

WESTERN OREGON UNIVERSITY

April 13, 2005

Dr. Philip W. Conn, President
Western Oregon University

Dear President Conn,

Over the past six weeks, the Task Force for Consideration of Policies and Practices Regarding Sexual Harassment and Consensual Relationships has conducted a range of evaluative activities directed toward meeting Chancellor Pernsteiner's request for a thorough and objective assessment of the policies, procedures and practices regarding sexual harassment and consensual relationships at WOU, and of the campus climate and culture regarding these matters.

The report that follows represents the work of this Task Force. Within this document, the Task Force has defined its operational goals and delineated activities used in addressing these goals. Results and recommendations are presented relative to each goal, with summary recommendations of the Task Force presented at the conclusion of the report. Reference material is included in appendices.

The Task Force would like to assure you that we undertook this process with the utmost diligence in compliance with requests from Governor Kulongoski and Chancellor Pernsteiner. We recognize the University's obligation to provide a safe learning environment for students with clear policies about sexual harassment and inappropriate relationships between faculty or other staff and students.

We believe that based on results found in this report, WOU is generally a safe environment for students to pursue their undergraduate and graduate education, and for Faculty and Staff to pursue their professional careers. Our institution is not, however, immune to issues of sexual harassment and inappropriate relationships. Though rare in occurrence, the ramifications of even isolated incidents can be great for not only the individuals involved, but for other members of the campus community and for the institution as a whole. WOU strives for a climate and culture that

will minimize or eliminate the likelihood of such occurrences. It is in this spirit that the recommendations that follow from our investigations are presented.

Finally, as Task Force Chair, I would like to commend not only the Task Force members for their contributions to this work, but recognize the openness with which our questions were received at all levels of the University. The dialogue already initiated on campus through this review is a valuable step in creating the best possible environment in which to study and work. We hope our recommendations can be implemented with rapidity where necessary, and with sufficient deliberation and further engagement of the campus community where appropriate.

Respectfully submitted,

Brian L. Caster
Task Force Chair

**Task Force for Consideration of Policies and Practices
Regarding Sexual Harassment and Consensual Relationships**

Dr. Hank Bersani

Professor and Division Chair, Special Education

Dr. Brian Caster

(Task Force Chair)

Associate Professor, Health and Physical Education

Carl Fisher

Student and ASWOU Student Senator

Tina Fuchs

Director of University Residences and Judicial Affairs

Dr. Solveig Holmquist

Associate Professor and Co-Department Head, Music

Key Jackson

Student and WOU Representative, Oregon Students of Color Coalition

Dr. Kimberly Jensen

Professor, History

Diana Leos

Office Specialist 2, Graduate Office

Danielle Newell

Student and ASWOU Cabinet Member

Andrew Russell-Wynings

Coordinator of Annual Giving, University Advancement

Dr. Adele Schepige

Associate Professor, Teacher Education

Judy Vanderburg

(Staff Support to Task Force)

Director of Human Resources/Affirmative Action Officer

TABLE OF CONTENTS

	<u>Page</u>
Introduction and Goals of the Task Force	1
Task Force Activities and Limitations	2
Results	3
Task Force Recommendations	16
Appendices	19 - 68
Appendix 1: Governor Theodore Kulongoski to Chancellor George Pernsteiner, February 10, 2005	19
Appendix 2: Chancellor George Pernsteiner to President Philip Conn, February 8, 2005	21
Appendix 3: Comparison Chart between Current and Former Discrimination/ Sexual Harassment Policies	23
Appendix 4: Comparison Chart between Current and Former Consensual Relationship Policies	29
Appendix 5: Comparison Chart between Current, Former and PSU Discrimination/Sexual Harassment Policies	34
Appendix 6: Comparison Chart between Current, Former and PSU Consensual Relationship Policies	56
Appendix 7: American Association of University Professors Recommendations Concerning Consensual Relationships	65
Appendix 8: System-wide Information on Instances of Sexual Harassment Reports in Oregon University System with chart	67

INTRODUCTION

The members of the Western Oregon University Sexual Harassment Task Force present their findings from an intensive six-week study of the Western campus. Our mandate was to create “a compendium of current policies and procedures, an assessment of their efficacy, an assessment of campus practices and beliefs surrounding these matters, and recommendations for additional or changed policies, procedures and practices that will contribute to a safe and secure environment for students, faculty and staff.” (See Appendix 2) We have conducted this study with respect for all of the members of the campus community. Our goal has been to reach as many people and to gain as many viewpoints as possible within this limited time span and to actively listen to concerns and suggestions. We seek to provide accurate information on this complex topic and to represent the many perspectives from campus members who have shared their concerns and views. Our commitment is for the work of the task force to have meaning and impact. The resulting recommendations will set the groundwork for continuing assessment and campus education and establish a structure for ongoing progress relative to these issues.

Members of the Task Force arrived at a set of six working goals to address this mandate:

Task Force Goals

1. Compare current and previous policies on sexual harassment and consensual relationships, highlighting key differences.
2. Compare WOU policies with policies at other institutions, highlighting key differences in policy and/or procedures.
3. Propose formal campus surveys of attitudes, beliefs and practices related to issues of sexual harassment and consensual relationships.
4. Identify current campus programs and services addressing sexual harassment and consensual relationship issues.
5. Assess through individual interviews and available data the instances of informal and formal complaints and concerns including frequency of occurrence, nature of the complaint or concern and method of resolution.
6. Assess through individual interviews, open forums and focus group sessions the following:
 - a. Understanding of current policy and procedures.
 - b. Attitudes, beliefs and practices related to issues of sexual harassment and consensual relationships.
 - c. Efficacy of policies and procedures in meeting campus needs for a harassment free environment.

TASK FORCE ACTIVITIES

Comparison of current and previous WOU policies on sexual harassment and consensual relationships

Members of the Task Force reviewed the revised policies and compared them to the former policies. Other members of the campus community reviewed the revised policies and provided their feedback in writing and verbally in focus group meetings.

Comparison of current policy with practices and procedures on other campuses

Several members of the task force reviewed the sexual harassment and consensual relationship policies of the American Association of University Professors, other Oregon higher education institutions and other universities across the United States.

Construction of formal campus survey of attitudes, beliefs and practices related to issues of sexual harassment and consensual relationships

Eight members of the campus community with expertise in survey techniques comprise an ad-hoc committee for this purpose after a general call for assistance across campus. The committee is finalizing a survey to be conducted in spring term 2005 and in future years.

Identification of existing campus offices/programs/services which provide support and/or training relating to sexual harassment issues

Members of the Task Force contacted several academic, administrative and student service offices and reviewed a variety of programs and services on campus to determine level of support and training relative to sexual harassment.

Information gathering with focus groups and interviews

Members of the Task Force conducted focus group meetings and interviews with a variety of campus groups. Individuals have also provided additional information. These include:

Academic Directors (including Deans and Division Chairs)

Academic Divisions

Individual Faculty

Staff Senate

Staff Union (SEIU) Representatives

Individual Staff Members

Student Senate

Residence Hall Association General Assembly
Resident Assistants
Club and Activities Coordinator
Individual Students

Limitations to the approach taken by the Task Force stem largely from the time frame in which the Task Force has been asked to function. The Task Force decided that proper development and implementation of a more formal, scientific survey with regard to these issues in such a brief time frame would not only be impractical, but unwise. This report relies strongly on interviews and focus group results that will then be combined with survey data as we continue to assess the campus climate. The Task Force does feel that the all elements of campus have been engaged with sufficient depth and rigor that the findings in this report are an accurate portrayal of campus attitudes and beliefs.

TASK FORCE RESULTS

COMPARE CURRENT AND PREVIOUS POLICIES ON SEXUAL HARASSMENT AND CONSENSUAL RELATIONSHIPS, HIGHLIGHTING KEY DIFFERENCES.

Appendices 3 and 4 contain a side-by-side review of current and previous sexual harassment policies and of current and previous consensual relationships policies.

The review found that the revised policy on sexual harassment provides more definition and overall substance than the old policy. Some of the major changes include:

- Expanding the purpose and including a scope
- Providing definitions of discrimination, harassment, sexual harassment
- Providing examples of prohibited conduct
- Discussing penalties to expect if someone violates the policy
- Specifically prohibiting retaliation
- Outlining step-by-step procedures of the complaint process
- Identifying the person/position responsible for addressing harassment issues

The previous consensual relationship policy was of a very general nature, deeming consensual relationships where a power differential exists as unethical, but giving only a very general warning of the potential risks incurred when entering into such a relationship. In contrast, the revised policy provides for the following:

- More clearly defines the types of relationships covered, including examples.
- Makes note that consensual relationships not involving a power differential are not subject to the policy.
- Provides that should a University employee enter into a consensual relationship with a student or another employee with whom they have an academic or evaluative relationship, the employee must disclose the relationship to a supervisor and terminate any situation of authority.

In contrast to the sexual harassment policy, the consensual relationship policy does not contain a section outlining possible penalties for policy violation, nor does it detail a timeline within required disclosure and/or authority termination should occur.

COMPARE CURRENT POLICY WITH POLICIES AT OTHER INSTITUTIONS, HIGHLIGHTING KEY DIFFERENCES IN POLICY AND/OR PROCEDURES.

Members of the task force examined the consensual relationship and sexual harassment policies of other universities and recommendations from the American Association of University Professors. Consensual relationship policies range from total prohibition to limited bans to strong discouragement of romantic and/or consensual relationships between faculty and students in any instructional setting. For example, the University of Iowa prohibits all consensual relationships (romantic and/or sexual) between faculty and students in instructional contexts and discourages those between faculty and students in other situations that could have apparent and actual conflicts of interest. Conflicts of interest are usually defined by each university. Typically they include any context that involves a faculty member in a supervisory role over the student. Such is the case with Western's policy.

Consensual Relationship Policy

Western's policy deems it unethical to have a consensual relationship between a university employee and a student if the employee has professional responsibility for the student, or between an employee and a subordinate. This seems to be within the parameters of other universities' policies. The language of Western's consensual relationship policy does not specifically state that such relationships are strongly discouraged, as other policies do. The policies examined require those in supervisory positions to disclose their consensual relationship, but few state a timeline beyond "promptly" or "as soon as the relationship begins". Similarly, WOU's policy does not refer to any specific time, such as "promptly", for disclosure of the relationship.

Some universities, WOU included, place the responsibility for eliminating situations of authority on the employee in the supervisory position. Others give that duty to an immediate supervisor.

Sexual Harassment Policy

Western's policy and other higher education sexual harassment policies provide specific examples, not exhaustive lists, of what constitutes sexual harassment. Definitions of sexual harassment often are cited as coming from the Equal Employment Opportunity Commission. Some institutions offer formal (written complaint) and informal (complainant wishes to have the supervisor discuss the matter with the individual first) attempt to mechanisms for handling sexual harassment complaints. Western's sexual harassment policy allows for both informal and formal mechanisms.

The AAUP recommends that sexual harassment policies:

- Be easily understood;
- Be clear about who should handle the complaint; and

- Protect the rights of both parties (complainant and accused).

See Appendices 5, 6 and 7 for comparisons to policies in place at Portland State University and the recommendations of the American Association of University Professors.

PROPOSE FORMAL CAMPUS SURVEY OF ATTITUDES, BELIEFS AND PRACTICES RELATED TO ISSUES OF SEXUAL HARASSMENT AND CONSENSUAL RELATIONSHIPS.

