



ADMINISTRATIVE PROCEDURE

TITLE: Prohibition against Workplace Harassment – Reporting and Enforcement

ADMINISTRATIVE PROCEDURE # 3432

RELATED TO POLICY # 3430 PROHIBITION OF WORKPLACE HARASSMENT

The College is committed to maintaining a work environment that is free from discrimination, harassment, and intimidation. Workplace harassment as defined in this Administrative Procedure is strictly prohibited and will not be tolerated. Retaliation is also prohibited against individuals who report harassment, participate in workplace investigations or otherwise assist in enforcement of the College's policies and procedures.

A. Application

1. This administrative procedure applies to complaints or concerns of workplace harassment by or toward the College's employees, volunteers, interns, and elected officials ("covered individuals"). It provides specific examples of prohibited conduct that can constitute workplace harassment, and the obligations of the College in addressing those complaints or concerns.
2. This administrative procedure does not apply to complaints or concerns of harassment by a student toward another student. Those complaints and concerns are governed by the Student Code of Conduct, BP 5500 and the related administrative procedures.
3. This administrative procedure also does not apply to complaints or concerns regarding sexual harassment of students or employees under Title IX, including "quid pro quo" harassment, sexual assault, dating violence, domestic violence and stalking. Those complaints and concerns are covered by BP 3433, AP 3433 and AP 3434. Additional information is available on the Title IX page on the College's website.

B. Definitions under Oregon Revised Statutes Chapter 659A.

1. **“Non-Disclosure Agreement”**: Non-disclosure agreement means an agreement between the employer and employee not to disclose information related to complaints or personal action related to violations of the College’s Prohibition of Harassment policy.
2. **“Non-disparagement Agreement”**: Non-disparagement agreement means an agreement between the employee and employee not to make negative statements about the other related to complaints or personnel actions related to violations of this policy.
3. **“Sexual Assault”**: Sexual assault under this administrative procedure means unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat or intimidation.
4. **“Workplace Harassment”**: Workplace harassment means:
 - a. Conduct that constitutes discrimination prohibited by ORS 659A.030, meaning discrimination against a covered individual because of the race, color, religion, sex, sexual orientation, national origin, marital status or age of the individual or of any other person with whom the covered individual associates, or because of the covered individual’s juvenile record that has been expunged; or
 - b. Conduct that is prohibited by ORS 659A.082 (discrimination against an individual based on uniformed service); or
 - c. Conduct that is prohibited by 659A.112 (employment discrimination against persons with disabilities).

C. Prohibited Conduct

1. It is the College’s policy that all employees, volunteers, interns and elected officials, as well as students, should work or be educated in an environment where individual dignity is respected. For that reason, we expect all employees and other covered individuals to accomplish their work and College-related activities in a professional and business-like manner. Any conduct that could reasonably be viewed as harassment of a covered individual (i.e. employees, volunteers, interns, or public officials) by another covered individual, or by a student, or a service provider or other visitor on UCC premises, is prohibited. Covered individuals are also prohibited from engaging in harassment toward students or other persons with whom they interact in carrying out their work duties or while on UCC premises.

2. Specifically forbidden is unwelcome conduct related to an individual's race, color, national origin, ancestry, ethnic background, religion, sex, sexual orientation, gender identity, mental or physical disability, age, veteran status, marital status, or other legally protected status or activity.
3. Prohibited conduct of a sexual or gender-based nature includes:
 - a. Unwelcome sexual advances; innuendoes; requests for dates
 - b. Unwelcome touching or sexual assault
 - c. Unwelcome visual conduct, such as leering or making sexual gestures
 - d. Telling dirty jokes
 - e. Making offensive or derogatory comments about a person's gender
 - f. Making derogatory remarks about sexual orientation or gender identity, including comments about individuals who are gay, lesbian, or transgender, etc.
 - g. Talking about your sex life or asking about another person's sex life
 - h. Spreading rumors or telling stories about another person's sex life, sexual preferences, etc.
 - i. Displaying sexually suggestive objects, pictures, cartoons or posters
 - j. Use of the College's computers, internet or communication devices or systems to access, send, receive or store material of a sexual/gender, etc. based nature
 - k. Any other verbal, graphic, electronic or physical conduct of a sexual or gender-based nature, which has the purpose or the effect of creating a hostile or offensive work environment or otherwise unreasonably interfering with another employee's or other covered individual's work.
4. Prohibited conduct related to **race, ethnicity, religion, age, disability, etc.** includes:
 - a. Making racial slurs or offensive ethnic comments
 - b. Telling racial or ethnic jokes
 - c. Displaying cartoons, printed material or other objects which are racially or ethnically offensive
 - d. Displaying racist symbols
 - e. Making derogatory comments or jokes about, or mimicking a person's physical or mental limitations
 - f. Unwelcome pushing of your religious beliefs on others

