

WAC 495C-121-230 Supplemental appeal rights. In student discipline matters involving allegations of sexual misconduct by a student:

(1) The following actions by the student conduct officer may be appealed by the complainant:

(a) The dismissal of a sexual misconduct complaint; or

(b) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.

(2) A complainant may appeal a disciplinary decision by filing a notice of appeal with the conduct review officer within twenty-one days of service of the notice of the discipline decision provided for in WAC 495C-121-220(5). The notice of appeal may include a written statement setting forth the grounds of appeal. Failure to file a timely notice of appeal constitutes a waiver of this right and the disciplinary decision shall be deemed final.

(3) If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.

(4) Except as otherwise specified in this supplemental procedure, a complainant who timely appeals a disciplinary decision or who intervenes as a party to the respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.

(5) An appeal by a complainant from the following disciplinary actions involving allegations of sexual misconduct against a student shall be handled as a brief adjudicative proceeding:

(a) Termination of the proceedings;

(b) A disciplinary warning;

(c) A written disciplinary reprimand;

(d) Disciplinary probation;

(e) Suspensions of ten instructional days or less; and/or

(f) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(6) An appeal by a complainant from disciplinary action imposing a suspension in excess of ten instructional days or an expulsion shall be reviewed by the student conduct committee.

(7) In proceedings before the student conduct committee, respondent and complainant shall have the right to be accompanied by a nonattorney assistant of their choosing during the appeal process. Complainant may choose to be represented at the hearing by an attorney at his or her own expense, but will be deemed to have waived that right unless, at least four business days before the hearing, he or she files a written notice of the attorney's identity and participation with the committee chair, and with copies to the respondent and the student conduct officer.

(8) The complainant and respondent shall not directly question or cross-examine one another in either brief adjudicative proceedings or proceedings before the committee. In proceedings before the committee, all questions shall be directed to the chair, who will act as an intermediary and pose questions on the party's behalf.

(9) Student conduct hearings involving sexual misconduct allegations shall be closed to the public, unless respondent and complainant both waive this requirement in writing and request that the hearing be open to the public. Complainant, respondent and their respective non-attorney assistants and/or attorneys may attend portions of the hear-

ing where argument, testimony, and/or evidence are presented to the student conduct committee.

(10) On the same date as the initial decision is served on the respondent under WAC 495C-121-120 or 495C-121-170, the conduct review officer or committee chair, as appropriate, will serve complainant with a written notice consistent with FERPA which states whether the allegations of sexual misconduct were found in the initial decision to have merit and describing any disciplinary sanction(s) and/or disciplinary condition(s) imposed upon the respondent for the complainant's protection. The notice will also inform the complainant of his/her appeal rights.

(11) Complainant, as a party, may appeal the initial decision to the president, under either WAC 495C-121-130, after a brief adjudicative proceeding, or WAC 495C-121-180, after a committee proceeding.

(12) On the same date that the president serves his/her decision on review on the other parties, under WAC 495C-121-130 or 495C-121-180, he/she shall serve complainant either with that decision, if allowed under FERPA, or with a written notice consistent with FERPA which both states whether the allegations of sexual misconduct were found to have merit and describes any disciplinary sanction(s) and/or disciplinary condition(s) imposed upon the respondent for the complainant's protection. This notice shall communicate the final college action in the matter and shall include notice of the right to seek judicial review under chapter 34.05 RCW.

[Statutory Authority: RCW 28B.50.140. WSR 14-11-070, § 495C-121-230, filed 5/19/14, effective 6/19/14.]