

## **BP 7700 Whistleblower Protection**

### **References:**

Affordable Care Act (29 U.S. Code Section 218C);  
ORS 659A.199 to ORS 659.236

The Clatsop Community College Board of Education strictly prohibits discrimination or retaliation against any employee for engaging in whistleblowing activities as defined in ORS 659A.200 to 659A.229, including disclosure of information otherwise protected under Oregon's public records law (ORS 192.311 to 192.478).

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 law has an affirmative defense against civil or criminal charges arising out of such disclosure if the protected information was disclosed to:

1. A state or federal regulatory agency;
2. A law enforcement agency;
3. A manager employed by the college; or
4. 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:

1. Is disclosed or redisclosed by the employee or at the employee's direction to a party other than the parties listed above; or
2. Is stated in an agreement that is not related to the employee's employment with the employer and is either:
  - a. a commercial exclusive negotiating agreement, or
  - b. a commercial nondisclosure agreement;
3. Is disclosed by an attorney or his/her employee if the information disclosed is related to the representation of a client; or
4. Is protected from disclosure under federal law, including but not limited to Health Insurance Portability and Accountability Act (HIPAA) and Family Educational Rights and Privacy Act (FERPA) and under these circumstances may only be disclosed in accordance with federal law.

Any employee who invokes his or her rights under this policy has the right to file a complaint under the College's harassment complaint procedure; and, is entitled to all



remedies available under Oregon's unlawful employment practices law, ORS 659A.200 to 659A.224.

The President shall establish procedures regarding the reporting and investigation of suspected unlawful activities by College employees, and the protection from retaliation of those who make such reports in good faith or assist in the investigation of such reports. For the purposes of this policy and any implementing procedures, "unlawful activity" refers to any activity — intentional or negligent — that an employee in good faith reasonably believes violates federal, state, or local law, rule, or College policy, or is evidence of mismanagement, gross waste of funds, or abuse of authority or substantial and specific danger to public health and safety resulting from action of the College.

The procedures shall provide that individuals are encouraged to report suspected incidents of unlawful activities without fear of retaliation, that such reports are investigated thoroughly and promptly, remedies are applied for any unlawful practices and protections are provided to those employees who, in good faith, report these activities or assist the College in its investigation.

Furthermore, College employees shall not:

- 1) retaliate against an employee or applicant for employment who has made a protected disclosure, assisted in an investigation, or refused to obey an illegal order;
- 2) retaliate against an employee or applicant for employment because the employee or applicant is a family member of a person who has made a protected disclosure, assisted in an investigation, or refused to obey an illegal order; or
- 3) directly or indirectly use or attempt to use the official authority or influence of his/her position for the purpose of interfering with the right of an applicant or an employee to make a protected disclosure to the College. The College will not tolerate retaliation, and will take whatever action may be needed to prevent and correct activities that violate this policy, including discipline of those who violate it up to and including termination.

END OF POLICY

President's Cabinet Approval Date:	June 14, 2022
College Council Approval Date:	June 17, 2022
DEI Council Approval Date:	June 6, 2022
Board Adoption Date:	September 13, 2022
Last Revised:	September 13, 2022

Rescinds: 4\_050