



# RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

<b>Agency:</b> Community College District VIII	<input checked="" type="checkbox"/> Permanent Rule
<b>(1) Date of adoption:</b> June 18, 2002	<input type="checkbox"/> Emergency Rule
	<input type="checkbox"/> Expedited Rule Making

**(2) Purpose:** This rule amends the existing section WAC 132H-152-135 to include members of the general public using college facilities for the purposes of the College's discrimination complaint procedure.

**(3) Citation of existing rules affected by this order:**  
 Repealed:  
 Amended: WAC 132H-152-135  
 Suspended:

**(4) Statutory authority for adoption:** 28B.50.140 RCW  
 Other Authority:

**PERMANENT RULE ONLY (Including Expedited Rule Making)**  
 Adopted under notice filed as WSR 02-08-082 on 4/3/2002 (date).  
 Describe any changes other than editing from proposed to adopted version: none

**EMERGENCY RULE ONLY**  
 Under RCW 34.05.350 the agency for good cause finds:  
 (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.  
 (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.  
  
 Reasons for this finding:

**(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:**  
 Yes  No If Yes, explain:

<b>(6) Effective date of rule:</b> <b>Permanent Rules</b>	<b>Emergency Rules</b>
<input checked="" type="checkbox"/> 31 days after filing	<input type="checkbox"/> Immediately
<input type="checkbox"/> Other (specify) _____*	<input type="checkbox"/> Later (specify) _____

\*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

<b>Name (Type or Print)</b> Elise J. Erickson	
<b>Signature</b> 	
<b>Title</b> Rules Coordinator	<b>Date</b> 6/19/02

**CODE REVISER USE ONLY**

OFFICE OF THE CLERK  
STATE OF WASHINGTON  
FILED

JUN 20 2002

TIME 8:31 AM

WSR 02-14-006 PM

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Federal rules or standards:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Recently enacted state statutes:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

**The number of sections adopted at the request of a nongovernmental entity:**

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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**The number of sections adopted in the agency's own initiative:**

	New	<u>0</u>	Amended	<u>1</u>	Repealed	<u>0</u>
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

	New	<u>0</u>	Amended	<u>1</u>	Repealed	<u>0</u>
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	<u>0</u>	Amended	<u>1</u>	Repealed	<u>0</u>
<b>Pilot rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Other alternative rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

AMENDATORY SECTION (Amending order 96-01-057, filed 1/15/96)

**WAC 132H-152-135 Discrimination complaint procedure.** Introduction. Bellevue Community College, through its affirmative action policy and general policy on sexual harassment, and in accordance with state and federal regulations, prohibits discrimination against students and employees on the basis of race or ethnicity, creed, color, national origin, sex, marital status, sexual orientation, age, religion, the presence of sensory, mental or physical disability, or status as a disabled or Vietnam-era veteran.

All members of Bellevue Community College are responsible for ensuring that their conduct does not discriminate against any other member of the college community. If administrators or supervisors become aware that discrimination is occurring, receive a complaint, or obtain other information indicating possible discrimination, they must notify the vice president of human resources as soon as reasonably possible, to ensure that the matter is addressed, even if the problem or alleged problem is not within their area of responsibility and authority.

These procedures pertain to currently registered students, college employees, ~~((and))~~ applicants for admission and employment, and members of the public participating in college activities or events held in Bellevue Community College facilities. Complaints should be filed within one year after the incident(s) which form(s) the basis of the complaint occurred. This procedure takes precedence over all other student complaint procedures whenever the complaint alleges discrimination or sexual harassment.

Section I: Process overview. Any Bellevue Community College student, employee, or applicant who feels that he/she has been discriminated against, is encouraged to bring his/her concerns to the attention of the college for assistance.

Complaints may be filed with the dean of student services or the vice president of human resources. All allegations of sexual harassment will be referred to the vice president of human resources. All allegations of discrimination related to employment or promotion will be referred to the dean of student services.

The college will act promptly to investigate any complaint. Such action will attempt to protect the rights of the individual bringing the complaint (the complainant), the alleged discriminator, and any witnesses involved, including the right to protection from any retaliating behavior by the alleged discriminator or any college employee. All complaints shall be kept as confidential as is reasonably possible during the investigation/resolution process. However, all complaints may be subject to public disclosure under the state's Public Disclosure Act, and therefore the college cannot assure confidentiality to any participant in the process.

An individual who seeks assistance because he/she believes he/she is being discriminated against may choose to begin with the informal or formal complaint procedure. Use of the informal procedure is not required prior to initiating a formal complaint.

Both complainants and individuals charged may be represented by an individual of their selection throughout the complaint process. The individual charged will be informed that his/her bargaining unit representative will be notified that a complaint has been filed against her/him, unless she/he requests that no notification be made.

