
Sexual Harassment on College Campuses: Reforming the UO's Policies & Procedures

Background & Recent National Attention

The issue of sexual assault on college campuses has seen recent and growing national concern. This concern is rooted in the great likelihood that a student will be sexually assaulted by the time she graduates from college. In response, President Obama assembled a task force to help universities prevent and respond to sexual violence and to increase federal agency oversight. That task force—the White House Council for Women and Girls—recently released a study finding that 1 in 5 women is sexually assaulted in college, but only about 12% of victims make a report.

Activist attention includes awareness for the potential to bring Title IX claims against their colleges and universities, and a demand for educational institutions to implement better policies and procedures for resolving alleged incidents of sexual misconduct.

Title IX

Sexual Assault = Sexual Harassment = Discrimination. Title IX is the federal law that prohibits discrimination on the basis of sex in education. Sexual harassment may qualify as discrimination if it is “so severe, pervasive, and objectively offensive that it effectively bars the victim’s access to an educational opportunity or benefit.”

- The Department of Education’s Office for Civil Rights (OCR) is responsible for enforcing Title IX.
- In April 2011, the OCR released what is known as the “Dear Colleague Letter,” in which it clarified that “the requirements of Title IX pertaining to sexual harassment also cover sexual violence.”
- Regardless of whether a student files a complaint under the school’s grievance procedures, if a school knows, or reasonably should know about possible harassment, it must investigate to determine what occurred and take steps to resolve the situation. Legal responsibility arises where a school’s response “is clearly unreasonable in light of the known circumstances.”
- School recipients of federal financial assistance are required to (1) provide notice of nondiscrimination; (2) designate at least one employee to coordinate institutional efforts to comply with and carry out Title IX requirements; and (3) adopt public grievance procedures to carry out the Title IX requirement.
 - (1) Notice. Schools may meet the first requirement by publishing notice that the school does not discriminate on the basis of sex in its education programs and activities. The notice must also state that inquiries concerning the application of Title IX may be referred to the school’s Title IX coordinator or the OCR. Such notice should include the title, office address, phone number, and e-mail address for the school’s Title IX coordinator. Notice should be widely published and distributed to all students and employees.
 - (2) Title IX Coordinator. The second requirement is to hire at least one designated on-campus coordinator to oversee all Title IX complaints and identify and address systematic problems. Coordinators, or their designees, should meet with students and provide assistance to school law enforcement employees regarding how to appropriately respond to reports of sexual assault. Schools are required to notify students and employees of the coordinators’ names or titles and contact information.
 - (3) Public Grievance Policies. Schools may use general student disciplinary

Important Terms

Sexual Harassment: “conduct that is sexual nature; is unwelcome; and denies or limits a student’s ability to participate in or benefit from a school’s education program.” This definition includes sexual violence.

Sexual Misconduct under UO’s SCC:

- (1) Unwanted penetration, which is penetration of another person or causing the penetration of another person when actor does not have explicit consent, knows or should have known the person was incapable of consent by reason of mental disorder, mental incapacitation, or physical helplessness.
- (2) Nonconsensual personal contact occurs “when a student subjects another person to contact of a sexual nature when a reasonable person would know that such contact would cause emotional distress.”
- (3) “Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that interferes with work or academic performance because it has created an intimidating, hostile, or degrading environment and would have such an effect on a reasonable person of the alleged complainant’s status when the conduct is unwelcome and sufficiently severe or pervasive that it deprives the person of benefits of the University’s educational environment.” OAR 571-021-0120(3)(h).

Explicit consent: voluntary, non-coerced and clear communication indicating a willingness to engage in a particular act.” OAR 571-021-0105(13). This includes nonverbal affirmative actions.

procedures to resolve complaints of sexual assault. The procedures must ensure a prompt and equitable resolution and equal application to all students, including student-athletes. Procedures may include voluntary or informal mechanisms; however, the OCR has stated that it is improper for a school to require a complainant to work out a problem directly with the alleged perpetrator. A school's grievance procedures should use the preponderance of the evidence standard when investigating allegations of sexual assault.

University of Oregon Conduct Code and Procedures

1. Reporting – a student can report to several offices on campus.
 - a. The Office of the Dean of Students (DOS) will ultimately receive all reports of sexual misconduct.
 - b. To maintain anonymity and confidentiality the student should use the UOPD online form. Students can receive confidential services at the Counseling Center or the University Health Center.
 - c. The Sexual Violence Response and Support Services Coordinator (SVRSSC) in the DOS provides coordinated support services, such as housing accommodations and support throughout the formal grievance process.
2. Investigation – reporting an incident of sexual misconduct creates a duty for the University to investigate.
 - a. DOS sends report to Office of Affirmative Action and Educational Opportunity (OAAEO). Title IX coordinator investigates report then sends to Office of Student Conduct and Community Standards (SCCS). If the SCCS finds there is probable cause of a violation it will determine the applicable conduct charges.
3. Adjudicatory Process - Process must balance the due process rights of the accused student and the rights of complainant.
 - a. A disciplinary case can be resolved through an administrative conference or administrative hearing. For expulsion, suspension, or transcript notation the case must be resolved at an administrative hearing and the complainant must be present. Both the complainant and the accused can advise the SCCS of what types of whether they want a conference of a hearings panel.
 - b. At the hearing the accused student can directly question the victim. Both students are permitted to have an advisor. The standard of proof is preponderance of the evidence for all sanctions except for expulsion is clear and convincing evidence.
4. Sanctions are determined by the hearings panel or at the administrative conference, and can range from educational activities to expulsion.
5. Both the accused and the complainant can appeal the imposition of sanctions.

Major Issues with UO's Policies and Procedures

1. Complicated reporting system and University materials make it unclear how to report anonymously.
2. Insufficient information regarding what a complainant should expect after they make a report of sexual misconduct.
3. The resolution of sexual misconduct cases is predominately through administrative conferences removing severe penalties as an option.
4. Accused student can directly confront complainant during a hearing, which increases trauma for the victim.
5. Standard of proof for expulsion is clear and convincing evidence.
6. The UO's materials do not make clear that a complainant can have an advisor at a hearing.

Summary of Recommendations

Our goal is to help the UO create a streamlined system that reduces the burden on the reporting student. In addition, the UO's policies and procedures should hold perpetrators accountable and work uphold the SCC's mission of maintaining an educational environment.

1. Reform the reporting system. Start with reporting form on the DOS website. Make sure that it clearly informs students: how to report anonymously; where to receive confidential support; what office will contact them next and when they can expect such contact. In addition, only one office should have primary contact with the student. A student should not be contacted the DOS and OAAEO separately.
2. Improve web materials. All information on one page and when a student searches "sexual assault and UO" the DOS website should be the first to come up.
3. Change the grievance procedures to make the hearing panel a less burdensome and traumatic option for a reporting student. The SCC should be modified to prohibit the accused from directly confronting the complainant.
4. Materials should make it clear that a complainant can have an advisor at the hearing.
5. The SCC should be amended to make the standard of proof preponderance of the evidence for all sanctions including expulsion.
6. Amend SCC by adding a section regarding the imposition of sanctions. This section will state that those students whose violations affect the health and welfare of the University community will receive the most severe sanction, even if it is their first offense.
7. Update the definition of sexual misconduct to ensure that it complies with recent pronouncements on the definition of sexual harassment.

