

**University Committee on Sexual and Gender Based Violence:  
Rationales and Process for Developing Policy on UO Responsible  
Employee Duty to Report Sexual Harassment and Sexual Assault  
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1. The Office of Civil Rights, US Department of Education (OCR) defined a “responsible employee” in a 2001 guidance to:

Include any employee who has the authority to take action to redress the harassment, who has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees, or an individual who a student could reasonably believe has this authority or responsibility.
2. The University adopted a policy on required reporting in 2004 in response to the above OCR Guidance and that policy was enacted as an Oregon Administrative Rule (OAR). That policy required all UO employees to report information regarding prohibited discrimination to the Office of Affirmative Action and Equal Opportunity (AAEO) or the employee’s supervisor. It is the opinion of the Office of the General Counsel at UO that, because UO employees have a duty to report prohibited discrimination, including sexual harassment, they are responsible employees under federal law.
3. Per OCR’s 2014 guidance, responsible employees are required to report certain information to the Title IX coordinator or other appropriate unit. Specifically, responsible employees are required to report:

All relevant details about the alleged sexual violence that the student or another person has shared and that the school will need to determine what occurred and to resolve the situation. This includes the names of the alleged perpetrator (if known), the student who experienced the alleged sexual violence, other students involved in the alleged sexual violence, as well as relevant facts, including the date, time, and location.

4. These reporting obligations are set forth on AAEO's website, which states:

When the University is on notice regarding issues of sexual harassment, assault, or any other form of gender discrimination, it has a duty to investigate the matter based on available information, take steps to remediate the adverse effects of the harassment/assault, stop any inappropriate behavior, and take steps reasonably calculated to prevent its recurrence. As a result, university employees who receive credible information that prohibited sexual harassment/assault or any other form of gender discrimination is occurring or has recently occurred must report that information to appropriate university authorities, unless the employee has a privilege defined under the law.

5. President Gottfredson changed the OAR into UO Policy in 2014 and sent communications to the campus reminding all employees of their reporting obligations..
6. UO's policy was somewhat unclear regarding whether or not UO employees were required to report certain information during the informal resolution process. These parts of the policy were determined by the UO General Counsel to be inconsistent with federal law as interpreted with OCR's guidance. In order to address this discrepancy, an emergency policy was issued on February 18, 2016 making it clear that responsible employees are required to report information regarding prohibited discrimination to the appropriate unit as required by federal law.
7. Because emergency policies are only effective for six months and in order to ensure that the new policy was considered and debated by a wide group of campus stakeholders, President Schill, UO's General Counsel and Senate President Randy Sullivan tasked the University Committee on Sexual and Gender Based Violence to develop a university policy on employee obligations to report information concerning sexual harassment and sexual assault.

The committee had held several meeting and numerous consultations on the mater over the course of the current academic year.

8. The committee requested that the OGC prepare a draft of a UO policy on required reporting based on deliberations within the committee. The draft has undergone multiple revisions based on suggestions from committee members and other university employees.
9. The committee subsequently voted to adopt the policy and send it to the UO Senate for further consideration.
10. The adopted policy directs reporting of instances of sexual misconduct/sexual violence to the Title IX Coordinator or to the Office of Victim Support Services (NAME?), offices trained in trauma-informed response and staffed to provide support and resources to survivors who wish to access such services.
11. While not all supporters of the adopted policy concur that its terms are mandated by federal law, the majority of the committee accepts that it is clearly permitted and, indeed, contemplated by federal law as illuminated by OCR guidance.
12. The committee rejects the view that this policy is designed institutional risk management reasons and believes that it is a reasonable response both to OCR guidance as well as the needs of the university community.
13. The Committee recognizes that there are serious arguments raised in opposition to this policy, especially with regard to its potential for discouraging some survivors of sexual violence from seeking confidential assistance.
14. However, the committee believes, given the substantial resources recently deployed in support of survivors of sexual violence, and the reasonable protections instituted by the university so that survivors continue to control the process of healing and

resolution, that it is imperative that such survivors avail themselves of these resources.

15. Further, the committee believes that the professionals who have been tasked with assisting survivors should be empowered to do their jobs even as faculty continue to maintain its necessary role in reviewing the effectiveness of university policies and processes.