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**NONDISCRIMINATION AND NONHARASSMENT**

All complaints about behavior that may violate this policy shall be promptly investigated. Any person who has knowledge of conduct in violation of this policy or feels they are a victim of harassment or discrimination must immediately report their concerns to the appropriate individual as outlined in the applicable College Compliant and Investigation Procedure (APP 7160 A, B, or C). This policy applies to all elected Board of Education members, employees, students, volunteers and interns.

It is the intent of Southwestern Oregon Community College that appropriate corrective action will be taken by the College to stop any form of discrimination or harassment that may occur, prevent its recurrence, and address negative consequences. Appropriate disciplinary measures for all substantiated incidents of discrimination or harassment will be taken, up to and including termination for employees or suspension for students.

Under the College's policy, harassing, discriminatory, or retaliatory behaviors will not be tolerated. Therefore, it is the responsibility of every member of the College community to strictly comply with the policy and any procedures directed by the College President to implement the policy. This includes notifying each employee/student of his or her rights and responsibilities under the College's Nondiscrimination and Nonharassment Policy.

**DEFINITIONS**

**Unlawful Discrimination:** Different treatment of or denial of a benefit to a person because of the person's protected status, including race/ethnicity, color, religion, national origin, sex, marital status, disability, veteran status, age, sexual orientation, or any other status protected by federal, state, or local law.

**Harassment:** Can be a form of unlawful discrimination when it consists of unwelcome verbal, nonverbal (for example, whistling), visual or physical conduct based on protected status that is so severe, persistent, and pervasive that it interferes with or limits a student, faculty or staff member's ability to participate in or benefit from the College's educational and/or employment opportunities, programs or activities. Discriminatory harassment includes Sexual Harassment and Workplace Harassment.

Examples of discriminatory harassment include, but are not limited to a behavior that degrades, denigrates, ridicules, and/or is physically abusive of an employee/student because of his or her gender or sexual orientation; race/ethnicity; color; national origin; disability; or other statuses protected by law.

**Sexual Harassment:** 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.

Examples of sexual harassment include, but are not limited to:

- making sexual propositions or pressuring students/employees for sexual favors;
- touching of a sexual nature;
- writing graffiti of a sexual nature;

- displaying or distributing sexually explicit drawings, pictures, or written materials;
- performing sexual gestures or touching oneself sexually in front of others;
- telling sexual or dirty jokes;
- engaging in acts of sexual violence or sexual activity where consent is not given or obtained;
- spreading sexual rumors or rating other students as to sexual activity or performance; or
- circulating or showing e-mails or websites of a sexual nature.

**Workplace Harassment:** Workplace harassment means conduct that constitutes discrimination prohibited by ORS 659A.030, including conduct that constitutes sexual assault or that constitutes conduct prohibited by ORS 659A.082 or 659A.112.

**Retaliation:** Retaliation means any adverse treatment (beyond a slight or annoyance) that is taken because a person engaged in protected activity (e.g., opposing discriminatory practices, filing a discrimination or discriminatory harassment complaint, or participating in an investigation, conduct hearing or an attempt at resolution, etc.) or for the purpose of interfering with right or privilege granted under anti-discrimination laws.

**College:** 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.

## CONFIDENTIALITY

Southwestern Oregon Community College will strive to maintain confidentiality to the greatest extent possible and information will be protected to the extent permitted by law. You should know that confidentiality can only be respected insofar as it does not interfere with Southwestern's obligation to investigate alleged or suspected sexual discrimination, harassment, and/or violence and to take corrective action. However, information disclosed to a Southwestern Oregon Community College Counselor during the course of a counseling session is completely confidential\*. While you, as a member of the SWOCC community, may have an established relationship with a staff or faculty member you should know that that individual may not be able to maintain confidentiality.

\*Counselors are required to report information on elder abuse, child abuse, or if someone is a threat to themselves or others.

## CONSENSUAL RELATIONSHIPS

Sexual relationships between subordinates and supervisors and faculty and students are strongly discouraged by the College because of the liability that may result from such activities from both a personal and institutional perspective and the inappropriateness of such relationships.

## NON-RETALIATION STATEMENT

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 a 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 discrimination or harassment.