Members of the Task Force recognize that several of the specific issues in the Governor's mandate to OUS campuses require a formal scientific survey approach for most effective evaluation. Members of the Task Force also recognize that proper development and implementation of such an instrument in the brief time frame leading to this report would not only be impractical but unwise. It is also our intent that the results and recommendations of this report will lead to continuing action to keep these issues at the front of campus consciousness and to create a safe and effective campus process. Therefore we propose the following plan to implement an ongoing campus survey addressing these issues.

The Task Force issued a call for assistance to all faculty and staff to help construct a survey instrument to measure campus attitudes, beliefs and practices related to issues of sexual harassment and consensual relationships. Eight members of the campus community agreed to serve on an ad-hoc committee for this purpose and are finalizing a survey instrument. A faculty member from the task force is facilitating the group. Other committee members have specific areas of expertise and experience with constructing and conducting surveys. Two faculty members are from Social Science, one faculty member is from Psychology, three faculty members are from Humanities, and one faculty member is from Teaching Research.

The survey committee is currently formulating a survey to be conducted in spring term 2005 with a statistically valid random sample of students, staff, and faculty. The survey draws on standard questions contained in similar surveys so that we can compare results across campuses. The survey questions are designed to elicit information about whether respondents have experienced a range of behaviors (not specifically labeled as "sexual harassment") relative to their WOU experience that fall under common definitions of harassment. The survey will also assess beliefs about the campus climate and safety, knowledge of policies and knowledge about procedures to follow and areas of support on campus.

The committee intends that this survey instrument will be administered each spring term and that this survey will be modified to address questions of staff and faculty experience and attitudes and administered to these groups on an annual basis. The information received will be made available to the campus community and to the public via the Western Oregon University website or by similar means.

IDENTIFY CURRENT CAMPUS PROGRAMS AND SERVICES ADDRESSING SEXUAL HARASSMENT AND CONSENSUAL RELATIONSHIP ISSUES.

The following table represents the review of campus offices/programs/services that provide support and/or training to the campus community relative to the sexual harassment awareness and issues around consensual relationships.

Office/Programs/Services	Support	Training	Comments
Abby’s House (program)	X		Provides support; currently working on establishing a support group.
ASWOU (office)	X		Resource to students who need support and will refer to appropriate department.
Campus Safety and Security (office)	X		Support comes in the form of taking reports of sexual harassment and referring to appropriate department.
Counseling Center (office)	X		Supports students in counseling sessions. Provide referrals as needed.
Dean of Education and Dean of Liberal Arts and Sciences (office)	X	X	Support faculty/students in matters of allegations of sexual harassment. Provide guidance with regard to process. Informal training provided via overview of faculty handbook, but formal training is not provided
Human Resources (office)	X	X	Provide information to inquiries regarding the discrimination/harassment and consensual relationship policies. Training: orientation for new employees only; does not include student employees or existing employees who have not gone through the orientation.
Judicial Affairs (office)	X		Addresses sexual harassment issues in a judicial format when the case involves a student harassing another student or a student harassing a faculty/staff member.
President’s Office (office)	X		Provides support to anyone who comes to the office to file a complaint, re-directs to Human Resources. Available as consultant to HR Director if necessary.
SAGE (Student Advocates for Gender Equality) (program)	X		Identified by the ASWOU clubs and activities coordinator as a group that would provide support to students

University Residences (office)	X	X	Training of Residence Hall Staff; no specific programming is offered in the residence halls on sexual harassment itself – however, the topic may be a part of other types of programs (sexual assault awareness). There is a specific Consensual Relationships policy for residence hall staff as well.
Vice President for Student Affairs Office (office)	X		Available to discuss sexual harassment issues with students.
WOU Publications (service): Code of Student Responsibility; Plan-it-Wolf (page 41); campus policy on Sexual Harassment, Faculty Handbook			These are the identified publications that contain information about the sexual harassment policy and/or resource information.

Not one of the offices explicitly advertises that they provide support for sexual harassment and consensual relationship issues. While there are policies in place (the Code of Student Responsibility, Plan-it-Wolf, and the campus policy on Sexual Harassment), there appeared to be no formal programming, educational outreach or direct communication to address the two issues. However, it was determined in our review that the offices/programs/services listed in the table offer support and guidance if an issue is brought forward. It is important to note that it was not possible to interview every office/program/service during our review.

ASSESS THROUGH INDIVIDUAL INTERVIEWS AND AVAILABLE DATA THE INSTANCES OF INFORMAL AND FORMAL COMPLAINTS AND CONCERNS INCLUDING FREQUENCY OF OCCURRENCE, NATURE OF THE COMPLAINT OR CONCERN AND METHOD OF RESOLUTION.

The Oregon University System reports that for fiscal years 2001-02 through 2004-05 to February 2005 Western Oregon University had the following sexual harassment complaints: of the seven cases occurring during the reporting period, a finding that sexual harassment occurred was found in five. Sanctions given were verbal warnings, non-renewal, and suspension without pay.

During interviews with Task Force members Academic Deans reported that cases of behavior considered as sexual harassment ranged from 0 to at most 3 incidents in a given year. These include complaints that may have proceeded to formal filing and those handled informally. Similarly, instances of complaints or concerns regarding sexual harassment and/or relationships reported by Division chairs are few. Several division chairs reported no such instances, where

others noted at most two instances during their respective tenures. Chairs reported that the most common type of complaints they address are issues of an instructional or academic nature.

ASSESS THROUGH INDIVIDUAL INTERVIEWS, OPEN FORUMS AND FOCUS GROUP SESSIONS THE FOLLOWING:

- a. Understanding of current policy and procedures.**
- b. Attitudes, beliefs and practices related to issues of sexual harassment and consensual relationships.**
- c. Efficacy of current policy and procedures in meeting campus needs for a harassment free environment.**

Meetings with Academic Directors (Including Academic Deans and Division Chairs in the College Of Liberal Arts and Sciences and College Of Education)

Complaint Process

Academic Directors defined two types of complaint processes: formal and informal. The formal process involves a student who is willing to take the steps to file a complaint and to work with the sexual harassment officer on campus through that process. The informal process involves attempts at resolution through the Dean's office and with other administrators such as Department heads and Division chairs.

Academic Directors take responsibility for working with students who come to them with allegations of sexual harassment. Division chairs and Deans assess the situation, attempt to understand the outcome that the student is seeking, and explain the informal and formal options open to students. The student must agree to participate in the process and to disclose information. Directors expressed sensitivity to the complex issues of power involved and the difficult choices students face in deciding if, how, and in what manner to go forward with a complaint. They also expressed concerns about faculty rights and responsibilities and the responsibilities they hold as administrators to insure that the process works.

Practices associated with individual faculty personnel files vary. It appears typical that a file exists for individual faculty at the offices of the Division and Dean that are supervisory in nature. The Human Resource Office and Office of the Provost maintain the official personnel files that are permanent records. The process by which letters and information regarding complaints are put into files and removed from files, as well as the transfer of files from the outgoing to incoming Division Chair and Dean, varies across different academic areas. No clear guidelines or policies exist concerning the manner in which Chairs should document complaints or concerns about a particular faculty member. There appear to be no clear policies regarding the transfer of files from one administrator to the next. There are examples of letters going into a Division file that have been removed at the request of the faculty member and of letters going into Division files with the stipulation that they be removed after one year.

Communication Concerns

Academic Directors feel that they often do not receive clear communication regarding the status of a particular complaint or concern. Some Directors indicate that there may be legal constraints on such information but ask for clear and timely communication. Many also state that there is little clarity or consistency in the way that respondents are informed of a complaint or concern in the complaint process. They note that “repetitive behavior” is a key element in the definition of harassment and that early intervention is important. Such intervention is very difficult to achieve without strong, consistent, and timely communication of information to all concerned parties.

Campus “rumors” were part of both recent high-profile cases at Western. Academic directors ask for guidelines for when and how to address issues that come to light through such ‘rumors’. Some noted that the fear of retribution and/or concerns about the results of entering the formal complaint process deter the reporting of legitimate complaints.

Consequences and sanctions

At present there is no clear list of the consequences and sanctions for violating sexual harassment or consensual relationships policies. This may call into question the effectiveness of these policies as deterrents.

RECOMMENDATIONS FROM ACADEMIC DIRECTORS:

Communication and Policies

Academic Directors recommend improved communication in all parts of the process, both formal and informal. This should include the development and use of a clear checklist and flow chart for formal and informal complaints to inform Deans, Division Chairs and Department Heads about the stages of the process. The use of such a form and checklist would ensure that a consistent “paper trail” would be available noting what action was taken, when, and what happened. The current complaint form for students needs to have a section that asks what the student would like to see as an outcome of the complaint. The current policy regarding consensual relationships has no specific timeline in its procedural section and this should be revised. These recommendations will help to ensure a timely process.

Education and Training

Directors strongly emphasize the need for effective education and training on campus regarding these issues. The campus should adopt and maintain ongoing training for Deans, Division Chairs, Department Heads and all faculty members regarding faculty and student roles, rights, and the complaint process. Faculty at all stages of their careers need ongoing training and discussion of campus process and procedures. They also note the importance of developing sessions for all students to discuss what sexual harassment is and what options they have if they experience such behavior. The University should sponsor enhanced and specific training for new faculty orientation week, as part of mentoring programs for new faculty. There should be training for faculty on how to be sensitive to diverse students and discussion sessions about how to respond to various situations faculty may encounter. Training for Division Chairs and Department Heads should be scheduled regularly throughout the year regarding policies and

guidelines for sexual harassment and consensual relationships. There should be a Division Chair Handbook with these guidelines and they should be part of the Faculty Handbook.

Complaint Process

Directors urge the campus to adopt and strengthen multiple, varied levels of access to the complaint initiation process linked to consistent and frequent information sessions for students about these processes.

Structural Changes

Many Academic Directors also suggest that the University create the position of an ombudsperson and a trained support network to provide first-step information and support. Some suggested that the University revise the structure that addresses formal complaints such as the inclusion of a mediation panel as recommended in the AAUP guidelines. Others emphasize structural changes such as windows in each office door. Some urge a clearer demarcation between students and faculty members through consistent use of academic titles, convocation in regalia and other means to formalize faculty and student roles.

FOCUS GROUPS AND INFORMATION FROM FACULTY

The Negative Impact of Sexual Harassment and Inappropriate Relationships

While faculty members in these focus groups reported an awareness of few total cases of sexual harassment or inappropriate relationships, the impact that even a single case can have on the operations of an academic unit cannot be understated. This was evident in the extreme concern voiced by members of divisions where such cases have arisen in the past. There have been many informal complaints and rumors relating to those specific cases and many faculty members feel that these have not been addressed. Faculty members want the campus community to take steps to put a strong process in place and to educate the campus to repair and strengthen Western Oregon University's reputation.

Faculty also expressed strong concerns about the lack of support structures on campus for students who experience sexual harassment. The campus should have professionally trained advocates and a campus-wide structure to provide such support. This must be widely publicized.

Concerns about Present Policies and Procedures

Many faculty members expressed the strong belief that the present policies and procedures do not have a clear and effective structure, are not clear to members of the campus community, and thus are not working as they should.

Faculty members voiced many specific concerns about the present policies and procedures. There is a strong call for immediate dialogue among faculty, faculty union representatives, the University administration, and legal experts in this area to examine and revise the current faculty collective bargaining agreement provisions regarding sexual harassment and consensual relationships. This should include consideration of issues of due process in policy and specific penalties and sanctions for sexual harassment violations. This should then be negotiated in the collective bargaining process.

