

AP 3433 - Sexual Harassment, Discrimination, Misconduct

These procedures govern behavior prohibited by Chemeketa's Sexual Harassment, Discrimination and Misconduct Policy – Policy 1751

A. Options

The College encourages all individuals to report any alleged or suspected violation of this policy to the Title IX coordinator, and to report potential criminal conduct to law enforcement.

Anyone who seeks to make a complaint or report may do any or all of the following:

- Request interim measures from the Title IX Coordinator (see Section C.3);
- File a complaint or report with the Title IX Coordinator, thereby invoking the College's internal disciplinary process;
- Contact the Department of Public Safety for assistance in filing a criminal complaint and preserving physical evidence;
- Contact local law enforcement to file a criminal complaint.

B. Resources

The College offers assistance to anyone wishing to file a complaint or seeking assistance. Below is a listing of off-campus and on-campus resources that individuals may utilize.

When contacting any of these resources, an individual does not need to know whether they wish to request any particular course of action, nor how to label what happened.

Individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident that poses a threat to safety or following a potential criminal offense.

Off Campus Resources

In case of Emergency call:	911
Canyon Crisis Center:	503.897.2327
Center for Hope & Safety:	503.399.7722 (24 hr. hotline) 866.399.7722 (toll-free 24 hr. hotline) 503.378.1572 (office)
Marion County	503.588.5253
Victim's Assistance:	866.780.0960 (toll free)
Law Enforcement:	
Marion County Sheriff:	503.588.5094 503.588.5032 (non-emergency line)
Polk County Sheriff	503.623.9251
Yamhill County Sheriff	503.434.7506

Salem Police: 503.588.6123
Oregon State Police: 503.378.3387
503.378.3720 (headquarters)

Stalking or Restraining Order: (first contact Marion County Sheriff's Office 503.588.5094)
Marion County Courthouse
100 High St. NE
Salem, OR
503.588.5105

On Campus Resources

Title IX Coordinator Vivi Caleffi Pritchard
Building 2, Room 214F

Deputy Coordinators Heather McDaniel (Employees)
Jon Mathis (Students)

On-Campus – Confidential Resources

These individuals are not required to disclose information reported to them relative to this policy. Information shared with them is kept strictly confidential and nothing will be shared without your permission, except in rare, extreme circumstances, including imminent risk of harm to self or others.

Campus Advocates: Contact Counseling Services
Building 2, Room 115

C. Filing a Complaint or Report with the Title IX Coordinator

Individuals are encouraged to report any alleged violation of this policy directly to the Title IX Coordinator. Some of the issues that can arise in that process are covered below.

1. Request for Confidentiality

If a complainant self-identifies but asks that his/her name or other identifiable information not be shared with the respondent or that no formal action be taken, the Title IX Coordinator will consider how to proceed, taking into account the complainant's wishes, the College's commitment to provide a safe environment, and the respondent's right to have notice of the allegations. In such circumstances, the Title IX Coordinator may arrange for limited fact-finding by an investigator to better understand the context of the complaint.

2. Timeliness of Complaint

In order to allow the College to respond promptly and effectively, individuals are encouraged to report any violation as soon as possible. However, complaints and reports may be made at any time without regard to how much time has elapsed since the incident(s) in question.

3. Interim Measures

Upon receipt of a complaint or report of a violation of this policy, the College will provide reasonable and appropriate interim measures. The College may provide interim measures regardless of whether the complainant seeks formal disciplinary action.

Interim measures may include:

1. Access to counseling services and assistance in arranging an initial appointment;
2. Rescheduling of exams and assignments;
3. Change in class schedule, including the ability to transfer course sections or withdraw from a course;
4. Change in work schedule or job assignment;
5. Change in housing;
6. Providing medical services;
7. Imposition of an on-campus "no contact order," an administrative remedy designed to curtail contact and communications between two or more individuals; and/or
8. Any other remedy that can be used to achieve the goals of this policy.

Requests for interim measures may be made by or on behalf of the complainant to the Title IX Coordinator. The Title IX Coordinator is responsible for ensuring the implementation of interim measures and coordinating the College's response with the appropriate offices on campus.

All individuals are encouraged to report concerns about the failure of another to abide by any restrictions imposed by an interim measure. The College will take immediate action to enforce a previously implemented measure and disciplinary penalties can be imposed for failing to abide by a College-imposed measure.

4. Anonymous Reporting

When the College receives a complaint where the person making the complaint does not identify herself/himself, it will attempt to investigate the complaint based on the information provided in the complaint and will determine how best to proceed. In such circumstances, the Title IX Coordinator may arrange for limited fact-finding by an investigator to better understand the context of the complaint.

