

WALLA WALLA COMMUNITY COLLEGE
Disclosure of Public Records
Employee Workplace Sexual Harassment or Stalking
POLICY NUMBER 2210

Policy Background/Purpose

The purpose of this policy is to implement RCW 42.56.660 - 42.56.675 in order to help foster workplace safety at Walla Walla Community College (college) by establishing procedures governing Public Records Act (PRA) (chapter 42.56 RCW) access to certain college records concerning college employee claimants/victims of workplace sexual harassment and stalking. As a policy for state agencies, including Walla Walla Community College, the State Legislature found that:

- College employees operate in unique work environments in which there is a higher level of transparency surrounding their daily work activities.
- WWCC must act to protect the health and safety of college employees, but even more so when employees become the victims of sexual harassment or stalking.
- When a college employee is the target of sexual harassment or stalking, there is a significant risk to the employee's physical safety and well-being.
- Workplace safety is of paramount importance and the state has an interest in protecting against the inappropriate use of public resources to carry out actions of sexual harassment or stalking.

The State Legislature amended the PRA to support this policy with respect to disclosure of certain college records. Therefore, the college will restrict disclosure and/or notify college employee victims of workplace sexual harassment or stalking when the college receives a PRA request for certain records concerning the college employee claimants/victims, as provided in the PRA and this policy.

I. DEFINITIONS

College employee means any person who qualifies or qualified as a state agency employee at Walla Walla Community College.

Claim of workplace sexual harassment or stalking means (1) a formal complaint filed pursuant to the Title IX Grievance Procedure Policy 2020 or other relevant procedures, and/or (2) less formal complaints reported to the Title IX Coordinator.

Claimant means a person who has filed or made a claim of alleged workplace sexual harassment or stalking or is named as a victim.

Discipline means an authorized employment compliance directive or decision under agency laws, rules and policies, addressing employee misconduct, imposed upon the alleged harasser/stalker, including but not limited to reductions in pay, suspensions, demotions, and dismissals. Discipline also includes sanctions and conditions imposed on students pursuant to WAC 132T-100-290.

HR means Human Resources Department staff.

Immediately with respect to providing notice means no later than five business days, if feasible. The time to provide notice may be adjusted depending upon the circumstances.

Indirectly with respect to providing records means providing records to persons acting on behalf of an alleged harasser/stalker and who are making PRA requests --- including but not limited to an attorney, union representative, other legal representative or agent. Other persons may be included as persons acting on behalf of an alleged harasser/stalker, depending upon the circumstances, such as a relative of the requester, or organizations that make PRA requests on behalf of individuals or persons.

Investigation means a formal or informal process as defined in Title IX Grievance Procedure Policy 2020 or when a person authorized by the college is gathering facts and evidence on behalf of the college to determine whether a claim can be substantiated. Depending upon the circumstances, an investigation might be conducted by Human Resources Department staff, a supervisor, an outside investigator, or other authorized person.

Issued means discipline that has been dispensed and/or imposed by a person with authority as part of their job duties to issue and/or levy the discipline, typically in writing.

List of college employees means a list of college employees who are named as victims in workplace sexual harassment or stalking claims, prepared pursuant to RCW 42.56.675 and in order to administer RCW 42.56.660.

PRO means the college's Public Records Officer or designee.

PRR means “public records request” which is a request for records submitted under the Public Records Act. A request will be referred to in this policy as a PRR, or a PRA request.

Public Records Act (PRA) means chapter 42.56 RCW.

Records concerning a college employee means public records the contents of which have to do with an identifiable and specific college employee and which relate to the employee’s employment status as a particular individual. The records primarily concern the employee as an employee, not the employee’s agency or general work. Other public records concerning a college employee that could be used to “carry out actions of sexual harassment or stalking” may be included. “Records concerning an agency employee” do not include work product created by the agency employee as part of his or her official duties.

Stalking as defined in the Title IX Grievance Procedure Policy 2020.

