

OEO LIAISON TRAINING

Summer 2022

Office of Equal Opportunity Team

Ground Rules

- The training will seek to avoid graphic descriptions of sexual misconduct, but the topic is still difficult and can be emotionally charged. If you need to step out for a minute to collect yourself please feel free to do so at any time.
- The speakers will use gendered and neutral pronouns interchangeably. In any aspect of conversation where gender, gender identity, or sexual orientation don't reflect what you wish, please understand that anyone can be in any of the positions identified in the process. **ASK QUESTIONS** and please raise concerns.
- Please be respectful of all. While there is much to discuss on this topic the common thread is to help you understand what OEO does.
- Engage – based on prior feedback, we built in time for people to discuss the issues. We hope you will feel comfortable engaging.

Expectations for Our Time Today

1. Introductions
2. The role of OEO
3. Legal and state mandatory requirements to report
4. Policy requirements and obligations of mandatory reporting as employees
5. What to report– protected categories
6. How to report to OEO and what happens afterward
7. How to navigate trust issues
8. Scenarios and vignettes in small groups

Office of Equal Opportunity (OEO) Staff

Marcia Blanchard, OEO Investigator

Alida Bográn-Acosta, JD, Title VI Investigator

Christine Colacino, OEO Coordinator

Amin Fahimi Moghadam, Accommodations Specialist

Jennifer Magrone, MSW, Dep. Director and Title VII Invest.

Pam Ring, JD, Deputy Title IX Coordinator and Title IX Invest.

April Robbins, Resources and Support Specialist

Nadra Sultan, Compliance Specialist

Katherine Vosker, Accommodations Manager

Jill Zellmer, MSW, Executive Director and Title IX Coordinator

+ 2 student employees

196 Boston Avenue, 4th floor
617.627.3298



Introductions

- Please give your name, and:
 - How long you have been working at Tufts University
 - Your role at Tufts
 - How long you have been in the liaison role
- There will be two breaks in our session. If you need to step away or mute your camera at for a few minutes at any point, please do so as needed
- Please ask questions at any time—we want this to be interactive!

OEO's Responsibilities

We are **legally required** to respond to or otherwise address all allegations of discrimination, harassment and sexual misconduct at Tufts to promote safety and equity; and to assess accommodations related to disability/religion (sincerely held beliefs)

Title VII/ Title VI- when employees or students are involved in discrimination, harassment and/or sexual misconduct

Title IX – when discrimination/harassment allegations of Sexual Misconduct involve students

Accommodations - students, employees and the community
(Religion or Disability-related)

OEO

OEO must conduct an *Inquiry* into every **allegation** of harassment/discrimination/assault of which it becomes aware

- Does **not** have any disciplinary power or authority. Reports findings to those with that authority (Dean, HR, TUPD, Provost, Others)
- Acts as a neutral, unbiased and dedicated Fact-Finder
- Can coordinate educational efforts to address effect from conduct
- If disciplinary charges are filed, acts as the Fact-Finding Investigator in that process

New Student Orientation Training and Faculty and Staff Trainings

New Student Trainings

- 2022-23 Rolling out new student orientation tool, asynchronous and before they arrive on campus!
- For all new first year undergrads, transfer students and incoming graduate students
- Covers all protected categories and the what/why/how of OEO

Faculty And Staff Training

- **Quarterly offerings**
- New employee sessions are being conducted

Goal: Everyone in our community hears the same message!

OEO Statistics from last 6 years



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**We know there are many
cases that never get
reported...**

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A 7-year Look at OEO Reporting Statistics

Case Type*	FY16	FY17	FY18	FY19	FY20	FY21
Title IX (all Sexual Misconduct matters impacting students)	135	145	208	189	157	165
Title VII (Employees, all matters related to all protected categories)	93	83	145	176	188	177
Title VI (Students only, Non-Sexual matters such as Race/Color, Ethnicity/National Origin, Religion)**	-	34	31	45	91	93
Passed Off (to HR, TUPD or others if OEO does not have jurisdiction)	55	75	82	108	100	114
Accommodations (all Employees as well as students in Boston/Grafton)***	119	148	133	150	182	264
Total Cases	402	485	599	668	718	813

* Cases with more than one issue type are not counted twice.

