



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Bates Technical College

- Permanent Rule
- Emergency Rule
- Expedited Rule Making

(1) Date of adoption: May 7, 2004

(2) Purpose: Amend and clarify for students, under Student Rights and Responsibilities, prohibited conduct and disciplinary sanctions relating to alternative learning and technological equipment. (See attached for language.)

(3) Citation of existing rules affected by this order:

Repealed:
 Amended: WAC 495A-121-011 Definitions; WAC 495A-121-041 Prohibited Conduct; WAC 495A-121-044 Disciplinary Sanctions
 Suspended:

(4) Statutory authority for adoption: RCW 28B.50.140

Other Authority:

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as **WSR 04.07.150** on **March 23, 2004** (date).

Describe any changes other than editing from proposed to adopted version:

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

Yes No If Yes, explain:

(6) Effective date of rule:

Permanent Rules

- 31 days after filing
- Other (specify) _____ *

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Emergency Rules

- Immediately
- Later (specify) _____

Name (Type or Print)

Gwen K. Sailer

Signature

Title
Vice President for Student Services

Date

May 7, 2004

CODE REVISER USE ONLY

STATE OF WASHINGTON

MAY 13 2004

2:16

04-11-043

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>3</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

AMENDATORY SECTION (Amending WSR 00-11-147, filed 5/24/00, effective 6/24/00)

WAC 495A-121-011 Definitions. The definitions set forth in this section shall apply throughout this chapter. The following words and phrases shall mean:

(1) "Assembly" shall mean any activity engaged in by two or more persons the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any persons or group of persons.

(2) "Board of trustees" shall mean the five member board appointed by the governor of the state of Washington, District No. 28.

(3) "College" shall mean Bates Technical College, which includes the main campus, extension centers, and off-campus classes and activities, including alternative learning methods distributed by web, tape, television or other alternative means.

(4) "College community" shall mean all college employees designated as members of the administration by the board of trustees and students.

(5) "College facilities" shall mean and include any or all computer systems/networks or extension/alternative sites or real property controlled or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

(6) "College president" shall mean the chief executive officer of the college appointed by the board of trustees.

(7) "Controlled substances" shall mean the definition of controlled substances as defined within RCW 69.50.101 as now law or hereafter amended.

(8) "Disciplinary action" shall mean and include oral warning, reprimand, probation, suspension, dismissal or any lesser sanction of any student by college officials.

(9) "Disciplinary official" shall mean the student/faculty disciplinary committee, the vice-president of student services or designee, and the president.

(10) "Drugs" shall mean a narcotic drug as defined in RCW 69.50.101 or a legend drug as defined in RCW 69.41.010.

(11) "Employee" shall mean any classified, faculty, administrator, exempt, student worker or volunteer person.

(12) "Harassment" shall mean any malicious act, which causes harm to any person's physical or mental well being.

(13) "Hate crimes" shall mean criminal acts in which victims are selected based on characteristics such as race, national origin, ethnicity, sex/gender, religion, sexual orientation or disability. Examples of behaviors that may constitute a hate crime include but are not limited to:

- (a) Threatening phone calls.
- (b) Hate mail.
- (c) Physical assault.
- (d) Threats of harm or violence.
- (e) Arson.
- (f) Vandalism.
- (g) Cross burnings.
- (h) Bombings and bomb threats.

(14) "Hazing" shall mean any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause bodily danger or physical harm, or serious mental or emotional harm to any student or person attending a public or private institution of higher education or other postsecondary educational institution in this state.

(15) "Instructor/faculty" shall mean professional staff members who are employed by the college in a temporary, full-time, tenured or probationary position as instructor, counselor, and/or librarian for the purpose of providing support services for students.

(16) "Liquor" shall mean the definition of liquor as defined in RCW 66.04.010.

(17) "Racial harassment" shall be defined as written, oral, graphic or physical conduct relating to an individual's race, color, or national origin that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of the individual to participate in or benefit from college's programs or activities. Examples of behaviors that constitute harassment based on race or national origin may include but are not limited to:

(a) Harassment of students because they are immigrants, speak another language, or have a foreign accent.

(b) Intimidation and implied or overt threats of physical violence motivated by race, color, or national origin.

