

# WISCONSIN INDIANHEAD TECHNICAL COLLEGE



## **ADMINISTRATIVE PROCEDURE: J-121A & G-113A & J-220A** **TITLE: Unlawful Discrimination/Harassment/Sexual Harassment/ Sexual Misconduct/Sexual Violence Complaints**

### **CROSS REFERENCE(S):**

G-112 & J-120 (Administrative Policy – Non Discrimination/Non Harassment Compliance)  
G-113 & J-121 (Administrative Policy – Unlawful Discrimination/Harassment/Sexual Harassment/Sexual Misconduct/Sexual Violence Complaints)  
J-220 (Administrative Policy – Student Relations)  
G-111 (Administrative Policy – Disability Accommodation)  
G-111A (Administrative Procedure – Disability Accommodation)  
Title VI and VII of the Civil Rights Act of 1964  
Title IX of the Education Amendments Act of 1972, as amended  
Section 504 and Section 508 of the Rehabilitation Act of 1973  
Title II of The Americans with Disabilities Act of 1990, as amended  
The Americans with Disabilities Act Amendments Act of 2008  
Wisconsin Fair Employment Law, Section 111.31-39  
1993 Wisconsin Act 427, effective May 7, 1994  
Equal Pay Act of 1963, as amended  
Age Discrimination in Employment Act  
Higher Education Act of 1965, §485(f) (20 U.S.C. 1092 (f))  
Clery Act, as amended, Sexual Violence Elimination Act (SaVE Act) as authorized by Violence Against Women Reauthorization Act  
Unlawful Discrimination/Harassment/Sexual Harassment/Sexual Misconduct/Sexual Violence Complaint Form (see WITC Forms Database)

Any student, employee, or student/employee applicant who believes that he/she has been unlawfully discriminated against or harassed or sexually harassed or a victim of sexual misconduct/sexual violence including domestic violence, dating violence, and/or stalking in violation of College policy is urged to report the incident.

The following position has been designated to oversee compliance with federal and state statutory and regulatory requirements related to equal employment and equal educational opportunities including Title VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments Act of 1972, as amended, Section 504 and Section 508 of the Rehabilitation Act of 1973, Title II of The Americans with Disabilities Act of 1990, as amended, and The Americans with Disabilities Act Amendments Act of 2008, Clery Act, as amended, Sexual Violence Elimination Act (SaVE Act) as authorized by Violence Against Women Reauthorization Act, Higher Education Act of 1965, §485(f) (20 U.S.C. 1092 (f)) and the guidance supplied by Department of Education, Office of Civil Rights and to handle inquiries, investigations and resolve complaints regarding the College's equal opportunity and non-discrimination/non-harassment policies for students, employees and student/employee applicants: Vice President, Human Resources & Risk Management, Administrative Office, 505 Pine Ridge Drive, Shell Lake, WI 54871; (715) 468-2815 ext. 2225. Employees and students may also report complaints to any member of President's Cabinet or to law enforcement as appropriate. If any member of President's Cabinet is alleged to have engaged in unlawful discrimination/harassment/retaliation, the complaint must be filed directly with the President. If the President is alleged to have engaged in unlawful discrimination/harassment/retaliation, the complaint must be filed directly with the Board Chair. All allegations/complaints will be investigated promptly according to College procedures and both the complainant and accused will be afforded equitable rights during the investigative process.

All complaints or reports of alleged acts or charges of unlawful discrimination/harassment/sexual harassment/sexual misconduct/sexual violence including domestic violence, dating violence, and/or stalking reported to the College will be handled under developed procedures that will include, but not be limited to, taking immediate action to eliminate the unlawful action, preventing its recurrence, addressing its effects, publishing a notice of non-discrimination/non-harassment/non-retaliation, adopting and publishing grievance procedures and ensuring College employees are trained to respond to issues/complaints promptly and equitably. The procedure is available for complaints by students, employees and student/employee applicants concerning alleged unlawful discrimination/ harassment/sexual harassment/sexual misconduct/sexual violence including domestic violence, dating violence, and/or stalking as those terms are described below.

