

Chapter 132J-126 WAC

RULES OF STUDENT CONDUCT

WAC

132J-126-010	Purpose.
132J-126-020	Statement of jurisdiction.
132J-126-030	Definitions.
132J-126-040	Student code authority.
132J-126-050	Statement of student rights.
132J-126-060	Right to sale of personal property.
132J-126-070	Denial of access to Green River College.
132J-126-080	Rights of ownership of works.
132J-126-090	Conduct—Student responsibilities.
132J-126-100	Violation of law and college discipline.
132J-126-120	Purpose of disciplinary action.
132J-126-130	Disciplinary terms.
132J-126-140	Initiation of disciplinary action.
132J-126-150	Appeal from disciplinary action.
132J-126-160	Brief adjudicative proceedings—Initial hearing.
132J-126-170	Brief adjudicative proceedings—Review of an initial decision.
132J-126-180	Student conduct committee.
132J-126-190	Appeal—Student conduct committee.
132J-126-200	Student conduct appeals committee hearings—Presentations of evidence.
132J-126-210	Student conduct committee—Initial decision.
132J-126-220	Appeal from student conduct committee initial decision.
132J-126-230	Summary suspension.
132J-126-240	Supplemental procedures for sexual misconduct cases.
132J-126-250	Supplemental definitions.
132J-126-260	Supplemental complaint process.
132J-126-270	Supplemental appeal rights.
132J-126-280	Brief adjudicative proceedings authorized.
132J-126-290	Brief adjudicative proceedings—Agency record.
132J-126-300	Recordkeeping.

WAC 132J-126-010 Purpose. (1) Green River College, an agency of the state of Washington, provides a variety of educational opportunities for students; namely the opportunities to examine the academic, vocational, technical, cultural, social, and recreational aspects of society. Green River College as an institution of society must maintain conditions conducive to the effective performance of its functions. Consequently, Green River College has special expectations regarding the conduct of students. Student conduct that detracts from, or interferes with, the accomplishment of college purposes is not acceptable.

(2) The student is a member of the community at large, and as such has the rights and responsibilities of any citizen. In addition, admission to Green River College carries with it the presumption that students will conduct themselves as responsible members of the college community. This includes an expectation that students will obey the law, will comply with rules and regulations of the college, will maintain a high standard of integrity and honesty, and will respect the rights, privileges, and property of other members of the college community.

(3) The following rules regarding the conduct of students are adopted in order to provide students a full understanding of the rules that will enable the college to maintain conditions conducive to the effective performance of the college's functions. Sanctions for violations of the rules of student conduct will be administered by the college in the manner provided by said rules. When violation(s) of laws of the state of Washington and/or the United States are also involved, the college

may refer such matters to the appropriate authorities. In cases of minors, this conduct may also be referred to parents or legal guardians.

(4) The office of judicial programs, under the leadership of the vice-president of student affairs, maintains and administers the student code of conduct for Green River College. The office of judicial programs and Green River College strive to engage our students to become civic minded citizens who positively contribute to society and achieve their educational goals. The office of judicial programs seeks to educate students as to their rights, responsibilities, and expectations as members of Green River College while providing a fair and educational process through which alleged violations of the code of conduct are adjudicated.

[Statutory Authority: RCW 28B.50.140 and 34.02.353 [34.05.353]. WSR 15-15-071, § 132J-126-010, filed 7/13/15, effective 8/13/15. Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-010, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-020 Statement of jurisdiction. The student conduct code shall apply to student conduct that occurs on college premises, to conduct that occurs at or in connection with college sponsored activities, or to off-campus conduct that, in the judgment of the college, adversely affects the college community or the pursuit of its objectives. Jurisdiction extends to, but is not limited to, locations in which students are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the associated students, athletic events, training internships, cooperative and distance education, online education, practicums, supervised work experiences or any other college-sanctioned social or club activities. Students are responsible for their conduct from the time of application for admission through the actual receipt of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending. Inappropriate conduct by students who have completed classes and are awaiting graduation ceremony are covered by this student conduct code.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-020, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-030 Definitions. The following definitions shall apply for the purpose of this student conduct code: "Assembly" is any overt 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 person, persons, or groups of persons.