(c) Physical acts of aggression or assault upon another, or damage to another's property that is motivated by the individual's race, color, or national origin.

(d) Depending on the circumstances and context, demeaning racial jokes, taunting, racial slurs, and derogatory racial "nicknames," innuendoes, or other negative or derogatory remarks of a racial nature or relating to national origin.

(e) Depending on the circumstances and context, graffiti and/or slogans or visual displays such as cartoons or posters depicting racial/ethnic slurs or other racially/ethnically derogatory sentiments.

(f) Criminal offenses directed at persons because of their race or national origin.

(18) "Sexual harassment" shall mean unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct directed at person because of his/her sex where:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic standing or employment; or

(b) Submission to or rejection of such conduct by an

individual is used as the basis for academic decisions or employment affecting such individual; or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or learning environment. Examples of behaviors that may constitute harassment include but are not limited to:

(i) Unwelcome verbal harassment of a sexual nature or abuse;

(ii) Unwelcome pressure for sexual activity;

(iii) Unwelcome sexually motivated or inappropriate patting, pinching, or physical contact;

(iv) Unwelcome sexual behavior or words, including demands for sexual favors accompanied by implied or overt threats concerning an individual's educational status;

(v) Unwelcome behavior, verbal or written words or symbols, directed at an individual because of gender;

(vi) The use of authority to emphasize the sexuality of a student in a manner that prevents or impairs the student's full enjoyment of educational benefits, climate or opportunities.

(19) "Student" shall mean and include any person who is enrolled at the college or is in the process of enrolling at the college.

AMENDATORY SECTION (Amending WSR 00-11-147, filed 5/24/00, effective 6/24/00)

WAC 495A-121-041 Prohibited conduct. Disciplinary action may be taken for a violation of any provision of this student code or for a violation of other college rules and regulations, which may from time to time be properly enacted or for specific prohibited conduct including, but not limited to, the following:

(1) Smoking and use of tobacco products is prohibited in all classrooms, shop areas, the library and other areas designated by college officials.

(2) Using, possessing, consuming, or being under the influence of, or selling any liquor as defined in RCW 66.04.010, in violation of law or in a manner which disrupts a college activity.

(3) Using, possessing, selling or being under the influence of any narcotic drug or controlled substance as defined in RCW 69.50.101 in a college facility or while participating in a college-related program or activity.

(4) Engaging in lewd, indecent, or obscene behavior.

(5) Where the student presents an imminent danger to college property or to himself/herself or to other students or persons in college facilities on or off campus, or to the educational process of the college.

(6) Interference by force or violence with, or intimidation by threat of force or violence, of another student, employee or

visitor who is in the peaceful discharge or conduct of his/her duties or studies (RCW 28B.10.570 through 28B.10.572).

(7) Conducting or participating in an assembly, which violates the guidelines of assembly as defined and set forth in these provisions.

(8) Any forms of academic dishonesty, including cheating, falsification, plagiarism or facilitating, aiding, and abetting academic dishonesty.

(9) Forgery of or unauthorized alteration of or access to any college document, record, funds, or instrument of identification, including electronic hardware, software and records.

(10) The intentional making of false statements and/or filing of false charges against the college and/or a member of the college community.

(11) Theft from college premises and/or property; theft of property of a member of the college community on college premises; or possession of property stolen from college premises and/or a member of the college community while on college premises.

(12) Causing, or attempting to cause, physical damage to property owned, controlled or operated by the college or to property owned, controlled or operated by another person while said property is located on college facilities.

(13) Failure to comply with the direction of college employees acting in the legitimate performance of their duties.

(14) Refusal to provide positive identification and evidence of student enrollment to any college employee in the lawful discharge of said employee's duties.

(15) Unlawful possession, transportation or storage of any firearm(s), explosives, dangerous chemicals or other weapons, devices or substances which can be used to inflict bodily harm or to damage real or personal property.

(16) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(17) Sexual harassment as defined and set forth in these provisions, of another student or employee.

(18) Racial harassment as defined and set forth in these provisions of another student or employee.

(19) Any repeated intentional conduct directed at another student or employee that has the purpose or effect of creating a hostile, intimidating or disruptive learning or working environment.

