

**ROGUE COMMUNITY COLLEGE
GENERAL INFORMATION AND
ADMINISTRATIVE PROCEDURES**

Procedure: **EMPLOYMENT PRACTICES, NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY (AP-028)**

Contact: Director of Human Resources and Risk Management, Ext. 7017

1. NONDISCRIMINATION

A. General Policy: Rogue Community College does not discriminate in any programs, activities, or employment practices on the basis of race, color, religion, ethnicity, use of native language, national origin, sex, sexual orientation, gender identity, marital status, veteran status, disability, age, pregnancy, or any other status protected under applicable federal, state, or local laws, including but not limited to the Civil Rights Act of 1964, Title VII, Title VI: 34 CFR 100.3(b), Title IX: 34 CFR 106.38, Section 504: 34 CFR 104.46(b), Guidelines VII-A, the Americans with Disabilities Act of 1990 (ADA), the Americans with Disabilities Act Amendments Acts of 2008 (ADAAA), the Equal Pay Act of 1963, the Fair Pay Act of 2009, the Genetic Information Non-Discrimination Act, the Age Discrimination in Employment Act of 1967, and under State Protected Classes per ORS Chapters 659A and 654. Employees are protected from discrimination and retaliation for engaging in whistleblowing activities in accordance with ORS 659A.200-229. Employment decisions shall not be influenced by an individual's association with a particular protected class. The following requirements shall be strictly followed:

1. All aspects of employment, including but not limited to: recruiting, hiring, compensation, classification, benefits administration, training, and promotion shall be conducted without regard to race, color, religion, sex, age, national origin, sexual orientation or gender identity, marital status, physical or mental disability, injured worker status, non-supervisory family relationship, veteran status, military status, victim of domestic violence, sexual assault or stalking status, genetic information, association with members of a protected class, or other areas protected by state or federal civil rights, except when sex or age is a bona fide occupational qualification.
2. Pay practices shall ensure equal compensation for individuals who perform substantially equal work, regardless of an individual's class or association with a particular protected class.
3. Reasonable accommodation shall be made for the religious beliefs of an employee or prospective employee.
4. Retaliation against an employee for engaging in whistleblowing, filing a charge of discrimination, participating in a discrimination proceeding, opposing unlawful practices, or otherwise opposing discrimination is prohibited and should be reported by following the reporting and complaint process outlined in section B of this Article.
5. Genetic information including but not limited to information about an individual's genetic tests, information about the genetic tests of a family member, family medical history, or requests for, and receipt of, genetic services by an individual or a family member shall not be used in employment decisions.

6. Employees who are victims of domestic violence, sexual assault or stalking shall not be discriminated against in any aspect of employment.

B. Reporting and Complaint Process: Employees who believe to have been subject to discrimination should immediately make a report to the Human Resources (HR) Department. The HR Director or designee shall investigate the report. Supervisors who receive verbal or written complaints from employees shall report such complaints immediately to the Dean or Vice President and HR.

C. Policy Implementation: This policy shall be distributed to all new RCC employees at the time of their orientation by HR. HR shall ensure that mandatory employment postings related to equal employment opportunity are posted and accessible to employees. It is the responsibility of the deans and all supervisors to ensure that their departments are in full compliance with this policy.

2. ACCOMODATING THE DISABLED

A. General Policy: It is the policy of RCC to make reasonable accommodations for employees with qualified disabilities in order to provide equal employment opportunities pursuant to Title I and Title V of the ADA and applicable amendments. For that reason, it is against college policy to discriminate, in any manner, against a qualified individual with a disability.

B. Definitions:

“Disability” refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual. An individual who has such an impairment, has a record of such an impairment, or is regarded as having such an impairment is a "disabled individual."

“Individual” means an employee or volunteer of RCC, or an applicant for college employment.

“Interactive Process” is an informal, interactive process consisting of discussions between the College and the employee for the purpose of identifying the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.

“Qualified Individual with a Disability” means an individual with a disability who satisfies the required skill, experience, education and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

“Reasonable Accommodation” is a modification or adjustment to a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to perform the essential functions of the job without a direct threat to their safety or the safety of another. A reasonable accommodation may include, but is not limited to: making existing facilities used by employees readily accessible to and usable by persons with disabilities; job restructuring; modifying work schedules; providing additional unpaid leave; reassignment to a vacant position; acquiring or modifying equipment or devices; adjusting or modifying examinations, training materials, or policies; and providing qualified readers or interpreters. A reasonable accommodation may be necessary to apply for a job, to perform job functions, or to enjoy the same benefits and privileges of employment that are enjoyed by individuals without disabilities.

