

## Clackamas Community College

Code: GBN/JBA  
Adopted: 12/14/11  
Revised/Readopted: 6/27/18,  
11/18/20, 2024

### Sex-Based Discrimination/Misconduct

Clackamas Community College does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment. The College is committed to the elimination of sex-based discrimination and/or misconduct in its programs, admissions, services, and intercollegiate activities. Sexual harassment, sexual assault, domestic violence, dating violence, and stalking by or of students, employees, Board members, or third parties is strictly prohibited and will not be tolerated.

#### Definitions

The following definitions will be used for reporting, investigating, and resolving complaints of sex-based discrimination and/or misconduct.

**Sex-Based harassment** is unwelcomed behavior on the basis of sex stereotypes; sex characteristics; parental, family or marital status; pregnancy, lactation and related medical conditions; sexual orientation; and gender identity. All unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the CCC's education program or activity; that is *quid pro quo harassment*, *hostile environment harassment*, or the specific offenses of: *sexual assault*, *dating violence*, *domestic violence*, and *stalking*.

**Sexual harassment** is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors or other verbal, nonverbal or physical conduct of a sexual nature where such conduct is sufficiently severe or pervasive that it has the effect, intended or unintended, of unreasonably interfering with an individual's work or academic performance or it has created an intimidating, hostile, or offensive environment and would have such an effect on a reasonable person. Sexual harassment can also include quid pro quo harassment. In educational settings, quid pro quo sexual harassment is when a school employee explicitly or implicitly condition's a student's participation in an education program or activity or bases an educational decision on the student's submission to unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature. In employment settings, quid pro quo sexual harassment is when submission to unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature is made either explicitly or implicitly a term or condition of an individual's employment; or submission to or rejection of such conduct is used as a basis for employment decisions affecting an individual.

**Quid pro quo harassment.** An employee, agent, or other person authorized by CCC to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

**Hostile environment harassment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies

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a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (iv) The location of the conduct and the context in which the conduct occurred; and
- (v) Other sex-based harassment in the recipient's education program or activity;

**Sexual Assault** means any noneconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent means a An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

**Domestic Violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. **Means** A felony or misdemeanor crimes committed by a person who:

- (A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
- (B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- (C) Shares a child in common with the victim; or
- (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction;

**Dating Violence** includes violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors: The length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship. **Means** Violence committed by a person:

- (A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - (1) The length of the relationship;
  - (2) The type of relationship; and
  - (3) The frequency of interaction between the persons involved in the relationship

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. **Engaging** in a course of conduct directed at a specific person that would cause a reasonable person to:

- (A) Fear for the person's safety or the safety of others; or
- (B) Suffer substantial emotional distress

**Complaint** ~~means~~ A an oral or written request to the college recipient that objectively can be understood as a request for the college recipient to investigate and make a determination about alleged discrimination under Title IX or its regulations.

**Complainant** ~~includes~~ A a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

**Respondent** ~~M~~ means A a person who is alleged to have violated the college's recipient's prohibition on sex discrimination.

**Confidential employee.** An employee of the college whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies.

**Designated Responsible Employee.** ~~F, for the purposes of this policy only, is any employee with an obligation to report rumors, information, or allegations of sex-based discrimination to a Title IX Coordinator as soon as possible upon becoming aware of the incident. All administrative employees are considered designated responsible employees. Any non-confidential employee at CCC who either has authority to take corrective action on behalf of CCC or has responsibility for administrative leadership, teaching, or advising in CCC's education program or activity is obligated to notify the Title IX Coordinator of conduct that reasonably may constitute sex discrimination.~~

**Third parties.** ~~Includes~~ include, but are not limited to, volunteers, parents, visitors, service contractors or others engaged in cCollege business, such as employees of businesses or organizations participating in cooperative programs with the cCollege and others not directly subject to cCollege control at intercollegiate and athletic competitions or other events.

**The College** includes cCollege facilities, cCollege premises and non-College property if the student or employee is at any College-sponsored, College-approved or College-related activity or function where students are under the control of the College or where the employee is engaged in College business.

**Grievance Procedure.** ~~for this policy~~ Refers to the formal process for handling complaints of sex discrimination, which can include sexual harassment or violence

#### **~~Reports of Sex-Based Discrimination or Misconduct~~**

~~Any designated responsible employee who has knowledge of conduct in violation of this policy involving a student, must immediately report their concerns to a Title IX Coordinator. A student may report concerns to a Title IX Coordinator, Human Resources, or to an employee. If requested, the employee will promptly notify the appropriate Title IX Coordinator.~~

#### **~~Reports of Sex-Based Discrimination or Misconduct Expectations in Ceases of Ssex-Bbased Discrimination or Mmisconduct~~**

All employees who have knowledge of conduct involving an employee that may be in violation of this

policy, must immediately report their concerns to the Title IX Coordinator in Human Resources.

**W**hen a Title IX Coordinator has knowledge that sex-based discrimination has or may have occurred, an initial inquiry will be conducted.

Students and employees have a duty to participate in any inquiry and/or investigation.

