

Chapter 132B-310 WAC

GRIEVANCE RULES—TITLE IX

WAC

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WAC 132B-310-010 Statement of policy. Grays Harbor College, as a place of work and study, aspires to be maintained free of all forms of harassment, discrimination, intimidation and exploitation. Members of the college community should be aware that the college will take action to prevent and correct such behavior and that individuals who engage in such behavior are subject to discipline. Retaliation against any employee, student, applicant or volunteer who reports harassment is also subject to discipline.

It is the intent of this policy to provide an internal means of mediating and resolving harassment complaints, with the understanding that all parties to such complaints have access to resources outside the college as well. Cases involving a student as the accused will be referred to the vice president for student services for disposition under the student conduct code.

[Statutory Authority: RCW 28B.50.140(13). WSR 94-20-073, § 132B-310-010, filed 10/3/94, effective 11/3/94.]

WAC 132B-310-020 Definitions. Sexual harassment is unwelcome verbal or physical conduct of a sexual nature, unwelcome or unsolicited sexual advances or requests for sexual favors when:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing; or

(2) Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual; or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or offensive working or educational environment.

Harassment based on any of the above violates the policies of the board of trustees of Grays Harbor College and may violate federal and state laws.

Application to students. Where students are involved, such behavior is considered harassment whenever such conduct has the purpose or effect of interfering with the student's learning or learning performance or when the learning environment becomes intimidating, hostile, or offensive to the student involved.

In addition, the unwelcome behavior is considered harassment when: Submission to such conduct is made either explicitly or implicitly a term or condition of the student's grade, receipt of a grade or status as a student; or the student's submission to or rejection of such conduct is used as a basis for a decision affecting that student.

Further, it includes behavior that overtly or covertly uses the power inherent in the status of instructor or other employee to affect a student's educational experience or career opportunities by intimidating, threatening or coercing the student to accept the unwelcome behavior or risk reprisal in terms of a grade, a recommendation, an opportunity for professional growth, or a job.

Application to employees, volunteers, and applicants. In the case of employees, volunteers, or applicants, such behavior is considered harassment whenever such conduct has the purpose or effect of unreasonably interfering with the person's work or work performance, or creating an intimidating, hostile, or offensive environment.

Additionally, harassment of an employee, volunteer, or applicant is defined as unwelcome or offensive verbal or physical conduct when: Submission to such conduct is made either explicitly or implicitly a term or condition of the person's employment, promotion, or status as an employee or volunteer; the person's submission to or rejection of such conduct is used as a basis for a decision affecting that person.

Examples. Examples of behaviors that may constitute harassment include, but are not limited to, the following:

- * Repeated, offensive and unwelcome insults and/or jokes;
- * Repeated, unwelcome comments about an individual's body or clothing;
- * Unwelcome and offensive displays of objects or pictures;
- * Persistent unwelcome flirtation, advances, and/or propositions of a sexual nature;
- * Deliberate and unwelcome touching, such as patting, pinching, hugging, or repeated brushing against an individual's body;
- * Pressure for dates or sex, if unwelcome and repeated;
- * Pressure for dates or sex in exchange for grades, promotions, salary increases or benefits;
- * Stating or implying to an applicant that he or she will be hired with sexual relations as a condition of employment.

[Statutory Authority: RCW 28B.50.140(13). WSR 94-20-073, § 132B-310-020, filed 10/3/94, effective 11/3/94.]

WAC 132B-310-030 College community responsibilities. Any student, employee, volunteer or applicant on campus who feels that he or she has been harassed should report allegations of harassment to the equity resource director or one of the college's designated ombudspersons who will be appointed annually by the president. It is the responsibility of the vice president for student services to maintain and ensure wide publicity of the list of ombudspersons' names. Every attempt will be made to handle such information in a discreet and professional manner.

All members of this college community are responsible for ensuring that their conduct does not harass any other

member of this institution's community. If a member of the college community observes incidents of harassment or discovers that a problem exists, he or she has a responsibility to report that information to the equity resource director, the vice president for student services, or the college's designated ombudspersons.

Administrators and supervisors have the added responsibility of helping to prevent and eliminate harassment within the area(s) they oversee.

[Statutory Authority: RCW 28B.50.140(13). WSR 94-20-073, § 132B-310-030, filed 10/3/94, effective 11/3/94.]

WAC 132B-310-040 Complaint options. (1) Informal resolution. Internal review and consultative process have been proven to be desirable means of resolving problems.

