

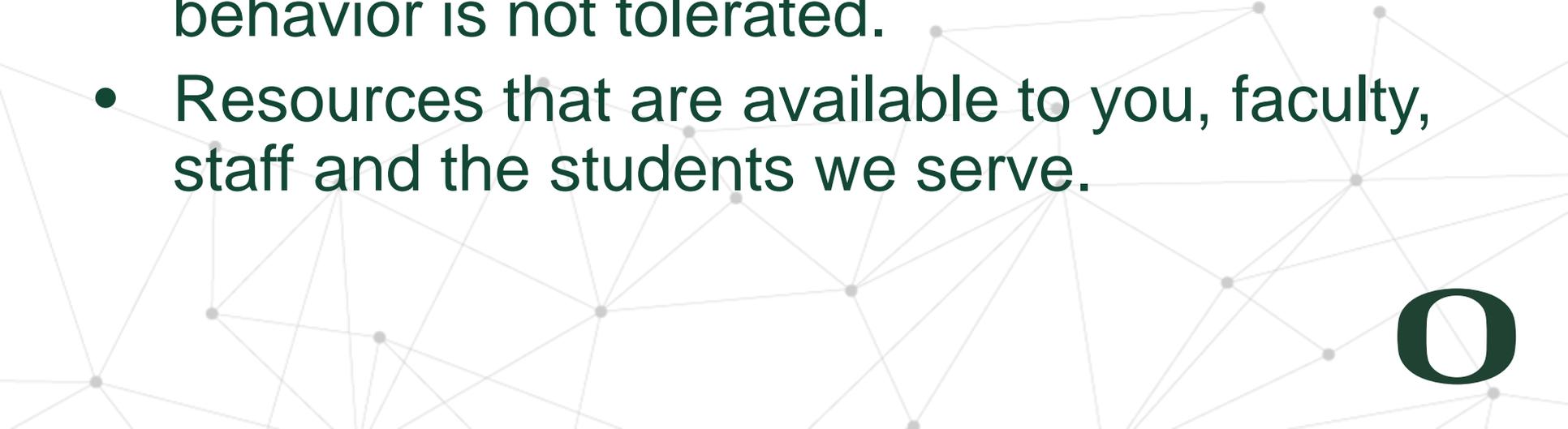
Creating a Welcoming Community: Preventing & Addressing Discrimination and Discriminatory Harassment



Title IX Coordinator
Office of Affirmative Action and
Equal Opportunity

Objectives:



- Reinforce what kinds of behavior constitute discrimination and discriminatory harassment, including sexual harassment, and the role of leadership in helping to establish a community in which such behavior is not tolerated.
 - Resources that are available to you, faculty, staff and the students we serve.
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UO Nondiscrimination Policy



The University of Oregon is committed to ensuring that all members of the UO community, including faculty, staff, students and visitors, are able to participate and access the University's programs and services free of prohibited discrimination.



What is Prohibited Discrimination?



Prohibited discrimination:

Treating someone differently and less favorably than others on the basis of protected status.

Discriminatory harassment:

Behavior that unreasonably discriminates on the basis of a protected status and is sufficiently severe or pervasive that it interferes with work or academic performance.



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What is Protected Status?



University of Oregon policy prohibits discrimination and harassment based on any of the following personal characteristics that are protected under state and federal laws:

Race

Color

Sex

National Origin

Sexual Orientation

Gender Identity

Gender Expression

Marital Status

Disability (physical or mental)

Veteran Status

Age (18+)

Religion

Ethnicity



Discrimination on the Basis of Sex



Sexual harassment is a form of discrimination on the basis of sex. Sexual assault, dating and domestic violence, gender-based stalking and bullying are forms of sexual harassment.

