

BOARD OF TRUSTEES
Special Meeting**Monday, July 29, 2024**

Meeting: 10:00am – 11:00am

In Person: Gateway Hall, Room 352, 6600 196th Street SW, Lynnwood, WA**Zoom:** <https://us02web.zoom.us/j/84301671943>**Join by telephone:** (253) 215-8782 | **Meeting ID:** 843 0167 1943**AGENDA**

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|---------------|---|--------------------|
| 10:00am | 1. Call to Order | Chair Dave Earling |
| 10:02am | 2. Land Acknowledgement | |
| 10:03am | 3. Introduction of Guests | Chair Dave Earling |
| 10:05am | 4. Public Comment | Chair Dave Earling |
| 10:15am | 5. Emergency Rule-Making | |
| | Approval of Washington Administrative Code Changes | Suzanne Moreau |
| | a. WAC 132Y-125 Student Code of Conduct | |
| | b. WAC 132Y-300 Nondiscrimination and Harassment Policy | |
| page 4 | RESOLUTION #24-7-1 | |
| 11:00am | 6. Adjournment | Chair Dave Earling |

Times are estimates only and subject to change.

The Board of Trustees may convene to an Executive Session to discuss matters covered under RCW 42.30.110. Action may be taken, if necessary, as a result of items discussed in the Executive Session.

Information for individuals with hearing or visual impairments can be provided when adequate notice is given to the Office of the President: kristen.nyquist@edmonds.edu

BACKGROUND

**APPROVAL OF WASHINGTON ADMINISTRATIVE CODE CHANGES:
132Y-125 - STUDENT CODE OF CONDUCT;
132Y-300 - NON-DISCRIMINATION AND HARASSMENT**

Subject

Revisions to the Washington Administrative Code (WAC) regarding 132Y-125 Student Code of Conduct and 132Y-300 Nondiscrimination and Harassment Policy, as necessitated by the new federal policy.

Background

The Washington Administrative Code (WAC) refers to the administrative rules and regulations by which state agencies operate to execute the laws enacted by the Legislature. The WAC codifies the regulations and arranges them by subject or agency. Edmonds College's WAC resides under [Title 132Y](#).

On April 19, 2024, the Department of Education released updated regulations governing campus sex discrimination and sex-based harassment under Title IX. Colleges and universities are required to update their policies and procedures in order to comply with the regulations by August 1, 2024. On July 10, 2024, Edmonds College received final guidance on policy changes from the WA Attorney General's Office.

To meet the August 1 implementation deadline, the colleges in Washington State's CTC system, including Edmonds College, have been advised by the Attorney General's office to submit an Emergency Rule-Making Order (CR-103E) to make necessary changes to the WACs governing Title IX and Student Code of Conduct. Per the Revised Code of Washington 34.05.353, the emergency rule-making process may be implemented when a rule is needed before the basic rulemaking process can be completed. Emergency rules do not require public notice or hearing(s). Under Washington State law, any changes that are approved through the Emergency Rule-Making Order are in effect 120 days. To make permanent changes to the WAC, the Edmonds College Board of Trustees will need to consider these changes once more, after the regular WAC-change process has been implemented, to include a public hearing, which will take place later this year.

The proposed changes to Edmonds College's WAC 132Y-125 Student Code of Conduct and WAC 132Y-300 Nondiscrimination and Harassment Policy were provided by the Assistant Attorney General of the Education Division, ensuring compliance with state and federal Law. These changes are outlined below and in the documents accompanying this background statement.

Because the new federal Title IX regulations apply to both students and employees, these sections are being presented together. The Student Code of Conduct WAC-132Y-125 applies only to students and the Nondiscrimination and Harassment Policy 132Y-300 applies to students and employees of Edmonds College; however, the Title IX investigation procedures, as provided by the Attorney General's Office, are the same for both.

Significant final regulations/proposed changes:

