



Title IX Sexual Harassment and Discrimination Policy and Grievance Procedures

2.P.17

Introduction

Lake Washington Institute of Technology (LWTech) recognizes its responsibility for investigation, resolution, implementation of corrective measures, and monitoring of the educational environment and workplace to stop, remediate, and prevent all manners of discrimination. To this end, LWTech has enacted a Title IX Policy and Discrimination and Harassment Complaint Procedure statement prohibiting discrimination or harassment against any employee, student, applicant or visitor, and including legally defined members of a protected class. Any individual found to be in violation of this policy will be subject to disciplinary action up to and including dismissal from the college or from employment.

Any employee, student, applicant, or visitor who believes that he, she or they have been the subject of discrimination or harassment should report the incident or incidents to the college's Title IX / EEO Coordinator identified below. If the complaint is against that Coordinator, the complainant should report the matter to the President's office for referral to an alternate designee.

Meena Park, Assistant Director of Human Resources
Title IX / EEO Coordinator / Affirmative Action Officer / Ethics Officer
Lake Washington Institute of Technology
11605 132nd Avenue NE
Kirkland, WA 98034
Contact info: (425) 739-8434

The Title IX / EEO Coordinator or designee:

- ⊗ Will accept all complaints and referrals from college or district employees, applicants, students, and visitors.
- ⊗ 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 remedial 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.

The college encourages the timely reporting of any incidents of discrimination or harassment. Long delays may be considered detrimental to the accuracy of the complaint. Complaints may be submitted in writing or orally. For complainants who wish to submit a written complaint, a formal complaint form is available online at: http://www.lwtech.edu/about_lwtech/equalopportunity

Hardcopies of the complaint form are available at the following locations on campus at Lake Washington Institute of Technology, 11605 132nd Ave. NE, Kirkland, WA 98034:

- ⊗ Human Resources Office
- ⊗ Campus Public Safety
- ⊗ Student Services Administrator

Definitions

1. **Complainant:** employee(s), applicant(s), student(s), or visitors(s) of LWTech who alleges that she, he or they /have been subjected to discrimination or harassment.
2. **Complaint:** a description of facts that allege violation of the college's policy against discrimination or harassment.
3. **Consent:** knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity.
 - i. Each party has the responsibility to make certain that the other has consented before engaging in the activity.
 - ii. 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. **Prior consent does not apply.**
 - iii. A person cannot consent if they are unable to understand what is happening or are 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.
 - iv. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.
4. **Discrimination:** unfavorable treatment of a person based on that person's membership or perceived membership in a protected class. Harassment is a form of discrimination.
5. **Harassment:** a form of discrimination consisting of physical 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 and/or pervasive and so objectively offensive that it has the effect of altering the terms or conditions of employment or substantially limiting the ability of a student to participate in or benefit from the college's educational and/or social programs. Petty slights, annoyances, offensive utterances, and isolated incidents (unless extremely serious) typically do not qualify as harassment. Examples of conduct that could rise to the level of discriminatory harassment include but are not limited to the following:
 - ⊗ Epithets, "jokes," ridicule, mockery or other offensive or derogatory conduct focused upon an individual's membership in a protected class.
 - ⊗ Verbal or physical threats of violence or physical contact directed towards an individual based upon their membership in a protected class.
 - ⊗ Making, posting, emailing, texting, or otherwise circulating demeaning or offensive pictures, cartoons, graffiti, notes or other materials that relate to race, ethnic origin, gender or any other protected class.
6. **Protected Class:** persons who are protected under state or federal civil rights laws, including laws that prohibit discrimination on the basis of race, color, national origin, age, perceived or actual physical or mental disability, pregnancy, genetic information, sex, sexual orientation, gender identity, marital status, creed, religion, honorably discharged veteran or military status, or use of a trained guide dog or service animal.
7. **Resolution:** 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 sanction.