Discrimination: Different Treatment

Lack of equal opportunities in, for example,

❖ **Athletics and other Activities**

❖ **Programs, Academics, Access**

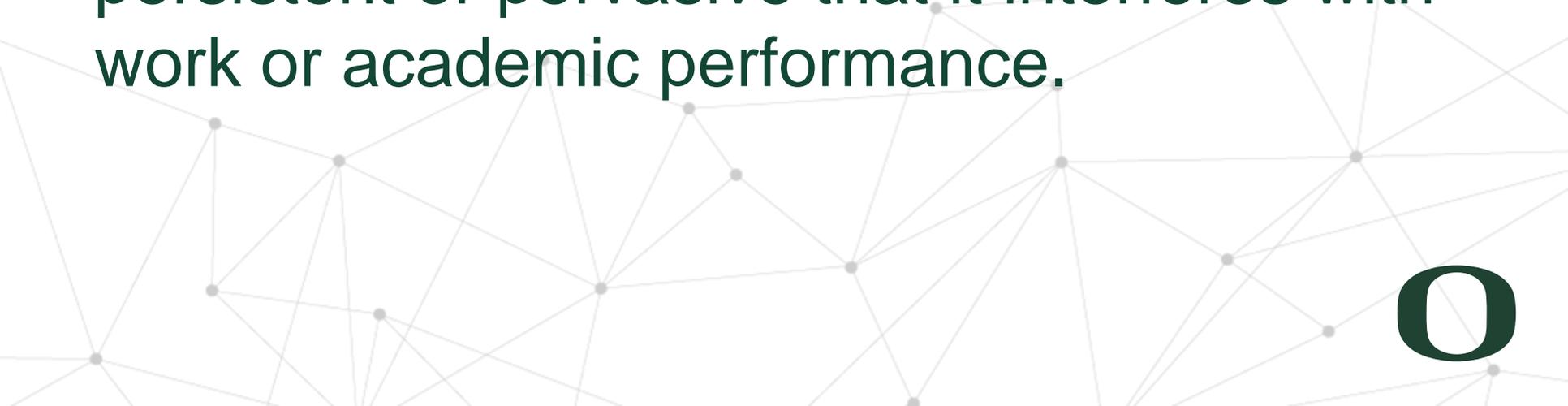
❖ **STEM Programs:** Women are underrepresented in STEM programs and careers. Female students should be encouraged to pursue these fields just as often as males and be given the same incentives and opportunities.

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Discrimination: Discriminatory Harassment



Discriminatory harassment is behavior that unreasonably discriminates on the basis of a protected status (including sex, sex orientation, gender identity, gender expression) and is sufficiently severe, or persistent or pervasive that it interferes with work or academic performance.



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Discrimination: Sexual Harassment



There are two types of sexual harassment:

- **Quid Pro Quo**
- **Hostile Environment**



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Quid Pro Quo Sexual Harassment occurs when:

- I. Submission to, or rejection of, sexual advances or requests for sexual favors
- II. Is made explicitly or implicitly a term or condition of employment or academic experience; or
- III. Is used as a basis for employment or academic decision affecting the individual.

The UO Conflict of Interest Policy prohibits sexual or romantic relationships between faculty and students enrolled in that faculty's course or whose work is supervised/evaluated by that faculty. (OAR 571-004-0007)

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Hostile Environment Sexual Harassment is:



- I. Any sexual advance, any request for sexual favors, or other verbal or physical conduct of a sexual nature,

 - II. That creates an intimidating, hostile or offensive working or academic environment,
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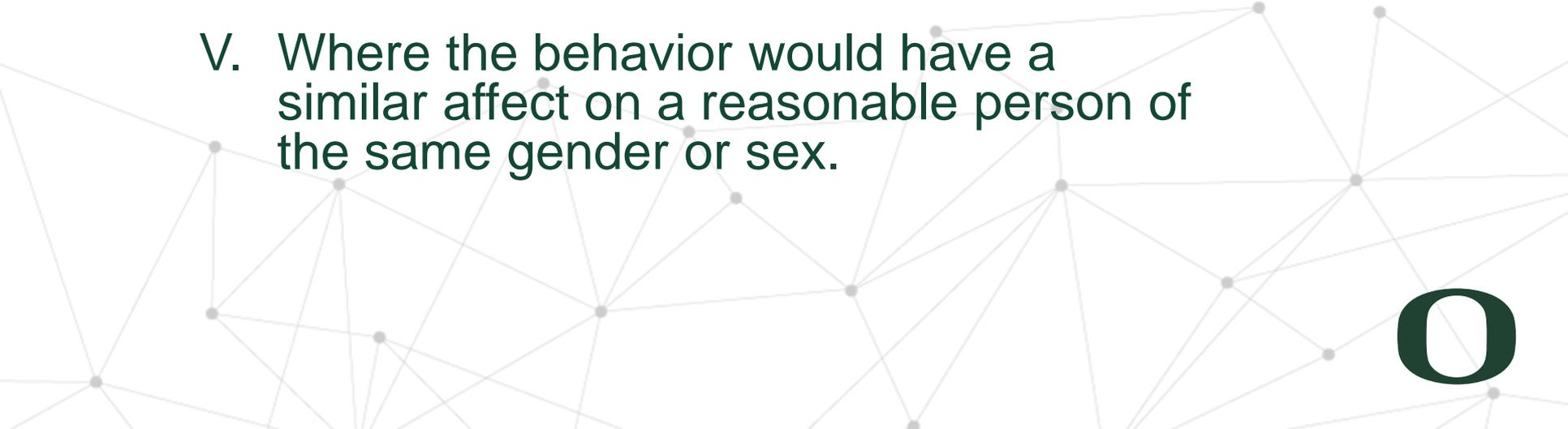
That conduct:



