

F.a.

Memo February 19, 2025

To: OCCC Board of Education

From: Dr. Marshall Mease Roache, President

Prepared by: Dr. Birgitte Ryslinge, Accreditation Liaison Officer

RE: Title IX Rollback to 2020 Title IX regulations, OCCC Board Policy 3433.

Dear Board,

I recommend the Board act in exception to Board Policy 2410 and immediately adopt the attached revised Board Policy 3433 in order to align OCCC with current Title IX federal interpretation, and to allow the president going forward to make administrative adjustments to BP 3433 to retain compliance in rapidly shifting conditions. My recommendation derives from guidance issued by the Department of Education, and OCCA Policy Service (Karen Smith, Senior Policy Advisor & General Counsel, and a review of relevant OCCC Board Policy regarding the change process).

Excerpt from 2/2/2025 Dear Colleague Letter, Department of Education.

This letter is to clarify that, in light of a recent court decision, the United States Department of Education's (ED) Office for Civil Rights (OCR) will enforce Title IX under the provisions of the 2020 Title IX Rule,² rather than the 2024 Title IX Rule.³ Accordingly, lawful Title IX enforcement includes, inter alia, the definition of sexual harassment, the procedural protections owed to complainants and respondents, the provision of supportive measures to complainants, and school-level reporting processes as outlined in the 2020 Title IX Rule

Excerpt from Karen Smith (OCCA) 2/7/2025 email.

While we await the federal legal update, you should revert back to the board policy and administrative procedures templates that are consistent with the 2020 Title IX regulations. When you post these policies, it would be a good practice in this case to add a note that due to changes occurring at the federal level as a result of lawsuits and the change in administrations, the college reserves the right to update these policies and procedures at any time to comply with state and federal laws and regulations.

OCCC Board Policy Process Considerations:

While BP 2410 Board Policies and Administrative Procedures states *Proposed changes or additions shall be introduced not less than one regular meeting prior to the meeting at which action is recommended*, 2550 Participation in Local Decision Making creates an exception to the public participation allowed by the two meeting rule: *Except for unforeseeable emergency situations, the Board of Education shall not take any action on matters subject to this policy until the appropriate constituent group or groups have been provided an opportunity to participate.* Board Policy 2430 Delegation of Authority to the College President notes the President is responsible to the Board for the proper administration of the college, which presumably would include a responsibility to maintain federal compliance.

Follows is the wording of the Motion to implement under an exception, followed by the proposed revised BP 3433

Motion: Move to approve and adopt the Revised BP 3433 Prohibition of Sexual Harassment under Title IX, as an exception to practice under BP 2410 Board Policies and Administrative Procedures AND authorize President Roache to update BP 3433 and any related policies and procedures at any time to comply with rapidly changing state and federal laws and regulations. Any changes will be reported to the Board at the next scheduled Board Meeting.

**Revised BP 3433 Prohibition of Sexual Harassment under Title IX
(Returned to pre-2024 Title IX Rule 2/25)**

References:

Title IX of the Education Amendments Act of 1972.
34 Code of Federal Regulations Part 106
Returned to pre-2024 Title IX Rule 2/25

Notes:

- 1. Due to changes occurring at the federal level as a result of lawsuits and the change in administrations, Oregon Coast Community College reserves the right to update BP 3433 and any related policies and procedures at any time to comply with state and federal laws and regulations.*
- 2. The college recognizes that federal and state laws differ in terms of procedural practices and protections based on gender identity. The Title IX Coordinator will determine whether a complaint is to be investigated as a potential violation of Title IX and/or Oregon sexual harassment law. Procedures required for Title IX will be followed for all complaints that could reasonably result in a Title IX violation. If the complaint does not meet the requirements of being a potential Title IX violation, the state procedures and definitions will be applied to the investigation.*

All forms of sexual harassment are contrary to basic standards of conduct between individuals. State and federal law and this policy prohibit sexual harassment and Oregon Coast Community College will not tolerate sexual harassment. The College is committed to providing an academic and work environment that respects the dignity of individuals and groups. The College shall be free of sexual harassment and all forms of sexual intimidation and exploitation including acts of sexual violence.

The College seeks to foster an environment in which all employees, students, applicants for employment, and applicants for admission feel free to report incidents of sexual harassment in violation of this policy and Title IX, without fear of retaliation or reprisal. Therefore, the College also strictly prohibits retaliation against any individual for filing a complaint of sexual harassment in violation of this policy and Title IX or for participating, or refusing to participate, in a sexual harassment investigation. The College will investigate all allegations of Title IX retaliation swiftly and thoroughly. If

the College determines that someone has retaliated, it will take all reasonable steps within its power to stop such conduct. Individuals who engage in Title IX retaliatory conduct are subject to disciplinary action, up to and including termination or expulsion.

Any employee, student, applicant for employment, or applicant for admission who believes that he/she/they has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in AP 3434. The College requires supervisors to report all incidents of harassment and retaliation that come to their attention.

This policy applies to all aspects of the academic environment, including but not limited to classroom conditions, grades, academic standing, employment opportunities, scholarships, recommendations, disciplinary actions, and participation in any community college activity. In addition, this policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities, and compensation.

To this end the President shall ensure that the institution undertakes education and training activities to counter sexual harassment and to prevent, minimize, or eliminate any hostile environment that impairs access to equal education opportunity or impacts the terms and conditions of employment.

The President shall establish procedures that define sexual harassment on campus. The President shall further establish procedures for employees, students, and other members of the campus community that provide for the investigation and resolution of complaints regarding sexual harassment in violation of this policy, and procedures to resolve complaints of sexual harassment in violation of this policy. State and federal law and this policy prohibit retaliatory acts against all participants by the College its employees, students, and agents.

The College will publish and publicize this policy and related written procedures (including the procedure for making complaints) to administrators, faculty, staff, students, applicants for employment, and applicants for admission, particularly when they are new to the institution. The College will make this policy and related written procedures (including the procedures for making complaints) available in all administrative offices and will post them on the College's website.

Employees who violate the policy and procedures may be subject to disciplinary action up to and including termination. Students who violate this policy and related procedures may be subject to disciplinary measures up to and including expulsion. Volunteers or unpaid interns who violate this policy and related procedures may be subject to disciplinary measure up to and including termination from the volunteer assignment, internship, or other unpaid work experience program.