D. Investigations and Disciplinary Procedures

The College is committed to providing a prompt and impartial investigation of alleged violations of this policy. During the investigative process, both parties (complainant and respondent) have equivalent rights, including the opportunity to present evidence, to be accompanied by an adviser of their choice, and to appeal the decisions. The College will concurrently provide both parties with written notification of the outcome of the process and any appeal.

1. Responsibility to Investigate

In order to protect the safety of the campus community, the College may investigate allegations of violations of this policy even absent the filing of a formal complaint or report, or if a complaint or report has been withdrawn. The College may proceed with

an investigation even if a complainant specifically requests that the matter not be pursued. In such a circumstance, the College will take into account the complainant's concerns, the best interests of the campus community, fairness to all individuals involved, and the College's obligations under Title IX.

Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this policy has occurred.

2. Initial Assessment of Complaints

The investigative process is initiated when the Title IX Coordinator receives a complaint or report of a violation of this policy. The Title IX Coordinator will conduct an initial assessment. Following the initial assessment, the Title IX Coordinator may take any of the following actions:

- If the Title IX Coordinator determines that the complaint, even if substantiated, would not rise to the level of a policy violation, the Title IX Coordinator may dismiss the complaint.
- If the Title IX Coordinator determines that the complaint is outside the scope of this policy, the Title IX Coordinator may refer the complaint to another office for review.
- If the Title IX Coordinator determines that the complaint or report would, if substantiated, constitute a violation of this policy, the Title IX Coordinator will determine appropriate interim measures and initiate an investigation.

3. Timing of Investigations and Any Related Disciplinary Proceedings

The College will seek to complete the investigation and any resulting disciplinary process within sixty (60) calendar days after receipt of the complaint or report. The College will seek to complete any appeal within fifteen (15) business days after receipt of the appeal or in a timeframe consistent with the applicable collective bargaining agreement. There may be circumstances or contractual rights that require the extension of deadlines for good cause, including extension beyond 60 business days. Deadlines may be extended to ensure the integrity and completeness of the investigation, comply with a request by external law enforcement, accommodate the availability of witnesses, or for other legitimate reasons, including the complexity of the investigation and the severity and extent of the alleged misconduct. The College will notify the parties in writing of any extension of the deadlines and the reason for the extension.

Although cooperation with law enforcement may require the College to temporarily suspend the fact-finding aspect of a Title IX investigation, the College will promptly resume its Title IX investigation as soon as it is notified by the law enforcement agency that the agency has completed the evidence gathering process. The College will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, if needed, will take immediate steps to provide interim measures for the complainant.

Timeframes for all phases of the disciplinary process, including the investigation, any related disciplinary proceedings, and any related appeal, apply equally to both complainant and respondent.

4. Cooperation with Investigation and Disciplinary Procedures

Chemeketa Community College expects all members of the College community to cooperate fully with the investigation and disciplinary procedures. The College recognizes that an individual may be reluctant to participate in the process; nevertheless, any student or employee who refuses to cooperate in an investigation may be subject to discipline.

It is understood that there may be circumstances in which a complainant wishes to limit their participation. The complainant retains this right and will not be subject to discipline, although the College may be obligated to conduct an investigation.

If a respondent chooses not to answer any or all questions in an investigation for any reason, the College process will continue, findings will be reached with respect to the alleged conduct, and the College will issue any discipline, as appropriate. The College will not, however, draw any adverse inference from a respondent's silence.

5. Sexual History

The sexual history of the complainant and/or the respondent will generally not be used in determining whether a violation of this policy has occurred. However, in certain circumstances, the sexual history between parties may have limited relevance. For example, if consent is at issue, the sexual history between the parties may be relevant to determining whether consent was sought and given during the incident in question, although it must be remembered that even in the context of a relationship, consent to one sexual act does not constitute consent to another sexual act, and consent on one occasion does not constitute consent on a subsequent occasion. In addition, under very limited circumstances, sexual history may be relevant to explain injury, to provide proof of a pattern, or for another specific question raised by an allegation.

6. Consolidation of Investigation

The Title IX Coordinator has the discretion to consolidate multiple complaints or reports into a single investigation if evidence relevant to one incident might be relevant to the others.

7. Circumstances Relating to Misconduct Affecting Health or Safety

In connection with this policy, in circumstances seriously affecting the health or well-being of any person, or where physical safety is seriously threatened, or where the ability of the College to carry out its essential operations is seriously threatened or impaired, the College may summarily suspend, dismiss, or bar any person from the College.

