

# WISCONSIN INDIANHEAD TECHNICAL COLLEGE



## ADMINISTRATIVE PROCEDURE: G-113B

### TITLE: [Unlawful Discrimination/Harassment/Sexual Harassment/ Sexual Misconduct/Sexual Violence Complaints Grievance Procedure](#)

#### CROSS REFERENCE(S):

G-111 (Administrative Policy – Disability Accommodation)

G-111A (Administrative Procedure – Disability Accommodation)

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)

G-113A (Administrative Procedure – Unlawful Discrimination/Harassment/Sexual Harassment/Sexual Misconduct/Sexual Violence Complaints)

G-114 & J-114 (Administrative Policy – Sexual Violence Elimination Commitment)

G-115 (Administrative Policy – Timely Warning Notice and Immediate Notification)

G-115A (Administrative Procedure – Timely Warning Notice and Immediate Notification)

Title 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 employee, or employee applicant who believes that he/she has been unlawfully discriminated against or harassed or sexually harassed 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 VII of the Civil Rights Act of 1964, 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: Director, Human Resources, Administrative Office, 505 Pine Ridge Drive, Shell Lake, WI 54871; (715) 468-2815 ext. 2240. Employees may also report complaints to any member of the College Leadership Team or to law enforcement as appropriate. If any member of the College Leadership Team 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 Director, Human Resources 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, stalking, and/or similar unwelcome conduct determined to deny a person equal access to the College's educational programs or activities. All charges of unlawful discrimination/ harassment/sexual harassment/sexual misconduct/sexual violence including domestic violence, dating violence, stalking, and/or similar unwelcome conduct determined to deny a person equal access to the College's educational programs or activities will be evaluated according to College procedure by the Director, Human Resources (or designee), who may investigate same or assign a supervised investigation which will be delegated to other trained, responsible members of the College Leadership Team and/or outside legal counsel as appropriate.

### **Complaint Procedure**

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

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 Director, Human Resources at the following address: WITC Administrative Office, 505 Pine Ridge Drive, Shell Lake, WI 54871; (715) 468-2815, ext. 2240 email: [amanda.gohde@witc.edu](mailto:amanda.gohde@witc.edu).

The complaint report should be in writing, to the Director, Human Resources. 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. For a complaint subject to the Title IX, G-113A shall control the procedure until the appeal process. For other matters, this procedure shall control.

- a. 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.
- b. The filing of a report with the College does not restrict a person's right to seek redress through avenues outside of the College.
- c. 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 Director, Human Resources 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 Director, Human Resources (or designee) will initiate the following as needed:

Conduct individual meetings with the complainant to discuss the substance of the complaint and to identify witnesses (lay or expert) and other relevant inculpatory and exculpatory evidence.

Conduct individual meeting with the respondent to discuss the substance of the complaint and to identify witnesses (lay or expert) and any other relevant inculpatory or exculpatory evidence.

Conduct interviews with relevant identified witnesses from each party (if any).

The investigator shall conclude the investigation by drafting a written investigation report which fairly summarizes the relevant evidence and provides recommended discipline (if any). Such report will be sent to the parties and any identified party advisor. The parties will have 5 days to review and provide a written response to the investigator.

### 3. HEARING

Within 10 days following the conclusion of the investigation, the College will schedule a live hearing to present its findings. At the hearing, each party's advisor may ask the other party and any witnesses identified by the party relevant questions and follow-up questions, including questions challenging witness credibility. For this purpose, a live hearing is one which is conducted in real-time; provided, however, that either party can request that the parties be located in separate rooms with technology that enables the decision-maker and both parties to simultaneously see and hear all witnesses (including the parties themselves). Similarly, in cases where health concerns warrant, the decision-maker may direct that the hearing be conducted through technological means.

The hearing shall be recorded either by audiovisual recording or by transcript. A copy of the recording or transcript, as applicable, will be provided to the parties within a reasonable time following the conclusion of the hearing.

The decision-maker (who may not be the investigator) must issue a written determination regarding responsibility and, if applicable, any disciplinary measures to be implemented. The decision-makers standard of evidence is preponderance of the evidence. Such determination shall be provided to the parties simultaneously. Either side may appeal the decision by following the procedures below. If neither party appeals, the decision will become final on the day after the day the appeal period lapses.

If the decision-maker there is reason to believe, by a preponderance of evidence that a violation(s) has occurred (and no party appeals), the College will take appropriate action. Individuals discriminating against 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

Any party can appeal a decision-maker's determination regarding responsibility, or the College's dismissal of a Formal Complaint for identified deficiencies, on any of the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination was made which could affect the outcome of the matter; or
- Allegations of a conflict of interest or bias by the Title IX Coordinator (if applicable), the investigator, or the decision-maker that affected the outcome of the matter. Such a conflict of interest or bias can be alleged to be against complainants or respondents generally or against complainants or respondents generally or against the particular complainant or respondent in the matter.
- Change to the substantive disciplinary decision.

Such appeal must be filed within five (5) business days with the President's Office following issuance of the decision-maker's decision. Upon receipt of the appeal, the College shall schedule a hearing at a Board of Trustees' meeting for the Board of Trustees to consider the appeal and shall notify the parties of its receipt of an appeal request and schedule the appeal hearing. The reviewer shall notify the parties of the appeal procedures and set a briefing schedule for the parties to submit written statements in support of, or challenging, the outcome prior to the hearing. Such briefing schedule shall provide an opportunity for each party to respond to the arguments of the other party. The Board shall issue a written decision describing the result of the appeal and rationale to both parties. 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. INFORMAL RESOLUTION

At any time during the course of the investigation or hearing, the College may offer the parties the opportunity to engage in an informal resolution of the complaint, such as mediation. The parties may decline to participate in such process without affecting the proceedings. If the parties choose to engage in the process, the parties will each indicate consent in writing. A party may end informal resolution discussions at any time prior to reaching an agreed resolution. This process may not be utilized where the allegations involve an employee sexually harassing a student.

6. 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.
- b. 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.

7. DOCUMENTATION AND CONFIDENTIALITY

A record of all complaints, investigation and hearing records, informal resolutions and training records must be maintained and forwarded to the College's Director, Human Resources 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 as directed by the WTCS Office.

**Reference:** This procedure requires **Board approval** per Wisconsin Technical College System Methods of Administration requirements and the regulations promulgated by the authority of Title VI 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 procedure should be directed to Human Resources.**

Procedure Adopted: August 17, 2020 (revisions made in conjunction with legal counsel on 8/3/20)



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PRESIDENT  
WISCONSIN INDIANHEAD TECHNICAL COLLEGE