Victim means a person who, in a claim, is alleged to have been the target of workplace sexual harassment or stalking. A victim can be the claimant or other persons listed in the claim as additional alleged victims.

Workplace sexual harassment as defined in the Title IX Grievance Procedure Policy 2020.

II. ACTIONS AND RESPONSIBILITIES

The following employees have these responsibilities under this policy:

- **Public Records Officer or Designee (PRO):**

Under this policy, the Public Records Officer (PRO) and/or the PRO’s designee(s) will take these steps.

Step 1. Upon receipt of a PRA request (PRR) seeking records concerning a college employee claimant/victim who was targeted for workplace harassment or stalking and governed by RCW 42.56.660 - .675, the PRO will determine if:

(a) the college received a **claim** concerning the alleged

- harassment or stalking and there is a **claimant** or **victim**,
- (b) the college conducted an **investigation** as a result, and
- (c) the college **issued discipline** upon a college employee as a result.
- (d) The PRO will also determine if the request seeks a **list of names** of employee claimants/victims maintained by the college in order to administer RCW 42.56.660.

The PRO may need to consult with Human Resources Department or supervisory staff, and/or the claimant or victim, or other relevant staff including college legal counsel, to ascertain this information.

Step 2. If the answer to all three in (a) – (c) of Step 1 is “**yes**,” the PRO will make reasonable efforts to determine the true identity of the requester, and then proceed to Step 3. If the answer to (d) is “yes,” the agency will not disclose the list of names pursuant to RCW 42.56.675.

If the answer to any of (a) – (c), or separately for (d), in Step 1 is “no,” the PRO will skip Step 3 and proceed to Step 4.

Step 3. After the PRO makes reasonable efforts to determine the true (actual) identity of the requester, the PRO will proceed to A or B below, whichever is relevant.

- A. **REQUESTER IS HARASSER/STALKER.** If the PRO reasonably verifies that the requester is the person alleged to have harassed or stalked the college employee claimant/victim, the records will not be released to the requester under RCW 42.56.660(1), *unless* the agency receives a valid court order requiring release or written consent for release by the claimant or victim. The PRO will cite RCW 42.56.660(1) as the exemption from disclosure, along with other relevant exemptions (if any).

If the PRO believes the requester is or may be acting on behalf of the alleged stalker/harasser, or intends to use the requested records to harass or stalk the college employee claimant/victim, the PRO will consult with college legal counsel.

The PRO will work with HR staff to inform the employee of their right to provide written consent to disclosure of the requested records, if the employee has not yet provided or refused consent. The college may place a copy of any signed consent form in the employee's personnel file and the specific PRR file.

The PRO may also give notice of the PRR to the employee claimant/victim under RCW 42.56.540.

- B. REQUESTER IS NOT HARASSER/STALKER.** If the PRO reasonably verifies that the requester is someone other than the alleged harasser/stalker (or someone not covered by A. above), the PRO will immediately give notice of the PRR to the employee claimant/victim under RCW 42.56.660(2)(b), unless the employee/claimant has consented in writing to waiver of such notice and thus also agrees to the release of the requested records concerning the employee.

The PRO will inform the employee that absent a court order enjoining the college from disclosing records, the records will be disclosed unless exempt under some other law (other than RCW 42.56.660).

The PRO will provide the employee a date by which the college must receive notice that the employee has initiated any court action to enjoin disclosure. Except for the college's five-day response letter required in RCW 42.56.520, the PRO will suspend further processing of the part of the request for these records covered by RCW 42.56.660 during the pendency of the court action, and will not disclose those records during that time. RCW 42.56.660(2)(b). The PRO will continue to process any other parts of the request, including review of the requested records that may be exempt under other laws.

- If the PRO does not receive notice that the employee has initiated an action under RCW 42.56.660 seeking to enjoin disclosure by the date set by the PRO, the PRO

will continue to process the PRA request and may consider other relevant exemptions from disclosure (if any), prior to any release of the requested records. For example, certain college investigative records concerning harassment in employment are also addressed in the exemption at RCW 42.56.250(6).