Many faculty members express a strong concern about the need for an independent review of the policies and procedures from outside the campus.

Communication

Faculty members value the importance of due process and the need for a grievance process, but affirm the necessity of timely investigation and communication and feel that this is not currently happening on campus. Faculty members also expressed concern regarding poor communication back to the division level with regard to the status of a complaint or concern. They recognize the need for confidentiality but also stress their need to have appropriate information about the resolutions of cases. When an action is taken against a University employee, what disclosure of limitations on that employee can be expected, especially of information necessary for planning purposes (such as in course assignments and advising duties)? Faculty would like to hold additional discussions about third party complaints and to reach guidelines about a campus process for such complaints. Some faculty members suggest a code of ethics for faculty to sign. Others suggest a campus statement affirming the safe climate we wish to create and maintain on campus as a standard for all faculty members to uphold. Faculty would like to conduct a campus-wide discussion about the legal issues regarding due process, ethics, and procedures that can be put in place.

Informal versus Formal Process

While faculty members see the need for both informal and formal processes, many perceive that at both levels complaints have been “swept under the rug.” Faculty members believe that the administration needs to address what will happen when informal procedures and peer influence do not result in changes in inappropriate behavior. At present there is no clear indication of what will or can happen, absent a formal, signed complaint. Faculty members emphasize the need for an informal resolution process, but insist that there be a way to document patterns of behavior. Record keeping needs to be standardized.

Concerns about Training and Education

There is a strong consensus among faculty that the campus lacks a system of training and education in matters regarding sexual harassment and consensual relationships and that such a system is needed urgently. This must be for all members of our campus community: faculty, staff, administrators, and students. Some specific issues raised about training include the idea that at the beginning of each academic year faculty should re-read the policy and each division should have an open discussion about the expectations their division members have regarding sexual harassment and consensual relationships. That will help develop a culture about the serious nature of sexual harassment issues on campus. Training programs must also take into account the importance of reaching adjunct faculty and faculty hired during the year. Training should include specific examples, what was learned, and what could be done differently. Faculty members would like to see a sustained dialogue across campus and within divisions about how faculty members should respond if they become aware of sexual harassment. What do we mean when we say that we need to provide support for students, staff, and faculty? What are our moral and legal responsibilities? How can all faculty members avoid high-risk situations?

The need for a neutral in the process of investigation

Many faculty expressed the strong belief that the University create the position of an ombudsperson and a trained support network to provide first-step information and support. Some suggested that the University revise the structure that addresses formal complaints such as the inclusion of a mediation panel as recommended in the AAUP guidelines. Some suggested training a group of faculty and staff who will then serve as members of a campus-wide resource network for sexual harassment. Other suggestions include that for faculty-faculty complaints, the provost's office should be involved. For student-student, the VP for student affairs, and for faculty student both the provost and the VP for student affairs should be involved in investigating the complaint.

RECOMMENDATIONS FROM FACULTY:

Revision of present policies and procedures

Present policies and procedures need to be revised, with attention to those areas of concern expressed in this report. Policy revisions also need to be considered within the context of the collective bargaining agreement. Policies and procedures need independent review from off campus.

Neutral investigation

Faculty members strongly support a revision of the complaint process to create a neutral body not directly housed within Human Resources to investigate and report on complaints. This could be in the form of an ombudsperson or campus community committee or board. This person or group should be truly neutral and not represent the interests of one body such as the administration.

Communication

There is a strong need for direct communication in a timely manner from the highest levels of the administration to divisions regarding the status of a complaint and an improvement in the communication process across the board.

Training and Education for a Safe Campus

There is a strong need for training and education regarding sexual harassment policies and procedures across campus. We need to publicize policies and to educate all members of the campus community about safe and ethical behavior and hold the campus to a high standard of excellence in these areas. We need to provide information and resources for all campus members. The campus needs to undertake a more general discussion of underlying issues such as power differentials and abuse of power. We need to have a dialogue about faculty responsibilities and the nature of our campus community. Faculty would like to see a statement of the campus commitment to safety and process as a part of widespread publicity about the process and resources on campus. Many faculty members support the idea of training a group of faculty and staff who will then serve as members of a campus-wide resource network for sexual harassment.

Counseling

Many faculty members asked for the University to provide counseling for campus community members who have experienced sexual harassment or non-consensual relationships and for those who are dealing with “fallout” from such cases. They speak to the need for healing on the campus level.

Support from the Oregon University System

Faculty members emphasized the need for clear and strong support from the Oregon University System in all of these matters. This should include external review, legal support, and assistance with communication of University standards to the public.

MEETINGS WITH STAFF GROUPS

Policy and Procedure

Staff believed strongly that the current process for filing a sexual harassment complaint is unclear, beginning with availability of and access to the policy. While the policy is available in various publications and on the website, it is not readily accessible.

The current process allows a person to file a complaint within 12 months. Their opinion was that 12 months is too long and suggested a shortened timeframe as long as the complainant was able to access information about the complaint process in a timely manner.

Within both policies, “position of power” was used as the phrase for someone who had authority over another. It was the belief of the staff that there needs to be a definition for what kinds of positions/persons are in “positions of power.”

Informal vs. Formal

There does not appear to be a standard form for submitting complaints. As it currently stands, members of the campus community are allowed to submit complaints verbally, with the Human Resources Director documenting the conversation. The staff believed that a more formal complaint form should be used and be accessible via the Human Resources website.

Staff expressed support for an informal resolution process in which the person experiencing harassing behavior has an opportunity to discuss the outcome that they would like to see. They also stressed that the process needs to safeguard the dignity of those involved.

The need for neutral process in the investigation

General opinion among the staff as a whole is that there is a pervasive mistrust of the system and of how cases have been handled. Creation of neutral panel or group would help to regain the trust of campus community.

There were also questions about the procedure the HR Director/Affirmative Action Officer uses for reviewing cases. Does the Human Resources Director/Affirmative Action Officer alone decide the outcome of a case? Is this fair? Members of the Staff Senate believed it was too much of a burden for one person, regardless of the position that person held, to decide cases such as these.

Outcomes/Consequences

There were concerns from staff about existing perceptions on campus that a person who is represented by a union tends to face little or no consequences for inappropriate behavior. This is based primarily on the fact that they are protected by a union contract. Some staff reported that they had heard rumors of past allegations where the harassing behavior was addressed, but the consequences were minimal, partly because the person was a member of a union or was a tenured faculty member. Staff opinion is that there are more victims, but they tend not to report the behavior because they don't believe they have authority or support to face a union challenge. There was a strong opinion from some staff members that the two policies take precedence over a union contract. Another perspective of how to address union concerns would be to involve the union itself in issues relating to the process. A suggestion was made to consider, in the next bargaining session of the SEIU, a discussion about issues relating to the process and the creation of a neutral panel to be incorporated into their next bargaining session.

The consequences for violating the sexual harassment policy seemed ambiguous to the staff. They were not clearly defined in a manner that someone might understand completely what they would risk by sexually harassing another person.

RECOMMENDATIONS FROM STAFF GROUPS

Suggested Policy Revisions

The length of time someone can file a sexual harassment complaint presently is 12 months. It seems more reasonable for the complaint to be filed within 90 days of the incident.

Use a standard complaint form and require that the complainant submit the complaint in writing.

Better define the consequences for misconduct.

Better define "position of power" in both documents.

Communication

The sexual harassment policy and the procedures to file a complaint need to be available and accessible to students, faculty and staff. Make them more visible. Make it known to the campus community how to access the information.

Training/Education

There is a strong need for the Human Resources Director/Affirmative Action officer to provide training on both topics (training faculty at department meetings during Faculty Week; new staff orientation should have a training component related to both policies; etc).

Training should involve staff, faculty, and students and should be a vital part of campus activities, not an "optional" or infrequent event.

This training should focus on power relationships, affirming the importance of a safe community, sensitivity training, and clear, visible information about process and policies.

It was suggested that after the training, individuals sign a form that indicates they have been informed of the policies and in doing so, understand the consequences for violating the policies.

Neutral Investigation

There is a general interest in appointing a panel to review cases vs. one person (currently Human Resources Director/Affirmative Action Officer). This may address any question of bias.

MEETINGS WITH STUDENT GROUPS

Meetings with various student groups had similar outcomes as those with faculty and staff as it related to policy, procedure and communication.

Availability and Communication of Policies

Students, for the most part, were unaware the policies existed. As a result, they expressed a high need for the two policies to be more visible.

Some students were generally unaware of the policy or procedures prior to the incidents that were reported so heavily during Winter Term. Other students indicated that they didn't pay much attention to the press the recent sexual harassment cases got and were still unsure of what the policy and procedures were. Several still were not aware that formal reports should be made to Human Resources.

The majority of the students reported that they have not had a conversation with an administrator or faculty member about what sexual harassment is or where to find the policy.

Some students mentioned that they had heard there is a "no tolerance" policy for harassment on campus, but their observations are that when the behavior has occurred the consequences were not congruent with the "no tolerance" policy. That seemed confusing to them and made them question the validity of the policy and the process.

Process

Upon reviewing the policies and procedures, some students found them to be somewhat unclear, particularly the sexual harassment policy. Many students did not know where to find the Human Resources office if they were to encounter a problem or wish to file a complaint.

Some students felt that hiring a "student friendly" person to be a resource to students would be an effective use of funds. Most students do not know the HR Director/Affirmative Action Officer and would not seek that person out if they were being harassed by a faculty or staff member. They would, however, go to someone they knew for guidance.

Perceived Lack of Safety in Reporting Instances of Sexual Harassment

Some students expressed a concern that there is or may be some discomfort in formally reporting sexual harassment issues. They gave the following reasons for not reporting issues if they were experiencing sexual harassment:

- a) Lack of understanding of what sexual harassment is (unsure of definition and what behaviors would constitute sexual harassment);

- b) Possible repercussions from the faculty member, particularly related to grades;
- c) Concerns with how their peers might react to them filing a complaint.
- d) Publicity of such cases.

Rare Occurrences

Most of the students interviewed had the perspective that the recent sexual harassment issues on campus were isolated incidents and in general, seem to be rare occurrences.

RECOMMENDATIONS FROM STUDENT GROUPS

Education

The topic of Sexual Harassment and procedures to follow should be addressed at a mandatory freshman activity during New Student Week.

Communication

Make the policies available and talk about them openly.

If the policies are indeed “no tolerance” in nature, make the response congruent with the policy.

Resources and Support

The process for filing complaints seems unclear and most students don’t know where the Human Resources office is located. Address this issue immediately and inform the campus community of the proper avenues to follow for filing complaints.

Create signs for office doors that state “Harassment Free Zone.”

Make brochures available in every office on campus relative to the two policies, examples of harassing behavior, resources available to someone experiencing harassment, and a clear outline of the process.

Identify an ombudsperson or staff person that students know and would feel comfortable going to for support and guidance.

TASK FORCE RECOMMENDATIONS

Dissemination

The report of the Task Force will be made available to the campus community immediately.

Creation of Sexual Harassment Committee

A campus-wide committee of faculty, staff, and students will be established before the end of the academic year to monitor and oversee the process of revision, training and communication and to build campus resources.

Policies and Procedures

The campus will begin a revision of sexual harassment and consensual relationship policies and procedures. This process should include an external evaluation of the policies, procedures and implementation practices. The process should address the concerns and recommendations from the campus community contained in this report and from other sources of information and discussion. Of particular importance is communication, record-keeping, timelines and the structure of how the investigation of a complaint is carried out. Western Oregon University will implement the changes and revisions to policies that result from this revision process.

