Spokane Colleges Administrative Procedure
2.30.01-A Complaints of Discrimination, Sexual Harassment or Misconduct, Domestic or Dating Violence, Stalking and Retaliation

Implementing Board Policy 2.30.01
Contact: Chief Administration Officer, 434.5037
Chief Compliance Officer/Title IX Coordinator/ADA Compliance Officer, 279.6012

1.0 Purpose

Spokane Colleges are committed to providing equal opportunity and fair treatment in employment. Spokane Colleges does not discriminate based on a person's protected status, including when acting or speaking on behalf of Spokane Colleges. Consistent with state and federal law, Discrimination, Harassment, Sexual Misconduct and retaliation are in violation of and prohibited by Spokane Colleges Board Policy 2.30.01—Equal Employment and Non-Discrimination. This procedure establishes the reasonable measures Spokane Colleges will use to implement that policy in regard to employment matters. Any individual found to be in violation of this procedure will be subject to disciplinary action up to and including dismissal from Spokane Colleges or from their employment.

2.0 Limitations and Requirements

2.1 This procedure addresses employment and the workplace. The procedure is designed to support Spokane Colleges goal to monitor the workplace, investigate, implement corrective measures when necessary and prevent, stop and remediate Discrimination, Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence, Stalking and retaliation regarding members of the Spokane Colleges community including employees, students, guests, contractors and visitors. The process for handling sexual harassment Complaint allegations in violation of Title IX against employees, contractors and guests is outlined in Spokane Colleges administrative procedure 2.30.01 D.

2.2 All persons who are members of the Campus Community are required to comply with Spokane Colleges Board Policy 2.30.01. This administrative procedure addresses workplace conduct while Spokane Colleges administrative procedure 3.30.01-A Prevention and Response to Complaints of Discrimination, Sexual Harassment or Misconduct, Domestic or Dating Violence, Stalking and Retaliation by Students and Spokane Colleges Administrative Procedure 3.30.01-B Title IX Grievance Procedures for Students, addresses student conduct in the academic environment. Conduct covered includes that occurring while on campus and while on property and facilities leased or used by Spokane Colleges. Covered conduct is not, however, limited to the physical workplace. It can occur while performing Spokane Colleges business off campus, during travel, at events sponsored by Spokane Colleges, or via phone, email, text or social media. Such behavior can also occur off campus and outside of scheduled work time if, in the judgment of the college, such conduct adversely affects the college community or the pursuit of its objectives.

2.3 This procedure is subject to constitutional protections related to freedom of speech, association and the press.

2.4 The Chief Administration Officer ("CAO"), Chief Compliance Officer/Title IX Coordinator/ADA Compliance Officer ("Title IX Coordinator") and their designees are the only individuals authorized to address Complaints under this procedure.

2.5 All Sexual Harassment Complaints that meet the jurisdictional requirements outlined in Spokane Colleges administrative procedure 2.30.01-D, will be handled according to that supplemental procedure.

3.0 Definitions

The following definitions are specific to the terms of this procedure and do not modify or revise similar terms as used in related procedures.

3.1 Campus Community: students, employees, contractors, volunteers, visitors and guests.

3.2 Complainant: employee(s), contractor(s), student(s), volunteer(s) visitor(s) or guest(s) of Spokane Colleges who allege they have been subjected to Discrimination or Harassment due to their membership in a protected class.

3.3 Complaint: a description of facts that allege violation of Spokane Colleges policies, procedures, collective bargaining agreements (CBA) or employment provisions, including but not limited to allegations of Discrimination, Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence, Stalking and/or retaliation. Spokane Colleges has an official formal Complaint form on which to document and report the Complaint. (See sections 5, 6 and 7.)

3.4 Consent: means the affirmative, unambiguous and voluntary agreement to engage in a specific sexual activity during a sexual encounter. Consent cannot be given by an individual who is: 1) asleep or mentally or physically incapacitated, either through the effect of drugs, alcohol or for any other reason; or 2) is under the lawful age to provide legal Consent; or 3) is under duress, threat, coercion or force. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual conduct.

3.5 Dating Violence: (aka relationship violence) is a type of Domestic Violence, except the acts are committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant.