Section II: Informal complaint procedure. The purpose of the informal procedure is to resolve the complaint by achieving a resolution that both the complainant and the accused discriminator agree upon.

An informal complaint may be filed with the dean of student services or the vice president of human resources, as indicated in Section I. That college administrator will investigate the complaint or will appoint a designee to investigate the complaint. Within five working days after the complaint is filed, the investigator will discuss the complaint with the individual charged, that person's supervisor and area dean/vice president, and initiate action to protect the complainant from harm or reprisal. The investigator will meet separately with the complainant and the individual charged to outline the proposed resolution process.

The investigator, after consultation with the appropriate area dean/vice president, will attempt to obtain a resolution of the problem between the parties and will inform the complainant of any proposed resolution. The complainant may either accept the resolution or initiate a formal complaint. If the investigator has not been able to achieve a resolution, he/she will inform the complainant of this and advise the complainant of the option of filing a formal complaint.

Reasonable efforts will be made to complete the informal process within thirty working days after the complaint is filed.

If the investigation and/or resolution indicate that disciplinary action is warranted, the investigator will recommend appropriate disciplinary action which is consistent with college procedure and collective bargaining agreements, as appropriate.

**Section III: Formal complaint procedure.** The complainant may choose to file a formal complaint instead of first filing an informal complaint. In addition, the complainant may choose to file a formal complaint if a satisfactory resolution cannot be obtained through the informal process. The formal complaint must be made in writing and should include the times, dates, places, and circumstances surrounding the allegation of discrimination. The formal complaint should be filed with the vice president of human resources. Within five working days after the formal complaint has been filed, the individual charged in the complaint, his/her immediate supervisor and area dean/vice president will be notified that a complaint has been filed. Complainants, individuals charged, and any witnesses are entitled to representation throughout the complaint process.

The dean of student services/vice president of human resources will investigate the complaint or assign a designee to investigate the complaint as follows:

(1) The investigator will conduct an interview with the complainant and any witnesses to the complainant's allegations. Reasonable efforts will be made to complete such interviews within ten working days.

(2) After the completion of step 1 above, the investigator will interview the alleged discriminator and any witnesses to the alleged discriminator's allegations. Reasonable efforts will be made to complete such interviews within ten working days after the completion of step 1.

(3) After the completion of the investigation, a preliminary report summarizing the findings of the investigation and the investigator's determination as to whether or not discrimination has occurred shall be produced, after consultation with the appropriate area dean/vice president. Reasonable efforts will be made to complete the preliminary report within ten working days after completion of the investigation. Copies of this draft report shall be given to the complainant and the alleged discriminator who shall have ten working days to prepare responses to the report. Once each of them has prepared a response, or declined to take advantage of the opportunity to respond to the draft report, the investigator shall prepare the final report. Copies of the final report shall be provided the complainant, the alleged discriminator, the alleged discriminator's supervisor and area dean/vice president, the dean of student services if the

alleged discriminator is a student, the vice president of human resources, and the college president.

(4) The decision regarding what action to take on the complaint, including, but not limited to, appropriate corrective measures and/or disciplinary action, remanding the complaint for further investigation, appointing an alternate investigator, shall be made by the president or his/her designee. Reasonable efforts will be made to take action on the complaint within thirty days after receipt of the report.

(5) If a decision is made to take disciplinary action, such action shall be taken in accordance with appropriate college procedures and collective bargaining agreements.

#### Section IV: Appeal process.

(1) Appeal of disciplinary action. Appeals of any disciplinary action, including any finding that discrimination occurred, may be made through college procedures, as defined by the appropriate employee contract or student policy.

(2) Complainant appeal. If the complainant is not satisfied with the disposition of the complaint, s/he may file a written request for reconsideration to the president within ten working days after notification of the disposition of the complaint. This request should include any and all additional information s/he wants the president to consider.

The decision regarding what action to take regarding the request for reconsideration, including appropriate corrective measures, shall be made in writing by the president within fifteen working days after receipt of a request for reconsideration.

Section V: External complaint process. Any registered student, employee, or applicant for admission or employment, who believes he/she has been discriminated against has the right to bypass the internal college process (sections I through III, above) and file a discrimination complaint with one of the agencies listed below or any other agency with the jurisdiction to hear such complaints. Other individuals who believe they have been discriminated against by college action may file a discrimination complaint with one of the agencies listed below or any other agency with the jurisdiction to hear such complaints:

Equal Employment Opportunity Commission  
909 First Avenue, Suite 400  
Seattle, WA 98104-1061

Human Rights Commission  
1511 Third Avenue, Suite 921  
Seattle, WA 98101

U.S. Office of Civil Rights  
Department of Education  
915 Second Avenue  
Seattle, WA 98174-1099

Individuals seeking assistance from state and federal agencies need to be aware that many agencies have strict timelines regarding the filing of complaints.