The ad-hoc survey committee will administer the sexual harassment/consensual relationships survey this spring term and will report the results to the campus community.

Improved Communication

The University administration will sponsor visible, consistent, accurate and informative information about the sexual harassment and consensual relationship policies. This should include brochures available in every office on campus and multiple places on the campus Web site with easily identifiable links, including on the home page and a new affirmative action Web site. The information should be a part of the faculty handbook. Specifics should be included in the collective bargaining agreements for faculty and staff and be part of the collective bargaining process.

A group of faculty and staff who are willing to participate will receive intensive training and will then serve as members of a campus-wide resource network for sexual harassment. The existence of this campus-wide resource group and contact information for those available will be widely-published on the web and in other campus information sources.

Many elements of WOU's Strategic Goals and Directions support attention directed to faculty/staff training and improvement in information flow related issues addressed elsewhere in this report.

Training at All Levels of the Campus Community

The campus must adopt and maintain ongoing training for Deans, Division chairs, Department heads, faculty and staff members regarding faculty, staff and student roles, rights, and the grievance process. There should be an overview/training at departmental/division-wide orientation sessions each fall term for all employees (new, returning and student employees) A mandatory training/orientation/overview of the sexual harassment and consensual relationships policies and procedures as part of New Student Week for freshmen. Sexual Harassment policies and procedures should be tied to other training sessions such as safety on campus and general policy overviews. The University will sponsor discussion sessions in which members of the campus community can explore issues of how best to support campus-wide training, as well as other recommendations contained in this report.

Counseling

Counseling for campus community members who have experienced sexual harassment or inappropriate relationships and for those who are dealing with "fallout" from such cases.

APPENDICES

Appendix 1: Governor Theodore Kulongoski to Chancellor George Pernsteiner, February 10, 2005

Appendix 2: Chancellor George Pernsteiner to President Philip Conn, February 8, 2005

Appendix 3: Comparison Chart between Current and Former Discrimination/Sexual Harassment Policies

Appendix 4: Comparison Chart between Current and Former Consensual Relationship Policies

Appendix 5: Comparison Chart between Current, Former and PSU Discrimination/Sexual Harassment Policies

Appendix 6: Comparison Chart between Current, Former and PSU Consensual Relationship Policies

Appendix 7: American Association of University Professors Recommendations Concerning Consensual Relationships

Appendix 8: System-wide Information on Instances of Sexual Harassment Reports in Oregon University System with chart

Appendix 1: Governor Theodore Kulongoski to Chancellor George Pernsteiner, February 10, 2005

February 10, 2005

George Pernsteiner
Acting Chancellor
Oregon University System
P.O. Box 3175
Eugene, OR 97403

Dear Chancellor Pernsteiner:

One of my top priorities as Governor is to expand access to higher education so that any student in Oregon qualified and committed to pursuing a post-secondary degree has the opportunity to study at one of Oregon's public universities. However, providing access is just one part of a larger obligation to ensure Oregon's students are equipped with the skills they need to compete and contribute in our economy and our communities. Another critical part of our obligation is to ensure that Oregon's universities are safe learning environments with clear policies about sexual harassment and inappropriate relationships between faculty or other staff and students.

I know that you join me in this commitment to student safety and that you do not tolerate or condone sexual harassment or any other inappropriate behavior that puts student safety and the integrity of our university system at risk. However, in light of recent events, I am writing to request that you ask each university president to conduct a comprehensive review of the current policies, procedures and practices related to sexual harassment and relationships at their institutions.

While my concern is prospective, I believe it is important that the June board meeting include a discussion of these policies, procedures and practices for possible policy direction and rule making by the board members if the reports find such action is necessary. I expect the following information to be provided by each university president: 1) a compendium of current policies and procedures; 2) an assessment of their efficacy; 3) an assessment of campus practices and beliefs surrounding these matters; and 4) recommendations for additional or changed policies, procedures and practices that will contribute to a safe and secure environment for students, faculty and staff. These reports should be included in the board packet for the June meeting.

George Pernsteiner
February 10, 2005
Page 2

Again, I know you join me in my commitment in the safety of our students, and in ensuring that our faculty and staff continue to create an environment that fosters academic excellence. I also recognize that our faculty and staff share this commitment to providing Oregon students with an education second to none. But like all quality organizations and professional staffs, we must conduct such internal reviews periodically to ensure we are accountable to our students and to the public. Now is that time and it is my hope that this analysis will lead to an increased awareness of best practices in this area. I appreciate your immediate attention to this important issue and your continued dedication to our students, faculty and staff.

Sincerely,
THEODORE R. KULONGOSKI
Governor

TRK:js/cy
cc: Henry Lorenzen, President, Oregon State Board of Higher Education

Appendix 2: Chancellor George Pernsteiner to President Philip Conn, February 8, 2005

Oregon
University
System

Office of the Chancellor
PO Box 3175
Eugene, OR 97403-0175
PHONE (541) 346-5716
FAX (541) 346-5790
<http://www.ous.edu>

February 8, 2005

Philip W. Conn, President
Western Oregon University
Monmouth, OR 97361

Dear President Conn:

As we discussed last week, the Oregon State Board of Higher Education and Western Oregon University do not tolerate sexual harassment and do not countenance inappropriate behavior by faculty or staff toward students.

I recognize that Western Oregon University recently has replaced its policies regarding Sexual harassment and consensual relationships with new policies that have been reviewed and approved through campus governance procedures.

However, I believe it necessary for the administration of Western Oregon University to conduct a thorough and objective assessment of the University's policies, procedures, and practices regarding sexual harassment and relationships. Further, I believe it essential for you to assess the campus climate and culture regarding these matters.

I understand that the recent adoption of revised policies may not yet have resulted in changes to the practices and beliefs of the campus community. Consequently, in conducting your assessment, I suggest you underscore those practices which will change as the new policies are implemented, and those steps you are taking and will take to ensure the inculcation of the new policies.

I encourage you engage your faculty and your new provost, Dr. Jem Specter, in the assessment and in the implementation of both your new policies and any other changes in policy and practice that might be appropriate in light of your findings.

Philip W. Conn, President

February 8, 2005

Page Two

In short. I am asking that by April 18, you provide me with (1) a compendium of your current policies and procedures and those which they so recently replaced; (2) an assessment of their efficacy; (3) an assessment of campus practices and beliefs surrounding these matters; and (4) recommendations for additional or changed policies, procedures and practices that you believe will contribute to the reality and perception of a safe and secure environment for undergraduate and graduate students with respect to sexual harassment and consensual relationships. If, in your investigation, you find that changes are warranted in these matters as they pertain to the environment for faculty and staff, please recommend improvements in these areas as well.

Of course, my staff, particularly Ben Rawlins and Yvette Webber-Davis, stands ready to assist you with your report. I know your efforts in the matter will be careful, exhaustive, and inclusive. Their submission in early April should allow the campus and Board time to consider the recommendations and adopt any needed changes by the conclusion of the 2004-05 academic year.

I look forward to your report and recommendations.

Thank you.

George Pernsteiner

Acting Chancellor

cc: Members, Board of Higher Education
Ben Rawlins
Yvette Webber-Davis

Appendix 3: Comparison Chart between Current and Former Discrimination/Sexual Harassment Policies

DISCRIMINATION/SEXUAL HARASSMENT POLICY COMPARISON

REVISED POLICY PURPOSE AND SCOPE

Western Oregon University is committed to cultivating an educational and work environment in which all individuals are treated with respect and dignity. Each individual has the right to learn and work in an atmosphere that promotes equal educational and employment opportunities and prohibits discriminatory practices, including harassment. Western Oregon University expects relationships across campus will be free from bias, prejudice and harassment. This policy statement is intended to (a) reaffirm Western Oregon University's prohibition against discrimination and harassment, (b) clarify types of prohibited conduct, and (c) provide an effective complaint procedure to individuals who believe they have observed or have been subject to prohibited conduct.

REVISED POLICY POLICY

It is the policy of Western Oregon University to provide a campus environment free from discrimination and harassment on the basis of race, color, religion, national origin, age, sex, marital status, sexual orientation, veteran status or disability or any other status protected under law.

PREVIOUS POLICY PURPOSE

To identify sexual harassment, work on preventative measures, and establish a complaint/grievance process for the harassed person.

PREVIOUS POLICY POLICY

Western Oregon University's educational mission is promoted by an atmosphere of mutual trust and respect. As an educational community, we value for each of our members an environment free from any kind of sexual harassment and/or intimidation. Sexual harassment undermines and hinders the fulfillment of the University's mission. Sexual harassment of students, faculty or staff by any other member of the university community is strictly prohibited and will not be tolerated.

Discrimination. Discrimination, for the purposes of this policy, is defined as any act or practice, in form or operation, whether intended or unintended, that unreasonably differentiates among persons on the basis of race, color, religion, national origin, age, sex, marital status, sexual orientation, veteran status or disability or any other status protected under law.

Harassment. Harassment, for the purposes of this policy, is defined as conduct that creates an intimidating, hostile, or degrading environment that would interfere with the work or academic performance of a reasonable person of the complainant's protected status.

Sexual Harassment. Sexual harassment is a form of discriminatory harassment. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical behavior of a sexual nature when directed toward an individual because of that individual's sex when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of the individual's employment, grade, or used as the basis for any employment or academic decision; or
- b. Such conduct is unwelcome and has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creates an intimidating, hostile or offensive work or academic environment.

Examples of Prohibited Conduct. The following are examples of conduct that may be prohibited under this policy. This list is representative and is not exhaustive:

- a. Unwelcome touching or physical closeness of a personal nature, which can include leaning over, cornering, or pinching.
- b. Sexual innuendos, teasing and other sexual talk such as jokes, intimate inquiries, persistent and unwanted courting, and sexist put downs or insults.

c. Derogatory remarks, slurs or jokes about an individual's race, color, religion, national origin, age, sex, marital status, sexual orientation, veteran status, disability, or any other status protected by law.

This policy shall be applied in a manner that protects academic freedom and freedom of expression within the University. Nothing in this policy shall be construed to limit the expression of ideas, however controversial, that can reasonably be demonstrated to service legitimate education purposes.

Penalties. Conduct in violation of this policy will not be tolerated. For employees, prohibited conduct may result in disciplinary action, up to and including dismissal. For students, prohibited conduct may result in disciplinary action under Western Oregon University's code of student responsibility at Oregon Administrative Rules Chapter 574, Division 31. Managers and supervisors who know or should know of conduct in violation of this policy, and who fail to report it, or fail to take prompt, appropriate corrective action are subject to disciplinary action, up to and including dismissal.

REVISED POLICY

NON- RETALIATION

This policy prohibits retaliation against individuals who complain about prohibited conduct or otherwise participate in the process under this policy. Any student or employee found to have engaged in retaliatory action or conduct will be subject to discipline, up to and including dismissal.

REVISED POLICY

PROCEDURES

An effective and clear complaint procedure is a critical element of Western Oregon University's policy against discrimination and harassment. The complaint procedure is open to all employees, applicants and students, except as collective bargaining

PREVIOUS POLICY

PREVIOUS POLICY

PROCEDURES

Sexual harassment incidents should be reported directly to the Affirmative Action Officer in the President's Office or to another university administrative officer who will work with the Affirmative Action Officer in resolving the complaint. All sexual

agreements with the Service Employees International Union and the Federation of Teachers take precedence, reference Administrative Rules OAR 5800150090 et seq., to address, investigate, and remedy allegations of discrimination or harassment.