3.6 Discrimination: prohibited unfavorable treatment of a person based on that person's membership or perceived membership in a protected status. Harassment is a form of Discrimination.

3.7 Domestic Violence: means (a) physical harm, bodily injury, assault or the infliction of fear of imminent physical harm, bodily injury or assault, sexual assault, or Stalking as defined in RCW 9A.45.110 (and below) of one Intimate Partner by another Intimate Partner; or (b) physical harm, bodily injury, assault or the infliction of fear of imminent physical harm, bodily injury or assault, sexual assault or Stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member.

3.8 Family or Household Member: means (a) Adult persons related by blood or marriage; (b) adult persons who are presently residing together or who have resided together in the past; and (c) persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

3.9 Harassment: prohibited form of discriminatory conduct that includes physical, verbal or other conduct that denigrates or shows hostility toward an individual or group because of their legally protected or perceived membership in a protected status and is sufficiently severe, pervasive and objectively offensive so as to substantially interfere with the terms and conditions of employment or substantially limiting the ability of a student to participate in or benefit from the College's educational and/or social programs.

3.10 Intimate Partner: means (a) Spouses, or domestic partners; (b) former Spouses, or former domestic partners; (c) persons who have a child in common regardless of whether they have been married or have lived together at any time; (d) adult persons presently or previously residing together who have or have had a dating relationship; (e) persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship; and (f) persons

sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship.

3.11 **Nonconsensual Sexual Contact:** Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without Consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

3.12 **Nonconsensual Sexual Intercourse:** Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without Consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

3.13 **Protected Status includes:** race, creed, color, religion, national or ethnic origin, age, sex, marital status, pregnancy, parental status or families with children, status as a mother breastfeeding her child, AIDS/HIV or hepatitis C, honorably discharged veteran status, sexual orientation, gender identity or expression, disability, use of service animal by a person with a disability, genetic information or any other legally protected status.

3.14 **Resolution:** the means by which the Complaint is finally addressed. This may be accomplished through informal or formal processes, including counseling, mediation, or the formal imposition of discipline sanction.

3.15 **Respondent:** person or persons who are members of the Campus Community (i.e., employees, students, contractors, visitors and guests) who allegedly discriminated against or harassed another person or persons.

3.16 **Retaliation:** includes any actual or threatened retaliation or any act of intimidation against any participant (Complainant, Respondent, witness CAO, Title IX Coordinator or investigator) intended to prevent or otherwise obstruct the reporting, subsequent investigation or enforcement of a Complaint under this procedure.

3.17 **Sexual Harassment:** prohibited form of Discrimination that includes unwelcome gender-based verbal, nonverbal, written, electronic and/or physical conduct or sexual coercion. Sexual Harassment does not have to be of a sexual nature and can include offensive remarks about a person's gender.

3.18 **Sexual Violence:** is a type of sexual Discrimination and Harassment that includes:

3.18.1 **Nonconsensual Sexual Intercourse.** Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without Consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

3.18.2 **Nonconsensual Sexual Contact.** Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without Consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

3.18.3 **Incest.** Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant

includes stepchildren and adopted children under the age of eighteen (18).

3.18.4 **Statutory Rape.** Consensual intercourse between a person who is eighteen (18) years of age or older, and a person who is under the age of sixteen (16).

3.18.5 **Domestic Violence.** Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or Stalking committed by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse, by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of State of Washington, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the State of Washington, RCW 26.50.010.

3.18.6 **Dating Violence.** Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or Stalking committed by a person (i) who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and (ii) where the existence of such a relationship shall be determined based on a consideration of the following factors:

3.18.6.1 The length of the relationship;

3.18.6.2 The type of relationship; and

3.18.6.3 The frequency of interaction between the persons involved in the relationship.

3.18.7 **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for their safety or the safety of others; or (ii) suffer substantial emotional distress.

3.18.8 **Indecent Liberties.** Knowingly causing sexual contact with a person by forcible compulsion or when the person is incapable of consent by reason of mental defect, mental incapacitation, or physical helplessness. Sexual contact is defined as any nonconsensual touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party.

