

Sex-Based ~~ual Harassment~~ Discrimination/Misconduct

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 ~~shall~~ **will** not be tolerated. ~~This includes sexual harassment of students or staff by other students, staff, 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 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.

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.

Designated Responsible Employee, 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.

“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 **intercollegiate and** 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.

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.

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.

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

~~Sexual harassment of students and staff shall include, but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal, nonverbal or physical conduct of a sexual nature when:~~

- ~~1. The conduct or communication has the purpose or effect of demanding sexual favors in exchange for benefits;~~
- ~~2. Submission to or rejection of the conduct or communication is used as the basis for educational decisions affecting a student or employment or assignment of staff;~~
- ~~3. 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 include, but not be 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 harassment; number of individuals involved; age of the alleged harasser; where the harassment occurred; and other incidents of sexual harassment at the College involving the same or other students or staff.

Examples of sexual harassment may include, but not be limited to, physical touching; graffiti of a sexual nature; display or distribution of sexually explicit drawings, pictures and written materials; sexual gestures or obscene jokes; touching oneself sexually; making inappropriate sexual comments; talking or spreading rumors about or rating other students or others as to appearance, sexual orientation, sexual activity, or sexual performance.

All complaints about behavior that may violate this policy shall be promptly investigated. Any student or employee who has knowledge of conduct in violation of this policy or feels they are a victim of sexual harassment must immediately report their concerns to the compliance officer or department supervisor who has overall responsibility for all investigations or any College administrator. A student may also report concerns to an instructor or counselor 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 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, files a complaint or otherwise participates in an investigation or inquiry of sexual harassment.

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 ~~the sex-based discrimination and/or misconduct~~ **sexual harassment**, prevent its recurrence and address negative consequences. Students in violation of this policy ~~may~~ **shall** be subject to discipline including counseling or ~~sex-based discrimination~~ **sexual harassment** awareness training, ~~suspension or up to~~ **suspension or up to** expulsion, as appropriate. Employees in violation of this policy ~~may be required to complete additional sex-based discrimination/misconduct training and may~~ **shall** be subject to discipline, ~~up to and~~ **up to and** including dismissal, ~~in accordance with the applicable employee handbook and/or bargaining agreement.~~ **and/or additional sexual harassment awareness training, up to dismissal, as appropriate. Third parties** ~~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.

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, 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 periodic ~~sex-based discrimination and harassment~~ awareness training or information is provided to all ~~employees, supervisors, staff and students and that~~ annually, the name and position of College officials responsible for accepting and managing sexual harassment complaints, business phone numbers, addresses or other necessary contact information is readily available.

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 ~~This policy as well as the reporting complaint procedures~~ providing for prompt and equitable resolution of reports of violations of this policy from students, employees and the public. ~~will be made available to all students and employees staff in student and staff 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 sexual harassment.~~

END OF POLICY

Legal Reference(s):

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

[ORS 659.850](#)

[ORS 659A.006](#)

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).

[ORS 659A.029](#)

[ORS 659A.030](#)

[OAR 589-010-0100](#)

Cross Reference(s):

JBA/GBN - Sexual Harassment

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