** Title VI allegations were not tracked separately before 2016-2017 but were tracked in T7 tier.

*** ADA cases are monitored long-term and do not have set closed dates.

Tufts Policies and The Law

- **Overview of Tufts Policies**
- **State and Federal Laws driving policy**

Tufts University Policies with OEO

- **Non-Discrimination Policy**
- **Sexual Misconduct Policies**
- **Accommodations Policies**
- **Relationships with Students Policy**

Tufts Non-Discrimination Policy

Protected Categories*



- Age
- Disability
- Religion
- Pregnancy
- Sex and Gender
- Genetics
- Military status
- National origin and ancestry
- Race and color
- Sexual orientation
- Gender Identity and Expression (including Transgender identity)
- Retaliation Protection

* Corresponds with Mass State Law MGL 151B
Protected Categories



Campus Safety Act: New State Law for Higher Ed. (Which Includes Components We Already Do)

1. Complete climate survey of students
2. Adopt and share policies and procedures on sexual misconduct
3. Adopt MOU with local law enforcement agencies re: sexual misconduct response
4. Provide free confidential sexual assault crisis service center
5. Establish a campus security policy that includes at least one trained confidential resource provider separate from the Title IX coordinator;
6. Provide mandatory sexual misconduct prevention and awareness training
7. Report on Sexual Misconduct Annually to Mass. Department of Higher Education

What is T6?

- “T6” refers to Title 6, a section of the Civil Act of 1964, providing protection to students from discrimination and harassment in their educational environment
- OEO uses “T6” as shorthand to refer, in general, to non-sexual reports or investigations involving students
- Students may disclose concerns about discrimination or harassment based on a protected category to any OEO liaison, which must be reported to OEO
- Liaisons receiving these reports should avoid asking detailed questions, and rather listen to reporter and then advise them that their disclosure must be reported to OEO

What is T7?

- “T7” refers to Title 7, a section of the Civil Act of 1964, providing protection to employees from discrimination and harassment in their educational environment
- OEO uses “T7” as shorthand to refer, in general, to reports or investigations involving employees, faculty or staff
- Employees may disclose concerns about discrimination or harassment based on a protected category to any OEO liaison, which must be reported to OEO
- Liaisons receiving these reports should avoid asking detailed questions, and rather listen to reporter and then advise them that their disclosure must be reported to OEO

What is T9?

“Title 9” is the federal law that prohibits discrimination based on sex in educational programs or activities that receive federal funding.

It was **enacted by the Educational Amendments of 1972 as a follow-up to the passage of the Civil Rights Act of 1964.**

Applies to sexual misconduct or violence involving :

- student on student

- employee on student (or vice versa)

- expanded under Tufts policy to include employee on employee

Unless you are deemed a “confidential resource” at Tufts, you must report to OEO

The Federal Office of Civil Rights (OCR)

THE “DEAR COLLEAGUE” LETTER, SPRING 2011

- * Must have procedures for prompt and equitable resolution of student and employee complaints
- * Must have a Title IX Coordinator and a Title IX Investigator
- * Must investigate and respond to EVERY alleged act of sex discrimination that we know about or should reasonably know about

Federal Title IX and Sexual Misconduct

- Sex Discrimination
- Gender Discrimination
- Sexual Harassment
- Sexual Assault
- Sexual Exploitation
- Stalking
- Domestic/Dating/
Relationship Violence
- Retaliation

- T9, VAWA*, CLERY^, Campus SAVE~
- T9, VAWA, CLERY, Campus SAVE
- T9, VAWA, Campus SAVE
- T9, VAWA, CLERY, Campus SAVE
- Tufts
- T9, VAWA, Campus SAVE
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Reauthorization of the Violence Against Women Act

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Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act

~ Campus SAVE Act, or Sexual Violence Elimination Act, an update to CLERY

Quid Pro Quo: A Power-Based type of Sexual Harassment

- Submission to or rejection of sexual advances, requests for favors or other sexual conduct is explicitly or implicitly a term or condition of employment
- Submission to or rejection of conduct is a basis for employment decisions
- By someone who has real or perceived power, authority and control over you



Tufts Is Responsible to Report to. . .

