

**BELLINGHAM TECHNICAL COLLEGE
POLICY & PROCEDURES GUIDE**

POLICY Discrimination and Harassment <i>Replaces Sexual Harassment Policy 502.0 Sexual Harassment Policy and repealed WAC 495B-305</i>	Section 502.0 Page 1 of 6
POINT OF CONTACT Vice President of Student Services, Director of Human Resources	INITIAL DATE OF POLICY: 5/20/1993
RELATED POLICIES and/or PROCEDURES 427.5 Mandatory Reporting by Employees of Concerning Behaviors, Discrimination, Harassment, and Other Serious Crimes (policy) 427.5.A Mandatory Reporting by Employees of Concerning Behaviors, Discrimination, Harassment, and Other Serious Crimes (procedure) 502.1 Title IX Grievance Procedure 502.2 Employee Title IX Disciplinary Hearing Procedure 502.3 Non-Title IX Grievances	THIS PAGE WAS LAST REVISED ON: 4/03/2025
APPLIES TO Employees, Students, Applicants, and Visitors	WAC/RCW WAC 495B-121, RCW 28B.50.863, 20 U.S.C. 1092(f), 34 U.S.C. 12291, RCW 49.60, RCW 26.50.010, 20 U.S.C. 1681 et seq., 42 U.S.C. 2000d et seq., 42 U.S.C. 2000e et seq.

The 2020 Department of Education federal regulations under Title IX, effective August 14, 2020, define sexual harassment and other sexual misconduct more narrowly than the Bellingham Technical College policy and require specific procedures for investigating and adjudicating allegations that meet the federal definitions and other criteria, such as where alleged conduct occurred. BTC will continue to address all complaints of sexual misconduct and will assess complaints to determine if BTC policy or federal rules apply.

A. Policy

Bellingham Technical 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, ethnicity, creed, color, sex, gender identity or expression, citizenship or immigration status, national origin, age, marital status, religion, disability, veteran or military status, sexual orientation, genetic information, the presence of any sensory, mental, or physical disability or use of a trained dog guide or service animal by a person with a disability, pregnancy, retaliation, or any other characteristic protected by federal, state, or local law in its programs, activities, and services.

The College complies with all Washington State anti-discrimination laws (RCW 49.60) and the following federal laws related to equal opportunity: Title VI and 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 (ADA), and the Age Discrimination Act of 1975. To this end, Bellingham Technical

College has enacted policies prohibiting discrimination against and harassment of members of these protected classes.

Any individual found to be in violation of these policies will be subject to disciplinary action up to and including dismissal from the College or from employment.

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B. Definitions

1. **Complainant** means the following individuals who have been subjected to alleged conduct that would constitute discrimination or harassment:
 - a. A student or employee; or
 - b. A person other than a student or employee who was participating or attempting to participate in the College's educational program or activity at the time of the alleged discrimination or harassment.
2. **Complaint** Means a written or oral request that can be objectively understood as a request for the College to investigate and make a determination about alleged discrimination or harassment.
3. **Confidential Employee** means a College employee whose communications are privileged and confidential under Federal or State law. An employee's status as a Confidential Employee only applies when they are functioning within the scope of duties to which the privilege or confidentiality applies.
4. **Consent** means knowing, voluntary and clear permission by word or action to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid there must be, at the time of the act of sexual intercourse or sexual contact, actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

 A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.

 Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.
5. **Disciplinary Sanction** means consequences imposed on a Respondent following a determination that the Respondent violated College policies prohibiting discrimination and harassment.
6. **Discrimination** means unfavorable treatment of a person based on that person's membership or perceived membership in a protected class. Harassment is a form of discrimination.
7. **Harassment** means a form of discrimination consisting of physical, written, electronic, or verbal conduct that denigrates or shows hostility toward an individual because of their membership in a protected class or their perceived membership in a protected class. Harassment occurs when the conduct is sufficiently severe, persistent, or pervasive that it has the effect of altering the terms or conditions of employment or substantially limiting the ability of a student or an employee to participate in or benefit from the College's educational programs and activities.
8. **Hostile Environment Harassment** occurs when the conduct is sufficiently severe, persistent, or pervasive that it has the effect of altering the terms or conditions of employment or substantially limiting the ability of a student or an employee to participate in or benefit from the College's educational and/or social programs.
9. **Investigative Procedure** is the process the College uses to initiate, informally resolve, and/or investigate allegations that an individual has violated College policies prohibiting discrimination and harassment.
10. **Mandatory Reporters for Title IX** are all college employees, including certain agents of the College, and excluding Confidential Employees. Mandatory Reporters are required to report conduct that could reasonably constitute sex discrimination to the Title IX Coordinator. See policy 427.5 Mandatory Reporting by Employees of Concerning Behaviors, Discrimination, Harassment, and Other Serious Crimes for additional mandatory reporting requirements.
11. **Peer Retaliation** means retaliation by a student against another student.
12. **Pregnancy or Related Conditions** means:
 - a. Pregnancy, childbirth, termination of pregnancy, or lactation;

