

College Board of Education Series—1000

## **SEXUAL HARASSMENT, DISCRIMINATION, AND MISCONDUCT**

### **Introduction**

Chemeketa Community College is committed to maintaining a safe and healthy educational and work environment in which no member of the community is, on the basis of sex, sexual orientation, or gender identity expression, excluded from participation in, denied the benefits of, or subjected to discrimination in any college program or activity. Gender-based harassment and sexual harassment, including sexual violence, are forms of sex discrimination in that they deny or limit an individual's ability to participate in or benefit from college programs or activities.

This policy is designed to ensure a safe and non-discriminatory educational and work environment and to meet legal requirements, including:

- Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in the college's programs or activities;
- Oregon HB 3415;
- Violence Against Women Reauthorization Act;
- Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment.

It does not preclude application or enforcement of other college policies.

### **1. Prohibited Conduct**

The conduct listed below is strictly prohibited when the conduct denies or limits an individual's ability to participate in or benefit from college programs, activities, or employment.

#### **A. Sexual Assault**

Sexual assault is actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to:

- intentional touching of another person's intimate parts without that person's consent;
- other intentional sexual contact with another person without that person's consent;
- coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's consent;
- rape, which is penetration, no matter how slight, of 1) the vagina or anus of a person by any body part of another person or by an object, or 2) the mouth of a person by a sex organ of another person, without that person's consent.

#### **B. Sex/Gender-Based Discrimination**

Sex discrimination is adverse treatment of an individual based on sex or gender; rather than individual merit. Sex discrimination encompasses sexual misconduct but also includes other discriminatory behavior that does not constitute sexual misconduct. Sex discrimination also may include abusive or harassing behavior, whether verbal or physical, that demeans or intimidates another individual because of sex, gender identity,

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or gender expression. Examples of conduct that can constitute sex discrimination because of sex, gender identity, or gender expression include, but are not limited to, the following:

- singling out or targeting an individual for different or adverse treatment (e.g., more severe discipline, lower salary increase);
- failing or refusing to hire or allow participation by an individual in a college activity;
- terminating or removing an individual from employment or an educational program;
- verbally harassing, abusing, or demeaning a targeted individual with conduct that adversely impacts that individual.

**C. Sexual Exploitation**

Sexual exploitation occurs when person A takes sexual advantage of person B for the benefit of anyone other than person B without person B's consent. Examples of behavior that could rise to the level of sexual exploitation include:

- prostituting another person;
- recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;
- distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure;
- viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire.

**D. Sexual Harassment**

Sexual harassment is defined as unwelcome conduct of a sexual nature. Sexual harassment can include:

- unwelcome sexual advances;
- requests for sexual favors;
- 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.

**E. Sexual Misconduct**

Sexual misconduct occurs when participants in sexual activity have not given consent. Sexual misconduct involving force, duress, or inducement of incapacitation, or where the perpetrator has deliberately taken advantage of another person's state of incapacitation, will be deemed especially egregious. The consumption of alcohol or the use of illegal substances does not constitute a mitigating circumstance when it contributes to a violation regarding sexual misconduct.

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### **F. Dating Violence** (also known as intimate partner/spouse violence)

Dating violence is any act of violence, threat, or intimidation that harms or injures a partner/spouse in a current or former intimate relationship (defined below). These acts may be physical, emotional/psychological, sexual, or economic in nature. Dating violence can be a single act or pattern of behavior. These acts are prohibited under this policy.

### **G. Domestic Violence**

Violence that occurs when partners/spouses in a current or former intimate relationship are or have been cohabiting in the same space is also prohibited. Students are deemed to be cohabiting when they share access to the same private living space or bathroom.

### **H. Stalking**

Stalking is a course of conduct or series of acts directed at a partner in a current or former intimate relationship that would cause a reasonable person to feel fear, to experience emotional distress, or to fear for the safety of a third person. Acts that together constitute stalking may be direct actions or may be communicated by a third party and can include, but are not limited to, threats of harm to self or others, pursuing or following, non-consensual (unwanted) communication by any means, unwanted gifts, trespassing, and surveillance or other types of observation.

