

# PROCEDURE MANUAL

 <b>ARIZONA WESTERN COLLEGE</b>	<b>PROCEDURE 480.1</b>		
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	<b>Last Revision Date:</b>	08-25-97	
<b>Effective Date:</b>			
<b>Section:</b>	Personnel	<b>Subject:</b>	Rights of an Employee Who Makes a Disclosure of Public Concern

## PURPOSE

The purpose is to assure that no adverse personnel action will be taken against an employee in reprisal for the written disclosure of information to a public body of a matter of public concern which the employee evidences alleged wrongful conduct.

## PROCEDURE

### 1. Definitions

- 1.1. *Alleged wrongful conduct* is defined as alleged violation of law, mismanagement, gross waste of monies, and/or abuse of authority.
- 1.2. *Public body* is defined as the attorney general, the legislature, the governor, a federal, state or local law enforcement agency, the county attorney, the governing board of the community college district or any school district, the board of supervisors of a county or an agency director.
- 1.3. *Reprisal* is defined as a prohibited personnel action that is imposed by or results from a recommendation made by an AWC employee who has control over personnel actions.
- 1.4. *Prohibited personnel action* is defined as one or more of the following if the personnel action is the result of a written disclosure made by an AWC employee or former employee to a public body alleging wrongful conduct:
  - 1.4.1 Disciplinary or corrective action.
  - 1.4.2 Involuntary transfer or reassignment.
  - 1.4.3 Suspension, demotion or dismissal.
  - 1.4.4 Failure to appoint, promote or reemploy.
  - 1.4.5 Negative performance evaluation.
  - 1.4.6 Negative decision concerning pay, benefits or awards.
  - 1.4.7 Elimination of the employee's position without a reduction in force by reason of lack of monies or work.
  - 1.4.8 Significant change in duties or responsibilities which is inconsistent with the employee's salary or grade level.

2. In accordance with A.R.S. § 38.534 (B), the District Governing Board will hear and decide personnel matters involving alleged reprisals claimed by an employee or former employee who has made a disclosure to a public body of alleged wrongful conduct.

3. An employee or former employee may file a complaint, in writing, alleging reprisal resulting from the employee's prior disclosure of alleged wrongful conduct made by the employee to a public body. Reprisal cannot be claimed if the information is disclosed in a manner prohibited by law or the materials or information are prescribed as confidential by law.

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- 3.1. A claim of reprisal must (1) be written; (2) specify the details of such claim; and, (3) be filed in the District Governing Board office within ten (10) calendar days of the effective date of the prohibited personnel action taken against the employee.
- 3.2. Within thirty (30) calendar days after receipt of the complaint, the District Governing Board will convene and will set a time and date for a hearing. This hearing will occur within thirty (30) days, and all parties will be notified of the time and date set for the hearing.
4. Hearing Procedures
  - 4.1 At the hearing, the District Governing Board will determine:
    - 4.1.1 The validity of the claim of reprisal.
    - 4.1.2 If the claim of reprisal is determined to be valid, the appropriate action to be taken. At a minimum, if the AWC Governing Board determines that a prohibited personnel practice was committed as described by this procedure, it shall rescind the personnel action and order that all lost pay and benefits be returned to the employee or former employee.
  - 4.2 The hearing will be held in a personnel executive session (that is, session closed to the public) unless either the District Governing Board or the employee desires an open meeting.
  - 4.3 All parties at the hearing may be represented by counsel. The parties will have the opportunity to call witnesses, present evidence and cross-examine the other party's witnesses. Formal rules of evidence are not applicable.
  - 4.4 The hearing will be recorded. Any party may request a transcription, and the requesting party will bear the cost of the transcription.
  - 4.5 The District Governing Board will issue a written decision within fourteen (14) calendar days following the conclusion of the hearing.
  - 4.6 An employee or former employee who knowingly makes a false claim of reprisal shall be subject to a civil penalty of up to \$25,000.00 and may be dismissed from employment.