- If the PRO timely receives a valid court order enjoining disclosure following this notice, the college will follow the terms of the court order, and/or seek review or clarification, if necessary.
- If the employee's action seeking an injunction is dismissed without the court granting an injunction, and absent a stay, the PRO will continue to process the PRR and may consider other relevant exemptions from disclosure (if any), prior to any release.

Step 4. If the answer to (a) - (c), or separately for (d), in Step 1 is “no” the PRO may give notice of the PRA request to the employee under RCW 42.56.540, using the same third party notice procedures the agency uses with other PRA requests including but not limited to WAC 132T-175-080.

The PRO may take other reasonable steps and provide other notices with respect to a particular PRR.

- **Employee Claimant/Victim of Workplace Sexual Harassment or Stalking:**

Under this policy, a college employee who is a claimant/victim of workplace sexual harassment or stalking must cooperate with the PRO as needed for the agency to process a PRA request (PRR) for the records concerning the employee that are addressed in RCW 42.56.660 - .675.

This cooperation includes but is not limited to:

- Immediately notifying the PRO if the employee becomes aware the requester is the alleged harasser/stalker, someone acting on behalf of the alleged harasser/stalker, or a person who intends to use the requested records or information in

the requested records to harass, stalk, threaten, or intimidate that college employee.

- Complying with any deadlines set by the PRO to provide information needed by the college to process the request.
- Immediately, by no fewer than 10 days prior to the court hearing, notifying the PRO if the employee has initiated a court action to enjoin disclosure. The employee must provide sufficient notice to the PRO of the court proceeding under the relevant court rules and procedures.
- Immediately providing the PRO and the Attorney General's Office (the division representing the college) a copy of any court order and all pleadings relevant to the PRR.
- Providing written consent to the PRO to disclosure of the requested records to the alleged harasser/stalker if the employee has no objection to their release.
- Other actions identified by the PRO or college, which are needed to process the PRR or respond to court actions concerning the request.

If the college employee who is a claimant/victim has concerns about release of the records which are being sought through procedures outside the PRA (discovery, subpoenas, etc.), the employee should promptly notify the PRO and the college's legal counsel. The employee may also need to consult with private legal counsel.

- **Human Resources Department Staff Including Workplace Claim Investigators:**

Under this policy, Human Resources Department staff, including workplace claim investigators, will familiarize themselves with RCW 42.56.660 - .675.

List. If staff maintain a list of employee claimants/victims of workplace sexual harassment or stalking disciplined by the agency, staff will promptly notify the PRO.

Investigations. When contacting and interviewing workplace harassment and stalking claimants and victims, investigators are encouraged to

review public records issues. Depending upon the circumstances, investigators may wish to notify the claimant/victim of the procedures for written consent for disclosure upon a future receipt of a PRR, if such consent has not been previously provided. A claimant/victim could provide consent to release in the college's response to a future PRR request of otherwise non-disclosable records from the alleged harasser/stalker, for records covered by RCW 42.56.660 - .675.

PRRs. If the college receives a PRR for records covered by RCW 42.56.660 - .675, HR staff will work with the PRO if needed to inform the employee claimant/victim of their right to consent to disclosure of such records to the alleged harasser/stalker unless notice has been previously waived in writing by the employee claimant/victim (thus the employee has also consented to release). HR staff will also work with the PRO to provide notice of a PRR request for records covered by RCW 42.56.660 - .675 if needed when the request is made by someone other than the alleged harasser/stalker.

Consent Forms. The college may place a copy of any signed consent form in the employee's personnel file and the specific PRR file.

Policy Contact:	Vice President of Human Resources
Approved by (Department/Body):	Dr. Chad Hickox, President
Date Originally Approved:	11/1/2020
Last Reviewed/Revised on:	11/1/2020