8. **Respondent:** person or persons who are members of the campus community who allegedly discriminated against or harassed another person or persons.
9. **Sexual Assault:** Includes any form of actual or attempted sexual activity perpetrated upon a person without that person's consent, including sexual behavior coerced through physical or verbal threats, force or other forms of manipulation and sexual behavior when one person cannot give consent due to incapacitation.
10. **Sexual Harassment:** 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.
 - i. **Hostile Environment Sexual Harassment** occurs when the conduct is sufficiently severe and/or pervasive and so objectively offensive that it has the effect of altering the terms or conditions of employment or substantially limiting the ability of a student to participate in or benefit from the college's educational and/or social programs. This would include a student or subordinate who offers sexual favors in exchange for preferential consideration.
 - ii. **Quid Pro Quo Sexual Harassment** occurs when an individual in a position of real or perceived authority, conditions the receipt of a benefit upon granting of sexual favors.

Examples of conduct that may qualify as sexual harassment include:

- a. Persistent comments or questions of a sexual nature.
 - b. A supervisor who gives an employee a raise in exchange for submitting to sexual advances.
 - c. An instructor who promises a student a better grade in exchange for sexual favors.
 - d. Sexually explicit statements, questions, jokes, or anecdotes.
 - e. Unwelcome touching, patting, hugging, kissing, or brushing against an individual's body.
 - f. Remarks of a sexual nature about an individual's clothing, body, or speculations about previous sexual experiences.
 - g. Persistent, unwanted attempts to change a professional relationship to an amorous relationship.
 - h. Direct or indirect propositions for sexual activity.
 - i. Unwelcome letters, emails, texts, telephone calls, receipt of unwanted verbal, written, or electronic communication, or other communications referring to or depicting sexual activities.
11. **Sexual Violence:** is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.
 12. **Nonconsensual sexual intercourse** is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, 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.
 13. **Nonconsensual sexual contact** is any intentional sexual touching, however slight, with any 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.
 14. **Domestic violence** includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law

15. **Dating violence** means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

16. **Stalking** means intentional and repeated harassment or following of another person, or repeatedly emailing, texting, calling or use of other “cyber” venues to be “present” in another person’s life which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the perpetrator lacks such intent. Examples of stalking behavior include, but are not limited to:

- a. Following or conducting surveillance of the person being stalked
- b. Inappropriate confrontations, communications or approaches between the stalker and the victim
- c. Repeated, unsolicited and uninvited visits at the victim’s place of business or domicile
- d. Receipt of unwanted communications, telephone calls, texts, or pages from the stalker to the victim
- e. Threatening of the victim in any way by the stalker, either verbally or physically
- f. Threatening any of the victim’s family or friends by the stalker
- g. Receipt of any unwanted contact, including emails, texts, letters, or gifts from the stalker to the victim
- h. Repeatedly sending unwanted messages, emails, or other communications to the victim by the stalker
- i. Using online social media inappropriately to refer to or establish contact with the victim by the stalker
- j. Any damage to the victim’s property by the stalker
- k. Physical assault, however insignificant, to the victim by the stalker
- l. Sexual assault or threats of such to the victim by the stalker
- m. Assaulting or killing the victim’s pet by the stalker
- n. Spreading false rumors or gossip about the victim by the stalker
- o. Filing anything false against the victim by the stalker

17. **Bullying:** Workplace and/or classroom bullying is defined as persistent, malicious, unwelcome, severe, and pervasive mistreatment that harms, intimidates, offends, degrades or humiliates an employee or student, whether verbal, physical or otherwise, including “cyber” bullying, in the course of employment, or pursuit of education. Any employee found in violation of this policy, will be disciplined, up to and including immediate termination. Any student found in violation of the Student Code of Conduct, as it relates to this policy, will be disciplined, up to and including, immediate expulsion from the college*. Examples of bullying behavior include, but are not limited to:

- ⊗ Being held to a different standard than the rest of an employee’s work group;
- ⊗ Consistent ignoring or interrupting of an employee in front of co-workers;
- ⊗ Personal attacks (angry outbursts, excessive profanity, or name-calling);
- ⊗ Encouragement of others to turn against, marginalize, or ostracize the targeted employee;
- ⊗ Use of email, internet, or other “cyber” venues to denigrate the targeted employee.

