

Treasure Valley Community College

Code: JFCF/GBNA-AR
Revised/Reviewed: 10/14/09; 6/20/17; 6/18/19;
9/15/20

Staff and Student Complaint Procedures for Hazing, Harassment, Intimidation or Menacing

Complaint Procedures

The director of legal and human resources, or designated college official has responsibility for investigations concerning hazing, harassment, intimidation or menacing. If the complaint in question is gender-based or sexual in nature, the Title IX Coordinator will also be notified and a determination will be made whether or not TVCC Title IX Policy GBN/JBA has been violated and if the Title IX policy has jurisdiction, the Procedures for Resolving Title IX Policy Violations GBN/JBA-AR(2) will be followed.

The investigator(s) shall be a neutral party having had no involvement in the complaint presented. For complaints that are student-to-student the process followed is outlined by the student rights, freedoms and responsibilities conduct process.

TVCC recognizes the intersectional nature of the human experience. Due to that intersectionality, an individual's experience may include aspects of multiple forms of discrimination and harassment. When determining "reasonableness" under this procedure, TVCC will consider a reasonable person to have the complainant's intersectional identities.

Discretionary Dismissal: TVCC may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

- A complainant provides notification in writing that the complainant would like to withdraw the formal complaint or any allegations therein; or
- The respondent is no longer enrolled in or employed by the recipient; or
- Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

All employees covered by collective bargaining or other employment agreements or handbooks are subject to the terms of their agreements/employees' rights to the extent those do not conflict with federal or state compliance obligations.

Initial Assessment

Upon receipt of any notice, complaint, or report of alleged violations, except GBN/JBA – Title IX Policy, TVCC initiates an initial assessment to determine next steps, complainant's desires, any threats to the health and safety of the TVCC community, and any other information required to address the misconduct.

The designated official engages in a preliminary inquiry to determine if there is reasonable cause to believe that this policy has been violated. This inquiry may also help determine if the allegations involve

violence, threat, pattern, predation, minors, and/or the use of a weapon, in the event that the complainant has asked for no action to be taken.

In any situation in which violence, threat, pattern, predation, minors, and/or the use of a weapon is not evidenced, the designated official may respect a complainant's request not to pursue the matter through the formal resolution process and will investigate informally only so far as necessary to determine appropriate remedies or refer the matter for alternate resolution options.

During the initial inquiry, the designated official at their discretion, may enlist any assistance, request documents, review any information reasonably necessary to determine if there is reasonable cause to believe that this policy has been violated. In the event the designated official determines it is necessary in the initial inquiry to contact the respondent they will first seek the consent of the complainant.

If the designated official determines that this policy is not applicable to the allegations, they will offer to refer the matter to the appropriate TVCC office or official and connect the complainant with the resources available at TVCC and the community.

Supportive Measures

Any supported or emergency measures will be scoped, created and comply with GBN/JBA-AR(1) Procedures for Supportive Measures.

When a Complainant Does Not Wish to Proceed

If a complaint does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, they may make such a request to the designated college official, who will evaluate that request in like of the duty to ensure the safety of the campus and comply with TVCC policy as well as state and federal law.

Compelling Formal Proceedings

In situations involving pattern, predation, threat, minors, weapons, and/or violence, or when the allegations involve serious or a pattern of employee misconduct, the designated college official may be unable to fully honor a request for confidentiality and/or informal resolution.

TVCC reserves the right to initiate formal resolution proceedings without a report or participation by the complainant when deemed necessary by the designated college official, usually to protect the community in situations that evidence a compelling safety risk.

Oregon law prohibits schools from sanctioning (or threatening to sanction) a reported student victim of sexual assault, domestic violence, or stalking for not reporting such conduct or participating in an investigation or adjudication process. A complainant who does not want to participate in a formal proceeding retains all the rights of a complainant under this process irrespective of their level of participation and will continue to receive correspondences and updates in the normal course of the investigation and can decide to participate in the formal proceeding until such time as the investigation is completed.