E. Criminal Complaint to Law Enforcement

At the complainant's request, the College will assist the complainant in contacting local law enforcement and will cooperate with law enforcement agencies if a complainant decides to pursue the criminal process.

F. Investigation, Disciplinary, and Appeal Procedures for Cases When the Respondent Is a Student

1. Investigation and Adjudication

When the College receives a complaint or report alleging that a student violated this policy, the Title IX Coordinator will work with the Executive Dean of Students to determine if interim measures (see C.3) are appropriate and will implement them. The respondent will be informed of the allegations and the possible disciplinary actions that could result if an investigation determines that a violation of college policy has occurred. The Title IX Coordinator will be responsible for a fair and independent investigation. As part of this investigation, a report will be prepared which will include findings of fact, findings of responsibility, and rationale. Both parties will be given copies of the report. After reviewing the investigative report, each party will have an opportunity (1) to meet again with the investigator, (2) to respond in writing, and (3) to request the collection of other information. If any additional information is gathered, it will be shared with both parties and each will have the opportunity for further response. The investigator will designate reasonably prompt time frames to ensure a timely completion of the process but also an adequate opportunity for both sides to respond thoroughly to the information gathered in the investigation. During the investigation, either party may be accompanied by a person of their choice.

The Executive Dean of Students will consult with the Title IX Coordinator and determine whether the respondent violated College policy or Student Rights and Responsibilities. This determination will be based on the preponderance of evidence standard. Preponderance of evidence means that it is more likely than not that a respondent violated College policy.

As part of this investigation, an outcome letter will be prepared which will include findings of fact, findings of responsibility, and rationale.

This letter will be provided to both parties. The contents of the letter may be modified subject to the limitations of FERPA and other relevant federal or state privacy laws. Where a policy violation has occurred by the Respondent, the outcome letter will be provided to the Respondent.

2. Discipline

If a student is found responsible for violating College policy, the Executive Dean of Students will determine the discipline. It will be determined based on the seriousness of the violation(s) and the student's previous disciplinary history (if any). Remedial measures will be determined based on the need to afford the parties an educational environment free from discrimination under Title IX. The findings regarding fact and responsibility, as well as the decision regarding the penalty in cases where violations of

College policy have occurred, will be conveyed to the parties at the same time in writing. The notification will include the parties' appeal rights.

3. Rights of Appeal

Both parties have equal rights to an impartial appeal. An appeal is not to initiate a review of substantive issues of fact or a new determination of whether a violation of College rules has occurred. The grounds for an appeal are limited to the following considerations:

- a. There is substantial relevant information that was not presented, and reasonably could not have been presented during the investigation;

- b. The imposed penalty does not fall within the range of penalties imposed for similar misconduct; or
- c. There was procedural unfairness during the disciplinary process.

The College President makes the decision on appeals and may uphold the original decision, alter the imposed penalty, or return the case for additional proceedings or other action. The President's decision is final.

Appeals must be written and filed with the President's office within seven (7) calendar days from the day the original decision is issued. If either party files an appeal, the President's Office will notify the other party in writing.

4. Status While Action is Pending

Pending action, the respondent may be permitted to be on campus, attend classes, and make use of some or all College facilities, except for circumstances relating to the physical or emotional safety or well-being of a member (or members) of the College community, or the ability of the College to carry out its essential functions. Certain restrictions may be imposed by the Title IX Coordinator in order to provide the parties with an educational environment free from discrimination under Title IX.

G. Investigation, Disciplinary, and Appeal Procedures for Cases When the Respondent Is an Employee

1. Investigation and Adjudication

When the Title IX Coordinator receives a complaint or report alleging that an employee violated this policy, the Title IX Coordinator will work with the immediate supervisor to determine if any interim measures (see C.3) are appropriate. The Title IX Coordinator will retain primary responsibility for processing the complaint, including responsibility for a fair and independent investigation.

As part of this investigation, an outcome letter will be prepared by the investigator which will include findings of fact, findings of responsibility, and rationale. In determining findings of fact, the "preponderance of the evidence" standard will be used. This means that a policy will be found to have been violated if it is more likely than not that the prohibited conduct occurred.

This letter will be provided to both parties. The contents of the letter may be modified subject to the limitations of FERPA and other relevant federal or state privacy laws. Where a policy violation has occurred by the Respondent, the outcome letter will be provided to the Respondent's supervisor, Dean/Director, and Director of Human Resources.

2. Discipline

If it is determined that an employee has violated college policy, the immediate supervisor will consult with the Title IX Coordinator and the Director of Human Resources, and determine the appropriate discipline. The discipline will be consistent

with the appropriate bargaining unit agreement and the administrative handbook. Discipline will previous disciplinary history (if any).