“Undue Hardship” means an action that would cause significant difficulty or expense to the College when considered in relation to factors such as the size, nature, structure, and financial resources of the College. Undue hardship includes any action that is unduly costly, extensive, substantial, disruptive, or that would fundamentally alter the nature or operation of the College’s business.

C. Reasonable Accommodation: RCC shall provide a reasonable accommodation for all qualified individuals with a disability, unless the requested reasonable accommodation causes an undue hardship for the College. The College shall accommodate only a known disability of a qualified individual. If an individual has a disability that is not obvious, it is up to that individual to make his/her need for a reasonable accommodation known. Qualified individuals with disabilities may request a reasonable accommodation at any time, by providing notice to either their supervisor, their interviewer, or the HR Department. The qualified individual need not specifically request a “reasonable accommodation,” but need only let the supervisor, interviewer, or the HR Department know that some adjustment or change is needed to perform a job because of the limitations caused by the disability. In the event the response from the supervisor or interviewer is not satisfactory to that individual, he/she shall contact the HR Department for additional assistance. If an employee with a known disability is having difficulty in performing a job, and it appears to be due to the disability, the employee’s supervisor should contact HR for guidance. The supervisor may inquire at any time whether the employee needs an accommodation, if he/she believes accommodation may be needed. If an individual requests an accommodation, and the need for the accommodation is not obvious, or if the supervisor or HR do not believe that the accommodation is needed, then the supervisor or HR may request documentation of the individual’s functional limitations to support the request. All employees and applicants are expected to fully cooperate with efforts to confirm work-related limitations and provide input regarding possible accommodations. The College shall provide reasonable accommodation on a case-by-case basis, depending on the nature and extent of the disability and the requirements of the job. The level of accommodation needed, and ability for the College to provide such an accommodation, shall be determined by entering into an interactive process with the employee in order to determine the nature of the employee’s specific restrictions and to explore all possible accommodations.

D. Pre-Employment: The College shall provide an equal opportunity for individuals with a disability to participate in the job application process and to be considered for a job. RCC may not make any pre-employment inquiries regarding an individual’s disability, but may ask questions about the ability to perform essential job functions. The College also reserves its right to conduct post-offer medical inquiries or medical examinations for particular positions in accordance with applicable law. Any test that screens out or tends to screen out individuals on the basis of disability are prohibited, unless the test is job-related and consistent with business necessity.

E. Other Employment Practices: The College shall not discriminate against a qualified individual with a disability because of the disability, in any employment practice, or in any term, condition, or benefit of employment, subject to the employee being fit for duty and meeting the essential qualifications of the job without a direct safety threat. The College shall not deny an employment opportunity because an individual has a relationship or association with an individual who has a disability. The College shall not participate in any contractual or other arrangement that subjects a qualified individual with a disability to discrimination. The College shall not discriminate or retaliate against any individual, whether or not the individual is disabled, because the individual has opposed a discriminatory practice, filed a discrimination charge, or participated in any way in enforcing the ADA.

Each job description shall identify essential job functions. The HR Department shall review job descriptions as needed to eliminate any job functions that have become nonessential.

F. Reporting and Complaint Process: Any applicant or employee who believes that he or she has been subjected to discrimination, or that a violation of this policy has occurred, should immediately contact the HR Office. The HR Director or designee shall conduct an investigation regarding the complaint.

G. Confidentiality: Any information obtained concerning the medical condition or history of an applicant or employee shall be maintained in separate medical files, and shall be treated as confidential information that shall only be disclosed as necessary and in accordance with law.

H. Policy Implementation: New RCC employees shall receive training regarding their rights under this policy at the time of their orientation by HR. HR shall ensure that mandatory employment postings related to this policy are posted and accessible to employees. It is the responsibility of the vice presidents, deans and all supervisors of the College to ensure that their departments are in full compliance with this policy. Employees shall contact the HR Department if there are any questions as to the application of this policy.

I. General: Those making purchases for the College shall consider the adaptability of the equipment for use by a qualified individual with a disability as one factor in purchasing equipment. Making the facility as accessible as possible to qualified individuals with disabilities shall be considered as one factor when a college facility is to be remodeled.

3. HARASSMENT

A. General Policy: RCC is committed to the principle that all employees have a right to work in an environment where the dignity of each individual is respected. Harassment of employees is prohibited, regardless of working relationships and supervisory status.

