

Treasure Valley Community College

Code: **GBMA**

Adopted: 6/20/17

Whistleblower *

The Board strictly prohibits discrimination or retaliation against any employee for engaging in whistleblowing activities as defined in ORS 659A.200 to 659A.229, including disclosure of information otherwise protected under Oregon's public records law (ORS 192.501 to 192.505). Specifically, Treasure Valley Community College shall not prohibit any employee from engaging in activities as set forth in ORS 659A.203.

An employee who in good faith has an objectively reasonable belief that the actions of the college or its employees violates federal, state or local law and who, in the process of reporting the alleged violation, discloses information that is exempt from disclosure under Oregon's Public Records laws (ORS 192.501 to 192.505) has an affirmative defense against civil or criminal charges arising out of such disclosure if the protected information was disclosed to:

1. A state or federal regulatory agency;
2. A law enforcement agency;
3. A manager employed by the college; or
4. An attorney, when the communication is in connection with the alleged violation and the communication is subject to Oregon's attorney-client privilege protection under ORS 40.225.

The affirmative defense provided for herein applies to an employee's disclosure of information related to an alleged violation by a coworker or supervisor acting within the course and scope of employment of the coworker or supervisor.

The affirmative defense does not apply to information that:

1. Is disclosed or redisclosed by the employee or at the employee's direction to a party other than the parties listed above; or
2. Is stated in an agreement that is not related to the employee's employment with the employer and is either:
 - a. a commercial exclusive negotiating agreement, or
 - b. a commercial nondisclosure agreement;
3. Is disclosed by an attorney or his/her employee if the information disclosed is related to the representation of a client; or
4. Is protected from disclosure under federal law, including but not limited to HIPAA and FERPA and under these circumstances may only be disclosed in accordance with federal law.

Any employee who invokes his or her rights under this policy has the right to file a complaint under the College's harassment complaint procedure; and, is entitled to all remedies available under Oregon's unlawful employment practices law, ORS 659A.200 to 659A.224.

END OF POLICY

Legal Reference(s):

[ORS 192.501](#) to -192.505

[ORS 659A.199](#) to -659A.224

[OAR 581-022-1720](#)

Anderson v. Central Point Sch. Dist., 746 F.2d 505 (9th Cir. 1984).

Connick v. Myers, 461 U.S. 138 (1983).

Cross Reference(s):

GBM - Staff Complaints and Appeals