- III. Is unwelcome and
 - a. sufficiently severe, or
 - b. persistent or pervasive

- IV. that it interferes with work or academic performance,

- V. Where the behavior would have a similar affect on a reasonable person of the same gender or sex.



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Reasonable Person Standard

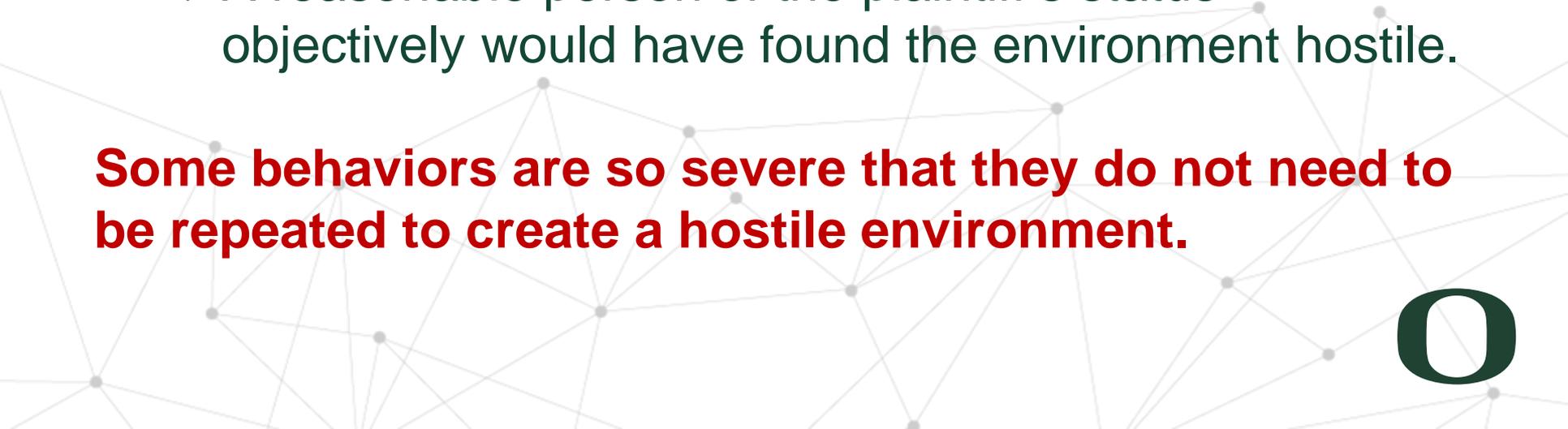


A hostile environment is determined by looking at the totality of the circumstances including whether:

- ❖ The plaintiff subjectively found the environment hostile
- ❖ AND
- ❖ A reasonable person of the plaintiff's status objectively would have found the environment hostile.

Some behaviors are so severe that they do not need to be repeated to create a hostile environment.

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Keep in Mind....

In all forms of discriminatory harassment, the law focuses on the effect of the behavior on the other person.

Not the intent of the person engaging in the behavior.



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Sexual Violence is an extreme form of sexual harassment.

