

# Chapter 132A-350 WAC

## GRIEVANCES—DISCRIMINATION

### WAC

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**WAC 132A-350-015 Peninsula College antidiscrimination policy.** (1) **Preamble.** Peninsula College is committed to protecting the rights and dignity of each individual in the campus community and will not tolerate any form of discrimination. All Peninsula College employees and students may report alleged discriminatory behavior without fear of restraint, reprisal, interference, or coercion. No employee's or student's status with the college shall be adversely affected in any way because he or she utilizes the following procedures. Peninsula College's informal and formal grievance procedures are designed to ensure fairness and consistency in the college's relations with its employees and students. Nothing in these procedures shall be construed as abridging the right of an employee or student to allege discrimination in exercising constitutional or statutory rights which may be available.

(2) **Informal review procedures.** Any employee or student is urged to communicate his or her discrimination grievance to the appropriate supervisor. Every effort should be made to resolve the grievance informally within the department. However, should an employee or student feel that he or she is unable to discuss the grievance with the appropriate supervisor, then that employee or student should go to the major administrator for that unit, department, or division to discuss the problem. The employee or student may also wish to exercise his or her rights to pursue an informal resolution, which may include mediation with the assistance of the affirmative action officer.

(3) **Formal review procedures.** The following formal review procedures have been established for those kinds of discrimination problems which remain unsolved after informal review has occurred and when the informal procedure has failed to resolve the conflict to the satisfaction of the parties.

(a) Any employee or student who believes he or she has been discriminated against in connection with a violation of the college's affirmative action policy may, after the informal procedures have failed, file a formal complaint in writing with the college's affirmative action officer, stating the grievance and requesting a remedy. Within five working days of the filing, the affirmative action officer shall serve a copy of the complaint to the respondent and notify the respondent's major administrator. The respondent has five working days in which to respond to the allegations in the complaint in writing and submit the reply to the affirmative action officer. Within five working days of the receipt of the reply, the affir-

mativative action officer shall show the reply to the complainant, and ask both the complainant and respondent if they will mediate the complaint. If so, the affirmative action officer will initiate the mediation within ten working days of receiving the reply, unless availability of the parties involved necessitates an extension.

(b) If the complaint is unresolved after mediation, or if either party refuses to mediate, the affirmative action officer, or a qualified designee shall then investigate the complaint. Depending upon the circumstances, this investigation may include meetings with the employee, the immediate supervisor, the major administrator, and any other person who may be involved. A finding of probable cause or no probable cause shall be given to the employee or student by the affirmative action officer within sixty working days of the filing of the complaint. This time may be extended by mutual agreement between the complainant and the respondent.

(c) If the complainant or respondent is not satisfied with the results of the review as indicated above, that person may appeal to the college president. All information regarding the complaint shall be forwarded to the president by the affirmative action officer, and the complainant or respondent may submit any further information desired. The president shall, within ten working days, communicate in writing to the complainant or respondent a decision, with a copy to the affirmative action officer. Again, the time may be extended by mutual agreement. The decision of the president shall be the college's final decision.

[Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. WSR 05-14-142, § 132A-350-015, filed 7/5/05, effective 8/5/05; WSR 99-15-072, § 132A-350-015, filed 7/20/99, effective 8/20/99.]

**WAC 132A-350-020 Grievance procedure—Sexual harassment, sex discrimination.** (1) **Preamble.** It is the policy of Peninsula College to provide an environment in which employees can work free from sexual harassment and sexual intimidation. Sexual harassment is a form of sex discrimination. As such it is a violation of Title VII of the 1964 Civil Rights Act and Title IX of the 1972 Education Amendments.

(2) **Definitions.** Sexual harassment of an employee is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when:

(a) Submission to the conduct is either explicitly or implicitly a term or condition of an individual's education, employment or career advancement; and/or

(b) Submission to or rejection of such conduct by an individual is used as the basis for education or employment decisions or any other decisions affecting that individual; and/or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's education or work or has the effect of creating an intimidating, hostile, or offensive environment.

