and Mid-Valley Women's Crisis Service.

c. Center for Hope & Safety: which provides support for people of all genders, is an off-campus resource which is also confidential – their 24-hour hotline is 503-399-7722 or toll free in Oregon at 866-399-7722.

d. National Sexual Assault Hotline provides anonymous and confidential support – their 24-hour hotline is 800-656-4673.

e. National Domestic Violence Hotline and online chat 800-799-7233

8. This policy is in addition to any other remedies available to a person affected by prohibited conduct which includes the right to file a criminal or civil complaint. The university will support a person’s decision to file such complaints and will provide assistance if desired. This policy is also in addition to the right to file complaints with the Office for Civil Rights of the Department of Education, the EEOC or Oregon’s Bureau of Labor and Industries (BOLI).

9. Supervisors and other University officials receiving complaints of potential harassment or other discriminatory misconduct are required to consult with the Director of Human Resources, or a responsible Vice President or Dean, immediately upon receiving a complaint. A supervisor should not attempt to resolve a complaint of harassment without assistance from the Director of Human Resources, a Vice-President or Dean, or other Human Resources designee.

Managers and supervisors are encouraged to take prompt and appropriate action to address isolated instances of conduct that might, if repeated or continued, become a policy violation. Any supervisor who has reason to suspect conduct that may constitute harassment or discrimination under this policy has happened must likewise immediately report such conduct to the Director of Human Resources, or designee. The standard in determining whether isolated instances constitute a more serious violation of our policy is based on the severity, pervasiveness, and frequency of occurrences.

10. If an employee hears about sexual misconduct occurring in the student environment (non-work), all employees are required to report it to a Title IX officer. Any reports of sexual misconduct may also be made through the University’s online sexual misconduct reporting form.

11. If the report involves the sexual abuse of a minor (under the age of 18), in accordance with state law, employees have additional responsibilities as mandatory reporters of suspected child abuse (see Duty to Report Suspected Child Abuse and Sexual Assault/Harassment).

12. While non-supervisory employees are not required to report incidents between fellow employees in the employment environment (that do not involve a student), we strongly encourage that you refer coworkers to confidential resources that can assist them in assessing their situation.

Definitions related to this Policy:
**Discrimination** – Discrimination is treatment or consideration of, or making a distinction in favor of or against, a person based on the group, class, or category to which that person belongs, as defined in the University’s Non-Discrimination Policy, such that the distinction has an adverse effect on employment or access to educational services.

**Harassment** – Harassment is verbal or physical conduct that demeans or shows hostility toward an individual because of his/her race, color, religion, gender or gender identity, national origin, age, disability, sexual orientation, or that of his/her relatives, friends, or associates, or any other category protected by law and that: (1) has the purpose or effect of creating an intimidating, hostile, or offensive working environment; (2) has the purpose or effect of unreasonably interfering with an individual's work performance; or (3) otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to, the following: (1) epithets, slurs, negative stereotyping, demeaning comments or labels, threatening, intimidating or hostile acts that relate to race, color, religion, gender or gender identity, national origin, age, disability, sexual orientation or any other category protected by law and: (2) written or graphic material that demeans or shows hostility or aversion toward an individual or group because of race, color, religion, gender or gender identity, national origin, age, disability, sexual orientation or any other category protected by law and that is placed on walls, bulletin boards, or elsewhere on the University's premises, or circulated in the workplace.

**Sexual Harassment** – Sexual harassment is a particular form of harassment as described above, but it is gender (sex) based. For the purposes of this policy, and utilizing the definitions established by the Equal Employment Opportunity Commission (EEOC), Willamette defines sexual harassment as follows:

1) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when (1) submission to sexual conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic advancement, (2) submission to or rejection of sexual conduct influences employment or academic decisions affecting the individual, or (3) sexual conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive work or academic environment.

2) Sexual harassment, like the broader “harassment”, may also include behaviors which create a hostile work or educational environment. Such behaviors include, but are not limited to, sexual jokes, calendars, posters, cartoons or magazines; derogatory or physically descriptive comments about or towards another individual; sexually suggestive comments; inappropriate use of University communications including e-mail and telephone, unwelcome touching or physical contact; sexual slurs; or comments that are demeaning which involve negative sexual stereotyping. Sexual misconduct may also take the form of more severe.

Where one party is in a position to extend academic or employment benefits to another, even a welcome, consensual, romantic or sexual relationship may raise, at a minimum, the appearance of impropriety and can create an unwelcome appearance of favoritism and bias. Such a relationship can lead to sexual harassment allegations if it later becomes unwelcome. Sexual harassment is not limited to situations where there is an unequal power relationship between parties, but such a relationship may make sexual harassment more likely. See Willamette’s Consensual Relationships Policy for more information about specific prohibitions and process.
**Domestic Violence** – Domestic violence is defined as a pattern of abusive behavior that is used by an intimate partner to gain or maintain power and control over the other intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

**Sexual Assault** – Sexual assault is defined as any type of sexual contact or behavior that occurs by force or without consent of the recipient of the unwanted sexual activity. Falling under the definition of sexual assault is sexual activity including forced sexual intercourse, sodomy, child molestation, incest, fondling, and attempted rape. It includes sexual acts against people who are unable to consent either due to age or lack of capacity.

**Dating Violence** – Dating violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

**Stalking** – Stalking is defined as a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear or suffer emotional distress.

**Status:** Under Review  
**Scope:** All employees  
**Effective Date:** April 1, 2015  
**Origin Date (Earliest Known):** March 12, 1987  
**Last Revision Date:** March 2009  
**Last Review Date:** April 2015  
**Next Anticipated Review:** April 2018  
**Responsible University Administrator(s):** Director of Human Resources  
**Responsible University Office:** Office of Human Resources  
**Primary Policy Contact:** For Questions and Suggestions Contact the Office of Human Resources  
Phone: 503-370-6210, Email: hr@willamette.edu  

Approved by*:

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Signature                        Date

*Authority determined by scope of policy.