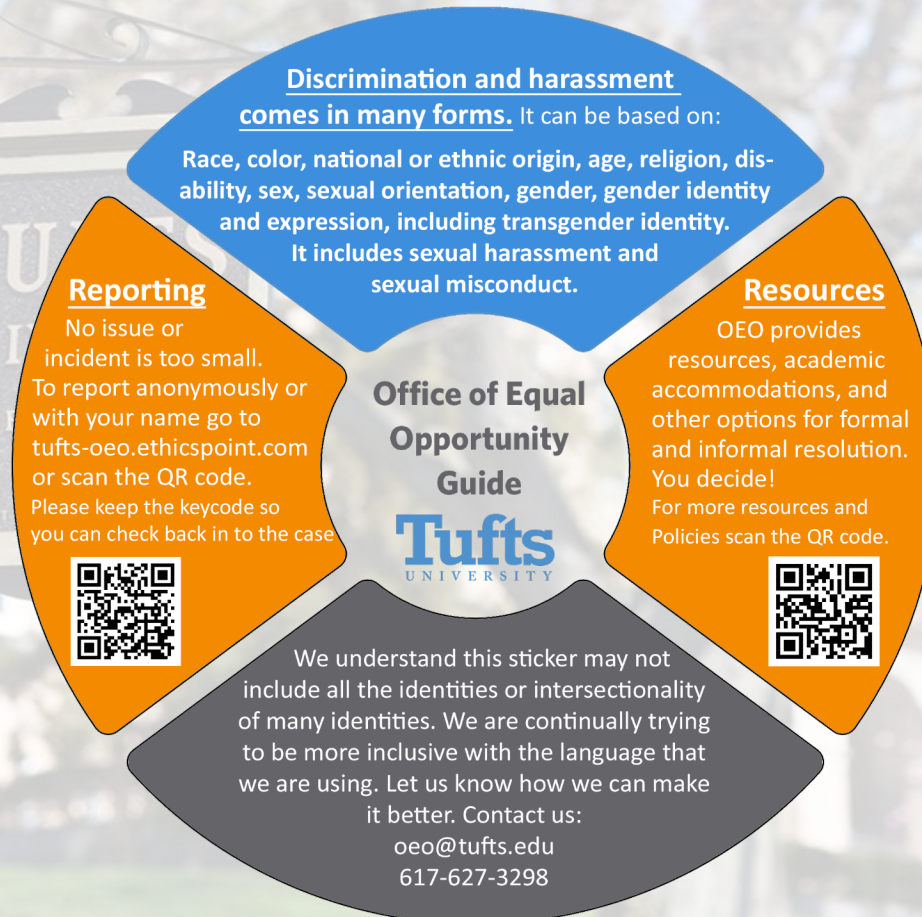
If an institution or employee of an institution receives these federal grants:

NIH – National Institute of Health
(just requested reporting)



NSF – National Science Foundation
(just requested reporting)

NASA – National Aeronautics and Space Administration
(have requested reporting since 2013)

Policies and Processes



Harassment Under Our Policy: *Where is the Line?*

 Inappropriate	 Related to protected Group
Inappropriate (i.e. bullying)	Unrelated to protected Group

Who Is Covered – “Third Parties”

- Employees protected from all forms of discrimination by anyone who enters the workplace
- Students and members of the public also protected – vendors, “community members”

What Triggers the Duty to Investigate?

- “**Rumor** has it that Janelle wasn’t selected for the management training program because her supervisor doesn’t like ‘non-Christians.’”
- “Kai wasn’t invited to the holiday party because no one can forgive him for filing a discrimination complaint based on race.”
- “Just between us, I’m sick of Louis asking me about my sex life.”

Preponderance of the Evidence

**WE USE THIS STANDARD
FOR ALL MATTERS AT TUFTS!**

50% plus a feather or 51%

Non-Sexual vs. Sexual Investigation Models

Non-Sexual

- Investigator decision
- Does not require a hearing
- MCAD, EEOC and/or OCR are the regulatory bodies we report to

Sexual

- Panel decision
- Does require a hearing (SMAP or SMAP-X)
- MCAD, OCR, other state and federal requirements we must report to

Sexual Misconduct Adjudication Process (SMAP)

- Process does **NOT** include face-to-face hearings or meetings between parties. It does include a hearing with the panel. No Contact Order is put in place
- Both Parties can have a support person at every meeting
- OEO acting as a neutral fact finder for the Deans' offices, interviewing parties and witnesses and preparing an investigation report
- A (non-OEO) panel of three issues a decision as to whether University policy was violated and decides discipline
- All parties can appeal the decision

Sexual Misconduct Adjudication Process (SMAP-X)