3.18.9 **Voyeurism.** Arousing or gratifying sexual desire by viewing, photographing, or filming another person without that person's knowledge and consent and/or while the person being viewed, photographed, or filmed is in a place where he or she has a reasonable expectation of privacy. It also includes the distribution of a recording of sexual activity.

3.18.10 **Cyberstalking**. When a person, with the intent to harass, intimidate, torment or embarrass any other person makes an electronic communication including, but not limited to, electronic mail, internet-based communications (social media sites and electronic bill boards), pager service, or instant messaging using (a) any lewd, lascivious, indecent, or obscene words, images or language, or suggesting the commission of any lewd or lascivious act; (b) anonymously or repeatedly whether or not conversation occurs; or (c) threatening to inflict injury on the person or property of the person called or any member of his or her family or household.

3.19 Sexual Misconduct: prohibited form of misconduct that includes sexually violent conduct including Domestic Violence, Dating Violence, Stalking, Nonconsensual Sexual Intercourse

and Nonconsensual Sexual Contact. This conduct also includes, but is not limited to, indecent liberties, indecent exposure, sexual exhibitionism, sex-based cyber-Harassment, prostitution or the solicitation of a prostitute, peeping or other voyeurism, or exceeding the boundaries of Consent including allowing others to view consensual sex, the nonconsensual recording of sexual activity, Domestic Violence, Dating Violence and Stalking.

3.20 Stalking (including cyber-Stalking): includes matters in which an individual intentionally and repeatedly harasses or repeatedly follows another person and the person being harassed or followed is placed in fear that the stalker intends to injure the person, another person or property of that person or of another person. The feeling of fear must be one that a reasonable person in the same situation would experience under all the circumstances; and the stalker either intends to frighten, intimidate, or harass the person; or knows or reasonably should know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

4.0 Prohibited Conduct

4.1 Prohibited discriminatory conduct includes any physical, verbal or other conduct that 1) denigrates or shows hostility toward an individual because of their protected status (as defined in section 3.13); and 2) is discriminatory in impact (as defined in section 3.6). Examples of behaviors that may constitute discriminatory conduct include, but are not limited to:

4.1.1 Racial epithets, “jokes”, offensive or derogatory comments or other verbal or physical conduct based on an individual’s race/color.

4.1.2 Ethnic slurs, workplace graffiti or other offensive conduct directed towards an individual’s birthplace, ethnicity, culture or foreign accent.

4.1.3 Verbal or physical abuse, “jokes” or offensive comments based on an individual’s age, gender, disability or sexual orientation.

4.1.4 Marking, posting, emailing or circulating demeaning or offensive pictures, cartoons or other materials in the workplace that relate to race, ethnic origin, gender or one of the other protected categories listed above.

4.2 Prohibited Sexual Harassment includes conduct as defined in sections 3.17 and 3.18. Consistent with applicable state and federal law, Spokane Colleges prohibits two types of Sexual Harassment “quid pro quo” and “hostile environment.” Please see Spokane Colleges administrative procedure 2.30.01-D for Sexual Harassment that meets jurisdictional requirements outlined by updated Title IX legislation.

4.2.1 Quid Pro Quo—a person with authority over a student or employee explicitly or implicitly conditions a term or condition of the student or employee’s education or employment on the Complainant’s submission to conduct defined in sections 3.17 and 3.18. This includes instances where submission to or rejection of such sexual conduct is used as the basis for educational or employment decisions affecting the Complainant. In determining whether such Harassment exists, it is immaterial whether the Complainant resists and suffers the threatened harm or submits and thus avoids the threatened harm.

4.2.2 Hostile environment—another’s unwelcomed conduct of sexual nature is sufficiently severe, persistent or pervasive that: 1) it substantially interferes with the terms and conditions of employment or substantially limits a student’s ability to participate in or benefit from the District’s education programs/activities; or 2) the conduct has the purpose or effect of unreasonably interfering with another

individual's work performance or creating an intimidating, hostile or offensive working environment. This second alternative only applies in the context of employment. Petty slights, annoyances, offensive utterances and isolated incidents typically do not qualify as Harassment. Examples of behaviors that may rise to the level of hostile environment and, therefore, are prohibited include, but are not limited to:

4.2.2.1 Persistent comments or questions of a sexual nature.

4.2.2.2 Sexually explicit statements, questions, jokes or anecdotes.

4.2.2.3 Unwelcome touching, patting, hugging, kissing or brushing against an individual's body.

4.2.2.4 Remarks of a sexual nature about an individual's clothing, body or speculations about previous sexual experiences.

