



# Nondiscrimination and Non-harassment Policy

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**Portland Community College | Office of Equity & Inclusion**  
Downtown Center | 722 SW 2nd Avenue, Room 300 | Portland, OR 97204  
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## Policy Statement

Portland Community College's goal is to provide an atmosphere that encourages individuals to realize their potential. Therefore, it is against the College's policy for any manager, supervisor, faculty, staff, or student to engage in prohibited harassment or discrimination of any member of the College community.

The College prohibits unlawful discrimination based on race, color, religion, national origin, sex, marital status, disability, veteran status, age, sexual orientation, or any other status protected by federal, state, or local law in any area, activity or operation of the College. The College also prohibits retaliation against an individual for engaging in activity protected under this policy, and interfering with rights or privileges granted under anti-discrimination laws. In addition, the College complies with applicable provisions of the Civil Rights Act of 1964 (as amended), related Executive Orders 11246 and 11375, Title IX of the Education Amendments Act of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990 (as amended), Uniformed Services Employment and Reemployment Rights Act ("USERRA"), and all local and state civil rights laws.

Under this policy, equal opportunity for employment, admission, and participation in the College's programs, services, and activities will be extended to all persons, and the College will promote equal opportunity and treatment through application of this policy and other College efforts designed for that purpose.

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 Non-harassment Policy. Management and staff will be held accountable to take reasonable action to maintain work sections and educational environments free of conduct that causes, or reasonably could be considered to cause intimidation, hostility, discrimination, or retaliation.

Any person who believes he or she has been discriminated or retaliated against or harassed by a College employee, representative or student is encouraged to address those concerns with the Office of Equity & Inclusion, which offers a grievance procedure to resolve complaints of discrimination in a prompt and equitable manner. Complaints about issues other than alleged discrimination or harassment may be submitted in accordance with the applicable collective bargaining agreement procedure or the procedure in the Management/Confidential Handbook, or, for students, through the student grievance procedure.

At any point in the procedure, 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) the Oregon Bureau of Labor and Industries ("BOLI") Civil Rights Division; or (4) the Department of Community Colleges and Workforce Development.

The College President will establish operating policies and procedures that implement this policy consistently across the College.

## Definitions

**Unlawful Discrimination:** Different treatment of or denial of a benefit to a person because of the person's protected status, including race, 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.

- 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;
  - color;
  - national origin; or
  - disability;
  - other statuses protected by law.

**Sexual Harassment:** Conduct that is sexual in nature, is unwelcome, and that either (1) denies or limits a student's ability to participate in or benefit from the College's educational programs; (2) creates a hostile, intimidating, or offensive working environment; or (3) submission to or rejection of such conduct is used as a basis for employment, salary, or other benefit changes affecting an employee or academic decisions affecting a student.

- 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.

**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.

## Process for Resolving Complaints about Discrimination and/or Harassment

Concerns about discrimination and/or harassment are handled by the College's Office of Equity & Inclusion. The Office of Equity & Inclusion has both an informal and formal method for resolving the complaints of an individual who believes that he or she has been discriminated against or harassed. The Informal Resolution Process and the Formal Complaint Procedure are both described below.

Normally, the Informal Resolution Process is completed before the Formal Discrimination Complaint Procedure begins. There may, however, be circumstances in which it is more appropriate to address a concern about discrimination or harassment by initiating the Formal Discrimination Complaint Procedure. Those circumstances include situations in which:

- Based on its initial assessment of the facts, the Office of Equity & Inclusion determines it is more appropriate to begin with the formal process.
- When sexual assault, sexual violence, or a crime has been committed.

The individual will be informed of the right to end the Informal Resolution Process at any time and begin the Formal Complaint Procedure.

Any individual who has concerns about discrimination or harassment should contact the Office of Equity & Inclusion. In using both the Informal Resolution Process and the Formal Complaint Procedure, the Office of Equity & Inclusion, at its discretion, may enlist any assistance it chooses to address concerns about discrimination and/or harassment. The allegations will be examined for application of this policy.