Sexual Violence may include but is not limited to:
Gender Based Stalking / Unwanted Contact
Dating or Relationship Violence
Gender Based Bullying
Unwanted sexual touching/contact and forcible penetration obtained by

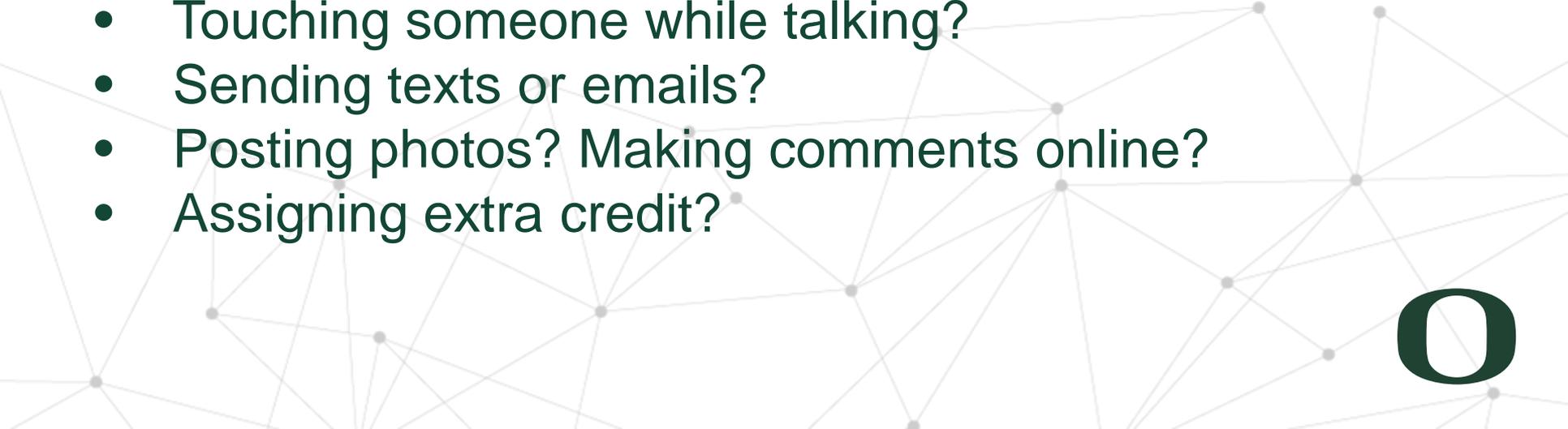
- ❖ Coercion
- ❖ Threats
- ❖ Intimidation
- ❖ Physical Force
- ❖ Incapacitation
- ❖ Lack of Explicit Consent

Sliding Scale



Are these harassing or discriminatory behaviors?

- Asking someone out on a date?
- Commenting on someone's clothing?
- Hugging someone in the hallway when greeting?
- Giving a colleague small gifts?
- Staring at someone?
- Making jokes?
- Touching someone while talking?
- Sending texts or emails?
- Posting photos? Making comments online?
- Assigning extra credit?



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Legal Obligation When Discrimination is Reported

Legal statutes prohibiting discrimination have different specific requirements. However, all generally require that when a school knows, or reasonably should have known that prohibited discrimination or discriminatory harassment, including sexual harassment, may have occurred, the school **MUST**:

- ❖ Take immediate, appropriate action (including accommodations and interim measures),
- ❖ Determine what occurred and evaluate whether a full investigation is warranted,
- ❖ Take prompt, effective steps to end the discrimination or harassment,
- ❖ Prevent its recurrence,
- ❖ And address its effects.

Who Has a Duty to Report?

After assessing immediate medical or safety needs, **all university employees** (except designated confidential employees) have a duty to report any incidents involving discrimination and discriminatory harassment, including any form of sexual harassment (sexual assault, dating or domestic violence, gender-based harassment or bullying, and stalking).

Responsible Employees are considered those whose knowledge of allegations that can trigger duties on behalf of the University.

For purposes of Title IX, the Office of Civil Rights defines a **Responsible Employee** as:

“any employee who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX Coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty.”

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Where do you report?

All incidents of alleged sexual harassment involving University of Oregon students may be reported to the

Title IX Coordinator: 541-346-8136

Or

Crisis Intervention and Sexual Violence Support Services at 541-346-8194 or 541-346-SAFE

Incidents of alleged sexual harassment between University of Oregon employees are to be reported to the

Office of Affirmative Action & Equal Opportunity:

541-346-3123

Represented employees (GTF, Faculty, Classified): the formal process is through the CBA grievance process, and can always be reported to the Union.

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Where do you report?