*LWTech encourages all employees to report any instance of bullying behavior they have experienced or witnessed to their supervisor or the college HR Director.

Who May File a Complaint

Any employee, applicant, student or visitor of LWTech may file a complaint. Complaints may be submitted in writing or verbally. LWTech encourages the timely reporting of any incidents of discrimination or harassment. For complainants who wish to submit a written complaint, a formal complaint form is available online at: http://www.lwtech.edu/about_lwtech/equalopportunity

Hardcopies of the complaint form are available at the locations listed above in Section A. Any person submitting a discrimination complaint shall be provided with a written copy of the college's anti-discrimination policies and procedures.

Confidentiality and Right to Privacy

LWTech will seek to protect the privacy of the complainant, respondent, and all other parties involved, to the full extent possible, consistent with the legal obligation to investigate, take appropriate remedial and/or disciplinary action, and comply with the federal and state law, as well as District policies and procedures. Determinations regarding how to handle requests for confidentiality will be made by the Title IX / EEO Coordinator.

Although LWTech will attempt to honor complainants' requests for confidentiality, it cannot guarantee complete confidentiality.

Confidentiality Requests and Sexual Violence Complaints

The Title IX / EEO Coordinator will inform and obtain consent from the complainant before commencing an investigation into a sexual violence complaint. If a sexual violence complainant asks that their name not be revealed to the respondent or that the College not investigate the allegation, the Title IX / EEO Coordinator 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 /EEO Coordinator will determine whether the college can honor the request and at the same time maintain a safe and non-discriminatory environment for all members of the district's community, including the complainant. Factors to be weighed during this determination may include, but are not limited to:

- ⊗ the seriousness of the alleged sexual violence;
- ⊗ the age of the complainant;
- ⊗ whether the sexual violence was perpetrated with a weapon;
- ⊗ whether the respondent has a history of committing acts of sexual violence or has been the subject of other sexual violence complaints;
- ⊗ whether the respondent threatened to commit additional acts of sexual violence against the complainant or others; and
- ⊗ whether relevant evidence can be obtained through other means (e.g., security cameras, other witnesses, physical evidence).

If the college is unable to honor a complainant's request for confidentiality, the Title IX / EEO Coordinator will notify the complainant of the decision within 10 days and ensure that complainant's identity is disclosed 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 / EEO Coordinator will evaluate whether other measures are available to limit the effects of the harassment and prevent its recurrence and implement such measures if reasonably feasible.

Investigation Procedure

Upon receiving a prohibited conduct complaint, the college shall commence an impartial investigation. The Title IX / EEO Coordinator shall be responsible for overseeing all investigations. Investigations may be conducted by the Title IX / EEO Coordinator or his, her or their designee. If the investigation is assigned to someone other than the Title IX /EEO Coordinator, the Title IX / EEO Coordinator shall inform the complainant and respondent(s) of the appointment of an investigator as soon as possible.

Rights and Responsibilities of the College to Complainants and Respondents

- ⊗ They will be treated with sensitivity, dignity, respect, confidentiality, and in an unbiased manner by all involved administrators, investigators and adjudicators.

- ⊗ They will be informed in writing that a complaint of sexual misconduct against them is being investigated, and of any other suspected policy violations being explored through this investigation.
- ⊗ They will be advised of the college's sexual misconduct policy and procedures.
- ⊗ They will be afforded the same rights and opportunities as the complainant throughout the investigation and adjudication process.
- ⊗ They will be given periodic status updates throughout the investigation and adjudication process.
- ⊗ They may invite a student, faculty, union representative, or staff member from the college to accompany them at meetings regarding the investigation process.
- ⊗ They will be informed in writing, concurrently of the finding issued by the designated officials, as well as the outcome of any appeal, to the extent permitted by the Code of Student Conduct.
- ⊗ They will have the right to appeal the outcome based on the grounds designated in this policy, provided that they have participated in the investigation process.
- ⊗ They may retain legal counsel at any time, although legal counsel is not permitted to participate in the college's investigation and adjudication process.