## **2. Initial Inquiry**

Chemeketa is required to conduct an initial inquiry, or to make contact with the named parties, whenever a designated responsible employee, as defined below, has actual knowledge, or in the exercise of reasonable care should know, that possible sexual harassment, sexual assault, domestic violence, dating violence, or stalking has occurred.

An employee or student may choose not to make a complaint or report in their own case.

## **3. Retaliation**

Chemeketa prohibits retaliation against an individual or group of individuals involved in any of the following

- filing a complaint or report under this policy;
- filing an external complaint;
- participating in a disciplinary process;
- opposing in a reasonable manner an action believed to constitute a violation of this policy

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Retaliation can take many forms, including, but not limited to, verbal or physical abuse, threats of violence, and/or intimidation. Actions are considered retaliatory when they have a materially adverse effect on the working, academic, or college-controlled living environment of an individual, or that hinder the individual from effectively carrying out their college responsibilities. Individuals engaging in retaliatory acts are subject to discipline as described in this policy.

### **4. Determination of Violations**

In determining whether alleged conduct violates this policy, the college will consider the totality of the facts and circumstances involved in the incident, including the nature of the alleged conduct and the context in which it occurred. Any of the prohibited conduct can be committed by individuals of any gender, and it can occur between individuals of the same gender or different genders. It can occur between strangers or acquaintances, as well as people involved in intimate or sexual relationships.

### **5. Jurisdiction**

This policy governs college students, regardless of enrollment status, all employees, and third parties (e.g., non-members of the college community, such as vendors and visitors).

Third parties are both protected by and subject to this policy. A third party may make a complaint or report of a violation of this policy. A third party also may be permanently barred from the college or subject to other restrictions for failing to comply with this policy.

Chemeketa will analyze and may have an obligation to respond to any complaint regardless of whether the incident occurred on the campus of the institution or elsewhere that relates to sexual harassment, sexual assault, domestic violence, dating violence, or stalking. All actions by a member of the college community that involve the use of the college's computing and network resources from a remote location, including but not limited to accessing email accounts, will be deemed to have occurred on campus.

### **6. Relationships with Individuals in Authority/Consensual Relationships**

A sexual or romantic relationship involving individuals in a teacher-student relationship or in the context of employment supervision or evaluation is not, in and of itself, sexual misconduct as defined by this policy and will not be investigated or adjudicated under this policy. However, an interaction may be a violation of College Policy 1753, Consensual Relationships and subject to separate disciplinary procedures.

A sexual or romantic relationship involving individuals in a teacher-student relationship (e.g., being directly or indirectly taught, supervised or evaluated) violates the college's policy (Policy 1753, Consensual Relationships), and potentially violates state and federal anti-discrimination laws. A consensual relationship with a student can also create immediate problems of conflict of interest and raise perceptions of favoritism or unequal treatment.

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A conflict of interest also exists if there is a consensual romantic or sexual relationship in the context of employment supervision or evaluation. Therefore, a supervisor may not influence, directly or indirectly, salary, promotion, performance appraisals, work assignments, or other working conditions for an employee with whom such a relationship exists. (See Policy 1753 for more information.)

### **7. Disclosure of Information**

The college may share non-identifying information, including data about outcomes and penalties, in aggregate form. At no time will the college release the name or other personally identifiable information of the complainant to the general public without the express consent of the complainant or as otherwise permitted or required by law.

### **8. Sanctions**

The college will remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating hostile environment, the college may impose sanctions as defined below.

Any employee engaging in behavior prohibited by this policy is subject to discipline that may include termination, subject to any association contract or state or federal law.

Any student engaging in behavior prohibited by this policy is subject to the disciplinary processes as set forth in Chemeketa's Students' Rights and Responsibilities handbook.

People who are both students and employees are subject to discipline as both a student and an employee.

Any vendor engaging in behavior prohibited by this policy may have their contract cancelled, within the terms and conditions of their contract.