"Business day" means a weekday, excluding weekends and college holidays.

"Cheating" is defined as intentional deception in producing or creating academic work. Cheating includes, but is not limited to:

- (a) Intentional plagiarism;
- (b) Selling or giving your own completed work to others who intend to turn it in as their own;
- (c) Purchasing or accepting the work of others with the intent of turning it in as your own;
- (d) Acquiring and/or using teachers' editions of textbooks, without the permission of the specific instructor, in order to complete your course assignments;
- (e) Obtaining or attempting to obtain an examination prior to its administration;
- (f) Referring to devices, materials or sources not authorized by the instructor;
- (g) Receiving assistance from another person when not authorized by the instructor;
- (h) Providing assistance to another person when not authorized by the instructor;
- (i) Taking an examination for another person;
- (j) Obtaining or attempting to obtain another person to take one's own examination;
- (k) Falsifying laboratory results or copying another person's laboratory results; and
- (l) Falsifying or attempting to falsify the record of one's grades or evaluation.

"College" means Green River College.

"College facilities" includes all buildings, structures, grounds, office space, and parking lots.

"College groups" shall mean individuals or groups who are currently enrolled students or current employees of the college, or guests of the college who are sponsored by a recognized student organization, employee organization, or the administration of the college.

"College official" includes any person employed by the college, performing assigned administrative or professional responsibilities.

"College premises" shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college.

"Complainant" means any person who submits a charge alleging that a student violated the student code. When a student believes that she/he has been a victim of another student's misconduct, the student who believes she/he has been a victim will have the same rights under this student code as are provided to the complainant, even if another member of the college community submitted the charge himself or herself.

"Conduct review officer" is the vice-president of student affairs or other college administrator designated by the president to be responsible for receiving and for reviewing or referring appeals of student disciplinary actions in accordance with the procedures of this code. The president is authorized to reassign any and all of the conduct review officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.

"Disciplinary action" is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code.

"Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed by the student conduct officer. Disciplinary appeals from a suspension in excess of ten instructional days or a dismissal are heard by the student conduct appeals board. Appeals of all other appealable disciplinary action shall be reviewed through brief adjudicative proceedings.

"Expressive activity" includes, but is not necessarily limited to, informational picketing, petition circulation, the distribution of informational leaflets or pamphlets, speech making, demonstrations, rallies, appearances of speakers in outdoor areas, protests, meetings to display group feelings or sentiments and/or other types of assemblies to share information, perspectives or viewpoints.

"Fabrication" is defined as intentional misrepresentation of an activity done by a student for an academic project or practicum. Fabrication includes, but is not limited to:

- (a) Counterfeiting data, research results, information, or procedures with inadequate foundation in fact;
- (b) Counterfeiting a record of internship or practicum experiences;
- (c) Submitting a false excuse for absence or tardiness; and
- (d) Unauthorized multiple submission of the same work; sabotage of others' work.

"Faculty member" means any person hired by the college to conduct classroom, counseling, or teaching activities or who is otherwise considered by the college to be a member of its faculty.

"Filing" is the process by which a document is officially delivered to a college official responsible for facilitating a disciplinary review. Unless otherwise provided, filing shall be accomplished by:

- (a) Hand delivery of the document to the specified college official or college official's assistant; or
- (b) By sending the document by e-mail and first class mail to the specified college official's office and college e-mail address.

Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official.

"May" is used in the permissive sense.

"Member of the college community" includes any person who is a student, faculty member, college official or any other person employed by the college. A person's status in a particular situation shall be determined by the vice-president of student affairs or designee.

"Noncollege groups" shall mean individuals, or combinations of individuals, who are not currently enrolled students or current employees of the college and who are not officially affiliated or associated with, or invited guests of a recognized student organization, recognized employee group, or the administration of the college.

"Organization" means number of persons who have complied with the formal requirements for college recognition/registration.

"Plagiarism" is defined as using others' original ideas in your written or spoken work without giving proper credit.

