

# Clackamas Community College

Code: AC-AR(2)

Revised/Reviewed: 1/5/2018



## TITLE IX &

## GENDER ~~OR-BASED AND~~ SEXUAL-BASED MISCONDUCT POLICY

### INTRODUCTION

#### Overview

~~Clackamas Community College~~ ~~The College is committed to the elimination of gender and sex-based discrimination.~~ believes in a zero tolerance policy and ~~is~~ committed to the elimination of gender and sexual-based misconduct in its programs, services and intercollegiate activities. Members of the College community, students, guests, volunteers and visitors have the right to be free from all forms of gender and sex-based discrimination.

All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. ~~When an allegation of misconduct is brought to a responsible employee's or appropriate administration's attention, and a respondent is found to have violated College this policy, serious sanctions will be used to reasonably ensure that such actions are immediately stopped, never repeated, and their effects are remediated.~~ ~~Employees in violation of this policy shall be subject to discipline, up to and including dismissal and/or additional gender-based or sexual misconduct awareness training, as appropriate. Other individuals whose behavior is found to be in violation of this policy shall be subject to appropriate sanctions as determined by a designated or assigned panel for this purpose.~~

The College may report individuals in violation of this policy to law enforcement officials as required by law.

~~This policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define College and community expectations, and to establish a mechanism for determining when those expectations have been violated.~~

#### Definitions

Gender or sex-based discrimination, as outlined by the College Nondiscrimination Policy, is defined as discrimination based on a person's gender, sexual orientation, perceived or expressed gender identity and/or conformity, or any difference, perceived or actual, concerning topics of gender or sexuality. It may include, but is not limited to, discrimination in employment, assignment and promotion of personnel; in educational opportunities and services offered

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students; in student assignment to classes; in student discipline; in location and use of facilities; in educational offerings and materials; and/or in accommodating the public at public meetings.

**Gender-based or sexual misconduct** may include, but is not limited to physical touching, ~~or~~ graffiti of a sexual nature, displaying or distributing of sexually explicit drawings, pictures and written materials, sexual gestures or obscene jokes, touching oneself sexually in the presence of another, unwanted or unwelcomed ~~or talking discussion or statements~~ about ~~one's~~ topics of a sexual nature ~~ity~~ in front of others, ~~or~~ or spreading rumors about or rating others (such as ~~students or others as to~~ appearance, sexual activity, sexual orientation<sup>1</sup>, or performance) when:

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1. The conduct is unwelcomed, unwanted, unsolicited, and/or nonconsensual;

2. The conduct or communication has the purpose or effect of demanding sexual favors in exchange for benefits (quid pro quo);

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3. Submission to or rejection of the conduct or communication is used as the basis for ~~educational~~ decisions affecting educational programs, activities, a student or employment, and/or assignment of students and staff; ~~staff~~;

4. The conduct or communication is so severe, persistent or pervasive that it has the purpose or effect of unreasonably interfering with a student's educational performance or with an employee's ability to perform his/her job; or creates an intimidating, offensive or hostile educational or working environment. Relevant factors to be considered ~~will may~~ include, **but are not limited to**, did the individual view the environment as hostile; was it reasonable to view the environment as hostile; the nature of the conduct; how often the conduct occurred and how long it continued; age and sex of the complainant; whether the alleged harasser was in a position of power over the student or staff member subjected to the alleged harassment; number of individuals involved; age of the alleged harasser; where the alleged harassment occurred; and other incidents of gender-based or sexual misconduct ~~at the College~~ involving the same or other College students or staff.

Any non-consensual sexual contact, including but not limited to sexual harassment, sexual assault (including sexual intercourse and touching, grabbing, or groping) will be considered gender-based or sexual misconduct, regardless of the sex or gender of the parties involved.

**Responsible Employees** are defined as any employee of Clackamas Community College without a legal obligation to maintain confidentiality. Trained sexual assault advocates (when acting in their capacity as an advocate) and Counselors in the CCC Counseling Department (when acting in their official capacity) have been designated as confidential employees by the Title IX Coordinator. All other employees, including full and part time faculty and staff, are deemed "Responsible Employees" and must report instances of gender or sex-based misconduct to the Title IX Coordinator as soon as possible upon becoming aware of the incident

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**Mandatory Reporter.** All CCC Employees are considered mandatory reporters of child abuse unless exempt by law (such as privileged advocates or licensed counselors). If an employee becomes aware of or suspects the abuse of a child, they are required to report to local authorities.

**Confidential Resources.** Because most faculty and staff are Responsible Employees, specific resources are defined by the Title IX Coordinator as “Confidential Resources”. Within the College, these resources are Counselors in the Counseling Department and trained campus sexual assault advocates. Community resources outside of the College may also be confidential, since they do not have a requirement under Title IX to report to the College.

**Prompt Notice** to the Title IX Coordinator means that when a responsible employee becomes aware of a potential violation of the Gender/Sex-Based Discrimination Policy, they report it as soon as possible to the Title IX Coordinator or Administration, within 24 hours. A report can be made via email, phone call, or in person. Immediate reporting is preferred whenever possible.