When a Complainant Does Wish to Proceed

When the complainant wishes to proceed, or the designated college official determines it will proceed, and the preliminary inquiry shows that reasonable cause exists, the designated college official will direct that the allegation be resolved through one of the following processes, discussed in greater detail following:

- Informal Resolution
- Formal Resolution

Informal Resolution

Informal resolutions under this document typically include three different approaches:

- The parties agree to resolve the matter through an alternate resolution mechanism including mediation, restorative practices, etc.
- The respondent can accept responsibility for violating policy, and desires to accept a sanction and end the resolution process; or
- The designated college official can resolve the matter informally by providing supportive measure to remedy the situation.

To initiate informal resolution, both parties need to formally notify the designated college official of their request.

Any informal resolution can cease the process at any time and begin the formal resolution

Prior to implementing informal resolution, TVCC will provide the parties with written notice of the reported misconduct and any sanctions or measure that may result from participating in such a process, including information regarding any records that will be maintained or shared by TVCC.

TVCC will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate.

Informal Resolution may not be used to resolve allegations that an employee sexually harassed a student.

Formal Process – Generally

Formal resolution can be pursued for any conduct for which the respondent has not accepted responsibility that constitutes conduct covered by the policy at any time during the process.

All complaints will be confidential and investigated in accordance with the following procedures:

- Step I Any hazing, harassment, intimidation, menacing information (complaints, rumors, etc.), sexual violence or stalking shall be presented to the director of legal and human resources. If complaints are presented to any college employee they will immediately notify the human resources office. Complaints against the director of legal and human resources shall be filed with the vice president of administrative services, or their designee. Complaints against the president shall be filed with the Board chair (Board Policy Code BBAA). All such information will be reduced to writing and will include the specific nature of the offense and

corresponding dates.

Step II An investigation will be conducted promptly. All parties and witnesses shall cooperate with the investigation. Any failure of a college employee to cooperate may result in disciplinary action. Any failure of a guest or third party to cooperate may result in them being permanently trespassed from the property under the direction and control of the college. The college official will arrange such meetings as may be necessary with all concerned parties within ten (10) working days after receipt of the information or complaint, or as soon as reasonably practicable. Both the complainant and accused parties are allowed the option to an advocate of their choosing to assist them through the process. If an advocate is not known, one can be made available. The parties will have an opportunity to submit evidence and a list of witnesses. All findings related to the complaint will be reduced to writing. The individual responsible for investigating the complaint will notify the complainant and respondent, in writing, when the investigation is concluded.

Appeals Procedures

If the complainant or respondent is not satisfied with the decision in Step II, the individual may submit a written appeal.

Grounds for Appeals

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- The designated college official, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the specific complainant or Respondent that affected the outcome of the matter.

If any of the grounds for appeal in the request for appeal are not met, that request will be denied by the appellate officer, an individual not involved with the original investigation. The parties and their advisors, if applicable, will be notified in writing of the denial and the rationale.

Student-to-Student

For appeals with student-to-student decisions see the disciplinary appeal process as stated in the student rights, freedoms and responsibilities.

If the complainant is not satisfied with the decision, the complainant shall have all rights granted by state and federal law for administrative and/or judicial appeals.

Employee-to-Employee or Student-to-Employee or Employee-to-Student

Appeals must be filed within 5 working days after receipt of the decision to the president. The president will arrange such meetings with the complainant and other affected parties as deemed necessary to discuss the appeal. The president shall provide a written decision to the complainant's appeal within 10 working days.

If the complainant is not satisfied with the decision, the complainant shall have all rights granted by state and federal law for administrative and/or judicial appeals.

Employee-to-Director of Legal and Human Resources

Appeals must be filed within 5 working days after receipt of the decision to the president. The president will arrange such meetings with the complainant and other affected parties as deemed necessary to discuss the appeal. The president shall provide a written decision to the complainant's appeal within 10 working days.

If the complainant is not satisfied with the decision, the complainant shall have all rights granted by state and federal law for administrative and/or judicial appeals.

Employee-to-President

If the complainant is not satisfied with the decision, the complainant shall have all rights granted by state and federal law for administrative and/or judicial appeals.

Documentation related to the incident may be maintained as a part of the student's education records or employee's personnel file.