- Process **does** include virtual hearings between parties including cross-examinations. Attendance of parties and witnesses is required. No Contact Order is put in place.
- Tufts must pay for a support person at the hearing for both parties
- OEO acting as a neutral fact finder for the Deans' offices, interviewing parties/witnesses and preparing an investigation report
- A (non-OEO) panel of three issues a decision of whether University policy was violated and decides discipline
- All parties can appeal the decision

Informal – We Almost Always Are Able to Give Agency to the Complainant's Wishes

- I want to move rooms.
- I want an NCO.
- I want you to talk with the respondent.
- I want the respondent to go to training.
- I need an extension.
- Don't do anything yet but check in with me in 6 months.
- I am afraid of retaliation.
- What if you know this person because they did something before?

Privacy for **ALL** Reporting Purposes

Students may not want to go to the police/TUPD and may not want an investigation, but they may want/need “remedies” or “interim measures” to maintain equal access to their education.

- Academic support and/or extensions
- Leaves of absence
- Housing changes
- Referrals to therapy on or off campus
- No contact orders
- Resources and supports (other)

These cannot fundamentally alter the nature of their educational program.

Tips for Trauma-Informed Approach

- Be compassionate. Listen, don't judge, and avoid "why" questions. Remember, each time a survivor shares their story, they re-live their trauma.
- Ensure safety and privacy.
- Say upfront that you have to share the information with OEO.
- Provide resources and information and encourage the person to seek additional support.
- Contact OEO right away or submit a report through Ethicspoint. Refrain from sharing information with others unless you need to as part of the University's response.

An aerial photograph of the Tufts University campus in Boston, Massachusetts. The image shows various university buildings, including a large red brick building with a central dome, surrounded by green lawns and trees. In the background, the dense urban landscape of Boston is visible, with the city skyline on the horizon. The word "BREAK!" is superimposed in the center of the image in a bold, black, serif font.

BREAK!

Liaisons

What Do You **Need To Do If
Someone Reports Sexual
Misconduct Or Anything
Else To You?**

Liaisons

IF YOU DO NOT REPORT:

**In Massachusetts, you are at
risk of being**

personally

AND

professionally sued

What You Hear **Cannot** Be Kept Confidential?

Why? **YOU ARE A MANDATORY EMPLOYEE**

- * Employees are considered “Mandatory Reporters”

This includes faculty, TAs, RAs, student employees and anyone who receives a paycheck

- * Under the law, a report to an employee is the equivalent of a report to the University = “agent of the university”
- * Only 3 truly confidential places to report on campus –
Health Services, Counseling Center, Clergy

How to Report?

- Call OEO
- Walk into OEO
- Email OEO
- Use Ethicspoint
- Want to report Anonymously?
 - Use Ethicspoint at Tufts
(can be an anonymous reporting tool)

www.tufts-oeo.ethicspoint.com

What to Report and Why?

- Employees (including student employees) are mandated to report anything that they believe or hear that may rise to the level of discrimination and/or harassment, including sexual misconduct allegations
- YOU MUST GIVE NAMES AND DETAILS – MA has double liability if you don't report you are subject to personal and professional liability
- Report to your supervisor, to HR or to OEO. If you don't think your supervisor did anything about it, keep going up or go directly to OEO. You can also use Ethicspoint to report. It takes 5 minutes.

[Tufts-oeo.ethicspoint.com](https://tufts-oeo.ethicspoint.com)

TIER I: Personal Safety and Well-Being

- Concerns about Safety – Tufts University Police Department (TUPD) - transportation to the hospital, safe housing, help with restraining order, can *anonymously* page a trained professional **confidential counselor-on-call**. Does not require filing criminal charges.
- Physical Well-Being (medical) – **confidential** – Health Services - initial care victims/survivors, HIV/STD testing & prevention, referrals for evidence collection. Outside regular business hours - Beth Israel Deaconess Medical Center
- Emotional Well-Being - **confidential** - Counseling Services - counseling and support services. Outside regular business hours, TUPD can page a **counselor-on-call** for immediate counseling.

Tier II: Support

- CARE
- Diversity Officers
- Dean's Office
- OEO
- OEO Liaisons
 - Provide information about resources and other supports
 - Help the student or employee feel comfortable talking to OEO

What Happens After You Report?