Use of an informal process is encouraged as the first step in resolving a discrimination complaint. The complainant should contact the person (respondent) who is responsible for the policy, practice or act considered discriminatory within five days of the alleged act. If a resolution is not reached, or the complainant chooses, a formal discrimination complaint can be filed.

A formal discrimination complaint must be filed orally or in writing within 12 months after the alleged discriminatory act. If the complaint is received orally, the Director of Human Resource/Affirmative Action Officer will convert it to written form. The written form will contain the following information:

1. Complainant's name, address, status, and telephone number
2. The date of the alleged act of discrimination and a detailed description
3. An outline of the attempts to resolve the complaint, including the name of the person responsible for the alleged discriminatory act and the date(s) of the attempts, if any, at resolution
4. All information pertinent to the complaint
5. Resolution proposed by the Complainant
6. Complainant's signature

Copies of the written complaint will be given to the respondent, the appropriate dean or director, the appropriate vice president and the Chancellor's Office. The Director of Human Resources /Affirmative Action Officer will then investigate the complaint, and develop a recommended course of action. The recommendation will be forwarded to the appropriate dean or

harassment matters will be dealt with in a timely and confidential manner.

director and vice president for a final decision on the course of action to be taken.

The Complainant will receive a final written decision from the Director of Human Resources /Affirmative Action Officer within 30 days after the receipt of the complaint unless a 30 day extension is requested. The respondent, the appropriate Vice President and the Director of Human Resources/ Affirmative Action Officer shall have notice of the final decision.

The decision can be appealed the President of the University.

**REVISED POLICY
RESPONSIBILITY**

The Director of Human Resources/Affirmative Action Officer is responsible for the implementation and execution of this policy.

**REVISED POLICY
AUTHORITY**

Oregon Revised Statute Chapter 351; Division 10; Oregon Administrative Rules, Chapter 580, Division 15 and 22; and relevant and applicable collective bargaining agreements.

**REVISED POLICY
ADDITIONAL RIGHTS**

Nothing in this policy precludes any person from filing a complaint with the Oregon Bureau of Labor & Industries, the Equal Employment Opportunity Commission, or a court of competent jurisdiction.

**PREVIOUS POLICY
RESPONSIBILITY**

Responsibility is placed upon administrative personnel to create and maintain an environment free of harassment.

**PREVIOUS POLICY
AUTHORITY**

Sexual harassment is a form of sex discrimination and is illegal under Title VII of the Civil Rights Act of 1964 for employees and under Title IX of the Education Amendments of 1972 for students. It is also prohibited under Oregon Revised Statutes 240.086(1), 240.145(3), 240.250, 240.316(4), 240.312, 240.555, 240.560, and 659.030(1); and Governor's Executive Order 81-7; Executive Department Personnel Policy 80.009.01; and Oregon Administrative Rules 580-15-010, 580-15-015, and 580-15-160.

PREVIOUS POLICY

**REVISED POLICY
HISTORY**

The Sexual Harassment policy was originally adopted as a separate policy on September 22, 1995.

The Harassment Free/Violence Free Workplace policy was originally adopted as a separate policy on June 17, 1999.

Prior to 1995, the WOU Affirmative Action Plan included reference to discrimination, harassment and sexual harassment.

The Sexual Harassment policy was revised February 1, 1998.

The current revision of the Discrimination & Harassment policy was reviewed, comments were submitted and a recommendation for approval was made by the:

Faculty Senate – November 23, 2004

Staff Senate – September 10, 2004

Student Senate – December 10, 2004

PREVIOUS POLICY

Appendix 4: Comparison Chart between Current and Former Consensual Relationship Policies

CONSENSUAL RELATIONSHIP POLICY COMPARISON

REVISED POLICY POLICY

Romantic or sexual relationship between a university employee and student, or between a supervisor and subordinate employee, raises serious ethical concerns and can create an unacceptable educational or working environment. The respect and trust accorded a university employee by a student, as well as the power exercised by a university employee in his/her academic or evaluative role, greatly diminish the student's or subordinate's actual freedom of choice should sexual favors be requested. Therefore, university employees are warned against the possible costs of participating in even an apparently consenting relationship.

The university views a romantic or sexual relationship between a university employee and student to be unethical if the employee has any professional responsibility for the student. Likewise, a romantic or sexual relationship between a supervisor and student or subordinate employee whose work is being supervised by that university employee is considered unethical.

REVISED POLICY PURPOSE

To broadly identify consensual relationships and identify procedures for use by university employees and students when they feel that a relationship has moved into potential sexual harassment.

PREVIOUS POLICY POLICY

It is the policy of Western Oregon University that romantic or sexual relationships between faculty or staff and students, or between supervisor and employee raise serious ethical concerns and often create an unacceptable environment. In such cases, the failure by university employees to withdraw from participation in activities or decisions that reward or penalize the student or another employee with whom the university employee is having or has had an amorous relationship will be considered unethical.

PREVIOUS POLICY PURPOSE

Any university employee who enters into a sexual relationship with a student or subordinate employee where a professional power differential exists must realize that, if a charge of sexual harassment is subsequently lodged, the fundamentally asymmetric nature of the relationship will make it exceedingly difficult to prove mutual

Types of relationships covered by this statement, a relationship must:

Appear to be consensual, and

Be romantic or sexual in nature, and

Develop between two individuals one of whom has power or authority over the other.

A romantic or sexual relationship that is entered into by two adults when one of the participants has power or authority over the other creates the possibility that the relationship may not be truly consensual, or if consensual may not permit a later decision by the person with less power to discontinue the relationship out of concern for the possible effect on his/her employment or educational status.

If the relationship was proven to be non-consensual or became non-consensual; it should be regarded as potential sexual harassment based on the unwelcome nature of the sexual conduct. Relationships that are not consensual are prohibited under the University's Discrimination and Harassment policy. Consenting relationships that may result in complaints of sexual harassment or sexual favoritism and that create a conflict of interest include, for example, those between:

- A faculty member and a student who is enrolled in the faculty member's course, who is enrolled in a program for which a course taught by the faculty member is a requirement, who is an advisee of the faculty member, or whose academic work is being supervised by the faculty member;

consent. A defense based upon mutual consent will receive an unsympathetic response.

- A university employee and a student if the university employee is in a position to evaluate or otherwise influence the student's education, employment, housing, or participation in athletics or any other University activity (university employee includes, for example, graduate assistants, administrators, coaches, advisors, program directors, counselors, health center staff, and residential life staff);
- A supervisor and an employee under the person's supervision; a division/department chair/head and a faculty member in the same division/department; an administrator and an employee in an office/department under that administrator's direction;
- A tenured faculty member and an untenured faculty member if the tenured person participates in peer recommendations about the untenured person.
- Consensual relationships between two co-workers, two university employees in different departments, two students, or a university employee and a student between whom no professional power differential exists and which are welcomed by both parties involved are not subject to the sexual harassment policy.

REVISED POLICY

PROCEDURES

A University employee who enters into a consensual relationship with a student or another employee with whom they have an academic or evaluative relationship must:

1. Disclose the relationship to his or her supervisor (division chair, dean, director, vice president), and
2. Terminate any situation of authority when the consensual relationship develops or exists.

PREVIOUS POLICY PROCEDURES

If a relationship is proven to be non-consensual or becomes non-consensual; it will be regarded as potential sexual harassment based on the unwelcome nature of the sexual conduct. Relationships that are not consensual are prohibited under the University's Discrimination & Harassment policy.

REVISED POLICY

AUTHORITY

Policy authority of the President in OAR 580-022-0045; American Association of University Professors (AAUP) Statement of Professional Ethics; Western Oregon University Code of Ethics; ORS 352.

REVISED POLICY

RESPONSIBILITY

The Director of Human Resources/Affirmative Action Officer is responsible for the implementation, monitoring and execution of this policy.

Nothing in this process precludes any person from filing a formal grievance in accordance with our collective bargaining agreements or with the Bureau of Labor and Industries or the Equal Employment Opportunity Commission.

PREVIOUS POLICY

AUTHORITY

Policy authority of the President in OAR 580-022-0045 and ORS 352.004

PREVIOUS POLICY

RESPONSIBILITY

All members of the campus community, especially the Vice Presidents, the Provost, the Assistant to the President and the President, have the responsibility to carry out this policy and monitor it. However, it is the responsibility of the Affirmative Action Office to take action in response to policy violations.

**REVISED POLICY
HISTORY**

The Consensual Relationships policy was originally adopted as a separate policy on September 22, 1995. Prior to 1995, the WOU Affirmative Action Plan included reference to consensual relationships.

The Consensual Relationships policy was revised February 1, 1998.

The current revision of the Consensual Relationships policy was reviewed, comments were submitted and a recommendation for approval was made by the:

- Faculty Senate – January 11, 2005
- Staff Senate – September 10, 2004
- Student Senate – December 10, 2004

**PREVIOUS POLICY
HISTORY**

Appendix 5: Comparison Chart between Current, Former and PSU Discrimination/Sexual Harassment Policies

**DISCRIMINATION/SEXUAL HARASSMENT POLICY COMPARISON
WITH PORTLAND STATE UNIVERSITY**

REVISED POLICY

PURPOSE AND SCOPE

Western Oregon University is committed to cultivating an educational and work environment in which all individuals are treated with respect and dignity. Each individual has the right to learn and work in an atmosphere that promotes equal educational and employment opportunities and prohibits discriminatory practices, including harassment. Western Oregon University expects relationships across campus will be free from bias, prejudice and harassment. This policy statement is intended to (a) reaffirm Western Oregon University’s prohibition against discrimination and harassment, (b) clarify types of prohibited conduct, and (c) provide an effective complaint procedure to individuals who believe they have observed or have been subject to prohibited conduct.

PREVIOUS POLICY

PURPOSE

To identify sexual harassment, work on preventative measures, and establish a complaint/grievance process for the harassed person.

**PORTLAND STATE
UNIVERSITY**

REVISED POLICY

POLICY

It is the policy of Western Oregon University to provide a campus environment free from discrimination and harassment on the basis of race, color, religion, national origin, age, sex, marital status, sexual orientation, veteran status or disability or any other status protected under law.

Discrimination. Discrimination, for the purposes of this policy, is defined as any act or practice, in form or operation, whether intended or unintended, that unreasonably differentiates among persons on the basis of race, color, religion, national origin, age, sex, marital status, sexual orientation, veteran status or disability or any other status protected under law.

PREVIOUS POLICY

POLICY

Western Oregon University's educational mission is promoted by an atmosphere of mutual trust and respect. As an educational community, we value for each of our members an environment free from any kind of sexual harassment and/or intimidation. Sexual harassment undermines and hinders the fulfillment of the University's mission. Sexual harassment of students, faculty or staff by any other member of the university community is strictly prohibited and will not be tolerated.

PORTLAND STATE UNIVERSITY

POLICY

Sexual Harassment, in all its forms, is unethical behavior, disruptive of workplace and campus life, and inherently antithetical to the University's mission, purpose and functioning. PSU administration, faculty, staff, and students are responsible for assuring that PSU maintains an environment for work, study, and the provision of services and activities that is free from sexual harassment. Sexual harassment is prohibited by Federal and State law, Oregon University System rules and policy, and is prohibited at Portland State University (PSU).