- **Includes:** protections for pregnancy, gender identity and retaliation (does not currently address transgender student participation in athletics)
- **Adds:** training and reporting requirements for all employees
- **Enhances:** the role of the Title IX Coordinator and Title IX personnel and definitions (sex discrimination as an umbrella term that includes sex-based harassment)
- **Expanded Scope:** College's must address sex discrimination that occurs at non-campus locations, including international locations.
- **Complaint Filing:** Students, employees, and others can file complaints of discrimination/harassment. Previously, only current students or employees could file complaints. Also allows for complaints to be submitted orally or in writing
- **Informal Resolution:** Colleges can resolve complaints informally even if there's no formal complaint, with some exceptions.
- **Supportive Measures:** Colleges must provide support to those involved in a complaint to ensure they can continue their education, even if no formal complaint is filed. These supportive measures must not unfairly burden or punish anyone involved.
- **Pregnant and Lactating Students/Employees:** Colleges must not discriminate against any person on the basis of current, past, or potential pregnancy or related conditions and must treat pregnancy or related conditions like any other temporary medical condition. Colleges must make reasonable changes for pregnant or lactating individuals and provide private spaces for lactation.
- **Training and Notification:** Colleges must include new notification rules in their Title IX training for employees.
- **Questioning:** The new Title IX regulations, effective August 2024, no longer require cross-examination of parties during live hearings in cases of sex-based harassment involving students. Instead, questioning by the decision maker or investigator will be used to assess credibility.

Additionally, the final regulations/proposed changes also include the following in regard to college Title IX investigation procedures:

- Must treat complainants and respondents equitably;
- Must include a presumption that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of the investigation;
- Must require adequate notice to the parties of the allegations, dismissal, delays, meetings, proceedings, and determinations; and
- Must give the parties an equal opportunity to present and access relevant and not otherwise impermissible evidence, as well as provide a reasonable opportunity for each party to respond to that evidence.

For incidents alleged to have occurred prior to August 1, 2024, the current WACs, policies, and procedures will apply.

Recommendation

It is imperative that the college and its Board of Trustees adopt these changes to the WACs in accordance with the Emergency Rule-making guidelines to be in compliance with the Department of Education by August 1, 2024. Therefore, the Administration recommends that Edmonds College Board of Trustees adopt Resolution #24-7-1, approving the temporary changes to Edmonds College Washington Administrative Code 132Y-300 and 132Y-125 at the July 29, 2024 special Board of Trustees meeting, with the understanding that the Administration will proceed with the non-emergency rule-making process to make permanent changes to these same sections of the Edmonds College WAC, which will be brought back to the Board of Trustees for approval later in the academic year.

RESOLUTION #24-7-1
APPROVAL OF WASHINGTON ADMINISTRATIVE CODE CHANGES:
132Y-125 - STUDENT CODE OF CONDUCT;
132Y-300 - NON-DISCRIMINATION AND HARASSMENT

WHEREAS, the U.S. Department of Education revised regulations governing campus sexual assault under Title IX, the law prohibiting sex discrimination at federally funded institutions; and

WHEREAS, Washington Administrative Code (WAC) is a source of primary law in Washington State and in order to clarify, apply or enforce state laws, state agencies may propose and adopt a rule, sometimes referred to as a regulation, known as the Washington Administrative Code (WAC); and

WHEREAS, to comply with Federal Title IX policy by the deadline of August 1, 2024; and

WHEREAS, the Washington State Attorney General's office supplied language for changes to WAC 132Y-125 and WAC 132Y-300; and

WHEREAS, the changes to WAC 132Y-125 and WAC 132Y-300 involve:

- Protections for pregnancy, gender identity and retaliation (does not currently address transgender student participation in athletics)
- Training and reporting requirements for all employees
- Enhancements to the role of the Title IX Coordinator and Title IX personnel and definitions
- Expanded Scope - College's must address sex discrimination that occurs at non-campus locations, including international locations.
- Students, employees, and others can file complaints of discrimination/harassment.
- Provisions for informal complaint resolution.
- Mandatory supportive measures for those involved in a complaint to ensure they can continue their education, even if no formal complaint is filed.
- Prohibition of discrimination against any person on the basis of current, past, or potential pregnancy or related conditions and must treat pregnancy or related conditions like any other temporary medical condition. Colleges must make reasonable changes for pregnant or lactating individuals and provide private spaces for lactation.
- New notification rules in their Title IX training for employees.
- Cross-examination of parties during live hearings in cases of sex-based harassment involving students is no longer required.

WHEREAS, these changes will bring Edmonds College into compliance with with Federal Title IX policy; and

WHEREAS, under this emergency rule-making these changes will take effect for 120 days, ending November 26, 2024; and

WHEREAS, Edmonds College administration will subsequently start the necessary permanent rule-making process, taking input from the public; and

WHEREAS, the Board of Trustees will be asked to approve the permanent rule changes later this academic year;

NOW THEREFORE BE IT RESOLVED that the Board of Trustees hereby approves the proposed changes to WAC 132Y-125 and WAC 132Y-300 of the Washington Administrative Code, as presented at the July 29, 2024 special Board meeting.

Dave Earling, Chair

Date Approved _____

ATTEST:

Dr. Amit B. Singh