Interim Measures. The Title IX / EEO Coordinator may impose interim measures to protect the complainant and/or respondent pending the conclusion of the investigation. Interim measures may include, but are not limited to, imposition of no contact orders, rescheduling classes, temporary work reassignments, referrals for counseling or medical assistance, and imposition of summary discipline on the respondent consistent with the college's student conduct code or the college's employment policies and collective bargaining agreements.

Investigation. Complaints shall be thoroughly and impartially investigated. The investigation shall include, but is not limited to, interviewing the complainant and the respondent, relevant witnesses, and reviewing relevant documents. The investigation shall be concluded within a reasonable time, normally **sixty days** barring exigent circumstances. At the conclusion of the investigation the investigator shall set forth his, her or their findings and recommendations in writing. If the investigator is a designee, the investigator shall send a copy of the findings and recommendations to the Title IX / EEO Coordinator. The Title IX / EEO Coordinator shall consider the findings and recommendations and determine, based on a preponderance of the evidence, whether a violation of the discrimination and harassment policy occurred, and if so, what steps will be taken to resolve the complaint, remedy the effects on any victim(s), and prevent its recurrence. Possible remedial steps may include, but are not limited to, referral for voluntary training/counseling, development of a remediation plan, limited contact orders, and referral and recommendation for formal disciplinary action. Referrals for disciplinary action will be consistent with the student conduct code or college employment policies and collective bargaining agreements.

Written Notice of Decision. The Title IX / EEO Coordinator will provide each party and the appropriate student services administrator or appointing authority with written notice of the investigative findings and of actions taken or recommended to resolve the complaint, subject to the following limitations. The complainant shall be informed in writing of the findings and of actions taken or recommended to resolve the complaint, if any, only to the extent that such findings, actions or recommendations directly relate to the complainant, such as a finding that the complaint is or is not meritorious or a recommendation that the accused not contact the complainant. The complainant may be notified generally that the matter has been referred for disciplinary action. The respondent shall be informed in writing of the findings and of actions taken or recommended to resolve the complaint and shall be notified of referrals for disciplinary action. Both the complainant and the

respondent are entitled to review any final findings, conclusions, and recommendations, subject to any FERPA confidentiality requirements and collective bargaining agreement requirements.

Informal Dispute Resolution. Informal dispute resolution processes, like mediation, may be used to resolve complaints, when appropriate. Informal dispute resolution shall not be used to resolve sexual discrimination complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

Final Decision/Reconsideration. Either the complainant or the respondent may seek reconsideration of the decision by the Title IX / EEO Coordinator. Requests for reconsideration shall be submitted in writing to the Title IX / EEO Coordinator within seven days of receiving the decision. Requests must specify which portion of the decision should be reconsidered and the basis for reconsideration. If no request for reconsideration is received within seven days, the decision becomes final. If a request for reconsideration is received, the Title IX / EEO Coordinator shall respond within ten (10) business days. The Title IX / EEO Coordinator shall either deny the request or, if the Title IX / EEO Coordinator determines that the request for reconsideration has merit, issue an amended decision. Any amended decision is final and no further reconsideration is available.

Publication of Anti- Discrimination Policies and Procedures

The policies and procedures regarding complaints of discrimination and harassment shall be published and distributed as determined by the president or designee. Any person who believes he, she or they has/have been subjected to discrimination in violation of college policy will be provided a copy of these policies and procedures.

Limits to Authority

Nothing in this procedure shall prevent the president or designee from taking immediate disciplinary action in accordance with LWTech policies and procedures, and federal, state, and municipal rules and regulations.

Non-Retaliation, Intimidation and Coercion

Retaliation by, for or against any participant (including complainant, respondent, witness, Title IX / EEO Coordinator, 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 he/she/they has/have been the victim of retaliation should contact the Title IX / EEO Coordinator immediately.

Criminal Complaints

Discriminatory or harassing conduct may also be, or occur in conjunction with, criminal conduct. Criminal complaints may be filed with the appropriate law enforcement authorities.

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.

Other Discrimination Complaint Options

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

Washington State Human Rights Commission, www.hum.wa.gov

US Dept. of Education Office for Civil Rights, www2.ed.gov/about/offices/list/ocr/