- g. Criticizing or making fun of another person's religious beliefs
 - h. Making derogatory age-based comments or jokes
 - i. Using the College's computers, internet or communication devices or systems to access, send, receive or store racially, ethnically, age-related, disability related or religiously, etc. offensive material; and
 - j. Other verbal, graphic, electronic, physical or other conduct of a racial, religious, ethnic, age or disability related nature, which creates a hostile or offensive work environment or unreasonably interferes with another employee's or other covered individual's work.
5. These are just examples of the kinds of conduct that are prohibited. Employees and other covered individuals are expected to exercise common sense and refrain from other similar kinds of conduct. It is also essential to understand the following:
- a. Off-duty conduct of this nature is also prohibited if it creates an offensive work environment or unreasonably interferes with another employee's or covered individual's work.
 - b. All members of the College community are expected to assume that conduct of this nature is unwelcome and will offend others. Therefore, you are expected to refrain from engaging in such conduct, regardless of the circumstances. It is not an acceptable excuse that others participated in the conduct or did not appear to be offended.
 - c. No one may suggest or threaten that an individual's cooperation with or tolerance of prohibited conduct will have any effect on that person's employment, or status as a student, volunteer, intern or elected official ("quid pro quo" harassment).

D. Policy against Retaliation

- 1. The College respects the rights of its employees and other covered individuals to raise concerns of discrimination and harassment, and expects all members of the College community to cooperate fully with investigations. The College does not permit any member of the College community to unlawfully retaliate against a covered individual, which means taking adverse action because that person has reported harassment or discrimination, cooperated with an investigation, testified in official proceedings, or otherwise assisted in enforcement of our policies against discrimination and harassment.
- 2. "Retaliation" is broadly construed and may include any on-duty or off-duty conduct, whether related to employment or not, that would tend to discourage an employee

or other covered individual from engaging in the protected activities referenced above. Retaliation can also include:

- a. Giving a covered individual “the cold shoulder” or treating him or her rudely;
- b. Badmouthing a covered individual to others or giving an undeserved negative performance evaluation or reference;
- c. Withholding information or cooperation necessary for the covered individual to do his or her job;
- d. Changing a covered individual’s work assignments or hours; or
- e. Taking adverse action against a person who is close to the covered individual.

E. Reporting Procedures

1. If you believe that you have been subjected, or another individual has been subjected, to unwelcome conduct prohibited by this administrative procedure, you should contact the College’s Human Resources Director as soon as possible. We believe that all of our employees, volunteers, interns and public officials have an affirmative obligation to promptly report violations of our policy and cooperate with investigations so that we can promptly investigate the concerns and take appropriate preventive and corrective action.
2. NOTE: Student who believe they have been subjected to prohibited conduct by an employee, intern, volunteer, or public official are also strongly encouraged to report it. Students should report the conduct to the Compliance Officer, or the Human Resources Director if the Compliance Officer is not available.
3. If the Human Resources Director is not available, or the complaint or concern involves the Human Resources Director, or you are not comfortable reporting to the Human Resources Director for any reason, you should contact one of the following designated alternates:
 - a. Chief of Security
 - b. College President
 - c. Provost
 - d. Athletic Director
4. Do not report the concern only to the person who has allegedly engaged in the conduct.

5. When the Human Resources Director or a designated alternate person listed above receives a report of alleged discrimination, harassment or retaliation, he/she must document what is reported and provide the employee with a copy of this administrative procedure and Board Policy 3430. Any covered individual who believes he or she has been subjected to or witnessed conduct in violation of this administrative procedure is also advised to document the incident(s).
6. Additionally, any supervisor or manager who receives information about conduct that may violate these policies is required to:
 - a. Immediately notify the Human Resources Director, or a designated alternate person on the list if the Human Resources Director is not available or the concern involves the Human Resources Director; and
 - b. Provide the individual who reported the information with a copy of this administrative procedure and Board Policy 3430.
7. We do not place any time limits on the ability to report concerns about workplace harassment through the College's internal complaint procedures, and covered individuals have a legal right to report workplace harassment for up to four (4) years from the date on which the alleged harassment occurred. However, covered individuals are expected to report these incidents at the earliest opportunity, in order to maximize our ability to conduct a thorough investigation and prevent further occurrences of prohibited conduct.