An individual who believes he or she has been or is being harassed may choose to informally share information and seek advice from the equity resource director or one of the college's designated ombudspersons. The purpose of this informal procedure is to give the complainant a sounding board, to help make sure that the complainant becomes informed of the options available, and to effect an informal resolution of complaints where possible. These include, but are not limited to:

- * Mediation through a liaison between parties.
- * Mediation through a face-to-face meeting between parties.
- * Mediation through written correspondence between parties. Every attempt will be made to keep this material confidential; however, confidentiality cannot be guaranteed.
- * Filing of an informal incident report with the college equity resource director. The informal incident report will be shared with the other party by the appropriate administrative supervisor for a response no later than the end of the subsequent academic term. If over a period of time, complaints continue to be received regarding the conduct of the same individual, it will then be the responsibility of the administrative supervisor to initiate a formal investigation of the merits of the complaints against that individual. All incident reports and responses will remain in the equity resource director's files for no more than six years.

If the complainant is satisfied at this point, he or she may decline to pursue the matter any further. No further action will be taken unless the complainant specifically requests such action or the college decides to pursue the matter on behalf of the college. Every attempt will be made to keep these discussions and materials confidential; however, confidentiality cannot be guaranteed.

Personnel action authority has been delegated to the college president, vice president for administration, and vice president for instruction. If a complainant brings an allegation to any one of these three administrators, that administrator will make a good faith effort to inform the employee of the complaint. However, the administrator will consider whether doing so would seriously impair the investigative process. It is the responsibility of these administrators to inform a potential claimant of their responsibility to so inform the other party.

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(2) Formal. The complainant may file a formal written complaint:

(a) At any point in the process, whether an informal resolution has been attempted or not; or

(b) If a satisfactory resolution cannot be obtained through the informal procedure.

The formal written complaint should include the times, dates, places and circumstances surrounding the allegation. The accused will be notified of the allegation at this point.

The investigative process begins with a preliminary meeting with the college's equity resource director or vice president for student services. The purpose of this meeting is to orient the complainant to the formal complaint process. The complainant is encouraged to bring to this meeting any personal support person such as a friend, clergy, family member, professional counselor, etc., of the complainant's choice who is not, however, an employee of the college. These support persons will be encouraged to accompany the complainant through the remainder of the complaint process. Like the complainant, the accused will be encouraged to identify a support person such as a friend, clergy, family member, professional counselor, etc., who is not an employee of the college to accompany him or her through the remainder of the process.

Nothing herein shall be deemed to preclude an employee's right to union representation. If at any point either party secures legal counsel, the other party will be so notified immediately. The formal complaint will be referred for investigation to the vice president for administration, the vice president for instruction or the equity resource director if they have not previously been involved with the case, the selection to be made by the president. In appointing an investigator, the president should obtain such information as he deems appropriate. Because damage could result to the career and reputation of any person who is affected by a harassment complaint investigation, all investigations of and hearings on such matters will be conducted insofar as possible to protect the privacy of, and minimize suspicion toward, the accused as well as the complainant, until the matter is impartially resolved. Only those persons responsible for investigating and enforcing harassment complaints will have access to the investigative files during the pendency of any proceedings.

[Statutory Authority: RCW 28B.50.140(13). WSR 94-20-073, § 132B-310-040, filed 10/3/94, effective 11/3/94.]

WAC 132B-310-050 Resolution of formal written complaints. In determining whether the alleged conduct constitutes harassment, the investigator will consider the record as a whole and all relevant circumstances. The investigator will make a complete investigation in a timely manner. Upon concluding the investigation, the investigator will submit a written summary of the investigative files and a recommendation for appropriate resolution of the complaint to the president.

Within five working days after reviewing the investigator's report, the president will make a determination and will advise the accused and the complainant of the decision, which may include, but is not limited to, the following:

(1) If there appears to be a sufficient foundation for the allegation, the options may include a verbal and/or written reprimand, demotion, suspension or referral to the Grays

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Harbor College dismissal review committee or the Washington state department of personnel in cases of recommended dismissal. A summary of all action taken to resolve the complaint will be entered into the accused's personnel file or the employment/volunteer application file.

(2) If there appears to be an inadequate foundation for the complaint, no record of the allegation will be made in the personnel records or the employee/volunteer application files of either the accused or the complainant. Malicious or dishonest allegations may justify disciplinary action against the complainant.

Appeals by faculty members will be referred to the board of trustees. Appeals by classified personnel will be heard by a hearing officer of the personnel appeals board.

A summary of all harassment investigations will be retained in the equity resource director's files.

It shall be the responsibility of the college president to provide written complaint investigation guidelines as administrative procedures for the college.

If desired, inquiries or appeals beyond the institution level may be directed to:

(a) United States Equal Opportunity Commission, 2815 Second Avenue, Suite 500, Seattle, WA 98121.

(b) The Washington State Human Rights Commission, 711 South Capitol Way, Suite 402, P.O. Box 42490, Olympia, WA 98504-2490. Phone (360) 753-6770 or 1-800-233-3247.

(c) United States Department of Education, Office of Civil Rights, 1915 Second Avenue, Room 3310, Seattle, WA 98174-1099.

[Statutory Authority: RCW 28B.50.140(13). WSR 94-20-073, § 132B-310-050, filed 10/3/94, effective 11/3/94.]