

# Chapter 132D-305 WAC

## SEXUAL HARASSMENT POLICY

WAC

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**Preamble.** Sexual harassment is an illegal activity and will not be tolerated at Skagit Valley College. Therefore, it shall be the policy of Skagit Valley College that harassment directed at any individual or group on the basis of gender, marital status, or sexual orientation is in violation of the mission and purpose of Skagit Valley College and shall not be condoned. Any employee or student who feels that she/he has been sexually harassed is encouraged to deal with the situation as outlined in the following procedure.

In recognition of the fact that sex discrimination in the form of sexual harassment is a violation of section 703, Title VII of the Civil Rights Act of 1964, Title IX of the 1972 Education Amendments, and chapter 49.60 RCW, which prohibits discrimination on the basis of race, color, religion, national origin, or sex, Skagit Valley College hereby declares that sexual harassment of students and/or staff by any member of the district community will not be tolerated.

(2) **Definition.** For purposes of this policy, sexual harassment will be defined as any behavior or action, either physical or verbal, which is sexual in nature, is unwanted, or nonreciprocal, and:

(a) Submission to sexual harassment is either an implicit or explicit condition of employment or educational opportunity; or

(b) Submission to, or rejection of, sexual harassment is used as a basis for employment or educational decisions; or

(c) Sexual harassment has the purpose or effect of negatively interfering with the individual's work or educational performance or of creating an intimidating, hostile, or offensive work or educational environment. Sexual harassment may include, but is not limited to the following:

(i) Unwelcome or repeated sexual advances.

(ii) Offensive, disparaging remarks about one's gender, marital status, sexual orientation, or appearance.

(iii) Jokes about gender-specific traits.

(iv) Remarks about one's physical appearance which imply sexual interest.

(v) Subtle pressure for sexual activity, including sexual propositions.

(vi) Unnecessary brushes or touches, including pinching, patting, or grabbing.

(vii) Displayed offensive sexual graffiti, gestures, cartoons, or materials.

(viii) Sexual innuendos or obscene gestures.

(ix) Written communications with sexual overtones.

(x) Sexually offensive remarks disguised as humor.

(xi) Unwanted gifts, staring, leering, or unwanted attention.

(d) Skagit Valley College will investigate allegations of sexual harassment which may include, but is not limited to the following:

(i) The conduct of a faculty member in a faculty-student relationship.

(ii) The conduct of an individual in the paid employment of the district who may grant or withhold benefits to students and employees.

(iii) The conduct of any college supervisory employee.

(iv) The conduct between fellow employees of the college.

(v) The conduct of college agents.

(vi) The conduct of employees when it occurs related to college-sanctioned activities on or off campus and/or hampers the educational or college work environment.

(vii) The conduct of nonemployees when it occurs related to college sanctioned activities on or off campus and/or hampers the educational or college work environment.

(viii) The conduct of students in daily classes and activities.

(3) **In-district procedural guidelines.** When a person believes that she/he has been sexually harassed, the claimant may contact one of the district's ombudspersons. Faculty and staff shall assist the claimant in contacting an ombudsperson. The ombudsperson will provide the claimant with procedures and suggestions to enable the claimant to resolve the problem or to initiate the appropriate complaint process. All complaints shall be initiated no later than one hundred eighty days from the most recent incident.

The district shall have four ombudspersons: A female and male shall be appointed for both the Mount Vernon and Whidbey campuses. Appointment will be by the president, on the advice of the vice-president, educational services, the dean for administrative and student services, the dean of Whidbey campus (for Whidbey personnel), the president of the SVCEA, the president of the CSA, and the president of ASSVC. Appointment shall be for staggered three-year terms.

Ombudspersons shall report directly to the vice-president - educational services who shall be directly responsible for the implementation of this policy. The ombudspersons shall be responsible for receiving complaints, for receiving and giving training to all members of the college community on sexual harassment as directed by the vice-president - educational services, and for conducting awareness activities for all college groups. They will be assisted in their efforts by the affirmative action officer. The college will carry out any investigation in such a way as to protect the rights of both the claimant and the respondent. The college recognizes that in some circumstances a change of environment may be appropriate during the investigation. If during the mediation process the ombudsperson deems the complaint without merit, it shall be immediately dismissed. Further, if the ombudsperson

finds the complaint to be false and malicious, the claimant shall be referred to the designated college officer. Maximum confidentiality and support for both parties shall be maintained at each step of the procedure.

(4) **Advising process.** In the event that an individual feels he or she has been the victim of sexual harassment, the individual may discuss the matter with an ombudsperson on campus. The responsibility of the ombudsperson is to inform the individual of the policy and procedures about sexual harassment. The advising process itself is designed to promote free and open discussions between the individual seeking information and the advisor. An incident report will be generated to record the number of the different types of incidents reported in a given year. The incident reports will be forwarded to the affirmative action officer to be used for tracking purposes only. Names of individuals involved will not be designated on the incident report and no record of the advising conversations will be kept. The college will insure the privacy of all individuals involved in a sexual harassment case. If an individual feels that he or she has a warranted complaint, that individual may choose to proceed to the mediation process or directly to the formal process, step one.

(5) **Mediation.** When an ombudsperson receives a complaint, either verbally or in writing, of sexual harassment, he/she shall discuss the complaint with the respondent within three working days. Such complaints may come from an individual who was the target of the action or a third party. The purpose of the mediation process is to encourage both parties to communicate in an attempt to resolve the conflict. If a meeting occurs during this phase, both the claimant and the respondent may bring a support person. If the complaint appears valid, the ombudsperson shall complete a written report including the complaint and any action taken including the nature of the resolution if one is reached. This report shall be forwarded to the claimant, respondent, and the affirmative action officer who will keep it in a confidential manner for five years.

