

WSR 21-07-119

PROPOSED RULES

WHATCOM COMMUNITY COLLEGE

[Filed March 23, 2021, 11:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-03-059.

Title of Rule and Other Identifying Information: Chapter 132U-300 WAC, Whatcom Community College (WCC) discrimination and harassment, edit chapter 132U-300 WAC based on new Title IX regulations requiring substantial updates to investigative procedures, as well as changes to definitions of key terms.

Hearing Location(s): On April 27, 2021, at 14:00, Zoom. People can attend the meeting by using the following link <https://us02web.zoom.us/j/81756159620?pwd=V2FsOXRqTEV4Ry9EY2hid29BQU1Hdz09>.

Date of Intended Adoption: May 25, 2021.

Submit Written Comments to: Benjamin Reed, 237 West Kellogg Road, Laidlaw 208, Bellingham, WA 98226, email [breed@whatcom.edu](mailto:breed@whatcom.edu), fax 360-383-4000, by March 8, 2020.

Assistance for Persons with Disabilities: Contact Kerri Holferty, phone 360-383-3043, fax 360-383-4000, TTY 360-225-7182, email [ADS@whatcom.edu](mailto:ADS@whatcom.edu), by March 5, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The existing chapter 132U-300 WAC, Discrimination and harassment, do not meet current Title IX regulations including investigative procedures and definitions of key terms.

Reasons Supporting Proposal: The existing WAC does not address the recent federal and state regulations.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Rule is necessary because of federal law, [no information supplied].

Name of Proponent: Whatcom Community College, governmental.

Name of Agency Personnel Responsible for Drafting: Benjamin Reed, Laidlaw 208, 360-383-3074; Implementation and Enforcement: Benjamin Reed/Becky Rawlings, Laidlaw 208/Laidlaw 235, 360-383-3074/360-383-3400.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

March 23, 2021

Barbara Nolze

Administrative Assistant to the  
Vice President for Student Services

OTS-2968.1

AMENDATORY SECTION (Amending WSR 18-17-025, filed 8/6/18, effective 9/6/18)

**WAC 132U-300-040 Introduction.** Whatcom Community College recognizes its responsibility for investigation, resolution, implementation of corrective measures, and monitoring the educational environment and workplace to stop, remediate, and prevent discrimination on the basis of race, color, national origin, age, perceived or actual physical or mental disability, pregnancy, genetic information, sex, sexual orientation, gender identity, marital status, creed, religion, or honorably discharged veteran or military status, or the use of trained guide dog or service animal, as required by Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, Sections 504 and 508 of the Rehabilitation Act of 1973, the Americans with Disabilities Act and ADA Amendment Act, the Age Discrimination Act of 1975, the Violence Against Women Reauthorization Act and Washington state's law against discrimination, chapter 49.60 RCW and their implementing regulations. Employees are also protected from discrimination for filing a whistleblower complaint with the Washington state auditor.

For complaints involving sexual misconduct and sex-based discrimination, the Title IX coordinator or designee will evaluate the complaint according to Policy 616, chapter 132U-305 WAC. Complaints that fit the jurisdictional requirements of chapter 132U-305 WAC will follow the investigative and discipline procedures outlined in that policy, which follows the requirements of the 2020 final rules under Title IX, which went into effect August 14, 2020. All complaints that do not fit the jurisdictional requirements of chapter 132U-305 WAC will use the procedures outlined in this policy.

[Statutory Authority: Chapter 28B.50 RCW. WSR 18-17-025, § 132U-300-040, filed 8/6/18, effective 9/6/18.]

AMENDATORY SECTION (Amending WSR 18-17-025, filed 8/6/18, effective 9/6/18)

**WAC 132U-300-060 Complaint procedure.** Whatcom Community College has enacted policies prohibiting discrimination against, and harassment of members of protected classes. Any individual found to be in violation of this policy will be subject to disciplinary action up to and including dismissal from the college or from employment.

Any employee, student, applicant, or visitor who believes that he or she has been the subject of discrimination or harassment should report the incident or incidents to the college's Title IX/EEO coordinator identified below. If the complaint is against that coordinator, the complainant should report the matter to the president's office for referral to an alternate designee.

