



## AP 3430 Prohibition of Discrimination and Harassment

### References:

Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e-2;  
Age Discrimination in Employment Act of 1967 (ADEA); 29 U.S. Code Sections 621 et seq.;  
Americans with Disabilities Act of 1990 (ADA) 42 U.S. Code Sections 12101 et seq.  
ORS 659A  
OAR 839-005-0030 (sexual harassment)  
ORS 243  
BP 3433 Sexual Harassment Title IX  
AP 3433 Sexual Harassment Title IX  
AP 3432 Workplace Harassment  
AP 3434 Responding to Sexual Harassment Title IX  
AP 3435 Discrimination and Harassment Complaints and Investigations

Rogue Community College (“RCC”) is committed to providing an academic and work environment free of discrimination and harassment. This procedure defines discrimination and harassment on campus. AP 3435 Discrimination and Harassment Complaints and Investigations sets forth a procedure for the investigation and resolution of reports of discrimination and harassment by or against any staff or faculty member, agent, or student within RCC. Procedures related to Workplace Harassment are found in AP 3432.

This procedure and the related policies, procedures, and handbooks protect students, employees, unpaid interns, and volunteers in connection with all the academic, educational, extracurricular, athletic, and other programs of RCC, whether those programs take place in the RCC’s facilities, an RCC vehicle, or at a class, training program, or activity sponsored by RCC at another location. These policies and procedures also protect all students, employees, unpaid interns, and volunteers who are experiencing discrimination or harassment off campus where the off campus conduct is creating a hostile environment on campus or in any RCC program or activity.

### Definitions

**Discrimination:** Adverse treatment of an individual based 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 law, rather than individual merit.

**General Harassment:** Harassment is unwelcome conduct that is based on 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 law. Harassment becomes unlawful



where enduring the offensive conduct becomes a condition of continued employment or academic status, or the conduct is severe, persistent, or pervasive enough to create an environment that a reasonable person would consider intimidating, hostile, or abusive. Harassment shall be found where, in aggregate, the incidents are sufficiently pervasive, persistent, or severe that a reasonable person with the same characteristics as the reporting party of the harassing conduct would be adversely affected to a degree that interferes with their ability to participate in or to realize the intended benefits of an institutional activity, employment, student status, or resource.

For sexual harassment under Title IX, Complainants must proceed under BP 3433 Prohibition of Sexual Harassment under Title IX, AP 3433 Prohibition of Sexual Harassment under Title IX, and AP 3434 Responding to Harassment Based on Sex under Title IX. For other forms of sexual harassment or gender-based harassment, Complainants should use this procedure.

Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile or offensive conduct based on sex, gender, sexual orientation, gender identity, or gender expression can constitute prohibited harassment if it meets the definition above. For example, repeated derisive comments about a person's competency to do the job, when based on that person's sex, gender, sexual orientation, gender identity, or gender expression, could constitute gender-based harassment. Harassment comes in many forms, including but not limited to the following conduct that could, depending on the circumstances, meet the definition above, or could contribute to a set of circumstances that meets the definition:

**Verbal:** Inappropriate or offensive remarks, slurs, jokes or innuendoes based on a person's race gender, sexual orientation, or other protected status. This may include, but is not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats or intimidation; or sexist, patronizing or ridiculing statements that convey derogatory attitudes based on gender, race nationality, sexual orientation or other protected status.

**Physical:** Inappropriate or offensive touching, assault, or physical interference with free movement. It also includes any physical assault or intimidation directed at an individual due to that person's gender, race, national origin, sexual orientation or other protected status

**Visual or Written:** The display or circulation of visual or written material that degrades an individual or group based on gender, race, nationality, sexual orientation, or other protected status. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics, or electronic media transmissions.

**Environmental:** A hostile academic or work environment may exist where it is permeated by sexual innuendo; insults or abusive comments directed at an individual or group based on gender, race, nationality, sexual orientation or other protected status; or gratuitous comments regarding gender, race, sexual orientation, or other protected status that are not relevant to the subject matter of the class or activities on the job. It can also be created by an unwarranted focus on, or stereotyping of, particular racial or ethnic groups, sexual orientations, genders or other protected statuses. An environment may also be hostile toward anyone who merely witnesses unlawful harassment in his/her immediate surroundings, although the conduct is directed at others. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the pervasiveness of the conduct, the severity of the conduct, the persistence of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's learning or work.

**Sexual Harassment:** Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal or physical conduct of a sexual nature where such conduct is sufficiently severe or pervasive that it has the effect, intended or unintended, of unreasonably interfering with an individual's work or academic performance or it has created an intimidating, hostile or offensive environment and would have such an effect on a reasonable person.

This definition encompasses two kinds of sexual harassment:

**"Quid pro quo"** sexual harassment occurs when a person in a position of authority makes educational or employment benefits conditional upon an individual's willingness to engage in or tolerate unwanted sexual conduct.

**"Hostile environment"** sexual harassment occurs when unwelcome conduct based on a person's sex, gender, sexual orientation, gender identity, or gender expression is sufficiently severe or pervasive so as to alter the conditions of an individual's learning or work environment, unreasonably interfere with an individual's academic or work performance, or create an intimidating, hostile, or abusive learning or work environment. The reporting party must subjectively perceive the environment as hostile, and the harassment must be such that a reasonable person of the same gender would perceive the environment as hostile. A single or isolated incident of sexual harassment may be sufficient to create a hostile environment if it is severe, i.e. a sexual assault.

A hostile environment may be created by physical sexual harassment such as, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures.



Physical sexual harassment includes acts of sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the reporting party's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability.

A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom or work environment.

Sexually harassing conduct can occur between people of the same or different genders. The standard for determining whether conduct constitutes sexual harassment is whether a similarly situated reasonable person as the reporting party would perceive the conduct as harassment based on sex.

**Sexual Assault:** Sexual assault means unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat or intimidation.

**Workplace Harassment:** Workplace harassment means conduct that constitutes discrimination prohibited by ORS 659A.030, including conduct that constitutes sexual assault or that constitutes conduct prohibited by ORS 659A.082 or 659A.112.

### **Consensual Relationships**

AP-023 regulates consensual relationships among RCC community members.

### **Academic Freedom**

No provision of this Administrative Procedure shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. Freedom of speech and academic freedom are, however, not limitless and this procedure will not protect speech or expressive conduct that violates federal or State anti-discrimination laws, this procedure, or associated policies and handbooks.

**Rescinds Procedure Number: AP – 047b, AP – 064, AP – 101**

**Approved: January 7, 2020**

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