Prohibited Discrimination

Portland State University supports equal opportunity in admissions, education, employment, and use of facilities by prohibiting discrimination in those areas based on age, color, disability, marital status, national origin, race, religion or creed, sex or gender, sexual orientation, veteran status, or any other applicable basis in rule or law. This policy implements local, state and federal laws (including Title IX and Administrative Rules pertaining to prohibited discrimination); inquiries about it should be directed to the Affirmative Action &

Harassment. Harassment, for the purposes of this policy, is defined as conduct that creates an intimidating, hostile, or degrading environment that would interfere with the work or academic performance of a reasonable person of the complainant's protected status.

Sexual Harassment. Sexual harassment is a form of discriminatory harassment. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical behavior of a sexual nature when directed toward an individual because of that individual's sex when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of the individual's employment, grade, or used as the basis for any employment or academic decision; or
- b. Such conduct is unwelcome and has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creates an intimidating, hostile or offensive work or academic environment.

Equal Opportunity Office, 122 Cramer Hall, 503-725-4417; TTY: 503-725-6503, website: afm@pdx.edu.

DEFINITION

Sexual harassment is any unwelcome and unwanted sexual advance or request for sexual favor or other verbal or physical conduct of a sexual nature when:

- A. Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment, participation in a sponsored educational program, participation in services, or participation in sponsored activity; or
- B. Submission to or rejection of such conduct is used either explicitly or implicitly as a basis for any decision affecting terms or conditions of an individual's employment, participation in a sponsored educational program, participation in services, or participation in sponsored activity; or

Examples of Prohibited Conduct. The following are examples of conduct that may be prohibited under this policy. This list is representative and is not exhaustive:

- a. Unwelcome touching or physical closeness of a personal nature, which can include leaning over, cornering, or pinching.
- b. Sexual innuendos, teasing and other sexual talk such as jokes, intimate inquiries, persistent and unwanted courting, and sexist put

- C. Such conduct has the effect of unreasonably interfering with an individual's work performance, receipt of services or academic activities, or creates an intimidating, hostile or offensive environment.

Sexual harassment can occur between any individuals associated with PSU, i.e., between an employee and a supervisor; between co-workers; between faculty members; between a faculty, staff or student and a customer, patient, vendor, or contractor; or between a student and a faculty member or another student. Sexual harassment can occur independent of the gender of the parties involved.

EXAMPLES OF SEXUAL HARASSMENT

Sexual harassment can encompass any sexual attention that is unwelcome and unwanted. Examples of verbal or physical conduct prohibited by this Policy include, but are not limited to:

- A. A pattern of sexually charged conduct not legitimately related to the subject matter of a course that causes discomfort or embarrassment including:
 - comments of a sexual nature;

downs or insults.

- c. Derogatory remarks, slurs or jokes about an individual's race, color, religion, national origin, age, sex, marital status, sexual orientation, veteran status, disability, or any other status protected by law.

This policy shall be applied in a manner that protects academic freedom and freedom of expression within the University. Nothing in this policy shall be construed to limit the expression of ideas, however controversial, that can reasonably be demonstrated to service legitimate education purposes.

- sexually explicit statements, questions, jokes, or anecdotes;
- touching, patting, hugging, brushing against a person's body, or repeated focused staring;
- remarks about sexual activity, experience, or orientation; and/or
- display of inappropriate sexually oriented materials in a location where others can see it

B. Direct or implied threats that submission to sexual advances will be a condition of employment, work status, participation in activities, promotion, grades, assignments, or letters of recommendation; and

C. Physical sexual assault.

Penalties. Conduct in violation of this policy will not be tolerated. For employees, prohibited conduct may result in disciplinary action, up to and including dismissal. For students, prohibited conduct may result in disciplinary action under Western Oregon University's code of student responsibility at Oregon Administrative Rules Chapter 574,

CONFIDENTIALITY

To the extent possible, PSU treats as confidential all information received in connection with reports of sexual harassment. It may become necessary, however, to disclose particulars during the course of an investigation or attempt at resolution. All individuals who participate in any procedure under this policy have an obligation to maintain the highest confidentiality of any of the matters discussed.

FALSE COMPLAINTS

It is a violation of this policy for anyone to make an intentionally false accusation of sexual harassment. Anyone who is found to have made an intentionally false accusation of sexual harassment will be subject to appropriate corrective and/or disciplinary action.

CORRECTIVE ACTION

Where sexual harassment is found, steps will be taken to ensure that the harassment is stopped immediately. Appropriate corrective measures will be implemented and may range from counseling, verbal or written reprimands, suspensions, or other action, up to and including dismissal, in

Division 31. Managers and supervisors who know or should know of conduct in violation of this policy, and who fail to report it, or fail to take prompt, appropriate corrective action are subject to disciplinary action, up to and including dismissal.

**REVISED POLICY
NON- RETALIATION**

This policy prohibits retaliation against individuals who complain about prohibited conduct or otherwise participate in the process under this policy. Any student or employee found to have engaged in retaliatory action or conduct will be subject to discipline, up to and including dismissal.

**REVISED POLICY
PROCEDURES**

An effective and clear complaint procedure is a critical element of Western Oregon University’s policy against discrimination and harassment. The complaint procedure is open to all employees, applicants and students, except as collective bargaining agreements with the Service Employees

PREVIOUS POLICY

**PREVIOUS POLICY
PROCEDURES**

Sexual harassment incidents should be reported directly to the Affirmative Action Officer in the President's Office or to another university administrative officer who will work with the Affirmative Action Officer in resolving the complaint. All sexual harassment matters will be dealt

accordance with established PSU policies and procedures. Matters involving students will be investigated by the Affirmative Action Office and findings will be forwarded to the Office of Student Affairs for processing under the Student Conduct Code.

**PORTLAND STATE UNIVERSITY
NON- RETALIATION**

Retaliation against an individual for reporting sexual harassment or for participating in an attempt at resolution, an investigation, or any activity under this policy is strictly prohibited. Any act of retaliation or reprisal violates this policy and will be treated as a separate matter. Anyone found to have retaliated against anyone making use of this policy or any procedures related to this policy will be subject to appropriate disciplinary or corrective action(s), up to and including severance of any relationship with PSU.

**PORTLAND STATE UNIVERSITY
THE COMPLAINT/GRIEVANCE
PROCESS**

REPORTING SEXUAL HARASSMENT
PSU encourages anyone who believes that s/he has experienced or witnessed sexual harassment to come forward promptly. While sexual harassment concerns may sometimes be resolved by the person being harassed dealing directly with the

International Union and the Federation of Teachers take precedence, reference Administrative Rules OAR 5800150090 et seq., to address, investigate, and remedy allegations of discrimination or harassment.

Use of an informal process is encouraged as the first step in resolving a discrimination complaint. The complainant should contact the person (respondent) who is responsible for the policy, practice or act considered discriminatory within five days of the alleged act. If a resolution is not reached, or the complainant chooses, a formal discrimination complaint can be filed.

A formal discrimination complaint must be filed orally or in writing within 12 months after the alleged discriminatory act. If the complaint is received orally, the Director of Human Resource/Affirmative Action Officer will convert it to written form. The written form will contain the following information:

1. Complainant's name, address, status, and telephone number
2. The date of the alleged act of discrimination and a detailed description
3. An outline of the attempts to resolve the complaint, including the name of the person responsible for the alleged

with in a timely and confidential manner.

alleged harasser, when such a course of action is not possible or appropriate, concerns or issues regarding sexual harassment should be brought to the attention of:

- A. A supervisor or department head most directly concerned, excluding the person accused of the harassment;
- B. Any academic or administrative official of PSU including but not limited to the president, a vice president, university counsel, the provost or a vice provost, a dean, a chair, or a director;
- C. The Office of Affirmative Action;
- D. Office of Student Affairs;
- E. Members of the Sexual Harassment Resource Network;
- F. Ombuds Office;
- G. Campus Public Safety.

The PSU Affirmative Action/EO Office uses a non-advocacy, fact-finding investigative process that primarily involves interviewing the complainant,

discriminatory act and the date(s) of the attempts, if any, at resolution

4. All information pertinent to the complaint
5. Resolution proposed by the Complainant
6. Complainant's signature

Copies of the written complaint will be given to the respondent, the appropriate dean or director, the appropriate vice president and the Chancellor's Office. The Director of Human Resources /Affirmative Action Officer will then investigate the complaint, and develop a recommended course of action. The recommendation will be forwarded to the appropriate dean or director and vice president for a final decision on the course of action to be taken.

The Complainant will receive a final written decision from the Director of Human Resources /Affirmative Action Officer within 30 days after the receipt of the complaint unless a 30 day extension is requested. The respondent, the appropriate Vice President and the Director of Human Resources/ Affirmative Action Officer shall have notice of the final decision. The decision can be appealed the President of the University.

respondent and witnesses, and collecting and compiling supporting documents, in order to resolve discrimination related complaints or grievances. The process begins on an informal basis if it appears that both parties are willing to participate and if the desired outcome is negotiable. Sometimes discrimination issues or concerns are due to ignorance or misunderstandings that are easily resolved through an informal process. Informal resolutions might include (but are not limited to) apologies, mediation, or participation in discrimination awareness and prevention classes.

In the event that informal resolution fails or is not possible, the PSU Affirmative Action/EO Office uses a formal process. If there is a preponderance of evidence indicating a finding of discrimination (including sexual harassment) many different actions could be recommended. These range from requiring the respondent to participate in related educational programs to more severe consequences, up to and including termination. Even if the investigation does not result in a finding of discrimination, the process can sometimes reveal a behavior on the part of those involved that is not illegal or against any applicable policy, but nevertheless, is undesirable and needs to be changed.

OPTIONS FOR RESOLUTION

Individuals who report concerns about sexual harassment will be advised of their options for resolution of the complaint. These options include:

- A. Informal resolution of the complaint with the assistance of the Affirmative Action Office and, where appropriate, the individual(s) to whom the report was initially made; or
- B. Filing a formal grievance through the University's grievance procedures.

Prohibited Discrimination and the Complaint/Grievance Process

The PSU Affirmative Action/EO Office uses a non-advocacy, fact-finding investigative process that primarily involves interviewing the complainant, respondent and witnesses, and collecting and compiling supporting documents, in order to resolve discrimination related complaints or grievances. The process begins on an informal basis if it appears that both parties are willing to participate and if the desired outcome is negotiable. Sometimes discrimination issues or

REVISED POLICY

RESPONSIBILITY

The Director of Human Resources/Affirmative Action Officer is responsible for the implementation and

PREVIOUS POLICY

RESPONSIBILITY

Responsibility is placed upon administrative personnel to create and maintain an environment free of

concerns are due to ignorance or misunderstandings that are easily resolved through an informal process. Informal resolutions might include (but are not limited to) apologies, mediation, or participation in discrimination awareness and prevention classes.

In the event that informal resolution fails or is not possible, the PSU Affirmative Action/EO Office uses a formal process. If there is a preponderance of evidence indicating a finding of discrimination (including sexual harassment) many different actions could be recommended. These range from requiring the respondent to participate in related educational programs to more severe consequences, up to and including termination. Even if the investigation does not result in a finding of discrimination, the process can sometimes reveal a behavior on the part of those involved that is not illegal or against any applicable policy, but nevertheless, is undesirable and needs to be changed.

PORTLAND STATE UNIVERSITY

RESPONSIBILITY

Any Supervisor, Manager, Faculty Member, Sexual Harassment Resources Network Member, or other University

execution of this policy.

REVISED POLICY

AUTHORITY

Oregon Revised Statute Chapter 351; Division 10; Oregon Administrative Rules, Chapter 580, Division 15 and 22; and relevant and applicable collective bargaining agreements.