4.2.2.5 Persistent, unwanted attempts to change a professional relationship to an amorous relationship.

4.2.2.6 Direct or indirect propositions for sexual activity.

4.2.2.7 Unwelcome letters, emails, telephone calls, texts or other communications referring to or depicting sexual activities.

4.3 Prohibited Sexual Misconduct includes Domestic Violence, Dating Violence, Nonconsensual Sexual Intercourse or Contact, Stalking and other forms of Sexual Misconduct.

4.3.1 Dating Violence, as defined in section 3.5, is further evaluated by specific factors of the relationship including, but not limited to, the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship.

4.3.2 Nonconsensual Sexual Intercourse, as defined in section 3.12, makes the gender of the two parties irrelevant. Consent, as defined in section 3.4, cannot be inferred under circumstances in which it is not clear, including but not limited to the absence of "no" or "stop", or the existence of a prior or current relationship or sexual activity.

4.3.3 Stalking, as defined by section 3.18.7, requires that the feeling of fear must be one that a reasonable person in the same situation would experience under all the same circumstances, and the stalker either: 1) intends to frighten, intimidate or harass the person; or 2) knows or reasonably should know that the person is afraid, intimidated or harassed even if the stalker did not intend to place the person in fear or intimidate or harass.

4.4 Prohibited retaliation means any actual or threatened retaliation or any act of intimidation against any participant (Complainant, Respondent, witness, CAO, Title IX Coordinator or investigator) intended to prevent or otherwise obstruct the reporting, subsequent investigation or enforcement of a Complaint under this procedure. Retaliatory conduct of any kind taken against any individuals as a result of seeking redress under applicable procedures or serving as a witness in a subsequent investigation or any resulting disciplinary proceedings is prohibited and subject to discipline. Any person who thinks they have been subjected to retaliation should immediately contact the CAO or Title IX Coordinator as appropriate. The contact information for the CAO and Title IX Coordinator is available in section 7.4. If any person believes they have been subjected to retaliation by the CAO or Title IX Coordinator, then the person should contact the Chancellor's or college President's office for referral to a designee (see section 7.4).

5.0 Complaint Procedures

5.1 **Complaints against Employees, Contractors, Guests, Volunteers or Visitors**. Spokane Colleges will follow this administrative procedure for Complaints brought by employees, students, volunteers or visitors against an employee, contractor, guest, volunteer or visitor of the district.

5.2 **Complaints against Students**. Spokane Colleges will follow the procedures in Spokane Colleges administrative procedure 3.30.01-A Prevention and Response to Complaints of Discrimination, Sexual Harassment or Misconduct, Domestic or Dating Violence, Stalking and Retaliation by Students and Spokane Colleges Administrative Procedure 3.30.01-B Title IX Grievance Procedures for Students, for Complaints against a student, including student-to-student conduct.

5.3 **Complaints against individuals who are both Students and Employees**: If Spokane Colleges receives a Complaint against an individual who has both student and employment status, the CAO or Title IX Coordinator will determine what status the individual was in at the time of the alleged conduct/incident to determine which procedure(s), which may include both, will apply.

6.0 Who Can File a Complaint and Where to Obtain the Spokane Colleges Complaint Form

Spokane Colleges has developed a Complaint form on which any person is encouraged to report Complaints under this procedure. A copy of the complaint form is available as an attachment at the end of this procedure. The form is also available online and through the Human Resources Office at 501 N. Riverpoint Boulevard, Suite 125 and the Title IX Coordinator's Office at 2917 W. Whistalks Way, Room 247C.

7.0 Completion and Submission of the Spokane Colleges Complaint Form

7.1 **Timely Reporting:** Spokane Colleges encourages the timely reporting of any incident(s) of Discrimination, Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence, Stalking and/or retaliation.