B. Definitions: Not all conduct that a person considers to be offensive constitutes "harassment" that violates this policy. For example, a supervisor's communication of corrective or other disciplinary action is not considered harassment. Similarly, harassment does not exist simply because two employees have a personality conflict. Although rude, threatening and other types of negative conduct may violate other standards of conduct; this type of behavior does not always violate this policy. In addition, forms of free speech and expressions of academic freedom such as educational displays and demonstrations which may be controversial or offensive to certain individuals do not constitute a violation of this policy. "Harassment" prohibited under this policy includes "hostile work environment" and "quid pro quo" harassment.

C. Hostile Work Environment Harassment: Unwelcome verbal, graphic, or physical conduct of a sexual, racial, ethnic, religious, sexual-orientation, age, disability, gender-based or other nature that is prohibited under the employment discrimination statutes which:

- Has the purpose or effect of creating an offensive work environment; *or*
- Unreasonably interfering with an employee's work performance.

Sexual and gender-based hostile work environment harassment includes, but is not limited to, the following conduct:

- Making offensive comments about another person's gender or sexuality
- Obscene or lewd comments, jokes, suggestions or innuendos
- Unwanted sexual advances, propositions or requests for dates
- Unwelcome visual conduct, such as leering or making sexual gestures
- Displaying sexually suggestive objects, pictures, cartoons or posters
- Making offensive verbal comments about an individual's body or life style
- Unwelcome touching, impeding or blocking movements
- Using derogatory or stereotypical gender-based terms
- Making offensive comments about a person's gender or sexual orientation
- Talking about personal sexual activity
- Using college computers, fax machines or other communication systems to access, send, store or receive material of a sexual nature
- Transmitting, displaying or exposing other RCC employees to offensive sexual images or comments
- Swearing or profane language
- Making derogatory comments about sexual preference or gender identity.
- Spreading rumors or discussing a co-worker's sex life
- Engaging in any other verbal, graphic or physical conduct of a sexual or gender-based nature that creates an offensive work environment or interferes with another employee's work performance

Racial, ethnic, age, religious, disability-related or other prohibited harassment includes the following types of conduct:

Contextualization of the Actions: Teaching, learning, discussion, etc. perhaps at the top of the procedure.

- Making racial slurs or derogatory ethnic comments
- Telling racial or ethnic jokes
- Making derogatory comments about a person's physical or mental limitations
- Mimicking someone with physical or mental limitations
- Promoting your religious beliefs to someone who finds it offensive
- Making derogatory age-based comments
- Displaying racist symbols
- Using college communication systems to send, receive, store or access material that is racially, ethnically or religiously offensive material
- Displaying cartoons, printed material or other objects which are racially or ethnically offensive
- Criticizing or making fun of another person's religious beliefs
- Transmitting, displaying or exposing other RCC employees to offensive comments or images of a racial, ethnic or religious nature
- Engaging in any other verbal, graphic or physical conduct of a racial, ethnic, religious, age, disability or other prohibited nature that creates an offensive work environment or interferes with another employee's work.

D. Harassment by Non-Employees: Harassment of employees by vendors, suppliers, citizens, students, volunteers and other non-employees that creates an offensive work environment or interferes with an employee's ability to perform his or her job duties is also a violation of this policy.

E. Harassment of Non-Employees: By the same token, employee harassment of non-employees, such as vendors, suppliers, citizens, students, volunteers and other non-employees is also a violation of this policy.

F. Off-Duty Conduct: Even conduct of the nature described above that occurs *off duty* may be a violation of this policy, if it has the purpose or effect of creating a hostile or offensive work environment. For example, one employee making unwanted sexual overtures to another employee after work that makes it uncomfortable for that employee to report for work.

G. Quid-Pro-Quo: It is also a violation of this policy for any employee to suggest or threaten that an employee's cooperation, tolerance or objections to conduct prohibited by this policy will have any effect on that employee's employment. The College strictly prohibits any employee, particularly those in positions of authority, from:

- Conditioning employment on an applicant or employee's tolerance of or resistance to discrimination or harassment; or
- Basing any type of employment decision on an applicant or employee's tolerance of or resistance to discrimination or harassment.

This type of conduct is considered a serious violation of our policy and extends to virtually all aspects of employment (i.e. hiring, changing work assignments, making disciplinary recommendations, conducting performance evaluations, promotions, transfers, employment references, etc.)

H. Reporting Complaints: Under both the law and this policy, employees who are offended by this type of conduct are *not* required to inform an offending employee that his/her conduct is objectionable before reporting violations. Although the College appreciates the efforts of employees to address such behavior at the lowest level possible, if they feel comfortable doing so on, that is not required. The lack of an objection is not an excuse. All employees should assume that any conduct of the nature described above will be offensive to others and should refrain from engaging in such conduct.