- We softly reach out to the complainant and give resources and supports
- We ask what level of involvement the complainant wants with OEO and most of the time we can honor this (i.e. informal or formal options)
- We look for the respondent's name in our database - what do we do when the respondent is already known to us?
- How do we put a respondent on notice? Formal and Informal
- What happens if the conduct occurred before Tufts?

OEO Also Has Jurisdiction Over Accommodations

**Americans with Disabilities Act
and
Requests for Reasonable Religious
and Disability-related
Accommodations**

Accommodations

Who is entitled?

- Employees
- Students
- Community members (and more!)

What is the basis for a request?

- Disability
- Religious practices

Definition of “*Disability*”

- Having a physical or mental impairment which substantially limits a major life activity
- Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working
- Many disabilities are not necessarily visible

Defining “*Qualified Individual with a Disability*”

- Must be able to perform the essential functions of a position or (academic) major with or without a reasonable accommodation

Defining “*Reasonable Accommodation*”

- Enables an otherwise qualified individual with a disability to perform the essential functions of his or her position or degree program
- Employer/School has to be aware of of the disability and the need for an accommodation
- Not required if an “undue” hardship for the employer/School

Defining “*Interactive Process*”

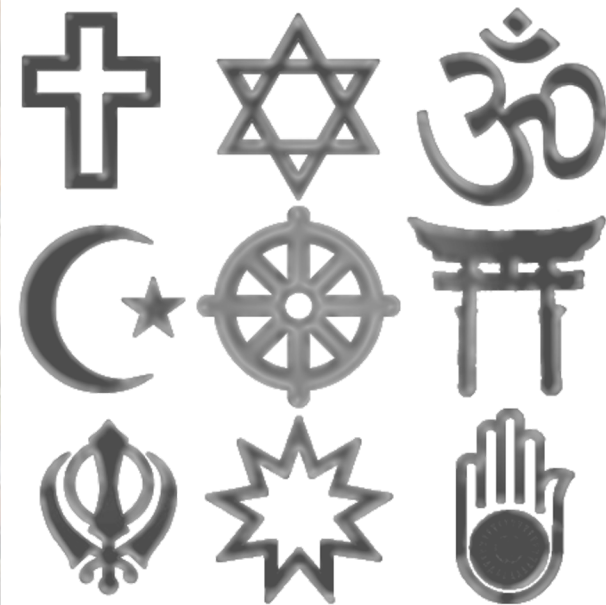
- Once employer/School is on notice of the need for an accommodation, they should initiate an interactive dialogue
- Process should identify potential reasonable accommodations to overcome employee’s/student’s particular limitations
- OEO or Student Accessibility Services or both

Are you On Notice?

- An employee tells you that they just got a written warning for being late repeatedly. They say it's not fair because whenever they are late, it is because of their child's special needs (Their child has autism.)
- An employee tells you that they were disciplined by their supervisor for calling out sick too often. Then they tell you they are suffering from chronic fatigue syndrome but they don't want to share that private information with their supervisor
- An employee tells you that their supervisor gave them a poor performance review. They say they are having personal problems but will try to do better.

Religious Accommodations

- Sincerely-held religious beliefs
- Required where an individual's religious beliefs or practices conflict with legitimate work requirements



Are you On Notice?

- A supervisor complains to you that one of their direct reports asked them if it is possible to change her work schedule because she is observing Sabbath.
- A student comes to you to say that their Religion professor is forcing them to write about topics in class which are against their religious beliefs
- A faculty member in your department mentions to you that one of their students never submits assignments or on-line work on Saturday and “claims” they can’t use computers because it’s against their religion

An aerial photograph of the Tufts University campus in Boston, Massachusetts. The image shows various university buildings, including a large red brick building with a central dome, surrounded by green lawns and trees. In the background, the dense urban landscape of Boston is visible, with the city skyline on the horizon. The word "BREAK!" is superimposed in the center of the image in a bold, black, serif font.

BREAK!

Vignettes and Scenarios to Practice

BREAK OUT into small groups!

- **Take 30 minutes to walk through the scenarios**

We will come back together share about small group discussions!



Questions?



An aerial photograph of the Tufts University campus in Boston, Massachusetts. The image shows several large, multi-story brick buildings with many windows, interspersed with green lawns and trees. In the background, the dense urban landscape of Boston is visible, including the city skyline with various skyscrapers under a clear sky. The text "Thank You!" is superimposed in the center of the image.

Thank You!