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- b. Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
 - c. Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
- 13. **Protected class** means persons who are protected under State or Federal civil rights laws.
- 14. **Relevant** means related to the allegations of discrimination or harassment under investigation. Questions are Relevant when they seek evidence that may aid in showing whether the alleged discrimination or harassment occurred, and evidence is Relevant when it may aid a decision maker in determining whether alleged discrimination or harassment occurred.
- 15. **Remedies** means measures provided to a Complainant or other person whose equal access to the College's education programs or activities has been limited or denied by discrimination or harassment. These measures are intended to restore or preserve that person's access to educational programs and activities after a determination that discrimination and/or harassment has occurred.
- 16. **Resolution** means the means by which the complaint is finally addressed. This may be accomplished through informal or formal processes, including counseling, mediation, or the formal imposition of discipline sanctions.
- 17. **Respondent** means an individual who has been alleged to have violated the College's policy prohibiting discrimination and harassment.
- 18. **Retaliation** means harming, threatening, intimidating, coercing, or other adverse action taken against any individual for reporting, providing information, exercising one's rights or responsibilities, participating, or refusing to participate, in the process of responding to, investigating, or addressing allegations or violations of federal, state, or local law, or college policies.
- 19. **Sexual Harassment** means a form of discrimination consisting of unwelcome, gender-based verbal, written, electronic, and/or physical conduct. Sexual harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's gender. There are two types of sexual harassment:
 - a. **Hostile Environment Sexual Harassment** occurs when the conduct is sufficiently severe, persistent, or pervasive that it has the effect of altering the terms or conditions of employment or substantially limiting the ability of a student or an employee to participate in or benefit from the college's educational and/or social programs.
 - b. **Quid Pro Quo Sexual Harassment** ("this for that") occurs when an individual in a position of real or perceived authority conditions the receipt of a benefit upon granting of sexual favors.
- 20. **Sexual Violence** is a type of sexual discrimination and harassment that includes:
 - a. **Nonconsensual Sexual Intercourse.** Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.
 - b. **Nonconsensual Sexual Contact.** Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.
 - c. **Incest.** Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of eighteen (18).
 - d. **Statutory Rape.** Consensual intercourse between a person who is eighteen (18) years

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of age or older, and a person who is under the age of sixteen (16).

- e. **Domestic violence.** Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of State of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Washington, RCW 26.50.010.
- f. **Dating Violence.** Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person (i) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (ii) where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (i) The length of the relationship;
 - (ii) The type of relationship; and
 - (iii) The frequency of interaction between the persons involved in the relationship.
- g. **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for their safety or the safety of others, or (ii) suffer substantial emotional distress.

21. **Supportive Measures** means reasonably available, individualized and appropriate, non-punitive and non-disciplinary measures offered by the College to the Complainant or Respondent without unreasonably burdening either party, and without fee or charge for purposes of:

- a. Restoring or preserving that party's access to the College's educational program or activity, including measures that are designed to protect the safety of the parties or the College's education environment; or
- b. Providing support during the College's investigation and disciplinary procedures, or during any informal resolution process.
- c. Supportive measures may include, but are not limited to: counseling, extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of campus; restriction on contact applied to one or more Parties; leave of absence; change in class, college employment, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to discrimination and harassment.

22. **Title IX Coordinator** is the Administrator responsible for processing Title IX complaints and conducting or overseeing formal investigations and informal resolution processes under the College's policies and procedures.

C. Title IX Coordinator and Director of Human Resources

Student and Student Applicant Contact:

Michele Waltz

Title IX Coordinator

titleIX@btc.edu, 360.752.8440

Employee, Job Applicant and Visitor Contact:

Allison Mack

Director of Human Resources

hr@btc.edu, 360.752.8354

The Title IX Coordinator, Director of Human Resources, or designee:

- Will accept all complaints and referrals from college employees, applicants, students, and visitors.