7.2 **Completion of Form:** The Complaint form includes directions on how to complete and how to file the Complaint. If an individual has questions or needs assistance, they should contact the CAO or Title IX Coordinator, depending on the type of Complaint, at the address or phone number listed in section 7.4. Written Complaints should be signed, dated, include names, description and date(s) of incident(s) and remedy sought.

7.3 The Complaint form summarizes Board Policy 2.30.01. Those considering filing a Complaint, or those who have filed a Complaint, will be provided with this administrative procedure.

7.4 **Submission/Filing of Form.** For Complaints related to Sexual Misconduct or Discrimination, Harassment or retaliation based upon sex, sexual orientation, gender identity or expression or disability the Complaint form should be submitted to the Title IX Coordinator/ADA Compliance Officer at the address listed below. All other Harassment, Discrimination or retaliation Complaints should be submitted to the CAO. If the Complaint is against the Title IX Coordinator or CAO, the Complainant should report the matter to the Chancellor's office, to the Spokane Community College President's Office or Spokane Falls Community College President's Office for referral to an alternate designee.

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8.0 Reporting Obligations for Spokane Colleges Supervisors and Administrators

8.1 Supervisors and administrators perform a key role in preventing and responding to discriminatory conduct, including Sexual Harassment. When a supervisor or administrator becomes aware of incidents of Discrimination/Harassment, they shall immediately report the incident to the CAO for allegations which are not considered Sexual Misconduct or disability related. Incidents of Discrimination based upon sex, sexual orientation, gender identity, expression or disability shall be immediately reported to the Title IX Coordinator as soon as possible.

8.2 Supervisors and administrators must report such Complaints regardless of the reporting individual's desire for the matter to remain confidential and regardless of whether a report is made to campus security or local law enforcement. Supervisors and administrators who fail to report such incidents or who fail to cooperate fully with the Complaint processes may be subject to disciplinary action, up to termination.

8.3 If the Complaint brought to the attention of the supervisor or administrator was verbal or based on observations, rather than a written Complaint, the CAO or Title IX Coordinator shall work with the Complainant and/or reporting supervisor/administrator to prepare a written statement of facts. All Complaints, as defined in section 5.0, regardless of the perceived merit or basis, are to be forwarded to the CAO or Title IX Coordinator as appropriate for review.

9.0 Criminal and Administrative Complaint Options for Sexual Misconduct, Domestic Violence, Dating Violence and Stalking

Any person who believes they have been subjected to Sexual Misconduct, Domestic Violence, Dating Violence and/or Stalking has the right to file a Complaint with Spokane Colleges as described in section 5.0 above and per Spokane Colleges administrative procedure 2.30.01-D. Additionally, the individual has the option to pursue a criminal Complaint by contacting local law enforcement and/or to have the Complaint filed consecutively or investigated concurrently by both Spokane Colleges and the following law enforcement authorities:

City of Spokane Police or Spokane County Sheriff: Emergency 911, Crime Check 509.456.2233, Helpline 509.477.5980

Colville Police Department 509.684.2525
Inchelium (Colville Emergency Services) 509.772.6831
Ione Police Department 509.447.3151
Newport Police Department 509.447.3151
Pullman Police Department 509.332.2521
Republic Police Department 509.775.3132

10.0 Confidentiality and the Right to Privacy

Spokane Colleges will seek to protect the privacy of all parties involved to the fullest extent possible, consistent with the legal obligation to investigate, take appropriate remedial and/or

disciplinary action and comply with federal/state law and Spokane Colleges' policies/procedures. Anonymity and complete confidentiality cannot be guaranteed once a Complaint is made or unlawful behavior is alleged.