F. Investigation and Enforcement by the College

1. Reports of alleged workplace harassment or retaliation subject to this administrative procedure will be promptly investigated according to the process stated below. If the College determines that an employee has engaged in conduct prohibited by this procedure, appropriate disciplinary action will be taken, up to and including termination of employment. In addition to disciplinary action, other corrective action such as individualized training may be required as the College determines appropriate. Appropriate action will also be taken to address violations by volunteers and interns, which may include ending the volunteer or internship position.

G. Follow-up with Covered Individuals

1. It is our policy to follow up with covered individuals who have reported or been subjected to workplace harassment. Follow-up will occur at least once every three months through the calendar year following the date on which the College received the report, unless the victim objects in writing and requests the follow-up to stop.

The purpose of the follow-up is to ensure that any harassment or other policy violations have stopped, and that the victim has not been subjected to retaliation.

2. The College may, in its discretion, also follow up with witnesses and others who cooperated in an investigation, including employees and other covered individuals who reported conduct that was not determined to be a violation of this policy, for the purpose of enforcing anti-retaliation prohibitions. Employees, volunteers, interns and elected officials who have questions or concerns about the College's harassment policy or administrative procedures are encouraged to contact the Human Resources Director, or follow the reporting procedures outlined above.

H. Other Available Complaint Processes

1. All employees and other individuals covered by these policies should be aware that they have the right to make complaints and seek remedies through the complaint resolution process of the Oregon Bureau of Labor and Industries (BOLI), or by filing claims in court. Remedies may be available such as back pay, counseling, reimbursement of medical costs, attorney fees, pain and suffering damages, or punitive damages. Victims may also pursue their rights under other available laws, including criminal prosecution through law enforcement officials.
2. The College does not provide any employee or other covered individual with legal advice. However, all employees and covered individuals should be aware that time limits apply to the ability to pursue civil and criminal complaints. For example, claims made with BOLI for alleging workplace harassment under Oregon law must generally be filed within five (5) years from the date of the alleged unlawful practice if the conduct occurred on or after October 1, 2019. Conduct that occurred prior to that date is generally subject to a shorter (i.e. 1-year) statute of limitations. The same time limitations apply to complaints filed in court without first going through BOLI.
3. Please also be aware that Oregon law requires that individuals bringing claims against a public officer, employee or agent of a public body or a public body (e.g. the College) must first provide a notice of claims that is often referred to as a Tort Claims Notice. The notice must generally be provided within 180 days of the alleged loss or injury, unless a limited exception applies under ORS 30.275.
4. Different time limitations apply under federal law for filing complaints in court. Generally, these claims must be filed within 300 days with the federal Equal Employment Opportunity Commission for employees working in Oregon. The statute of limitations for criminal complaints varies, depending on the nature and degree of the conduct. Covered individuals who want more information may contact BOLI at <https://www.oregon.gov/boli>, local law enforcement, or contact an

attorney of their choosing. The Oregon State Bar provides a referral service through which employees may be connected with attorneys. Information regarding this service can be found at: <https://www.osbar.org/public/ris/>.

I. Additional Information

1. Effective October 1, 2020 the College will not require or coerce any employee or other covered individual to enter into any non-disclosure agreement or non-disparagement agreement (defined above) that would prohibit the covered individual from discussing alleged discrimination or workplace harassment. This includes any conduct that occurs between employees or other covered individuals, or that occurs between the College and a covered individual in the workplace or at a work-related event coordinated by the College, or that occurs between a covered individual and the College off of the College premises.
2. Employees and other covered individuals claiming to be aggrieved by workplace harassment may, however, voluntarily request to enter into an agreement (e.g. separation, severance or settlement agreements) that contain a confidentiality, non-disparagement and/or no-rehire provision. Although the College is not obligated to offer or agree to any such separation, severance or settlement agreement, an employee or other covered individual who enters into such an agreement on or after October 1, 2020 will also have the option to revoke the agreement within seven days after it is signed.

J. Records Retention

1. Notices of leave pending investigation, notice of interviews, due process notices and disciplinary notices are generally maintained in personnel files. Other documents related to complaints and investigations are maintained in confidential files for a *minimum* period of the 5-year statute of limitations or the minimum retention period required under Oregon law, whichever is longer. Such records are generally released only as the College determines appropriate to defend against legal claims, to establish consistency and lack of discrimination, to establish that an employee or covered individual received notice of standards of conduct required under this policy, and when otherwise required by applicable law.

REFERENCES:

ORS 659A;
ORS 243
BP 3430

RESPONSIBILITY:

The Director of Human Resources is responsible for implementing and updating this procedure.

NEXT REVIEW DATE:

DATE OF ADOPTION: 11/12/2020

DATE(S) OF REVISION:

DATE(S) OF PRIOR REVIEW: