

2.32 Non-Retaliation Policy

Last Revised: November 2022

Policy: Piedmont Community College (PCC) forbids retaliation against any individual who, in good faith, reports or who participates in the investigation of alleged violations of state or federal law (including Title IX, Title VII, Pregnancy Discrimination Act (PDA), the Age Discrimination in Employment Act (ADEA) and the Americans with Disabilities Act (ADA)), College policy, rules or regulations.

Purpose/Definitions:

Purpose

To define how the College provides for the protection of any person or group within its community from retaliation who, in good faith, participates in investigations or reports alleged violations of policies, laws, rules or regulations applicable to the College. Such violations include, without limitation:

- Discrimination, harassment, or sexual misconduct
- Fraud
- Unethical business conduct
- Academic misconduct
- Waste, abuse, or mismanagement
- Substantial, specific or imminent danger to faculty, staff or students, or to the public health or safety.

Definitions

Bad Faith Reporting—an individual shall be considered to have reported in bad faith if they have brought forward a complaint or participated in providing information during an investigation, knowing that such information is not true or made without a reasonable belief in the truth of the allegation based upon the facts.

Days (Business)—except as otherwise noted, days will mean business days during which the college administrative offices are open. In computing any period of time, the day on which notice is received will not be counted. Saturdays, Sundays and scheduled College holidays will not be included in the computation. All processes involving Federal, State, or other statutes must be completed in the time frame set forth in the appropriate statute or law.

From Laws Enforced by the EEOC:

Title VII of the Civil Rights Act of 1964 (Title VII) – This law makes it illegal to discriminate against someone on the basis of race, color, religion, national origin, or sex. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate applicants' and employees' sincerely held religious practices, unless doing so would impose an undue hardship on the operation of the employer's business.

The Pregnancy Discrimination Act – This law amended Title VII to make it illegal to discriminate against a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

The Equal Pay Act of 1963 (EPA)—This law makes it illegal to pay different wages to men and women if they perform equal work in the same workplace. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

The Age Discrimination in Employment Act of 1967 (ADEA) – This law protects people who are 40 or older from discrimination because of age. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Title I of the Americans with Disabilities Act of 1990 (ADA) – This law makes it illegal to discriminate against a qualified person with a disability in the private sector and in state and local governments. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless doing so would impose an undue hardship on the operation of the employer's business.

The Genetic Information Nondiscrimination Act of 2008 (GINA) – This law makes it illegal to discriminate against employees or applicants because of genetic information. Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder or condition of an individual's family members (i.e. an

individual's family medical history). The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

U. S. Equal Employment Opportunity Commission. (2018, Oct. 3) *Laws enforced by the EEOC*. Retrieved from <https://www.eeoc.gov/laws/statutes/index.cfm>

Good Faith Reporting—an individual is considered to have reported in good faith if they have brought forward the complaint or participated in providing information during an investigation, based upon a reasonable belief that the information provided is true.

Retaliation—any inappropriate or unsubstantiated action taken or threatened against an employee because the individual has, in good faith, made an allegation concerning the violation of state or federal law, College policy, rule or regulation, or has participated in any manner with an investigation of such allegation. Such actions adversely affect or threaten to affect the employment rights or other interests of an individual and can take either work or social form.

Examples of work-related retaliation may include, but are not limited to:

- Unsubstantiated adverse performance evaluations or disciplinary action
- Unfounded negative job references
- Arbitrary denial of salary increases, promotions or other job benefits
- Unfounded reduced or limited work assignments.

Examples of social retaliation in the workplace may include, but are not limited to:

- Discrimination or harassment from co-workers and/or supervisor
- Bullying, which involves repeated intimidation or humiliation, derogatory or insulting remarks, or social isolation and which occurs indirectly (e.g., via e-mail) or directly
- Hostile work environment, described as conduct that is so objectively offensive as to alter the conditions of employment
- Physical threats and/or destruction of personal or state property.

Actions also considered retaliatory include any action taken or threatened by an employee that would dissuade a reasonable employee from engaging in activities protected by this policy.

Title IX of the Education Amendments of 1972 (Title IX)—this law makes it illegal to discriminate against someone on the basis of sex in any federally funded education program or activity. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Approval Authority/Monitoring Authority: The Piedmont Community College Board of Trustees has approval authority for this policy. The Vice President, Administrative Services/CFO has monitoring authority.

Procedure:

Section 1: Reporting Protections and Restrictions

- 1.1. Retaliation against any individual who, in good faith, reports or who participates in the investigation of alleged violations is strictly forbidden.
- 1.2. This policy does not protect an individual who files a report or provides information as part of an investigation that they know is false, files a bad faith retaliation claim or participates in any illegal conduct.
 - 1.2.1. The College will take appropriate action, up to and including dismissal, against any employee who violates this policy.

Section 2: Reporting Retaliation

- 2.1. If an individual believes they have been the subject of retaliation, the individual should either contact the immediate supervisor in the office to which the initial complaint was filed or any of the following:
 - 2.1.1. The individual's dean, director, or administrative head
 - 2.1.2. The Director, Human Resources and Organizational Development
 - 2.1.3. The Vice-President, Administrative Services/CFO
- 2.2. Reports should be made within 30 days after the suspected wrongful activity or retaliation occurs to facilitate investigation of the report.
- 2.3. All reports will be handled as promptly and discreetly as possible, with facts made available only to those who need to know to investigate and resolve the matter.

Section 3: Investigation

- 3.1. The appropriate office will investigate the complaint in accordance with the PCC Policy 5.19 Employee Disciplinary Policy.
- 3.2. Depending on the nature of the allegations, the investigation could include:
 - 3.2.1. Interviews with the reporting party

- 3.2.2. Interviews with the accused individual(s) (or, if the alleged retaliation involves a department rather than an individual, with a representative of that department)
 - 3.2.3. Interviews with witnesses
 - 3.2.4. A review of written documentation and relevant policies
 - 3.2.5. Any other steps necessary to investigate the allegations thoroughly
- 3.3. The appropriate office will take any warranted disciplinary action and will notify the reporting party and the accused of the outcome of the investigation.

Section 4: Appeal

- 4.1. Any party not satisfied with the outcome of a retaliation investigation may appeal the decision pursuant to College Policy 5.20 Employee Grievance.

Legal Citation: [Title IX of the Education Amendments of 1972 \(Title IX\)](#), [Title VII of the Civil Rights Act of 1964 \(Title VII\)](#), [The Pregnancy Discrimination Act](#), [The Age Discrimination in Employment Act of 1967 \(ADEA\)](#), [Title I of the Americans with Disabilities Act of 1990 \(ADA\)](#), [The Genetic Information Nondiscrimination Act of 2008 \(GINA\)](#), and [N.C.G.S. 95-240 to 95-245](#).

History: Effective November 6, 2018; revised November 2020—cross references Policies 5.19 Employee Disciplinary Policy and 5.20 Employee Grievance, May 2022—updated definitions, November 2022