Spokane Colleges will honor requests to keep Sexual Misconduct Complaints confidential to the extent this can be done without risking the health, safety and welfare of the Complainant, other members of the college community or Spokane Colleges duty to investigate and process Sexual Harassment and Sexual Violence Complaints. Further, to the extent possible, proceedings will be conducted in a discreet and sensitive manner. Files pertaining to the Complaint will be maintained in confidence to the extent provided by law and with the understanding that all files are considered public records and will be released as required by the Public Records Act, Chapter 42.56 RCW. There are limits to disclosure of certain records concerning employees who are Complainants of workplace Sexual Harassment or Stalking as per chapter 42.56 RCW, the Public Records Act (PRA), at RCW 42.56.660 - RCW 42.56.675. Accordingly, Spokane Colleges cannot guarantee complete confidentiality. Determinations regarding how to handle requests for confidentiality will be made by the CAO or Title IX Coordinator as appropriate.

Confidentiality Requests and Sexual Violence Complaints. The Title IX Coordinator will inform and obtain Consent from the Complainant before commencing an investigation alleging Sexual Violence. If the Complainant asks that their name not be revealed or that Spokane Colleges not investigate the allegation, the Title IX Coordinator will determine first whether Spokane Colleges can honor the request and at the same time maintain a safe and non-discriminatory environment. Factors to be weighed during this determination may include, but are not limited to: 1) the seriousness of the alleged Sexual Violence; 2) the age of the Complainant; 3) whether the Sexual Violence was perpetrated with a weapon; 4) whether the Respondent has a history of committing acts of Sexual Violence or violence has been the subject of other Sexual Violence Complaints; 5) whether the Respondent threatened to commit additional acts of Sexual Violence against the Complainant or others; and 6) whether relevant evidence can be obtained through other means (e.g. security cameras, other witnesses, physical evidence.) If Spokane Colleges is unable to honor the confidentiality request the Title IX Coordinator will notify the Complainant of the decision and ensure that the Complainant's identity is disclosed only to the extent reasonably necessary to conduct the investigation. If Spokane Colleges agrees not to conduct the investigation the Title IX Coordinator will consider and implement feasible counter measures, if any, designed to limit the effects and prevent recurrence.

Per National Science Foundation (NSF) requirements, Spokane Colleges Authorized Organizational Representative (AOR) shall notify the NSF Office of Diversity and Inclusion of 1) findings/determinations of Sexual Harassment, other forms of Harassment or sexual assault by an NSF funded principal investigator or co-principal investigator; and 2) if an NSF funded principal investigator or co-investigator has been placed on administrative leave or if any administrative action has been imposed on them related to a finding/determination or investigation of alleged Sexual Harassment, Harassment or sexual assault.

The NSF may notify the AOR of Complaints of Sexual Harassment, Harassment or sexual assault against NSF principal investigators or co-principal investigators. In that event, Spokane Colleges will follow all other processes outlined in this procedure or Administrative Procedure 2.30.01-D as appropriate.

11.0 Complaint Investigation

11.1 Complaints against Employees/Guests/Visitors. The CAO and Title IX Coordinator as appropriate, are solely authorized to consider and authorize investigations of Complaints of Discrimination, Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence, Stalking and/or retaliation that involve an employee of Spokane Colleges. If the Complaint involves the CAO or Title IX Coordinator, the complainant may file Complaints alleging Discrimination, Harassment, retaliation or sexual misconduct by a student are investigated pursuant to Administrative Procedure 3.30.01-A or 3.30.01-B as appropriate.

11.2 **Initial Review.** The CAO or Title IX Coordinator will conduct an initial assessment of the Complaint to determine whether it alleges conduct that may be prohibited by Spokane Colleges policies, procedures, CBA or employment contract provisions. The CAO or Title IX Coordinator will also conduct an initial assessment to determine whether the Complaint warrants interim measures. If it appears such measures are warranted pursuant to Section 14, the CAO or Title IX Coordinator will coordinate with appropriate Spokane Colleges personnel to implement. If the CAO or Title IX Coordinator concludes an investigation is not warranted under this procedure, a written notice to the Complainant will be prepared indicating the matter is closed without further action. In the event additional information becomes available after the matter is closed, the Complainant may resubmit their Complaint. If the CAO or Title IX Coordinator concludes that an investigation is not warranted under this procedure, but may be warranted under other Spokane Colleges policies, procedures, CBA or employment contract provisions they will refer it for further review pursuant to section 11.3. Spokane Colleges has an independent duty to conduct an investigation regardless of whether law enforcement is also conducting an investigation.