Any member of the general public engaging in behavior prohibited by this policy may be trespassed from property owned or controlled by the college.

### **9. Definitions**

For the purposes of this policy, the definitions below will be used.

**Consent.** In reviewing possible violations of this policy, the college considers consent as the voluntary, informed, un-coerced agreement through words and actions freely given, which a reasonable person would interpret as a willingness to participate in mutually agreed-upon sexual acts. Consensual sexual activity happens when each partner willingly and affirmatively chooses to participate.

Indications that consent is not present include, but are not limited to, the following:

- when physical force is used or there is a reasonable belief of the threat of physical force;
- when duress is present;

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- when one person overcomes the physical limitations of another person;
- when a person is incapable of making an intentional decision to participate in a sexual act, which could include instances in which the person is in a state of incapacitation.

**Incapacitation.** Incapacitation is the state in which a person's perception or judgment is so impaired that he or she lacks the cognitive capacity to make or act on conscious decisions. The use of drugs or alcohol can cause incapacitation. An individual who is incapacitated is unable to consent to a sexual activity. Engaging in sexual activity with an individual who is incapacitated (and therefore unable to consent), where a person knows or ought reasonably to have understood that the individual is incapacitated, constitutes sexual misconduct.

**Dating (Intimate) Relationship.** A dating relationship is a short- or long-term relationship between persons of any gender that provides romantic and/or physical intimacy or emotional dependence. -Dating relationships may include, but are not limited to, marriages, civil unions, dating relationships, "hook-up" relationships, relationships in which partners are characterized as "girlfriends" or "boyfriends," and relationships between persons with a child in common.

### **Responsible Employees**

All Chemeketa employees are considered responsible employees and are required to report incidents of conduct prohibited by this policy to the Title IX coordinator or their designee. All employees are also required to fully cooperate with investigations related to these issues. Exceptions to being considered a responsible employee include individuals designated as campus or community professionals who are bound by state and federal laws to not reveal information without written permission of the individual are not required to report confidential information, or employees designated by the college as confidential advocates. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to the individual or others.

In emergency situations, if there is a suspected crime in progress, or imminent or serious threats to the safety of anyone, employees must immediately dial 911 or contact the Department of Public Safety.

**Student.** A student is anyone who has enrolled in any Chemeketa course, regardless of the number of credits, within the twelve months preceding the alleged violation. An individual's status will be determined based on the context associated with the complaint.

**The following terms have been defined in consultation with Chemeketa's Associated Student Council.**

### **Anti-oppression:**

- A commitment by the institution to take each report seriously without trying to minimize or hide it and without blaming the victim;

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- students are free to openly discuss a concern and their concern will be met with sensitivity and compassion;
- response to a report will be met with sensitivity and care for all members of protected classes as defined Chemeketa's Affirmative Action statement.

**Culturally-responsive.** Chemeketa will take into account individual's cultural values and identity, being sensitive to how people view sexuality within their culture and will take personal culture into account when considering resolution processes.

**Gender-responsive:**

The Title IX Coordinator or their designee, will not:

- assume to know preferred pronouns of parties involved in a case;
- assume to know a student's gender identity;
- stereotype women and men's traditional roles or behaviors;
- attribute blame to a particular gender based on an immediate response to an incident, but will instead make sure both parties are heard and reported accurately.

**Trauma informed:**

The institution's approach to the reported incident should be conducted in a sensitive matter and should:

- Understand that the sexual misconduct reported and the aftermath of that event could have traumatized parties mentally and physically;
- understand medical and mental health protocols and explain these processes to students so they will understand possible next steps;
- explain the emotional and physical aspects of addressing sexual misconduct;
- understand how trauma affects the brain;
- explain students' rights in the reporting and response process and the limits on confidentiality.

July 26, 2006

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*Adopted College Board of Education*

September 23, 2009; April 17, 2013;

June 17, 2015; March 20, 2019;

July 22, 2020

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*Revised College Board of Education*