3. Rights of Appeal

Both parties have equal rights to an impartial appeal. In cases where the respondent is a represented employee, the appeal process will be determined by the appropriate collective bargaining agreement or the administrative handbook.

In a case where the respondent is a non-represented employee, the College President will make the final decision on appeals. An appeal is not to initiate a review of substantive issues of fact or a new determination of whether a violation of College rules has occurred. The grounds for an appeal are limited to the following considerations:

- a. There is substantial relevant information that was not presented, and reasonably could not have been presented during the investigation;
- b. The imposed penalty does not fall within the range of penalties imposed for similar misconduct; or
- c. There was procedural unfairness during the disciplinary process.

For non-represented employees, the College President makes the decision on appeals and may uphold the original decision, alter the imposed penalty, or return the case for additional proceedings or other action. The President's decision is final.

Appeals must be written and filed with the President's office within seven (7) calendar days from the day the original decision is issued. If either party files an appeal, the President's Office will notify the other party in writing.

H. Procedures Where One Party is a Member of the College Community and the Other Party is a Non-Member of the College Community

When a third party, (i.e., a non-member of our College community) is involved as a complainant or a respondent, the College will use disciplinary procedures that are generally consistent with the other disciplinary procedures, appropriately modified based on the particular circumstances involved and taking into account privacy requirements. In no case will a member of our community (i.e., current student, faculty member or staff member) be afforded lesser rights or lesser opportunities to participate in the disciplinary proceeding than the non-member of the College community.

I. Range of Penalties under This Policy and Disciplinary Procedures

Members of the College community may be subject to disciplinary penalties for violating this policy.

1. Additional Measures

If a respondent is found responsible for violating this policy, the complainant may request measures not already in place, such as a one-way no contact order. The College will promptly implement the measures as appropriate. The burden of the measures will not be placed on the complainant.

2. Penalties Applicable to Students

For violations of this policy by students, the penalties, in ascending order of severity, are:

- a. **Warning.** A formal reprimand that may be taken into account in judging the seriousness of any future violation.
- b. **Disciplinary Probation.** Disciplinary probation is a more serious reprimand for a definite amount of time. It implies that any future violation, of whatever kind, during that time, may be grounds for suspension, suspension with conditions, or in especially serious cases, expulsion from the College. Disciplinary probation will be taken into account in judging the seriousness of any subsequent infraction even if the probationary period has expired. Disciplinary probation appears on an individual's permanent record at the College (but not on the transcript) and may be disclosed in response to requests for which the student has given permission or as otherwise legally required.
- c. **Suspension.** This involves the removal from the College for at least the period of time specified by the suspension. In cases of suspension, relevant information remains on the student's permanent record and may be disclosed in response to requests for which the student has given permission or as otherwise legally required.
- d. **Suspension with Conditions.** This involves the removal from the College for at least the period of time specified by the suspension, with the suspension to continue until certain conditions have been fulfilled. These conditions may include, but are not limited to, restitution of damages or counseling. A suspension with conditions is recorded on a student's transcript. Relevant information remains on the student's permanent record and may be disclosed in response to requests for which the student has given permission or as otherwise legally required.
- e. **Expulsion.** Expulsion is the permanent removal from membership, without any opportunity for readmission to the community. Relevant information remains on the student's permanent record at the College and may be disclosed in response to requests for which the student has given permission or as otherwise legally required.
- f. **Restriction of Access to College Property, Resources, and Activities (Trespass).** When appropriate, restrictions may be placed on access to property owned by the College.

3. Penalties Applicable to Employees

For violations of this policy by employees, disciplinary penalties will be in accordance with the applicable collective bargaining agreement or administrative handbook. It may consist of counseling or training, written reprimand, unpaid suspension, or termination.

4. Penalties Applicable to the General Public/Visitors

For violations of this policy by members of the general public or visitors to the campus, penalties will range from a warning to restricted access (trespass).

J. Other Investigation and Resolution Procedures

If a complaint or report of conduct prohibited by this policy is made against multiple individuals, an office, or the College in general, the Title IX Coordinator will review the matter and take

appropriate action, in accordance with this policy. The Title IX Coordinator may conduct an investigation using investigative and disciplinary procedures that are generally consistent with those stated in this policy, appropriately modified based on the particular circumstances involved. The Title IX Coordinator also has the discretion to conduct a review of the college, after which the College may implement appropriate remedial measures.

June 7, 2006

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August 13, 2007; March 8, 2018

Revised by College Council

October 27, 2015

Revised by College Executive Administration