Employees are expected to promptly report concerns about retaliation to the appropriate individual outlined in the College Complaint and Investigation Procedure (APP 7160 A, B, or C), and document any incidents of workplace harassment.

## COMPLAINT AND INVESTIGATION PROCEDURE

Any individual may initiate a discrimination or harassment complaint online through Incident Reporting-Maxient. Refer to the appropriate College Complaint and Investigation Procedure (APP 7160 A, B, or C) for an outline of the process and associated timelines. The allegations will be examined for application of this policy. If the allegations do not implicate discrimination or harassment, the College will notify the individual of any other applicable College policy or procedure for addressing the concerns. A record will be kept of the complaint or incident for the time period required by law.

At any point in the process, an individual with concerns about discrimination and/or harassment may file a complaint with (1) the Office for Civil Rights of the United States Department of Education; (2) the Equal Employment Opportunity Commission ("EEOC"); (3) or the Oregon Bureau of Labor and Industries ("BOLI") Civil Rights Division; (4) or as allowed under any other available law, whether civil or criminal.

If any of the College's representatives typically involved in processing a discrimination and harassment policy complaint are or become the subject of the complaint, the following guidelines will be followed:

1. If the President is the subject of allegations of harassment or discrimination, the complaint will go directly to the Board of Education. The Board will designate a Conduct Resolution Administrator (CRA) to review the complaint and make recommendation back to the Board.
2. If the complaint is against a member of the Board of Education, the complaint should be referred to the Board for action by the Board in accordance with the Board code of conduct policy...

## PROHIBITED EMPLOYMENT OR SETTLEMENT AGREEMENTS:

The College may not require, coerce, or enter into an agreement with an employee or prospective employee, as a condition of employment, continued employment, promotion, compensation or the receipt of benefits, that contains a nondisclosure provision, a non-disparagement provision or any other provision that has the purpose or effect of preventing the employee from disclosing or discussing conduct that:

- a) i) Constitutes discrimination prohibited by ORS 659A.030, including conduct that constitutes sexual assault; or  
ii) Constitutes discrimination prohibited by ORS 659A.082 or 659A.112; and
- b) i) Occurred between employees or between the College and an employee in the workplace or at a work-related event that is off the College premises and coordinated by or through the College; or  
ii) Occurred between the College and an employee off the College premises.

**Exceptions:** The College may enter into a settlement, separation or severance agreement that includes one or more of the following, only when an employee claiming to be aggrieved by conduct described above as workplace harassment requests to enter into the agreement:

- a) A provision described above;
- b) A provision that prevents the disclosure of factual information relating to a claim of discrimination or conduct that constitutes sexual assault; or
- c) A no-rehire provision that prohibits the employee from seeking re-employment with the College as a term or condition of the agreement.

An agreement entered into under this exception must provide the employee at least seven days after executing the agreement to revoke the agreement. The agreement may not become effective until after the revocation period has expired.

## VICTIMS' RIGHTS

Nothing in the policy is intended to prohibit a victim of workplace harassment from voluntarily disclosing information regarding an incident of workplace harassment that involved the victim.

## RESOURCES

Individuals who believe they are the victim of workplace harassment should contact Human Resources for information related to legal resources, counseling and support services, including the employee assistance program.

## RETALIATION

Retaliation against anyone who files a complaint, participated in an investigation, or reported observing workplace harassment, is prohibited. Anyone who believes they have been retaliated against should report this behavior under the process outlined in the Faculty and Staff Conduct Compliant Investigation Procedure. Complaints of retaliation will be investigated promptly.

## POLICY NOTIFICATION

The College will make this policy and related procedures available to College employees in the workplace; provide a copy of the policy and procedures to each employee at the time of hire; and provide a copy of the policy and procedures to an employee at the time the employee discloses information regarding prohibited workplace harassment.

## DEFINITIONS

**“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.

“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.

“Sexual Assault”: Sexual assault 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.

“Workplace Harassment”: Workplace harassment means conduct that constitutes discrimination prohibited by ORS 659A.030, including conduct that constitutes sexual assault or that constitutes conduct prohibited by ORS 659A.082 or 659A.112.

**BP 7165**

**APP 7160 A, B and C**

Created as Administrative Policy & Procedure: January 9, 2013

Revised: April 1, 2015

Revised: May 6, 2020