(3) **Procedure.** A person who believes he or she has experienced gender discrimination or sexual harassment in the college environment may discuss the issue with a gender equity advisor who will help the claimant determine whether to proceed with mediation, formal hearing, or appeal. The advising process shall be designed to promote free discussion between the claimant and the advisor. Every attempt shall be made to protect the privacy of the individuals during the advising process.

(a) **Mediation.** After the advising process the claimant may request mediation among parties involved in his or her grievance. Both parties have the option to bring a support person to the mediation. A mutually agreed upon mediator will be selected from a list of mediators appointed by the president.

(b) **Formal hearing.** Any party may request a formal hearing by submitting a claim on Peninsula College's Complaint/Grievance Form to the affirmative action officer, who shall forward the claim to the sexual harassment investigative team appointed by the president and composed of classified student, faculty, and administrative representatives. At the conclusion of the investigation, the investigative team shall issue a written report which will include recommendations to the claimant, the respondent, and the college president. All parties are entitled to legal representation.

(c) **Appeal.** The claimant and respondent are entitled to file an appeal in writing to the college president within ten working days following receipt of the formal hearing report. Within ten working days after receipt of the written appeal, the college president shall conduct an appeal hearing and report the findings in writing to both the claimant and respondent. The decision of the college president shall be the college's final decision.

[Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. WSR 99-15-072, § 132A-350-020, filed 7/20/99, effective 8/20/99.]

**WAC 132A-350-030 Disciplinary action.** The president may take disciplinary action should the investigative team find discrimination in the form of gender inequity or sexual harassment. Disciplinary action may include, but is not limited to, findings placed in a personnel or student file, suspension, or dismissal.

[Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. WSR 99-15-072, § 132A-350-030, filed 7/20/99, effective 8/20/99.]

**WAC 132A-350-040 Reasonable accommodations/academic adjustment for persons with disabilities.** Persons with disabilities have the right to request reasonable accommodations/academic adjustments that:

(1) Are necessary to ensure that employment/academic requirements do not discriminate based on disability or have the effect of discriminating based on disability against a qualified individual; and

(2) Do not impose an undue hardship on the college or require alteration of essential program requirements.

[Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. WSR 99-15-072, § 132A-350-040, filed 7/20/99, effective 8/20/99.]

**WAC 132A-350-045 Definitions.** (1) Academic adjustment means modifications to academic requirements as nec-

essary to ensure that such requirements do not discriminate against students with disabilities or have the effect of excluding a student solely on the basis of a disability.

(2) Individual with a disability is a student, employee, applicant, or visitor who has a physical, mental or sensory impairment that substantially limits one or more major life activities, has a record of such an impairment, is perceived to have such an impairment, or has an abnormal condition that is capable of being medically diagnosed.

(3) Reasonable accommodations means modifications or adjustments to academic procedures and job or work environment, policies, or practices that enable qualified individuals with disabilities to enjoy equal opportunities.

[Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. WSR 99-15-072, § 132A-350-045, filed 7/20/99, effective 8/20/99.]

**WAC 132A-350-050 Reasonable accommodations/academic adjustment disputes.** The college shall not be mandated to furnish the requested accommodation, but will confer with the requester in an effort to achieve reasonable appropriate accommodations. If an individual believes the special needs coordinator or the counselor for students with disabilities has not identified or provided reasonable accommodations/academic adjustment or auxiliary aids, the individual may seek review of the action by contacting the vice president of educational services for academic adjustments or the vice president of administrative services for reasonable accommodations. The individual shall submit the appeal in writing to the appropriate vice-president. The vice-president shall review the individual's position and respond within five working days. If resolution is not reached, the vice-president will refer the appeal to the college president. The president shall review the dispute and make recommendations in writing for appropriate resolution. The decision of the president shall be the final decision.

[Statutory Authority: RCW 28B.50.140 and chapter 28B.50 RCW. WSR 99-15-072, § 132A-350-050, filed 7/20/99, effective 8/20/99.]