Employees who have witnessed harassment or feel they have been subjected to harassment should immediately notify any supervisor or HR. Employees are welcome to report conduct they feel violates this policy directly to any of these individuals. There is no chain of command. Employees who believe they are being harassed by their supervisor *or* believe that the supervisor they notified of the harassment has not effectively responded should report the harassment and/or other concerns regarding the supervisor's response directly to the HR Department. Reports of harassment by any member of the HR Department should be reported to the HR Director or the Vice President of College Services.

The College's ability to resolve these kinds of problems and restore a comfortable working environment is dependent upon the cooperation of employees in reporting incidents they believe

violate this policy. Notification of the problem is essential. RCC cannot resolve harassment problems, unless it is made aware of those problems. Please report all conduct that violates this policy using the reporting policy outlined above and provide enough detail that the College can recognize the problem and take whatever steps are necessary to investigate and address harassment concerns. Supervisors and managers who receive complaints of harassment must promptly report such complaints to HR. This includes complaints received directly from employees, as well as complaints that are communicated indirectly through others. Similarly, supervisors and managers who witness or overhear conduct of the nature prohibited by this policy must report that conduct to the HR Department.

I. Investigations: Upon notification of a complaint, the HR Director or designee shall conduct an investigation to determine the facts regarding the complaint. Generally, this will include separate interviews of the alleged victim of harassment and the person(s) accused, along with witnesses as well as a review of documents and other evidence that is deemed relevant. After the investigation, the HR Director or designee will determine whether the provisions of this policy have been violated.

J. Confidentiality: The investigation of harassment complaints will be treated with as much confidentiality as the College determines is practical, while permitting an appropriate investigation and correction of the problem.

K. Discipline and other Corrective Action: In the event the College determines that an employee has violated this policy, appropriate disciplinary action up to and including discharge will be taken. In addition, other corrective action, such as group or individualized training and other steps may be taken as the College determines is appropriate. Appropriate action will also be taken to address violations of this policy by non-employees.

L. Protection against Retaliation: The College fully respects the right of its employees to raise harassment and discrimination concerns and to participate in investigations. It is a serious violation of this policy for supervisors, managers, employees or others to directly or indirectly retaliate against employees who report harassment or discrimination; cooperate with investigations; testify in harassment proceedings or assist in enforcement of this policy.

“Retaliation” is broadly construed under the law and this policy. It includes any adverse action against an applicant or employee for opposing harassment or discrimination. It may include any on-duty or off-duty conduct, whether related to employment or not, that could discourage an applicant or employee from making a complaint of discrimination or harassment or testifying, assisting or participating in an investigation or other proceeding. It could also include conduct such as “cold shoulder” treatment, changing job duties, making false claims, spreading rumors or similar negative conduct directed towards an employee because he/she has engaged in these types of activities.

Employees should use the reporting procedure set forth in Section F of this policy to bring complaints of retaliation to the attention of RCC. If we find that an employee has violated anti-retaliation standards, appropriate disciplinary action up to and including discharge will be taken in addition to any other corrective action as the College determines is appropriate.

4. RETALIATION

A. General Policy: Retaliation by management or co-workers against an employee for filing a complaint or cooperating in an investigation shall not be tolerated. The College shall not tolerate

unlawful retaliation or adverse actions against employees for engaging in protected activity. Protected activity is defined as activity an employee or applicant is legally entitled to engage in without adverse action from his/her employer, including but not limited to: opposing an unlawful practice prohibited by employment discrimination laws; reporting a safety hazard or violation; filing a workers compensation claim; or cooperating in an investigation, testifying in an employment-related proceeding or hearing.

B. Reporting and Complaint Process: Any employee who believes that he or she has been subjected to retaliation, or that a violation of this policy has occurred, should immediately report the violation to the HR Department. The HR Director or designee shall conduct an investigation regarding the complaint.

5. WHISTLEBLOWER

A. General Policy: Discrimination or retaliation against employees who report in good faith alleged violations of state or federal laws, rules, or regulations shall not be tolerated.

B. Disclosure of information otherwise protected under Oregon's public records law (ORS 192.501 to 192.505): An employee who in good faith has an objectively reasonable belief that the actions of the college or its employees violates federal, state or local law and who, in the process of reporting the alleged violation, discloses information that is exempt from disclosure under Oregon's Public Records laws (ORS 192.501 to 192.505) has an affirmative defense against civil or criminal charges arising out of such disclosure if the protected information was disclosed to: A state or federal regulatory agency; a law enforcement agency; a manager employed by the college; or an attorney, when the communication is in connection with the alleged violation and the communication is subject to Oregon's attorney-client privilege protection under ORS 40.225.