- (a) Ideas include, but are not limited to:
 - (i) Facts;
 - (ii) Opinions;

- (iii) Images;
- (iv) Statistics;
- (v) Equations;
- (vi) Hypotheses;
- (vii) Theories.

(b) Plagiarism can occur in two ways: Intentional and unintentional.

(c) Ways that intentional plagiarism occur include, but are not limited to:

- (i) Turning in someone else's work as your own;
- (ii) Copying words or ideas from someone else without giving credit;
- (iii) Failing to put a quotation in quotation marks;
- (iv) Giving incorrect information about the source of a quotation;
- (v) Changing words but copying the sentence structure of a source without giving credit;
- (vi) Copying so many words or ideas from a source that it makes up the majority of your work, whether you give credit or not.

(d) Unintentional plagiarism may occur when a student has tried in good faith to document their academic work but fails to do so accurately and/or thoroughly. Unintentional plagiarism may also occur when a student has not had course work covering plagiarism and documentation and is therefore unprepared for college academic writing or speaking.

"Policy" means the written regulations of the college as found in, but not limited to, the student code, the college web page and computer use policy, and catalogs.

"Respondent" is the student against whom disciplinary action is initiated.

"Service" is the process by which a document is officially delivered to a party. Unless otherwise provided, service upon a party shall be accomplished by:

- (a) Hand delivery of the document to the party; or
- (b) By sending the document by e-mail and by certified mail or first class mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date the document is e-mailed and deposited in the mail.

"Shall" is used in the imperative sense.

"Student" includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw after allegedly violating the code, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered students.

"Student conduct officer" is a college administrator designated by the president or vice-president of student affairs to be responsible for implementing and enforcing the student conduct code. The president or vice-president of student affairs is authorized to reassign any and all of the student conduct officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.

"The president" is the president of the college. The president is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary.

(7/13/15)

"Vice-president of student affairs" means the college administrator who reports to the college president, who serves as the college's student judicial affairs administrator, and who is responsible for administering the student rights and responsibilities code. The vice-president of student affairs may designate a student conduct officer to fulfill this responsibility.

[Statutory Authority: RCW 28B.50.140 and 34.02.353 [34.05.353]. WSR 15-15-071, § 132J-126-030, filed 7/13/15, effective 8/13/15. Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-030, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-040 Student code authority. (1) The vice-president of student affairs or designee shall develop policies for the administration of the student conduct system and procedural rules for the conduct of student conduct hearings that are not inconsistent with provisions of the student code.

(2) The vice-president of student affairs or designee shall determine the composition of the student conduct committee in accordance with WAC 132J-126-180.

(3) Decisions made by a student conduct officer shall be final, pending the normal appeal process.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-040, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-050 Statement of student rights. As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the college community.

The following enumerated rights are guaranteed to each student within the limitations of statutory law and college policy which are deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

(a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students shall be protected from academic evaluation which is arbitrary, prejudiced, or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

(d) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and any and all harassment, including sexual harassment.

(2) Due process.

(a) The rights of students to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures is guaranteed.

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(c) A student accused of violating this code of student conduct is entitled, upon request, to procedural due process as set forth in this chapter.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-050, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-060 Right to sale of personal property. (1) Students have the right to engage in legal, incidental sales of personal property in private transactions.

(2) All other sales shall take place in Lindbloom Student Center subject to the approval and requirements of the vice-president of student affairs or designee.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-060, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-070 Denial of access to Green River College. (1) The vice-president of student affairs may deny admission to a prospective student, or continued attendance to an enrolled student, if it reasonably appears that the student would not be competent to profit from the curriculum offerings of the college, or would, by the student's presence or conduct, create a disruptive atmosphere within the college or a substantial risk of actual harm to self or other members of the campus community.

(2) Denial of access decisions may be appealed, as or like disciplinary actions, to the student conduct committee.

[Statutory Authority: RCW 28B.50.140 and 34.02.353 [34.05.353]. WSR 15-15-071, § 132J-126-070, filed 7/13/15, effective 8/13/15. Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-070, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-080 Rights of ownership of works. It shall be the policy of Green River College that employees of the college shall not use students' published or unpublished works for personal gain without written consent of the student.