All incidents of all forms of prohibited discrimination other than discrimination on the basis of sex are to be reported to the Office of Affirmative Action & Equal Opportunity

541-346-3123

Represented employees (GTF, Faculty, Classified): the formal process is through the CBA grievance process, and can always be reported to the Union.



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Reporting is Not Starting a Formal Proceeding

Reporting to the Title IX Coordinator or OAAEO is NOT the same as instituting formal proceedings. We have different obligations under different statutes that inform our response.

Title IX Reports by Students:

- The UO's institutional response is intended to preserve for student complainants all available options regarding how to proceed.
- Except in limited circumstances, the Title IX Office works to maintain student confidentiality if requested.

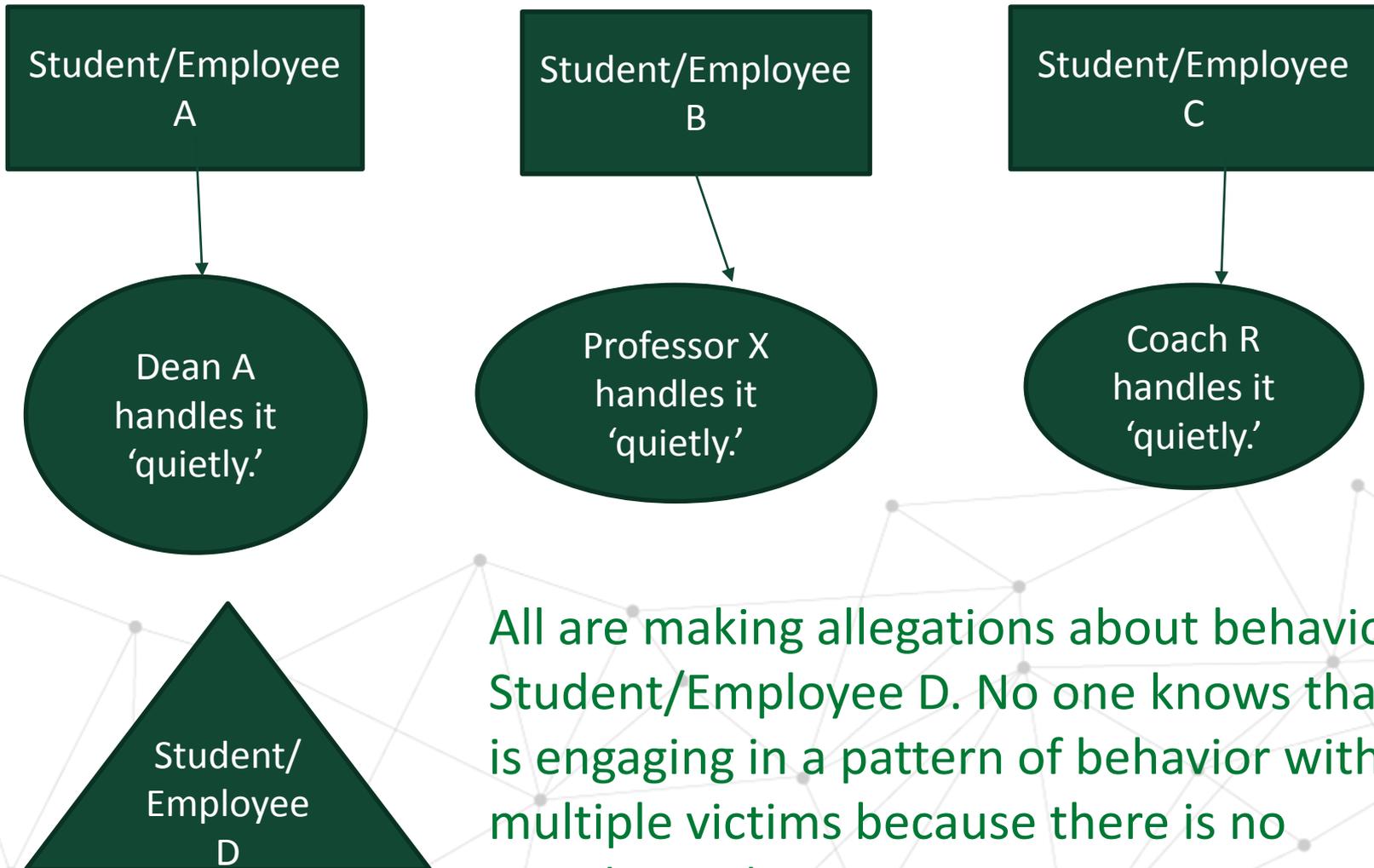
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Reporting is Not Starting a Formal Proceeding

Reports Regarding Discrimination in the Workplace:

- We have less latitude to honor complainant requests for confidentiality or no action when we are on notice regarding discrimination or discriminatory harassment in the workplace.