(20) Hazing in any form as described in RCW 28B.10.900.

(21) Illegal or attempted illegal entry of college owned or college controlled property.

(22) Violation of any computer use policies in effect on campus as well as conduct that violates the college's property rights with respect to computing resources including, but not limited to:

(a) Unauthorized copying, including:

(i) Copying college-owned or licensed software or data for personal or external use without prior approval;

(ii) Copying another computer user's software or data without

permission of its owner, even if it is readily accessible by electronic means;

(iii) Knowingly accepting or using software or data which has been obtained by unauthorized means.

(b) Modifying or damaging, attempting to modify or damage computer equipment, software, data bases, or communication lines without permission;

(c) Disrupting or attempting to disrupt computer operations;

(d) Invading the privacy of an individual by using electronic means to ascertain confidential information, even if an individual or department inadvertently allows access to such information;

(e) Abusing or harassing another computer user through electronic means;

(f) Using the college's computing facilities in the commission of a crime;

(g) Allowing another individual to use one's computer identity/account or using another individual's computer identity/account. This includes, but is not limited to: Logging on to the account, accessing programs, and reading or altering computer records. Computer time belongs to the college; the college is the only entity, through computing services, authorized to allocate time on the mainframe computers.

(h) Using computer services without authorization.

(i) Using the internet for purposes other than college-approved activities.

(23) Disruption. While students have the right to freedom of expression, including the right to dissent or protest, this expression cannot interfere with the rights of others or disrupt the processes of the college. The following conduct will not be permitted:

(a) Disruption of classes, laboratories, offices, services, meetings, or ceremonies;

(b) Obstruction of free movement of people or vehicles;

(c) Conduct which threatens harm, incites violence, or endangers the health and safety of any person;

(d) Threats of disruption, including bomb threats;

(e) Damaging, defacing or abusing college facilities, equipment, or property;

(f) Inciting others to engage in prohibited conduct.

(24) Violation of parking regulations.

(25) Other conduct. Any other conduct or action in which the college can demonstrate a clear and distinct interest, and, which substantially threatens the educational process or other legitimate function of the college or the health or safety of any member of the college is prohibited.

WAC 495A-121-044 Disciplinary sanctions. Sanctions for violations of college regulations or conduct may be imposed independent of any action taken by civil authorities. In the case of minors, misconduct may be referred to parents or legal guardians. More than one sanction may be recommended. Sanctions may include, but are not limited to:

(1) "Disciplinary warning" shall mean oral notice of violation of college rules and regulations.

(2) "Reprimand" shall mean formal action after censuring a student for violation of college rules or regulations for failure to satisfy the college's expectations regarding conduct. The disciplinary official makes reprimands in writing to the student. A reprimand indicates to the student that continuation or repetition of the specific conduct involved or other misconduct will result in one or more serious disciplinary actions described below.

(3) "Disciplinary probation" shall mean formal action placing conditions upon the student's continued attendance. Notice will be made in writing, specifying the period of probation and the conditions of the probation. Disciplinary probation warns the student that any further misconduct will automatically raise the question of dismissal from the college.

(4) "Restitution" shall mean compensation for loss, damage, or injury to the appropriate party in the form of service, money, or material replacement.

(5) "Discretionary sanctions" may include, but are not limited to, restricted computer systems/network access, work assignments, service to college or community, mandatory class/workshop attendance or other discretionary assignments such as educational interventions intended as learning experiences.

(6) "Loss of privileges" shall mean loss of specific college privileges for a specified period of time. These may include, but are not limited to, computer/internet access, student activities or club participation.

(7) "Summary suspension" shall mean temporary dismissal from the college for a period of time during which an investigation and/or formal disciplinary procedures are pending. Summary suspension is predicated upon a reasonable belief that the student presents an imminent danger to college property, to other students, to employees of the college or is of significant disruption to the educational process.

(8) "Suspension" shall mean temporary dismissal from the college and termination of student status.

(9) "Expulsion" shall mean dismissal from the college and termination of student status.

(10) "No contact" shall mean restriction from entering specific college areas and/or all forms of contact with certain individual(s).