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| Clackamas Community College |

Code: **GBN/JBA**

Adopted: 12/14/11

Revised/Readopted: 6/27/18

# Sex Based Discrimination/Misconduct

The College is committed to the elimination of sex based discrimination and/or misconduct including sexual harassment, sexual assault, domestic violence, dating violence, and stalking in its programs, services and intercollegiate activities. These activities are strictly prohibited and shall not be tolerated. This includes any of the above named activities involving students, employees, Board members or third parties.

**Definitions**

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

**Sexual harassment is** unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature where such conduct is sufficiently severe, pervasive, and objectively offensive 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 Assault** means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**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.

**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.

**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.

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

**College** includes College facilities, College 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.

**Complaints of Sex Based Discrimination or Misconduct**

All complaints about behavior that may violate this policy shall be promptly investigated. Any employee, not designated as confidential per Title IX regulations, who has knowledge of conduct in violation of this policy must immediately report their concerns to the Title IX Coordinator or to a supervisor. A student may also report concerns to the Title IX Coordinator or to an employee who will promptly notify the appropriate College official. When a Title IX Coordinator has knowledge that sex based discrimination has or may have occurred, an initial inquiry will be conducted.

The initiation of a complaint in good faith about behavior that may violate this policy shall 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. There shall be no retaliation by the College against any person who, in good faith, reports, files a complaint or otherwise participates in an investigation or inquiry of sexual harassment.

It is the intent of the Board that appropriate corrective action will be taken by the College to stop the sex based discrimination and/or misconduct, prevent its recurrence and address negative consequences. Students in violation of this policy shall be subject to discipline including counseling, sexual based discrimination/misconduct awareness training, suspension or expulsion, as appropriate. Employees in violation of this policy may be required to complete additional sex based discrimination/misconduct training and shall be subject to discipline up to and including dismissal. Other individuals 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.

**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 company and allows a company to not rehire that individual in the future.

The President or designee shall ensure appropriate periodic sex based discrimination awareness training or information is provided to all supervisors, employees and students and that annually, the name and position of College officials responsible for accepting and managing sex based discrimination complaints, business phone numbers, email and mailing addresses or other necessary contact information is readily available.

This policy as well as the complaint procedure will be made available to all students and employees in student and employee handbooks. 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.

The President will establish a process of reporting incidents of sex based discrimination/misconduct.

END OF POLICY

**Legal Reference(s):**

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| ORS 341.290(2)  ORS 659.850  ORS 659A.006 | ORS 659A.029  ORS 659A.030 | OAR 589-010-0100 |

Oregon House Bill 33415

Oregon Senate Bill 726

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

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