[Statutory Authority: RCW 28B.50.140 and 34.02.353 [34.05.353]. WSR 15-15-071, § 132J-126-080, filed 7/13/15, effective 8/13/15. Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-080, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-090 Conduct—Student responsibilities. Any student shall be subject to disciplinary action as provided for in this chapter, who either as a principal actor, aide, abettor, or accomplice as defined in RCW 9A.08.020:

Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college;

Violates any provision of this chapter; or

Commits any prohibited act including, but not limited to, the following:

(1) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, and fabrication. In academically honest writing or speaking, the student documents his/her source of information whenever:

Another person's exact words are quoted;

Another person's idea, opinion or theory is used through paraphrase; and

[Ch. 132J-126 WAC p. 4]

Facts, statistics, or other illustrative materials are borrowed.

In order to complete academically honest work, students should:

Acknowledge all sources according to the method of citation preferred by the instructor;

Write as much as possible from one's own understanding of the materials and in one's own voice;

Ask an authority on the subject, such as the instructor who assigned the work; and

Seek help from academic student services such as the library and/or writing center.

(2) **Tobacco, electronic cigarettes, and related products.** The use of tobacco, electronic cigarettes, and related products are not allowed on college campus. In addition to the main campus, this also includes any building and premises owned, leased or operated by the college outside of the main campus. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.

(3) **Alcohol.** The use, possession, delivery, sale, or being visibly under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(4) **Drugs/substance abuse.**

(a) Any student who, while in any college facility or participating in a college-related program, uses, possesses, consumes, is demonstrably under the influence of, or sells any narcotic drug or controlled substance as defined in RCW 69.50.101, in violation of law or in a manner which significantly disrupts a college activity. For purposes of this section, "sell" includes the statutory meaning in RCW 69.50.410.

(b) **Marijuana.** The use, possession, delivery, sale, or being visibly under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form, is prohibited. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

(5) **Conduct at college functions.** Any student who significantly disrupts or obstructs any teaching, research, administration, disciplinary proceedings, other college activities, including its public service functions on or off campus, or of other authorized noncollege activities when the conduct occurs on college premises.

(6) **Theft; stolen property; robbery.** Any student who, while in any college facility or participating in a college-related program, commits or attempts to commit theft as defined in RCW 9A.56.020, or possesses stolen property as defined in RCW 9A.56.140, or commits or attempts to commit robbery as defined in RCW 9A.56.190.

(7) **Damaging property.**

(a) Any student who causes or attempts 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.

(b) Any student who in this or any other manner is guilty of malicious mischief in violation of RCW 9A.48.070 through 9A.48.100.

(8) **Abuse; intimidation.** Physical abuse, verbal abuse, threats, intimidation, coercion, and/or other conduct which threatens or endangers the health or safety of any person.

(7/13/15)

(9) **Hazing.** Hazing, defined as an act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing are not neutral acts; they are violations of this rule.

(10) **Failure to comply.** Failure to comply with directions of college officials, campus safety officers, or law enforcement officers acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so.

(11) **Possession of keys.** Unauthorized possession, duplication or use of keys to any college premises or unauthorized entry to or use of college premises.

(12) **Policy violation.** Violation of any college policy, rule, or regulation published in hard copy or available electronically on the college web site.

(13) **Violation of laws.** Violation of any federal, state, or local law.

(14) **False alarms.** 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.

(15) **Harassment.** Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic.

(16) **Sexual misconduct.**

(a) Sexual misconduct is any sexual activity with another that is unwanted and nonconsensual. Sexual misconduct includes physical contact as well as voyeurism.

(b) Consent to sexual activity requires that, at the time of the act, there are actual words or conduct demonstrating freely given agreement to sexual activity, silence or passivity is not consent. Even if words or conduct alone seem to imply consent, sexual activity is nonconsensual when:

(i) Force or blackmail is threatened or used to procure compliance with the sexual activity; or

(ii) The person is unconscious or physically unable to communicate his or her unwillingness to engage in sexual activity; or

(iii) The person lacks the mental capacity at the time of the sexual activity to be able to understand the nature or consequences of the act, whether that incapacity is produced by illness, defect, the influence of alcohol or another substance, or some other cause.