### **Awareness and Training**

The President or designee shall ensure annual awareness training and/or information is provided to all students and staff. Compliance oversight designees responsible for accepting and managing complaints, grievances or incidents will be updated as needed. Designee business phone numbers, addresses or other necessary contact information will be updated as needed. This policy as well as the complaint procedures are available to all students and staff.

### **Grievance Reporting Procedure**

~~Gender Based and Sexual Misconduct Reporting Procedure (for allegations of gender-based and/or gender-based or sexual misconduct and/or assault).~~ This procedure ~~involves~~ ~~requires~~ a prompt ~~initial investigation to determine~~ ~~determination-if whether or not~~ there is a reasonable cause to believe the policy has been violated, then provides for prompt and equitable resolution of complaints about behavior that may violate this policy. ~~The following Complaint and Investigation Process must be followed to ensure due process and consistency throughout the College.~~

Any ~~student or~~ ~~responsible~~ employee who has knowledge of conduct in violation of this policy or feels ~~he/she/they is~~ ~~have experienced such treatment a victim~~ ~~must~~ ~~immediately~~ ~~report the incident~~ ~~his/her concerns~~ to the Title IX Coordinator, ~~Behavioral Intervention~~ ~~or~~ ~~department supervisor who has overall responsibility for all investigations of Team,~~ or any College administrator.

A student may ~~also~~ report concerns to an instructor or ~~counselor~~ ~~staff member~~ who will promptly notify the appropriate College official. ~~The student or staff member who initiated the complaint shall be notified of the findings of the investigation and, if appropriate, that remedial action has been taken.~~

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

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complainant or any terms or conditions of employment or work environment of the staff complainant. There shall be no retaliation by the College against any person who, in good faith, reports or files a complaint, or otherwise participates in an investigation or inquiry of gender or sex-based misconduct.

~~Insert Confidential reporting info or link here??~~Confidentiality Statement: If one desires that details of the incident be kept confidential, they should speak with on-campus counselors -or off-campus health service providers or crisis resources who can maintain confidentiality. Campus counselors are available to help you free of charge. Several options for reporting are available in our Resource Guide at the following link: (add link to guide here, once approved.) You may also access the Oregon Sexual Assault Task Force (SATF) at: <http://campus.oregonsatf.org/>.

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**Timeframes**

The following process will begin ~~immediately~~ upon receipt of a complaint, with resources being provided during the complaint intake process. Any responsible employee must report any Title IX complaint to the Title IX Coordinator (or designee) as soon as possible after becoming aware of the incident or issue. A member of the Title IX Team will begin the intake process upon receipt of the complaint. Investigation timelines may vary with the complexity of the case, but should be completed within 60 days of receiving the complaint (unless extraneous circumstances are present, such as a police investigation or academic break).

**Title IX Complaint and Investigation Process and Procedure**

1. Complaint is received,
  - a. Title IX email
  - b. BIT Referral
  - c. Meeting or contact with any responsible employee
    - i. Confidential reporting options are available. If these resources are used, the person receiving the complaint is under no obligation to report it for further investigation or inquiry. These resources include:
      1. Community/Crisis Advocates (on and off campus)
      2. CCC Counseling Department
      3. Off-Campus Health Service Providers
2. Determine if the complaint alleges violations applicable under Title IX. If gender is a component of the complaint, consider Title IX to be applicable.
  - a. Gender or Sex-Based Misconduct
  - b. Sexual Harassment
  - c. Discrimination on the basis of Sex
3. Notify the Title IX Coordinator. An investigator will be assigned to respond to the complaint.
4. Investigator will perform the Intake process, including:
  - a. Provide Title IX Resource Guide (required by SB 759)
  - b. Begin Title IX Documentation Worksheet
  - c. Any or all of the following are put into place, if necessary:
    - i. Interim measures