If the allegations do not implicate potentially illegal discrimination or harassment, the Office of Equity & Inclusion will notify the individual of its decision to close the complaint and will inform 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.

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

- If the College President is the subject of allegations of harassment or discrimination, the complaint will go directly to the Chair of the Board of Directors of the College.
- If the Office of Equity & Inclusion Director or any member of the Office of Equity & Inclusion staff is the subject of allegations of harassment or discrimination, the complaint will go directly to the College President.
- If the complaint is against the Board of Directors, the complaint falls outside the scope of this document. Complaints against the Board of Directors should be filed with the State of Oregon Affirmative Action Office for employees and applicants. Complaints from students or community members should be filed with the Office of Civil Rights of the US Department of Education.

*Please Note:* The steps described below describe the College's general approach for addressing concerns of potential discrimination or harassment. The College reserves the right to adjust this approach when circumstances warrant. Additionally, the steps described below only address concerns or complaints about discrimination and/or harassment that will be handled by the College's Office of Equity & Inclusion. Complaints about issues other than alleged discrimination or harassment may be submitted in accordance with the

applicable collective bargaining agreement procedure or the procedure in the Management/Confidential Handbook, or, for students, through the student grievance procedure. If an employee, candidate for employment, or student has concerns related to a disability accommodation, the ADA Coordinator (for employees) or Disability Services (for students) can assist the individual in engaging in the interactive process by facilitating communication with the appropriate staff person, program, department, or organization.

## **Step A: Informal Resolution Process**

The Informal Resolution Process is voluntary and creates an avenue to attempt to resolve the concern through personal and cooperative meetings with the involved parties. If the informal resolution process does not resolve the individual's concern, then he or she has the option of filing a Formal Discrimination Complaint (Step B). The individual has the right to end the Informal Resolution Process at any time and begin the Formal Complaint Procedure.

1. Complaints of conduct or policies that may be in violation of the Nondiscrimination and Non-harassment Policy must be addressed to the Office of Equity & Inclusion either orally or in writing within a maximum of 180 days after the alleged conduct occurs.
2. Upon receiving written or oral notice of concerns of potential discrimination or harassment, the Office of Equity and Inclusion Director or designee will, as circumstances permit:
  - a. Within seven (7) College business days, contact the individual raising the concerns to acknowledge receipt of the notice.
  - b. Communicate with the individual to determine the nature of the concerns, explain the Informal Resolution Process and the Formal Complaint Procedure, and discuss potential outcomes.
  - c. Attempt to resolve the concerns with involved parties using a variety of methods including, but not limited to: mediating the concerns with the parties; assisting the department or division with the resolution of the concerns; conducting a preliminary inquiry into relevant issues; conducting targeted training or education programs; providing remedies or referrals to support services; meeting with the parties involved to discuss Nondiscrimination and Non-harassment Policy.
3. The Informal Resolution Process will be conducted in a prompt and equitable manner in order to resolve the concerns alleging action prohibited under this policy. The Office of Equity and Inclusion will communicate the Informal Resolution Process timeline with involved parties.
4. As mentioned above, the Informal Resolution Process is not required and individuals with concerns may skip the informal resolution process and file a formal complaint which will be handled under the Formal Complaint Procedure (Step B). Represented employees also have the right to proceed with complaints according to their collective bargaining agreement.

## **Step B: Formal Complaint Procedure**

1. If the complaint of potential discrimination or harassment are not resolved with the Informal Resolution Process or if the individual opts to file a complaint under the Formal Complaint Procedure, the individual must prepare a written statement, using appropriate forms found on the College's Office of Equity and Inclusion site [link: <http://www.pcc.edu/about/affirmative-action/complaint-form/>], describing the basis of the complaint and a summary of the facts which are alleged to constitute discrimination or harassment. For the purposes of the Formal Complaint Procedure, the individual filing the complaint is called the "complainant." The person against who the complaint is made is called the "respondent."
2. The Office of Equity & Inclusion Director or designee will meet with the complainant to learn more about the complaint and determine whether the Nondiscrimination and Non-harassment Policy is applicable.