(c) A person commits voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly views, photographs, or films another person, without that person's knowledge and consent, while the person being viewed, photographed, or filmed is in a place where he or she has a reasonable expectation of privacy.

(d) The term "sexual harassment" means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal, or physical conduct of a sexual nature that is sufficiently serious as to deny or limit, and that does deny or limit, based on sex, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members.

(e) The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording.

(17) **Sexual violence.** The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated without clear, knowing, and voluntary consent, such as committing a sexual act against a person's will, exceeding the scope of consent, or where the person is incapable of giving consent, including rape, sexual assault, sexual battery, sexual coercion, sexual exploitation, gender- or sex-based stalking. The term further includes acts of dating or domestic violence. A person may be incapable of giving consent by reason of age, threat or intimidation, lack of opportunity to object, disability, drug or alcohol consumption, or other cause.

(18) **Weapons and fireworks.** Possession or use of fireworks anywhere on campus; possession, holding, wearing, transporting, storage or presence of any firearm, dagger, sword, knife, or any other cutting or stabbing instrument, or club, or incendiary device, or explosive, or any facsimile weapons, or any other weapon apparently capable of producing bodily harm and/or property damage is prohibited on the college campus, subject to the following exceptions:

(a) Commissioned law enforcement personnel, legally authorized military personnel, or bank-related security personnel required by their office to carry such weapons or devices.

(b) Possession or use of disabling chemical sprays when used for self-defense.

(c) The president may authorize possession of a weapon on campus upon a showing that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to such terms or conditions incorporated in the written permission.

(19) **Demonstrations.** Participating in an on-campus or off-campus demonstration, riot, or activity that disrupts the normal operations of the college and/or infringes on the rights of other members of the college community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area.

(20) **Disorderly conduct.** Conduct that is disorderly, lewd, indecent, or obscene; breach of peace; or aiding, abetting, or procuring another person to breach the peace on college premises or at functions sponsored by, or participated in

by, the college or members of the college community. Disorderly conduct includes, but is not limited to, any unauthorized use of electronic or other devices to make an audio or video record of any person while on college premises without his/her prior knowledge, or without his/her effective consent when such a recording is in a place or situation where he or she has a reasonable expectation of privacy. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom.

(21) **Discriminatory conduct.** Discriminatory conduct which harms or adversely affects any member of the college community because of his/her race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification.

(22) **Stalking.** Stalking, defined as intentionally and repeatedly harassing or following a person and intentionally or unintentionally placing the person being followed or harassed in fear of physical harm to one's self or property or physical harm to another person or another's property.

(23) **Improper use of technology.** Theft or other abuse of computer facilities and resources including, but not limited to:

(a) Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.

(b) Unauthorized transfer of a file.

(c) Use of another individual's identification and/or password.

(d) Use of computing facilities and resources to interfere with the work of another student, faculty member, or college official.

(e) Use of computing facilities and resources to view or send obscene or abusive messages.

(f) Use of computing facilities and resources to interfere with normal operation of the college computing system.

(g) Use of computing facilities and resources in violation of copyright laws.

(h) Any violation of the Student Affairs Policy SA-24 - Student Acceptable Computer Use.

(24) **Forgery or alteration of records.** Any student who, while in any college facility or participating in a college-related program, engages in forgery, as defined in RCW 9A.60.020.

(25) **Disruption of conduct process.** Abuse of the student conduct system including, but not limited to:

(a) Falsification, distortion, or misrepresentation of information before a student conduct officer.

(b) Disruption or interference with the orderly conduct of a student conduct hearing proceeding.

(c) Institution of a student conduct code proceeding in bad faith.

(d) Attempting to discourage an individual's proper participation in, or use of, the student conduct system.

(e) Attempting to influence the impartiality of a member of a student conduct officer prior to, and/or during the course of, the student conduct hearing proceeding.

(f) Harassment (verbal or physical) and/or intimidation of a member of a student conduct officer prior to, during, and/or after a student conduct hearing proceeding.

(g) Failure to comply with the sanction(s) imposed under the student code.