WITC Vice President, Human Resources & Risk Management serves as the Equal Opportunity/ Affirmative Action Officer and Title IX Coordinator and the central intake point for complaints of unlawful discrimination/ harassment/sexual harassment/sexual misconduct/sexual violence including domestic violence, dating violence, and/or stalking. All charges of unlawful discrimination/ harassment/sexual harassment/sexual misconduct/sexual violence including domestic violence, dating violence, and/or stalking will be investigated according to College procedure by the Vice President, Human Resources & Risk Management (or designee) or a supervised investigation will be delegated to other trained, responsible members of President's Cabinet and/or outside legal counsel as appropriate.

### **Definitions**

1. Student means a person who has gained admission. Admission means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by a recipient.
2. Unlawful discrimination shall mean a difference in treatment in any employment related action, service, program, course, or facility of WITC on the basis of race, color, religion, sex, national origin, age, disability or status in any group protected by federal, state or local law in employment, admissions or its programs, services or activities. Unlawful discrimination may be in the form of harassment such as:
  - a. Unsolicited and repeated derogatory epithets, derogatory statements or gestures made to a person because of his/her protected status.
  - b. Any attempt to penalize or punish a person because of his/her protected status.
3. Sexual Harassment could include, but is not limited to, unwelcome sexual advances, unwelcome/ inappropriate physical contact that may be sexual or non-sexual in nature, unwelcome request for sexual favors, requests to take/taking photos/posting photos that are unwelcome/inappropriate based on the circumstances and other verbal or physical conduct of a sexual nature (including, but not limited to, deliberate or repeated unsolicited gestures or comments, or the deliberate or repeated display of offensive, sexually graphic materials, not necessary for educational purposes), when:
  - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's status as a student or employee;
  - b. Submission to or rejection of such conduct by an individual is used as a basis for enrollment, rating, or grading of a student or any employment related action for an employee;
  - c. Such conduct has the purpose or effect of substantially interfering with an individual's academic or work progress, or creating an intimidating, hostile, or offensive academic or working environment.
4. Sexual misconduct/sexual violence is also sexual harassment and as such is prohibited and could include sexual acts against a person's will or where a person is incapable of giving consent. The term "sexual assault" means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
5. "Domestic violence" includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person with whom the individual shares a child, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.
6. "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.

7. J-121A & G-113A & J-220A
8. Administrative Procedure

9. "Stalking" means a pattern of repeated and unwanted attention, harassment, contact, or other action directed at a specific person that could cause a reasonable person to feel fear or suffer substantial emotional stress.

### **Complaint Procedure**

#### **1. NOTIFICATION OF COMPLAINT**

- a. Any applicant, student, employee, or citizen requesting services from WITC who believes he/she has experienced or observed a violation of this policy or procedure at WITC may file a report with the Vice President, Human Resources & Risk Management at the following address: WITC Administrative Office, 505 Pine Ridge Drive, Shell Lake, WI 54871; (715) 468-2815, ext. 2225.
- b. The complaint report should be in writing, to the Vice President, Human Resources & Risk Management. The report should detail the facts and circumstances which are the basis for the complaint and identify the individual(s) at WITC responsible for the alleged violation and the policy, procedure, or practice that has been violated. Whenever possible, the "Unlawful Discrimination/ Harassment/ Sexual Harassment/Sexual Misconduct/Sexual Violence Complaint Form" should be used to provide the information requested. The complainant and the respondent will be advised of the College policy and procedures when filing a complaint.
- c. In accordance with Wisconsin law, a complaint alleging discrimination must be filed within 300 days of the alleged violation; however, a more immediate reporting of the incident will facilitate a prompt and thorough investigation of the facts and circumstances involved.
- d. The filing of a report with the College does not restrict a person's right to seek redress through avenues outside of the College.
- e. Retaliatory action against anyone filing a legitimate report for any type of unlawful discrimination/ harassment, including sexual harassment/sexual misconduct/sexual violence, is strictly prohibited.