It is the intent of the Board that appropriate corrective action will be taken by the College to stop sex-based discrimination and/or misconduct, prevent its recurrence and address negative consequences. Students in violation of this policy may be subject to discipline ~~including counseling or sex-based discrimination awareness training, suspension or expulsion, as appropriate~~ measures as outlined in the Student Code of Conduct. Employees in violation of this policy may be required to complete additional sex-based discrimination/misconduct training and may be subject to discipline, up to and including ~~dismissal~~ termination, in accordance with the applicable employee handbook and/or bargaining agreement. Third parties whose behavior is found to be in violation of this policy shall be subject to appropriate sanctions as determined and imposed by the President or designee.

Additionally, the College may report individuals in violation of this policy to law enforcement officials.

#### **Retaliation / False Charges**

The initiation of a report in good faith about behavior that may violate this policy will not adversely affect the educational assignments or study environment of a student complainant or any terms or conditions of employment or work environment of an employee complainant. The College prohibits retaliation and discrimination against an individual who has opposed any sex-based discrimination act and/or sex-based misconduct because that person has filed a charge, testified, assisted or participated in an investigation, proceeding or hearing; and further prohibits anyone from coercing, discrimination, intimidating, threatening or interfering.

with an individual for exercising the rights guaranteed under state and federal law. False charges shall be regarded as a serious offense and will result in disciplinary action or other appropriate sanctions.

#### **Employee Disclosure of Sex-Based Discrimination and/or Misconduct**

The College will not require an employee to enter into any agreement if the purpose or effect of the agreement prevents the employee from disclosing or discussing conduct constituting discrimination, harassment, or sexual assault. An employee claiming to be aggrieved by discrimination, harassment, or sexual assault may, however, voluntarily request to enter into a settlement, separation, or severance agreement which contains a nondisclosure, non-disparagement, or no-rehire provision and will have at least seven days to revoke any such agreement.

Under this policy, a nondisclosure agreement is any agreement by which one or more parties agree not to discuss or disclose information regarding any complaint of work-related harassment, discrimination, or sexual assault. A non-disparagement agreement is any agreement by which one or more parties agree not to discredit or make negative or disparaging written or oral statements about any other party or the company. A no-rehire provision is an agreement that prohibits an employee from seeking reemployment with the College and allows the College to not rehire that individual in the future.

#### **Training and Reporting Information**

The President or designee shall ensure appropriate annual training to all employees about the CCC's Title IX obligations, the scope of conduct that constitutes sex discrimination, and all applicable notifications. All investigators, decisionmakers, and Title IX coordinators will be required to take additional training~~periodic sex-based discrimination awareness training or information is provided to all employees.~~

The President or designee will establish a procedure for reporting incidents of sex-based discrimination.

This policy as well as the reporting procedure will be made available to all students and employees. The President shall appoint and make known the individuals to contact on issues concerning the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments Act of 2008 (ADA), Section 504 of the Rehabilitation Act of 1973, Title VI, Title VII, Title IX and other civil rights or discrimination issues.

The College will publish reporting procedures providing for prompt and equitable resolution of reports of violations of this policy from students, employees and the public. Note that Oregon state law requires that any legal action taken on alleged discriminatory conduct (specifically that prohibited by ORS 659A.030, 659A.082 or 659A.112) commence no later than five years after the occurrence of the violation. Other applicable laws may have a shorter time limitation on filing.

#### **Process for Resolving Complaints**

Inquiries or investigations of reported sex-based discrimination and/or misconduct involving students and only students will be coordinated by the Title IX Coordinator(s) for students and the Student CARE Team.

Inquiries or investigations of reported sex-based discrimination and/or misconduct involving employees, vendors or other individuals will be coordinated by the Title IX Coordinator(s) in Human Resources.

CCC has both an informal and formal method for resolving the complaints of an individual who believes that they have been discriminated against or harassed.

Normally, the Informal Resolution Process is completed before the Formal Discrimination Complaint

Procedure begins. There may, however, be circumstances in which it is more appropriate to address a concern about discrimination or harassment by initiating the Formal Discrimination Complaint Procedure. Those circumstances include situations in which:

- Based on its initial assessment of the facts, the Title IX Coordinator(s) determines it is more appropriate to begin with the formal process.
- When sexual assault, sexual violence, or a crime has been committed.

The individual will be informed of the right to end the Informal Resolution Process at any time can begin the Formal Complaint Procedure.

CCC also follows Mandated Title IX procedures. - For more information see on Title IX and the formal procedures see Title IX JBA/GBN-AR(1) and Sex-Based Discrimination Reporting Procedure JBA/GBN-AR(2) for the details.

END OF POLICY

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**Legal Reference(s):**

[ORS 341.290\(2\)](#)

[ORS 659A.029](#)

[OAR 589-010-0100](#)

[ORS 659.850](#)

[ORS 659A.006](#)

[ORS 659A.030](#)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2012).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2012). Bartsch v.

Elkton School District, FDA-13-011 (March 27, 2014).

**Cross Reference(s):**

JBA/GBN - Sexual Harassment

Sexual Harassment - GBN/JBA 2-2