REVISED POLICY

ADDITIONAL RIGHTS

Nothing in this policy precludes any person from filing a complaint with the Oregon Bureau of Labor & Industries, the Equal Employment Opportunity Commission, or a court of competent jurisdiction.

harassment.

PREVIOUS POLICY

AUTHORITY

Sexual harassment is a form of sex discrimination and is illegal under Title VII of the Civil Rights Act of 1964 for employees and under Title IX of the Education Amendments of 1972 for students. It is also prohibited under Oregon Revised Statutes 240.086(1), 240.145(3), 240.250, 240.316(4), 240.312, 240.555, 240.560, and 659.030(1); and Governor's Executive Order 81-7; Executive Department Personnel Policy 80.009.01; and Oregon Administrative Rules 580-15-010, 580-15-015, and 580-15-160.

PREVIOUS POLICY

Official who receives a report of sexual harassment shall promptly notify the Affirmative Action Office of the complaint. The Affirmative Action Office has primary responsibility for investigating and resolving reports of sexual harassment.

PORTLAND STATE UNIVERSITY

PORTLAND STATE UNIVERSITY

REVISED POLICY HISTORY

The Sexual Harassment policy was originally adopted as a separate policy on September 22, 1995.

The Harassment Free/Violence Free Workplace policy was originally adopted as a separate policy on June 17, 1999. Prior to 1995, the WOU Affirmative Action Plan included reference to discrimination, harassment and sexual harassment.

The Sexual Harassment policy was revised February 1, 1998.

The current revision of the Discrimination & Harassment policy was reviewed, comments were submitted and a recommendation for approval was made by the:

- Faculty Senate – November 23, 2004
- Staff Senate – September 10, 2004
- Student Senate – December 10, 2004

PREVIOUS POLICY

PORTLAND STATE UNIVERSITY

**PORTLAND STATE UNIVERSITY
DEFINITIONS
General Definitions of Prohibited
Discrimination at PSU**

Discrimination based on the following categories in employment, education, training, participation in activities, or receiving services is prohibited.

Age: State law prohibits discrimination

against any person, who is 18 years of age or older, for being "too young" or "too old." An organization may not discriminate in hiring, compensation and other terms, conditions, or privileges of employment, education, training or providing services. (Instructors may not discriminate in classes for reasons of age.)

Federal Law: The Age Discrimination in Employment Act covers all employment relationships, but only for those persons 40 years of age and older.

Color: Refers to a person's skin tone and involves all shades including absence of pigmentation.

Disability: A "disabled person" is a person who has a physical or mental condition that substantially limits one or more major life activities, has a record of such a condition, or is regarded as having such a condition. A "condition" is any apparent or medically detectable condition which weakens, diminishes, restricts, or otherwise damages an individual's health or physical or mental activity, leaving him/her unable to perform any major life activities, including: self care, ambulation, communication, eating, breathing, transportation, education, socialization,

and employment.

Marital Status: The state of being married, single, widowed, divorced, separated, or in any transitional stage.

National Origin: 1. The individual or the individual's forebears came from a particular country; 2. The individual possesses a particular ancestry, heritage, or background; or 3. The individual's name or the name of the individual's spouse reflects a certain national origin.

Race:

- **Black, Non-Hispanic--**A person having origins in any of the Black racial groups of Africa.
- **American Indian or Alaskan Native--**A person having origins in any of the original peoples of North America, and who maintains identification through tribal affiliation or community recognition.
- **Asian or Pacific Islander--**A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This includes China, Japan, Korea, the Philippine

Islands and Samoa.

- Hispanic--A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- White, Non-Hispanic--A person having origins in any of the original peoples of Europe, North Africa or the Middle East.

Religion: It is unlawful for an organization to discriminate against any individual in hiring, termination, or any terms and conditions of employment, education and training or providing services on the basis of religion, unless such discrimination results from a bona fide occupational requirement reasonably necessary to the normal operation of the organization. Religious beliefs include personal beliefs outside of organized religion, if the belief is sincere and serves a religious purpose within the individual's life. (PSU recognizes a student's right to participate in holy days of their chosen religion, which may interfere with class attendance and assignments. Arrangements should be made ahead of time with instructors.)

Sex: GENDER discrimination is prohibited in hiring, compensation, terms

or conditions of employment, on-the-job treatment and termination, grades, assignments, or participation in any PSU sponsored curricular or extracurricular activity. SEXUAL HARASSMENT: 1. Quid pro quo harassment occurs when an employer, supervisor or faculty demands non-consensual sexual favors or attention in exchange for benefits, advancement, hire, continued employment, grades, assignments or participating in any activity. Under both state and federal law, organizations are liable for quid pro quo harassment by their supervisors or agents (including instructors). 2. Hostile environment harassment is unwelcome conduct of a sexual nature, within a specific context, which has the purpose or effect of unreasonably interfering with an individual's performance or which creates an intimidating, offensive or hostile environment. Such conduct, verbal and/or physical, may be embarrassing, suggestive, or degrading to an individual.

Sexual Orientation: An individual's preference for a particular sex (be it the opposite or the same), or an individual's view of his/her own sexuality.

Veteran Status: The Vietnam Era Veterans Readjustment Act of 1974 requires affirmative action in employment for

Vietnam veterans and disabled veterans. Discrimination against veterans is prohibited.

Definitions of other complaint factors:

General Harassment: Unprofessional or inappropriate conduct which has the purpose or effect of unreasonably interfering with an individual's performance or which creates an intimidating, offensive or hostile environment. Such conduct, verbal and/or physical, may be degrading to an individual. Also includes "bullying."

Interpersonal Violence: Unwelcome, violent behavior between individuals, including domestic violence and sexual assault.

Complaints/Grievances & Resolution Options for Prohibited Discrimination (For Students)

The following information describes grievance and complaint options for PSU students who feel they have been discriminated against.

What is Prohibited Discrimination?

*Prohibited discrimination** is an act or policy that unreasonably differentiates among persons on the basis of age, color, disability, marital status, national origin, race, religion, sex (includes gender discrimination and sexual harassment), sexual orientation or veteran status.*

***Not sure whether your situation involves prohibited discrimination? Drop in or call the Affirmative Action & Equal Opportunity Office to make an appointment for consultation.*

AFFIRMATIVE ACTION & EQUAL OPPORTUNITY OFFICE: 122 CH, (503) 725-4417

The Affirmative Action & Equal Opportunity Office (AFM/EO) encourages students to come in for consultation about any discrimination complaint. Staff will explain the options open to the student, and if the student decides to make a complaint, the office will work with the student to resolve the problem or issue to the student's satisfaction. **(TTY: 725-6503)**

Informal Resolution of Complaints

All complaints go through the same investigative procedure; however, an issue

or complaint about prohibited discrimination can often be settled without formal complaint proceedings if the parties are able to reach a mutual agreement. The AFM/EO Office will initially attempt to resolve any complaints informally.

Formal Resolution of Complaints

All complaints go through the same investigative procedure; however, if informal resolution has failed, or if a student feels strongly that informal settlement is not sufficient to remedy the problem, the student can make a formal complaint. In this case, the AFM/EO Office will determine whether or not, and if so to what extent, the rules/laws regarding discrimination have been violated, and issue a finding and recommendations. If the accused party is another PSU student, the finding and recommendation will be forwarded to the Office of Student Affairs for possible sanctions under the Student Conduct Code.

Confidentiality & Protection From Retaliation

Confidentiality will be strictly preserved to the extent possible, and the student making the complaint will be protected from any retaliation.

**OFFICE OF STUDENT AFFAIRS: 433
SMSU, (503) 725-4422**

The Office of Student Affairs offers several

processes for the resolution of complaints. It also provides information, counseling, referrals and formal investigation as provided for under the Student Conduct Code. If a student files a Student Conduct complaint against another student involving prohibited discrimination, the complaint will be forwarded to the Affirmative Action/EO Office for investigation. At the conclusion of the investigation, the findings will be forwarded to the Office of Student Affairs for disciplinary action, if necessary, according to the provisions of the Student Conduct Code.

Other Campus Programs/Resources:

Campus Public Safety Office: 1939 SW Broadway, (503) 725-4404: For immediate assistance or protection (if a student fears imminent harm, or has been physically attacked.)

Campus Ombuds Office: 169 Cramer Hall, (503) 725-5901: Confidential, informal and safe office that offers options for problem resolution.

Center for Student Health & Counseling: 1880 SW 6th Ave., (University Center Building, Suite 200), (503) 725-2800: Provides counseling and referrals for students. Students who have been harassed or discriminated against sometimes need help to cope with their feelings.

For Informal Help or Consultation:

Sexual Harassment Resource Network:
A network of volunteers trained to listen and provide support, information and referrals on sexual harassment issues. (Look for fliers listing members.)

Safe Space Network:
A network of volunteers trained to listen and provide support, information and referrals on gay, lesbian, bisexual and transgender issues.

Interpersonal Violence Resource Network:
A network of volunteers trained to listen and provide support, information and referrals for victims of interpersonal violence. (Look for fliers listing members.)

External Resource:
The U.S. Department of Education provides information and formal investigation of student discrimination complaints as they relate to education: U.S. Department of Education, Region X; Office of Civil Rights; Jackson Federal Building; 915 Second Avenue, Room 3310; Seattle, WA 98174-1099, tel. (206) 220-7880.

Appendix 6: Comparison Chart between Current, Former and PSU Consensual Relationship Policies

**CONSENSUAL RELATIONSHIP POLICY COMPARISON
WITH PORTLAND STATE UNIVERISTY**

**REVISED POLICY
POLICY**

Romantic or sexual relationship between a university employee and student, or between a supervisor and subordinate employee, raises serious ethical concerns and can create an unacceptable educational or working environment. The respect and trust accorded a university employee by a student, as well as the power exercised by a university employee in his/her academic or evaluative role, greatly diminish the student's or subordinate's actual freedom of choice should sexual favors be requested. Therefore, university employees are warned against the possible costs of participating in even an apparently consenting relationship.

The university views a romantic or sexual relationship between a university employee and student to be unethical if the employee has any professional responsibility for the student. Likewise,

**PREVIOUS POLICY
POLICY**

It is the policy of Western Oregon University that romantic or sexual relationships between faculty or staff and students, or between supervisor and employee raise serious ethical concerns and often create an unacceptable environment. In such cases, the failure by university employees to withdraw from participation in activities or decisions that reward or penalize the student or another employee with whom the university employee is having or has had an amorous relationship will be considered unethical.

**PORTLAND STATE UNIVERSITY
POLICY**

The University recognizes that two consenting adults should be free to conduct a personal relationship if they so wish; however, if a consensual relationship should develop between an instructor or supervisor and a student or supervisee, where a power differential exist, the instructor or supervisor should report the matter, as soon as possible, to his or her immediate supervisor, i.e.; Department Chair, Professor in charge of the course, the unit supervisor, etc. This immediate supervisor, in consultation with the Director of Affirmative Action, will immediately make arrangements so that the official determination(s) affecting the terms and conditions of employment, study, or progress in a program of the person(s) involved in the consensual relationship can be carried out under the direction of a competent objective third party(s). This should be carried out in a manner that maintains the highest degree of

a romantic or sexual relationship between a supervisor and student or subordinate employee whose work is being supervised by that university employee is considered unethical.

confidentiality possible.

It should also be made clear that the instructor, mentor, tutor, or supervisor should not, thereafter, be allowed to have undirected responsibility for supervising, evaluating, or grading the consensual relationship partner's performance. This is due to the possibility of residual feelings resulting from the consensual relationship, which could preclude impartiality.