The affirmative defense provided for herein applies to an employee's disclosure of information related to an alleged violation by a coworker or supervisor acting within the course and scope of employment of the coworker or supervisor. The affirmative defense does not apply to information that: a.) Is disclosed or redisclosed by the employee or at the employee's direction to a party other than the parties listed above, b.) Is stated in an agreement that is not related to the employee's employment with the employer and is either a commercial exclusive negotiating agreement or a commercial nondisclosure agreement, c.) Is disclosed by an attorney or his/her employee if the information disclosed is related to the representation of a client or d.) Is protected from disclosure under federal law, including but not limited to HIPPA and FERPA and under these circumstances may only be disclosed in accordance with federal law.

C. Reporting and Complaint Process: Any employee who believes that he or she has been subjected to discrimination or retaliation for whistleblowing, or that a violation of this policy has occurred, should immediately contact HR. The HR Director or designee shall conduct an investigation regarding the complaint. Efforts shall be made to maintain anonymity and confidentiality to the greatest extent possible. Any employee who invokes their rights under this policy is entitled to all remedies available under Oregon's unlawful employment practices law, ORS 659A.200 to 659A.224.

6. GENETIC INFORMATION

Pursuant to the federal Genetic Information Nondiscrimination Act of 2008 (GINA), RCC respects the privacy of genetic information including information regarding an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder, or condition of an individual's family members (i.e., an individual's family medical history). Discrimination, harassment, or retaliation on the basis of genetic information regarding any aspect of employment shall not be tolerated.

7. RELIGIOUS ACCOMMODATION

RCC respects the religious beliefs and practices of all employees and shall make, upon request, an accommodation for such observances when a reasonable accommodation is available that does not create an undue hardship for the College. An employee whose religious beliefs or practices conflicts with his/her job, work schedule, or with the College's policy or practice on dress and appearance, or with other aspects of employment, and who seeks a religious accommodation, must submit a written request for the accommodation to HR. The written request shall include the type of religious conflict that exists and the employee's suggested accommodation. The College shall provide religious accommodation on a case-by-case basis, depending on the nature and extent of the accommodation requested and the requirements of the job.

8. LEAVE AND REASONABLE SAFETY ACCOMMODATIONS FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING

A. General Policy: RCC employees are entitled to take a reasonable amount of paid or unpaid leave to address domestic violence, sexual assault, or stalking in accordance with the provisions of ORS 659A.272. Employees involved in domestic or non-work related situations that may pose a risk to the workplace are encouraged to inform their supervisor or HR as soon as practicable. An authorized use of leave includes seeking legal or law enforcement assistance or remedies; seeking medical treatment for or recovering from injuries; obtaining counseling or services from a victim services provider; or relocating or taking steps to secure a safe home for the employee or minor child. When applicable, such leave shall also be designated as FMLA and/or OFLA.

B. Restraining Orders: Individuals who apply for or obtain a protective or restraining order that lists RCC College campus(es) or other facilities as protected areas, should provide the College Security/Safety Officer with a copy of the related petition and declarations and/or the temporary or permanent protective or restraining order.

C. Requests for Reasonable Accommodation: RCC offers reasonable safety accommodation to employees who are victims of domestic violence, sexual assault, or stalking. When an employee requests a reasonable safety accommodation, the College will engage in discussions with the employee about the nature and scope of a reasonable safety accommodation that will best address the particular safety concern affecting the individual employee. Requests for leave and reasonable safety accommodation may only be limited or denied when the employee's leave would create an undue hardship on college operations. Reasonable safety accommodation may include, but is not limited to, a transfer, reassignment, modified schedule, changed work station, telephone number, workplace facility or work requirement in response to actual or threatened domestic violence, sexual assault or stalking.

D. Records and Confidentiality: In accordance with ORS 659A.280(5), all records and information kept by the College regarding an employee's request for, or use of, leave and/or a reasonable safety accommodation under this rule will be kept confidential and may not be released without the express written permission of the individual, unless otherwise required by law. Documents provided to the College regarding the leave shall be maintained in a confidential, locked file separate from employee personnel files.

E. Prohibited Conduct: No person may refuse to hire an otherwise qualified individual because the individual is a victim of domestic violence, sexual assault or stalking. No person may discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation, or other terms, conditions or privileges of employment because the employee is a victim of domestic violence, sexual assault, or stalking, or because the employee requests leave or reasonable safety accommodations under the provisions of this rule.