11.3 **Complaint Consideration.** Although alleged conduct may not violate federal or state law, such incidents may still qualify as violation of Spokane Colleges policies, procedures or contract provisions and may constitute improper behavior, unprofessional conduct, or a failure to engage in conduct supportive of an environment of mutual respect and professionalism and/or provisions of applicable CBA. Such Complaints will be remanded to the appropriate administrator for further consideration and investigated under separate procedure/contract provision.

11.3.1 Harassment/Discrimination allegations based upon union activities are not covered by this procedure.

11.4 **Informal Dispute Resolution.** Informal dispute Resolution, like mediation, involving a Spokane Colleges official may be utilized where both the Complainant and Respondent agree to do so in writing. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. This process shall not be used to resolve sexual Discrimination Complaints without written permission by both parties.

11.5 **Appointment of Investigator.** The CAO or Title IX Coordinator will authorize an investigation if they conclude it is warranted.

12.0 Initial Notifications

12.1 If a formal investigation is undertaken, the Respondent and Complainant will be alerted to the existence of a formal Complaint, that an investigation of the Complaint is underway and Spokane Colleges policy against retaliation. During the investigative process, the Respondent will be informed of their right to representation during any investigatory meeting, if appropriate.

13.0 Investigation

If it is determined after initial review that the matter warrants investigation pursuant to this procedure, the CAO or Title IX Coordinator will determine the appropriate process necessary to ensure relevant evidence is obtained and all critical elements are addressed. Complaints shall be thoroughly and impartially investigated. The investigation will include, but is not limited to, interviewing the Complainant, the Respondent, and relevant witnesses and reviewing relevant documents. The investigation shall be concluded within a reasonable time, normally ninety (90) days, barring exigent circumstances. If it appears completion of the investigation, will take longer than ninety days, the CAO or Title IX Coordinator as appropriate will notify the parties, describe the reasons for the delay and provide an estimated time for completing the investigation. Employees, as a condition of employment, are required to be truthful and to fully cooperate in the

investigation process.

14.0 Interim Measures

Following receipt of a Complaint, Spokane Colleges may determine immediate interim measures are necessary to protect the Complainant and/or Respondent pending completion of the investigation and Resolution of the Complaint. Interim measures may include, but are not limited to, separating the Respondent from the Complainant, adjusting schedules, alternative work assignment, extensions of deadlines or other course related adjustments, placing an employee on administrative leave and/or providing counseling.

15.0 Investigative Findings Report

At the conclusion of the investigation, the investigators shall set forth their findings in writing and shall send a copy of the findings to the CAO or Title IX Coordinator as appropriate. All Complaints and the records related to a subsequent formal investigation of those Complaints conducted pursuant to this procedure, if any, shall be maintained confidentially to the extent allowed by law for an indeterminate period of time in the Human Resources Office.

16.0 Post Investigative Process

When the investigation is complete, the CAO or Title IX Coordinator as appropriate will review the report and determine whether a violation occurred and send an investigative report to the appropriate Spokane Colleges appointing authority, or designee, for the purpose of determining what discipline, remediation and/or corrective action, if any, should be imposed. Additionally, the CAO or Title IX Coordinator as appropriate will prepare an investigative summary and provide to both the Complainant and Respondent per section 18.0.

17.0 Corrective Action

Spokane Colleges will take appropriate action where it is proven and/or reasonable to believe that a violation occurred. The appropriate CAO or Title IX/Coordinator shall consider and determine, based on preponderance of evidence, whether a violation occurred. If a violation has occurred, then the appropriate Spokane Colleges authority determines the steps to be taken to resolve the Complaint, remedy the effects on any individual(s) and prevent its recurrence. Violations may result in disciplinary action, up to and including termination, revocation of permission to be on Spokane Colleges premises or at sponsored activities or being “trespassed” from Spokane Colleges campus/facilities. Corrective action for students will be handled pursuant to Spokane Colleges Administrative Procedure 3.30.01-A or 3.30.01-B.