All instructors, supervisors, students and supervisees should understand that these situations are of concern to Portland State University. It is the instructors and supervisors, who, by virtue of their special power and responsibility, will bear the burden of accountability in such cases. There are substantial risks in an apparently consensual relationship where a power differential exists, even if the conflict of interest issues are resolved, involving potential charges of sexual harassment and/or violations of University policy. Such consensual relationships have the potential for very serious consequences and should be avoided, where possible.

Where such relationships cannot be, or are not avoided, this policy mandates the declaration to and intervention by a supervising authority, for the protection of

**REVISED POLICY
PURPOSE**

To broadly identify consensual relationships and identify procedures for use by university employees and students when they feel that a relationship has moved into potential sexual harassment.

Types of relationships covered by this statement, a relationship must:

**PREVIOUS POLICY
PURPOSE**

Any university employee who enters into a sexual relationship with a student or subordinate employee where a professional power differential exists must realize that, if a charge of sexual harassment is subsequently lodged, the fundamentally asymmetric nature of the relationship will make it exceedingly difficult to prove mutual consent. A defense based upon mutual consent will receive an unsympathetic response.

both parties involved in the consensual relationship. Any instructor or supervisor who enters into such a relationship should be aware that liability protection under Oregon statutes may not apply in subsequent actions arising out of consensual relationship situations, where the instructor or supervisor failed to comply with this policy, and that failure to comply with this policy can lead to disciplinary action up to and including dismissal.

**PORTLAND STATE UNIVERSITY
RATIONALE**

It is a generally accepted principle, reflected in various nepotism policies, sexual harassment policies, and others, that anyone in a position of power or authority should avoid situations where he or she would make determinations or evaluations affecting the terms and conditions of employment or student status for relatives, family members, spouses or significant others with whom he or she has an intimate relationship. Such a relationship, combined with the power and responsibility of making such determinations or evaluations, is considered to be a conflict of interest.

Appear to be consensual, and
Be romantic or sexual in nature, and
Develop between two individuals one of whom has power or authority over the other.

A romantic or sexual relationship that is entered into by two adults when one of the participants has power or authority over the other creates the possibility that the relationship may not be truly consensual, or if consensual may not permit a later decision by the person with less power to discontinue the relationship out of concern for the possible effect on his/her employment or educational status.

If the relationship was proven to be non-consensual or became non-consensual; it should be regarded as potential sexual harassment based on the unwelcome nature of the sexual conduct.

Relationships that are not consensual are prohibited under the University's Discrimination and Harassment policy.

Consenting relationships that may result in complaints of sexual harassment or sexual favoritism and that create a conflict of interest include, for example, those between:

- A faculty member and a student who is enrolled in the faculty member's course, who is enrolled in a program for which a course taught by the faculty member is a requirement, who is an advisee of the faculty member, or whose academic work is being supervised by the faculty member;
- A university employee and a student if the university employee is in a position to evaluate or otherwise influence the student's education, employment, housing, or participation in athletics or any other University activity (university employee includes, for example, graduate assistants, administrators, coaches, advisors, program directors, counselors, health center staff, and residential life staff);
- A supervisor and an employee under the person's supervision; a division/department chair/head and a faculty member in the same division/department; an administrator and an employee in an office/department under that administrator's direction;

- A tenured faculty member and an untenured faculty member if the tenured person participates in peer recommendations about the untenured person.

- Consensual relationships between two co-workers, two university employees in different departments, two students, or a university employee and a student between whom no professional power differential exists and which are welcomed by both parties involved are not subject to the sexual harassment policy.

REVISED POLICY PROCEDURES

A University employee who enters into a consensual relationship with a student or another employee with whom they have an academic or evaluative relationship must:

3. Disclose the relationship to his or her supervisor (division chair, dean, director, vice president), and

4. Terminate any situation of authority when the consensual relationship develops or exists.

If a relationship is proven to be non-consensual or becomes non-consensual; it will be regarded as potential sexual harassment based on the unwelcome nature of the sexual conduct.

Relationships that are not consensual are

PREVIOUS POLICY PROCEDURES

prohibited under the University's
Discrimination & Harassment policy.

REVISED POLICY

AUTHORITY

Policy authority of the President in OAR
580-022-0045; American Association of
University Professors (AAUP)
Statement of Professional Ethics;
Western Oregon University Code of
Ethics; ORS 352.

REVISED POLICY

RESPONSIBILITY

The Director of Human
Resources/Affirmative Action Officer is
responsible for the implementation,
monitoring and execution of this policy.

Nothing in this process precludes any
person from filing a formal grievance in
accordance with our collective
bargaining agreements or with the
Bureau of Labor and Industries or the
Equal Employment Opportunity
Commission.

PREVIOUS POLICY

AUTHORITY

Policy authority of the President in OAR
580-022-0045 and ORS 352.004

PREVIOUS POLICY

RESPONSIBILITY

All members of the campus community,
especially the Vice Presidents, the
Provost, the Assistant to the President
and the President, have the
responsibility to carry out this policy
and monitor it. However, it is the
responsibility of the Affirmative Action
Office to take action in response to
policy violations.

REVISED POLICY HISTORY

The Consensual Relationships policy was originally adopted as a separate policy on September 22, 1995. Prior to 1995, the WOU Affirmative Action Plan included reference to consensual relationships.

The Consensual Relationships policy was revised February 1, 1998.

The current revision of the Consensual Relationships policy was reviewed, comments were submitted and a recommendation for approval was made by the:

- Faculty Senate – January 11, 2005
- Staff Senate – September 10, 2004
- Student Senate – December 10, 2004

PREVIOUS POLICY HISTORY

PORTLAND STATE UNIVERSITY DEFINITIONS

Consensual Relationships: Relationships that are amorous, romantic or sexual in nature, legal within the state of Oregon, in which both parties are willing participants.

Power Differential: The actual or perceived imbalance of power that exists in a relationship when one of the parties in the relationship is an instructor or a supervisor and the other is a student or supervisee.

Instructor: All who teach at the University, who may be paid or volunteer employees of the University or of any University-affiliated, -supported or -sanctioned program, including faculty members, academic staff, administrative staff, other instructional personnel and undergraduate or graduate students or teaching assistants with teaching, advising, mentoring, or tutorial responsibility, and who are partly or wholly responsible for advising, evaluating or grading student's performance.

Student: Any person studying with an instructor, where that instructor is partly or wholly responsible for evaluating or grading that student's performance.

Supervisor: Any person who directly or

indirectly controls or affects the terms and conditions of employment of other employees.

Supervisee: Any person whose terms and conditions of employment are directly or indirectly controlled or affected by a supervisor.

Appendix 7: American Association of University Personnel Recommendations Concerning Consensual Relationships

Legal Issues In The Classroom

Appalachian College Association Teaching and Learning Institute

June 4, 2003

Donna Euben, Staff Counsel

III. Consensual Relationships

AAUP recommends the following policy:

Sexual relations between students and faculty members with whom they also have an academic or evaluative relationship are fraught with the potential for exploitation. The respect and trust accorded a professor by a student, as well as the power exercised by the professor in an academic or evaluative role, make voluntary consent by the student suspect. . . . In their relationships with students, members of the faculty are expected to be aware of their professional responsibilities and to avoid apparent or actual conflict of interest, favoritism, or bias. When a sexual relationship exists, effective steps should be taken to ensure unbiased evaluation or supervision of the student.

There are basically three kinds of policies: absolute prohibitions, limited bans on faculty-student supervisory relationships, and strong discouragement.

A variety of institutional policies exist:

- The College of William and Mary "prohibits consensual romantic and/or sexual relationships between faculty members and undergraduate students as well as between faculty members and those graduate students for whom the faculty member has direct professional responsibility."
- The University of Michigan does not prohibit such relationships, but provides that such relationships are "potentially exploitative and should be avoided."
- The [University of Iowa](#) policy provides: "No faculty member shall have an amorous relationship (consensual or otherwise) with a student who is enrolled in a course being taught by the faculty member or whose academic work (including work as a teaching assistant) is being supervised by the faculty member."
- At Ohio Northern University, "faculty and staff members should not have sexual relations with students to whom they are not married."
- The [Duke University](#) policy provides that: (1) any situation of authority be terminated when a consensual relationship between a student and a professor exists or develops; and (2) the relationship be disclosed to the faculty member's supervisor.

Query: Consider the implications for not only the student a faculty member may be involved with, but for other students in the classroom.

Waters v. Metropolitan State University: A female student and male professor began a consensual relationship after the student was no longer enrolled in the college. When the relationship ended, the student filed a sexual harassment claim against the professor. The court found, in part, that there was no showing of sexual harassment because there was no evidence that the professor's actions were unwelcome. In so ruling, the federal appellate court relied on the district court's findings, which included that the female student was an "adult student, somewhat older than the 'typical' college student," and that the professor was no longer her teacher, and had never been her faculty adviser. 52 Fed. Appx. 1 (8th Cir. 2002) (unpublished).

American Association of University Professors, 1012 Fourteenth Street, NW, Suite #500; Washington, DC 20005
202-737-5900 Fax: 202-737-5526

Appendix 8: System-wide Information on Instances of Sexual Harassment Reports in Oregon University System with chart



Oregon
University
System

Office of the Chancellor
P. O. Box 3175
Eugene, OR 97403-0175
PHONE (541) 346-5767
FAX (541) 346-5790
<http://www.ous.edu>

February 24, 2005

Memorandum

TO: Shelby Oppel

FROM: Benjamin E. Rawlins, General Counsel
Oregon University System

RE: PUBLIC RECORDS REQUEST DATED FEBRUARY 17, 2005

The Chancellor's Office and the affirmative action officers at the seven institutions within the Oregon University System have searched their records and find the following information responsive to your request dated February 17, 2005, which asked for the number of formal complaints by students who alleged sexual harassment by faculty, staff or administrators.

Since our campuses operate on fiscal years, that is how my response is crafted. The table on the following page includes all formal complaints filed, whether by students or others. Column A lists the number of formal complaints filed by students against faculty, staff or administrators, Column B lists formal complaints filed by a student against a student, and Column C lists formal complaints filed by all others against students, faculty, staff or administrators

OUS System-wide Sexual Harassment Formal Complaint Statistics

Institution	2001-02			2002-03			2003-04			2004-05 to Date		
	A	B	C	A	B	C	A	B	C	A	B	C
Chancellor's Office	0	0	0	0	0	0	0	0	0	0	0	0
Eastern Oregon University	0	0	0	0	0	0	0	0	0	0	0	0
Or. Institute of Technology	2	0	0	1	1	0	0	0	1	1 ¹	1	0
Oregon State University	3	0	1	3	1	0	3	1	5	0	0	0
Portland State University	2	1	0	1	1	0	1	3	0	0	0	1
Southern Oregon University	0	0	0	0	0	0	0	0	0	0	0	0
University of Oregon	2	*	0	2	*	0	2	*	0	1	*	1
Western Oregon University	0	0	0	2 ²	0	0	4	0	0	1	0	0

Column A – Formal complaints filed by students against faculty, staff or administrators

Column B – Formal complaints filed by students against students

Column C – Formal complaints filed by anyone other than a student against students and all others

*There were nine total cases reported. We are awaiting the breakout by year.

¹ This complaint involved an allegation of harassment by a supervisor at an externship placement site (not an OIT employee)

² One of these complaints was against both a student and a staff member