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- 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 supportive measures to protect parties during investigations of discrimination or harassment.
- Will issue written findings and recommendations upon completion of an investigation.
- May recommend specific corrective measures to stop, remediate and prevent the recurrence of inappropriate conduct.

D. How to File a Complaint

Any employee, applicant, student or visitor of the College may file a complaint with the Title IX Coordinator, Human Resources Director, or designee. If the complaint is against that Coordinator/Officer, the complainant should report the matter to the President's Office for referral to an alternate designee. Complaints may be submitted in writing or verbally. The College encourages the timely reporting of any incidents of discrimination or harassment and reminds employees that some instances fall under mandatory reporting guidelines. See policy 427.5 Mandatory Reporting by Employees of Concerning Behaviors, Discrimination, Harassment, and Other Serious Crimes for more information. For complainants who wish to submit a written complaint, a complaint form is available online at www.btc.edu/Safety. For complainants who wish to file a report in person, they may meet with the Title IX Coordinator, Human Resources Director, or designee as appropriate. Any person submitting a discrimination complaint shall be provided with a written copy of the College's anti-discrimination policies and procedures.

E. Confidentiality and Right to Privacy

The College will seek to protect the privacy of the Complainant to the fullest extent possible, consistent with the legal obligation to investigate, offer appropriate supportive measures and/or disciplinary action, and comply with the federal and state law, as well as College policies and procedures. Although the College will attempt to honor Complainants' request for confidentiality, it cannot guarantee complete confidentiality. Determinations regarding how to handle requests for confidentiality will be made by the Title IX Coordinator/ Human Resources Director.

The Title IX Coordinator/ Human Resources Director will inform the Complainant about the Colleges Discrimination and Harassment investigation and disciplinary processes.

The Title IX Coordinator or Human Resources Director will inform and attempt to obtain consent from the Complainant before commencing an investigation into a harassment complaint. If a harassment Complainant asks that their name not be revealed to the Respondent or that the College not investigate the allegation, the Title IX Coordinator or Human Resources Director will inform the Complainant that maintaining confidentiality may limit the College's ability to fully respond to the allegations and that retaliation by the Respondent and/or others is prohibited. If the Complainant still insists that their name not be disclosed or that the College not investigate, the Title IX Coordinator or Human Resources Director will determine whether the College can honor the request and at the same time maintain a safe and nondiscriminatory environment for all members of the college community, including the Complainant.

If the College is unable to honor a Complainant's request for confidentiality, the Title IX Coordinator or Human Resources Director will notify the Complainant of the decision and disclose the Complainant's identity only to the extent reasonably necessary to effectively conduct and complete the investigation.

If the College decides not to conduct an investigation or take disciplinary action because of a request for confidentiality, the Title IX Coordinator or Human Resources Director will evaluate whether other measures are available to address the circumstances giving rise to the complaint and prevent its recurrence and implement such measures if reasonably feasible.

F. Non-Retaliation, Intimidation, and Coercion

Retaliation by, for, or against any participant (including Complainant, Respondent, witness, Title IX Coordinator, Human Resources Director, or Investigator) is expressly prohibited. Retaliatory action of any kind taken against individuals as a result of seeking redress under the applicable procedures or serving as a witness in a subsequent investigation or any resulting disciplinary proceedings is prohibited and is conduct subject to discipline. Any person who thinks they have been the victim of retaliation should

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contact the Title IX Coordinator or Human Resources Director immediately.

G. Limits to Authority

Nothing in this chapter shall prevent the College President or designee from taking immediate disciplinary action in accordance with Bellingham Technical College policies and procedures and federal, state, and municipal rules and regulations.

H. 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: 360.778.8800
 Whatcom County Sheriff's Office: 360.778.6600
 Washington State Patrol, District 7: 360.658.2588

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

I. Other Discrimination Complaint Options

Discrimination complaints may also be filed with the following federal and state agencies:

Washington State Human Rights Commission: <http://www.hum.wa.gov/index.html>
 U.S. Department of Education, Office for Civil Rights: <https://www.ed.gov/laws-and-policy/civil-rights-laws/file-complaint>
 U.S. Equal Employment Opportunity Commission: <http://www.eeoc.gov/>

J. Publication of Anti-Discrimination Policies and Procedures

College policies and procedures regarding complaints of discrimination and harassment shall be published and distributed as determined by the President or President's designee. Any person who believes they have been subjected to discrimination or harassment in violation of college policy will be provided a copy of these policies and procedures.