3. If the Nondiscrimination and Non-harassment Policy is found applicable, the Office of Equity & Inclusion Director or designee will determine a plan of action which may include, but is not limited to: conducting an adequate, reliable, and impartial investigation into the allegations, including the opportunity for both parties to present witnesses and other evidence, and reviewing any supporting documentation. All parties involved have the right to have another person present as a witness during interviews.
4. Information concerning an investigation is generally considered confidential and will be disclosed as the College determines is necessary for business purposes or if required by law. The College may keep the names of witnesses and complainants confidential when, in the discretion of the College, doing so is necessary for the protection of the student or employee.
5. Complainants and respondents are expected to fully cooperate with any investigation. If the complainant does not or cannot cooperate, the complaint may be deemed withdrawn. If the respondent does not cooperate, it may be considered a violation of College policy, although it is not necessarily a violation of this Nondiscrimination and Non-harassment Policy.
6. The Office of Equity & Inclusion Director or designee will consult Human Resources before completion of the final report when a complaint is made by an employee. The Director or designee will consult the appropriate academic administrator before completion of the report when a complaint is made by a student.
7. After completing the investigation, the Office of Equity & Inclusion Director or designee shall prepare a draft report describing the complaint, the results of the investigation, and the suggested remedy, if any, to be discussed with the appropriate manager, the direct supervisor, or the appropriate academic administrator. A final report may be submitted to appropriate College officials. A summary letter will be sent to the complainant and respondent, which will share the outcome of the complaint investigation.
8. The Office of Equity and Inclusion will strive to complete the investigation, the final report, and the summary letter within forty-five (45) College business days of the receipt of the complaint. If circumstances warrant an extension of the forty five (45) day deadline, the complainant and the respondent will be notified of the reason for extension and projected completion date.

In cases where allegations are proved to be without foundation, no record of the allegations or the investigation will be included in the personnel or student file of the respondent.

### **Step C: Decision by the Appropriate College Official**

1. Step C only comes into effect in the event that the investigator concludes that the allegations are substantiated. The Office of Equity & Inclusion will provide the appropriate College official with the written report.
2. The appropriate College official will issue a written determination concerning the complaint. If appropriate, the determination will contain an outline of the actions designed to remedy the situation, such as steps necessary to stop the harassment and discrimination, eliminate and prevent recurrence of the harassment and discrimination, and to correct its discriminatory effects on the complainants and others.
3. The written determination will be sent to the Office of Equity & Inclusion who will provide a written response to the complainant and respondent within ten (10) College business days of receiving the written report from the appropriate College official, which will share the outcome of the complaint investigation. In some circumstances, the college may disclose to the complainant information about the actions that will be taken to remedy the situation if the remedy directly relates to the complainant (e.g., the respondent is prohibited from attending the college for a period of time).

## **Step D: Appeal to the College President**

In the event that a complaint is deemed to be unsubstantiated, a complainant may appeal the decision to the College President. The appeal to the College President will be limited to determining whether there were substantive procedural errors in processing the complaint that could have affected the outcome. If the complainant chooses to appeal, he or she must provide a written letter of appeal concerning the assertion of a procedural error to the College President within fourteen (14) College business days of receipt of the summary letter described in Step B (7).

The College President or designee will review the appeal and any information the President deems necessary to determine whether there were substantive procedural errors in processing the complaint. The College President or designee may affirm or modify the decision, or send the complaint back to the Office of Equity & Inclusion with a request for additional steps. Within fourteen (14) College business days of receiving a written appeal, the College President or designee will respond to the complainant in writing and provide information about the outcome of the appeal. A copy of the response will also be sent to the Office of Equity & Inclusion, the respondent, and any other appropriate personnel.

## **Step E: Appeal to the Department of Community Colleges and Workforce Development**

The complainant may appeal the College's decision by writing to the Department of Community Colleges and Workforce Development Commissioner pursuant to the Oregon Department of Education Administrative Rule OAR 589-010-0100 (11).