The college encourages the timely reporting of any incidents of discrimination or harassment. Complaints may be submitted in writing or verbally. For complainants who wish to submit a written complaint, a formal complaint form is available online at <http://www.whatcom.edu/home/showdocument?id=360>. Hard copies of the complaint form are available in the Human Resource Office, Laidlaw Center (LDC) 235.

The following college officials ((is)) are designated to handle inquiries regarding this policy:

Name: Benjamin Reed  
Title: Title IX & ADA Coordinator  
Office: Laidlaw Center (LDC) 208  
Contact: breed@whatcom.edu  
Address: 237 W. Kellogg Rd., Bellingham, WA 98226

Name: Becky Rawlings  
Title: Executive Director for Human Resources, Title IX/EEO Coordinator  
Office: Laidlaw Center (LDC) 235  
Contact: brawlings@whatcom.edu  
Address: 237 W. Kellogg Rd., Bellingham, WA 98226

The Title IX/EEO coordinators or designee:

- Will accept all complaints and referrals from college employees, applicants, students, and visitors;
- Will make determinations regarding how to handle requests by complainants for confidentiality;
- Will keep accurate records of all complaints and referrals for the required time period;
- May conduct investigations or delegate and oversee investigations conducted by a designee;
- May impose interim remedial measures to protect parties during investigations of discrimination or harassment;
- Will issue written findings and recommendations upon completion of an investigation; and
- May recommend specific corrective measures to stop, remediate, and prevent the recurrence of inappropriate conduct.

[Statutory Authority: Chapter 28B.50 RCW. WSR 18-17-025, § 132U-300-060, filed 8/6/18, effective 9/6/18.]

AMENDATORY SECTION (Amending WSR 18-17-025, filed 8/6/18, effective 9/6/18)

**WAC 132U-300-130 Criminal complaints.** Discriminatory or harassing conduct may also be, or occur in conjunction with, criminal conduct. Criminal complaints may be filed with the following law enforcement authorities:

**Bellingham Police Department**  
505 Grand Avenue  
Bellingham, WA 98225  
360-778-8800  
<https://www.cob.org/gov/dept/police>

**Blaine Public Safety Department**  
322 H Street  
Blaine, WA 98230  
360-332-6769  
<http://www.ci.blaine.wa.us/171/Public-Safety>

**Everson Police Department**  
111 W Main Street  
Everson, WA 98247  
360-966-4212  
<http://www.ci.everson.wa.us/police-department.html>

**Ferndale Police Department**

2220 Main Street  
Ferndale, WA 98248  
360-384-3390  
<http://www.ferndalepd.org/>

**Lummi Nation Police Department**

2665 Kwina Road  
Bellingham, WA 98226  
360-312-2000  
<http://www.lummi-nsn.gov/Website.php?PageID=397>

**Lynden Police Department**

203 19th Street  
Lynden, WA 98264  
360-354-2828  
<http://www.lyndenwa.org/departments/police/>

**Nooksack Tribal Police Department**

5061 Deming Road  
Deming, WA 98244  
360-592-5176  
<https://nooksacktribe.org/departments/law-enforcement>

**Sumas Police Department**

433 Cherry Street  
Sumas, WA 98295  
360-988-5711  
<http://www.sumaspolice.com/>

**Western Washington University**

Department of Public Safety  
516 High Street  
Bellingham, WA 98225  
360-650-3911  
<http://www.wwu.edu/ps/police/index.shtml>

**Whatcom County Sheriff's Office**

Public Safety Building  
311 Grand Avenue  
Bellingham, WA 98225  
360-676-6650  
<http://www.whatcomcounty.us/200/Sheriff>

The college will proceed with an investigation of harassment and discrimination complaints regardless of whether the underlying conduct is subject to civil criminal prosecution.

[Statutory Authority: Chapter 28B.50 RCW. WSR 18-17-025, § 132U-300-130, filed 8/6/18, effective 9/6/18.]