18.0 Disclosure of Decisions and Actions

18.1 Disclosure Regarding Employees and Students. The Title IX Coordinator will simultaneously provide the Complainant and Respondent with a written summary of the investigative findings. Consistent with the requirements of 20 U.S.C. §1092(f)(8)(B)(iv) related to a crime of violence or sexual assault, including rape, Dating Violence, Domestic Violence or Stalking, the notice will also indicate the actions taken or recommended to resolve the Complaint, subject to the following limitations:

18.1.1 The Complainant shall be informed in writing of actions taken or recommended to resolve the Complaint, if any, only to the extent that such findings, actions or recommendations directly relate to the Complaint, such as finding that the Complaint is or is not meritorious or an order that the Respondent not contact the Complainant. The Complainant may be notified generally that the matter has been referred for disciplinary action.

18.1.2 The Respondent shall be informed in writing of the findings and of actions taken or recommended to resolve the Complaint and shall be notified of any referrals for disciplinary action.

18.1.3 Both the Complainant and the Respondent are entitled to review any final findings, conclusions and recommendations, subject to any FERPA confidentiality requirements and appeal procedures, if any. Both the Complainant and the Respondent are also entitled to notice of any change to the results that occur prior to the results becoming final, and when such results become final.

18.2 Disclosures Regarding Volunteers, Guests and Contractors. Spokane Colleges will notify the Complainant of any actions it takes which relate directly to the Complainant, such as a No Trespass Order prohibiting a volunteer, guest or contractor from being on campus. Additionally, if the matter involves a crime of violence or sexual assault, including rape, Dating Violence, Domestic Violence or Stalking, Spokane Colleges may elect to terminate the contract or license for the individual to be on campus. Spokane Colleges will provide the Complainant and the Respondent with simultaneous written notice of such decisions, advisement of appeal procedures, if any; any change to the results that occur prior to the results becoming final and when such results become final.

19.0 Limits to Authority

Nothing in this procedure shall prevent the appointing authority or designee from taking, if they determine appropriate, immediate disciplinary action in accordance with Spokane Colleges policies and procedures, CBA and federal, state and municipal rules and regulations.

20.0 External Complaint

State and federal agencies have their own processes for responding to and processing Complaints, including their own prescribed timeframes for submission of Complaints. Filing a Complaint with a state or federal agency listed below may be done in lieu of or in addition to Spokane Colleges Complaint procedure. Individuals may always file a Complaint with:

20.0 Washington State Human Rights Commission at 800.233.3247 or TDD 800.300.7525, 905 1330 N. Washington St., Suite 2460 Spokane, WA 99201, www.hum.wa.gov

20.1 US Department of Education Office for Civil Rights at 800.421.3481 or TDD 877.521.2172, 2910 3rd Avenue, Mail Stop 106, Seattle, WA 98174-1099, OCR@ed.gov

20.2 Equal Employment Opportunity Commission at 800.669.4000 or TDD 800.669.6820, 1321 2nd Avenue, 7th Floor, Seattle, WA 98101, www.eeoc.gov

20.3 Office of Federal Contract Compliance at 206.398.8005, Room 3038, Regional Office, 909 First Avenue, Seattle, WA, 98104, http://www.dol.gov/ofccp/index.htm

20.4 U.S. Department of Labor at 206.398.8039, Wages and Hour Division, 300 Fifth Avenue, Suite 1130, Seattle, WA, 98104 www.dol.gov/agencies/whd

20.5 National Science Foundation Office of Diversity and Inclusion at 703.292.5310 2415 Eisenhower Avenue, Alexandria, Virginia 22314, https://www.nsf.gov/od/odi/awardee_civil_rights/index.jsp

21.0 Related Information

21.1 Harassment/Discrimination Complaint form, CCS #1691

21.2 Administrative Procedure, 3.30.01-A Prevention and Response to Complaints of Discrimination, Sexual Harassment or Misconduct, Domestic or Dating Violence, Stalking and Retaliation by Students

21.3 Administrative Procedure, 3.30.01 - B Title IX Grievance Procedures for Students

21.4 Administrative Procedure, 2.30.01-D Title IX Procedures for Employees

21.5 Chapter 42.56 RCW, Public Records Act

21.6 National Science Foundation's Civil Rights Compliance Program

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