



## **BP 7700 Whistleblower Protection**

### **References:**

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

The 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 their 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 their 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.

**Rescinds Procedure Number:** AP-028 (5.A. and 5.B.)

**Adopted:** January 21, 2020