What happens if you fail to report?



Why is it important to report?

There are many reasons to share information as required including:

- Connecting the student or employee with resources and interim remedies
- Helping the student or employee obtain legally entitled accommodations
- Helping the Title IX Coordinator and OAAEO track information about patterns of behavior on campus
- Assisting the University in understanding systemic issues
- Helping the University maintain a safe community and receive timely notice of threats to other students
- Potential mandatory child abuse reporting obligations
- Avoid possible personal liability for failing to report as required

Who Does NOT Have a Duty to Report?

For Students Only:

24-hour SAFE Hotline

Crisis Intervention and Sexual Violence Support Services

University Counseling Center / PSU Counseling Center

University Health Center/ PSU Health Center

Student Survivor Legal Services

Clergy

For Students and Employees:

University Ombuds

Anonymous Report Form UOPD Website (note, however, that the **Anonymous Report Form cannot be used by employees to fulfill their duty to report credible information regarding prohibited discrimination**)

These employees do not have an obligation to share information with the Title IX Coordinator.

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How would we like you respond to a student or employee who reports harassment?

- Respond with compassion. Use nonjudgmental language.
- Do not investigate what happened.
- Assess if they need immediate medical attention or if there is an imminent danger to the student or others.
- Give them information about confidential resources.
- Help them understand transparently that they control how much information they share.
- Tell them that they can request confidentiality and that the University will honor that as much as possible except for certain limited circumstances.
- Share any disclosed information with the Title IX Coordinator (discrimination on the basis of sex) or OAAEO (discrimination on the basis of all other protected bases).

The UO Prohibits Retaliation



Retaliation against an individual in response to raising discrimination concerns or participating in the investigation of a discrimination complaint is prohibited by law and university policy.

Retaliatory behavior is not limited to the accused party, but extends to acts of retaliation by associates and third parties.

What could be considered retaliation?



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Scenario 1



Alex, a student worker in your unit, casually tells you that one of her professors continually flirts with her in class. She relates that the professor keeps giving her small gifts, asking her out on dates, and has begun texting her several times a day, which “creeps her out.” Alex asks you to keep this information confidential because she is worried that if she tells the professor to knock it off, the professor won’t write her a good reference for her summer clerkship.

- How could you handle this conversation?
- Does this trigger a duty to report?

Scenario 2



A faculty member in your school/college shares with you that conversations during the class study group have included talk about Donald Trump's suggestion of a ban on Muslim immigrants and more scrutiny at mosques. A Muslim student shared with the faculty member that while the conversation was not directed at the student, it nevertheless made the student uncomfortable.

- Does this trigger a duty to report?
- What advice would you have for the faculty member?
- Is the behavior of the study group problematic?

Scenario 3



An employee comes to you in your office and wants to talk privately. The employee confides that while he was attending an out-of-state conference, he overheard a student from another institution talking about harassing behavior she experienced from a member of the UO attending the conference. Your employee wondered if he should report this to anyone at the UO, even though the student involved was not a UO student and the conference was out of state.

- Does this trigger a duty to report?
- What additional information might be useful?
- How might you advise the employee?

Scenario 4



In informal discussions, one of your colleagues makes the observation that another colleague frequently cuts off, talks over, or is otherwise disrespectful of others in group meetings. The colleague goes on to indicate that the behavior appears to be more pronounced toward some colleagues than others.

- Does this trigger a duty to report?
- What, if any, additional inquiries might you make?
- What advice would you give the colleague?

Scenario 5



During a retreat within your unit, you notice that women faculty/staff appear not to be actively engaging in the discussion and brain-storming. You take aside one of the women faculty/staff and ask whether you are imagining a reticence among the women or whether women don't feel comfortable engaging. The faculty/staff member shares that women feel their contributions are routinely ignored or belittled by their male colleagues, and therefore feel that active engagement is futile.

- What steps would you take in response?
- How might you exercise your leadership in this situation?