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- ii. Safety plans
    - iii. Police report
    - iv. Medical exam
    - v. Advocate services
  - d. Determine if the claimant wishes to proceed with an investigation and what outcomes are desired.
    - i. If the claimant does not wish to pursue an investigation, the College will take steps necessary to prevent or remediate any violations with any information it has
  - e. Take the details of the claim, including details and any evidence and/or witnesses.
    - i. After notes have been compiled, send to the complainant for review, corrections, additions, and approval.
- 5. Notify the respondent of the complaint and investigation. Ensure that the notification outlines the allegations, potential policies violated, and non-retaliation verbiage. Request that the respondent schedule an appointment to take their response, including any evidence and/or witnesses.
- 6. Meet with the respondent to take their response.
  - i. After notes have been compiled, send to the respondent for review, corrections, additions, and approval.
- 7. Schedule and meet with witnesses, and/or gather applicable evidence.
- 8. Analyze evidence to determine findings using the “preponderance of the evidence” approach.
- 9. Write the official report of investigation, outlining relevant details, and findings, stating whether the event was “more likely than not” to have occurred.
  - a. The report must be reviewed by the Title IX Coordinator prior to release.
- 10. Provide the written report to both the complainant and respondent, as well as any sanctioning or appeals panels or individuals.
  - a. Respondents are either “Found Responsible” or “Not Found Responsible”.
  - b. For students, determination of responsibility and sanctions are determined by the Behavioral Intervention Team
  - c. For employees of the College, responsibility and sanctions are determined by a panel to include the supervisor, dean, and a representative of the applicable association. This panel may be adjusted when appropriate based on the relationship of the complainant and respondent.
- 11. Sanctions are applied by the appropriate panel. Sanctions imposed must be appropriate to eliminate the occurrence of the violation, prevent its reoccurrence, and remediate its effects.
  - a. Sanctions are documented in a sanctions memo by the appropriate panel/individual, and provided to the claimant and respondent.
- 12. Appeal processes are available to either party that may disagree with the procedure of the investigation and/or the severity of the sanctions imposed. If an appeal is requested, the final outcome will be documented in a letter or memo from the person hearing the appeal.
  - a. Students may appeal to the Dean of AFaC.
    - i. If the Dean of AFaC is a party in the complaint, another administrator at the Dean Level or above will be assigned by the Title IX Coordinator.
  - b. Employees may appeal to the Vice President of their division.
    - i. If the Vice President is a party to the complaint, an appeal may be made to the President (or next level of authority).

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ii. If the President is a party of the complaint, an appeal may be made to the Board of Education.

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**References and Resources**

Please refer to administrative regulation for:

**Gender or Sexual-based Misconduct Complaint Procedure**

[http://policy.osba.org/clackcc/J/JBA\\_GBN%20R%20G1.PDF](http://policy.osba.org/clackcc/J/JBA_GBN%20R%20G1.PDF)

**Other Discrimination Complaint Procedure**

<http://policy.osba.org/clackcc/AB/AC%20R%20G1.PDF>

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**Title IX Resource Team**

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All Title IX leadership personnel are familiar with the "Dear Colleague Letter". The designees below are authorized to assist staff and students with questions or concerns related to gender or sexual-based misconduct, discrimination, or harassment.

*Title IX Coordinator, Patricia Anderson-Wieck  
Dean of Human Resources  
503-594-3300*

*~~Title II Director~~ Deputy Title IX Coordinator, Christopher Smith, Darlene Geiger  
Associate Dean, Academic Foundation and Connections Human Resources Compliance  
Specialist  
503-594-3302*

*Deputy Title IX Coordinator, John Ginsburg  
Director, Student Life & Leadership  
503-594-3030*

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~~It is the intent of the Board that appropriate corrective action is will be taken by the College to stop the gender-based or sexual misconduct, prevent its recurrence and address negative consequences. Staff or students in violation of this policy shall be subject to discipline up to and~~

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including expulsion and/or counseling or gender based/sexual misconduct awareness training, as deemed appropriate. Employees in violation of this policy shall be subject to discipline, up to and including dismissal and/or additional gender based or sexual misconduct awareness training, as appropriate. 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.

The President or designee shall ensure annual awareness training and/or information is provided to all supervisors, staff and students. Compliance oversight designees responsible for accepting and managing complaints, grievances or incidents will be updated annually. Designee business phone numbers, addresses or other necessary contact information will be updated annually. This policy as well as the complaint procedures will be made available to all students and staff in student and staff handbooks.

The President or designee will establish a process of reporting incidents of gender based or sexual misconduct. (Has this been established or perhaps changed since 2012? Campus Safety group maybe?)

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**\*\*State legal definitions** of domestic violence and/or dating violence can be found at the following site: [The Clery Center for Security on Campus](#)

Field Code Changed

**Student Conduct Process** can be viewed in the “Student Rights & Responsibilities” section of the current [Student Handbook](#).

~~\*\*Patricia re: sentence above Per ATIXA manual/guide, “The state legal definitions of domestic violence and dating violence may also be included here (find links to each state’s definition here) to comply with the Clery Act changes that will take effect in 2014.~~

END OF POLICY

**Legal Reference(s):**

- Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107.
- Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634; 29 C.F.R. Part 1626.
- Americans with Disabilities Act of 1990; Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630; 28 C.F.R. Part 35.
- Equal Pay Act of 1963, 29 U.S.C. § 206(d).
- Rehabilitation Act of 1973, 29 U.S.C. §§ 503, 791, 793-794.
- Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683.
- Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d.
- Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e. Vietnam Era Veterans’ Readjustment Assistance Act of 1974, 38 U.S.C. § 4212.
- Wygant v. Jackson Bd. of Educ., 476 U.S. 267.
- Americans with Disabilities Act Amendments Act of 2008.
- The Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212.
- Title II of the Genetic Information Nondiscrimination Act of 2008.

**Cross Reference(s):**

- AC-Nondiscrimination
- ACA – Americans with Disabilities Act
- GBA – Equal Employment Opportunity
- JB - Nondiscrimination: Equal Education Opportunities and Freedom of Access
- \*Sexual orientation means an individual’s actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, 1 regardless of whether the individual’s gender identity, appearance, expression or behavior differs from that traditionally associated with the individual’s sex at birth.

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