The mediation process shall be completed within thirty working days of receipt of complaint by the ombudsperson. If a satisfactory resolution is reached, the claimant and respondent will acknowledge resolution in writing.

(6) **Formal complaint; step one.** In the event that the mediation process does not occur or does not resolve the conflict to the satisfaction of both parties, the following process will be used:

(a) The claimant, within ten working days of the conclusion of the mediation process or the event itself, shall file a written complaint with the ombudsperson stating the times, dates, places, and circumstances surrounding the allegations. The ombudsperson will forward a copy of the complaint to the respondent within five working days. In turn, the respondent shall submit a written response concerning the complaint to the ombudsperson within five working days of receiving the written complaint. Within three working days of the complaint, the ombudsperson will forward all information to the AAO whether or not a response has been received.

The affirmative action officer may also file a formal complaint about any alleged offender who has had repeated claims filed against them. This will be done in collaboration with the receiving ombudspersons.

(b) Within five working days of receiving materials from the ombudsperson, the affirmative action officer will review all forms received and check for completeness and detail. Any concerns about procedure and forms will be discussed with the overseeing ombudsperson and corrections made.

Within the same five working day period, the affirmative action officer will then forward appropriate forms received by the ombudsperson to the appropriate supervisor who will speak informally with the respondent. The affirmative action officer shall also provide a copy of the written complaint and the respondent's response to: The vice-president, educational services when the respondent is faculty; dean responsible for student grievances if respondent is a student; appropriate dean when respondent is classified staff; president when the respondent is an administrator; chair of board of trustees if respondent is the president.

The ombudsperson shall keep a written record of all actions taken in an effort to resolve the complaint. If resolution is reached, the ombudsperson shall complete a written report of this resolution and submit copies to all parties involved.

(c) If a resolution has not been reached, and the parties were not able to mediate together, joint mediation will now take place. The mediation session will include both parties involved in the complaint and a representative for each of them. The ombudsperson and the affirmative action officer will also be present. While the parties may not want to speak to each other, in this session they will hear each other describe the events they believed to have taken place through the facilitation of the ombudsperson. If no resolution is agreed to, the case will now proceed to formal complaint, step two.

If a resolution can be achieved, the ombudsperson shall complete a written report of this resolution and submit copies to all parties involved. The claimant and respondent will acknowledge resolution in writing. Forms involved in the case will be kept by the affirmative action officer in a confidential manner for five years after which time this information will be destroyed.

(d) The entire formal procedure, step one, will be completed within thirty working days.

(7) **Formal complaint; step two.** If no satisfactory resolution can be achieved through formal complaint, step one, a team will be formed to conduct a fact-finding investigation as follows:

- (a) The affirmative action officer;
- (b) A member of the standing grievance committee selected by the claimant;
- (c) A member of the standing grievance committee selected by the respondent;
- (d) In the case of presidential involvement, a member of the board of trustees.

The team will hear findings from all parties. Within fifteen days of the completion of formal complaint, step one, the team will be charged with submitting a decision to the designated college officer.

The appropriate designated college officer shall be:

(i) The vice-president, educational services when the claimant of infractions of this policy is an employee of the college or when a student is complaining against an employee. When a student is involved, the dean responsible

for student grievances will cochair the investigation. However, the vice-president, educational services will assume the ultimate responsibility to see the process to conclusion.

(ii) The dean responsible for student grievances when the claimant of infractions of this policy is a student complaining against another student.

(iii) In the event the respondent is the vice-president, educational services or the dean responsible for student grievances, the designated college officer shall be the president. In the event the respondent is the president, the designated college officer shall be the chair of the board of trustees.

(8) **Appropriate disciplinary action.** Should the team find (unanimously) discrimination in the form of sexual harassment, the result will be immediate and appropriate action as determined by the designated college officer, which may include, but is not limited to the following order of actions:

- (a) Findings placed in personnel or student file;
- (b) Reprimand;
- (c) Suspension;
- (d) Dismissal.

In cases of suspension or employment termination, existing procedures for students, administrative, faculty or classified staff shall be followed. Administrators, paraprofessionals, vendors and other college employees and agents shall be subject to discipline as deemed appropriate by the panel and the designated college officer. The affirmative action officer shall be responsible for ensuring that disciplinary actions are carried out.

(9) **Repeated offenses.** When a complaint is made against someone who has been found in the past to have been in violation of the sexual harassment policy, the normal procedure will commence. Disciplinary measures chosen for repeat offenders should take into account the repeated lack of compliance by the offender and should be moved to the next level.

(10) **Nondistrict options.** At any point during these proceedings, the claimant may file concurrently with an outside agency. Claimants are encouraged to use the internal complaint procedures first. Students may file complaints with the Office of Civil Rights, U.S. Department of Education, 2901 Third Ave., M/S 106, Seattle, WA 98121. Employees may file complaints with the Equal Employment Opportunity Commission (EEOC), 1321 Second Avenue, 7th Floor, Arcade Plaza, Seattle, WA 98101, or the Human Rights Commission, 1515 Second Avenue, Columbia Bldg. Suite 400, Seattle, WA 98101.

[Statutory Authority: RCW 28B.50.140. WSR 96-01-077, § 132D-305-005, filed 12/18/95, effective 1/18/96.]