#### **2. INVESTIGATION**

Upon receipt of a complaint and/or a Unlawful Discrimination/Harassment/Sexual Harassment/Sexual Misconduct/Sexual Violence Complaint Form, the Vice President, Human Resources & Risk Management will authorize an investigation of the incident(s) in question and seek prompt and equitable resolution of the matter. The specific steps of the investigation will vary based on the nature of the allegations and other factors; however, the College's inquiry will be prompt, thorough and impartial. Within ten (10) working days or school days from the receipt of the complaint or as soon as is administratively possible, the Vice President, Human Resources & Risk Management will initiate the following as needed:

- a. Take steps to ensure the safety of the offended parties as necessary.
- b. Conduct individual meetings with the person who filed the complaint and with other persons identified in the complaint as being either witnesses to or responsible for the alleged violation(s).
- c. Conduct group meetings with the principal parties involved in the incident(s) in question, as necessary.
- d. Attempt to resolve the matter to the mutual satisfaction of the principal parties involved. The resolution actions may include advisement, investigation, observation, sensitivity training, accommodations, disciplinary action up to and including termination or expulsion, and reporting criminal activity and/or specific counseling for behavior modification. If the matter cannot be resolved to the mutual satisfaction of the principal parties involved, the individual will have the option to proceed to an appeal hearing with the Board of Trustees (Board). The appeal hearing would be in accordance with the Appeal Process (section 4).

3. FINDINGS

If there is a preponderance of evidence to believe that a violation(s) has occurred, the College will take appropriate action. Individuals discriminating against students or employees will be subject to discipline under appropriate WITC policies. The College will also take other necessary corrective action to remedy any instances or effects where unlawful discrimination/ harassment/sexual misconduct/sexual violence is determined to have occurred. Notice of the action will be sent to the principal parties involved.

4. APPEAL PROCESS

Within five (5) working days or school days following notification of the action taken by the College, following the investigation and findings, either of the principal parties involved may file an appeal with the WITC President for a hearing with the Board. The Board will, if practical, consider the request for appeal at its next regularly-scheduled meeting (but not sooner than 30 days or later than 60 days from receipt of the request for appeal), and may deny the appeal, overturn the original decision, or remand the matter for a partial or complete review, citing specific matters to be considered. The disposition of the Board is final and there shall be no further appeal within the College of the matter.

5. RESTRICTION

- a. Action relating to employment and/or enrollment should not be taken for or against a person until a report of unlawful discrimination/harassment has been resolved, unless such action is deemed necessary to the well-being or safety of the people involved in the action or to the function of the College or when such action/decision is part of the usual business of the College.
- b. Inasmuch as this review process represents an administrative inquiry into the facts and circumstances surrounding a report of unlawful discrimination/harassment/sexual harassment/sexual misconduct/sexual violence, the use of legal counsel and/or representation is not permitted.
- c. However, nothing in these procedures will preclude an employee's or student's right to seek other avenues of redress outside of the College including a complainant's right to file a criminal complaint, as appropriate.

6. DOCUMENTATION

A record of all complaints must be maintained and forwarded to the College's Vice President, Human Resources & Risk Management for reporting purposes in compliance with federal and state laws.

WITC will submit a report by September 1st to the Board and the Wisconsin Technical College System Board specifying the number of complaints received in the previous school year and the disposition of each such complaint.

**Reference:** *This policy requires Board approval per Wisconsin Technical College System Methods of Administration requirements and the regulations promulgated by the authority of Title VI and VII of the Civil Rights Act of 1964  
Title IX of the Education Amendments of 1972, as amended  
Section 504 of the Rehabilitation Act of 1973  
Title II of The Americans with Disabilities Act of 1990, as amended  
The Americans with Disabilities Act Amendments Act of 2008  
Higher Education Act of 1965, §485(f) (20 U.S.C. 1092 (f))  
Clery Act, as amended, Sexual Violence Elimination Act (SaVE Act) as authorized by Violence Against Women Reauthorization Act*

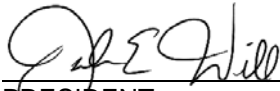
**Questions regarding this policy should be directed to Human Resources.**

Policy Adopted: February 19, 1976

Policy Reviewed: November 16, 2010

Policy Revised: July 10, 1978 April 19, 1982 July 18, 1990  
February 4, 1991 March 1, 1991 February 15, 1994  
January 1, 2000 March 4, 2001 March 4, 2002  
April 5, 2005 July 1, 2006 January 9, 2007 (revisions  
provided by legal counsel)

August 7, 2012  
August 19, 2013 (revisions provided by legal counsel)  
August 18, 2014  
August 17, 2015  
August 21, 2017



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PRESIDENT  
WISCONSIN INDIANHEAD TECHNICAL COLLEGE