(h) Influencing or attempting to influence another person to commit an abuse of the student conduct code system.

(26) **False complaint.** Filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.

(27) **Classroom conduct.** Any student who significantly disrupts any college class and makes it unreasonably difficult to conduct the class in an orderly manner shall be subject to disciplinary action. An instructor/faculty member may impose any of the following actions for classroom conduct:

(a) Warning: An oral or written notice to a student that college and/or classroom expectations about conduct have not been met.

(b) Reprimand: A written notice which censures a student for improper conduct and includes a warning that continuation or repetition of improper conduct shall result in further disciplinary action.

(c) Summary suspension for a maximum of two days: As defined in WAC 132J-126-230.

At any time, severe misconduct or continued misconduct shall be just cause for the matter to be forwarded immediately to the vice-president of student affairs or designee for further action.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-090, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-100 Violation of law and college discipline.

(1) College disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and this student code (that is, if both possible violations result from the same factual situation) without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under this student code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the vice-president of student affairs or designee. Determinations made or sanctions imposed under this student code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of college rules were dismissed, reduced, or resolved in favor of, or against the criminal law defendant.

(2) When a student is charged by federal, state, or local authorities with a violation of law, the college will not request or agree to special consideration for that individual because of his or her status as a student. If the alleged offense is also being processed under the student code, the college may advise off-campus authorities of the existence of the student code and of how such matters are typically handled within the college community. The college will attempt to cooperate with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators (provided that the conditions do not conflict with campus rules or sanctions). Individual students and other members of the college community, acting in their personal capacities, remain free to interact with governmental representatives as they deem appropriate.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-100, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-120 Purpose of disciplinary action.

The college may apply sanctions or take other appropriate action for violations of the student code of conduct. Disciplinary proceedings shall determine whether and under what conditions the violator may continue as a student of the college.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-120, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-130 Disciplinary terms. The following definitions of disciplinary terms have been established to provide consistency in the application of penalties:

(1) **Warning** - A notice in writing to the student that the student is violating or has violated institutional regulations.

(2) **Probation** - A written reprimand for violation of specified regulations. Probation is indefinite or for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to violate any institutional regulation(s) during the probationary period.

(3) **Loss of privileges** - Denial of specified college privileges for a designated period of time.

(4) **Fines** - Previously established and published monetary charges.

(5) **Restitution** - Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

(6) **Discretionary sanctions** - These may include, but are not limited to, work assignments, essays, service to the college, or other related discretionary assignments.

(7) **College suspension** - Separation of the student from the college for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.

(8) **College dismissal** - Permanent separation of the student from the college.

(9) **Revocation of admission and/or degree** - Admission to or a degree awarded from the college may be revoked for fraud, misrepresentation, or other violation of college standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.

(10) **Registration hold** - Students may have their registration privileges blocked pending the completion of specified sanctions/conditions. Holds may be placed and removed only by the vice-president of student affairs or designee.

(11) **Revocation of club status and loss of college recognition** - Applies to clubs and organizations.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-130, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-140 Initiation of disciplinary action.

(1) All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint initiated by the respondent, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.

(2) The student conduct officer shall initiate disciplinary action by serving the respondent with written notice directing him or her to attend a disciplinary meeting. The notice shall

(7/13/15)

briefly describe the factual allegations, the provision(s) of the conduct code the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting. At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting the student conduct officer may take disciplinary action based upon the available information.

(3) Within ten days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer shall serve the respondent with a written decision setting forth the facts and conclusions supporting his or her decision, the specific student conduct code provisions found to have been violated, the discipline imposed, if any, and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal.

(4) The student conduct officer may take any of the following disciplinary actions:

(a) Exonerate the respondent and terminate the proceedings;

(b) Impose a disciplinary sanction(s), as described in WAC 132J-126-130;

(c) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct committee, with a copy served on the respondent.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-140, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-150 Appeal from disciplinary action.

The respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within twenty-one calendar days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's decision shall be deemed final.

(1) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(2) The parties to an appeal shall be the respondent and the conduct review officer.

(3) A respondent, who timely appeals a disciplinary action or whose case is referred to the student conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(4) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.

(5) Imposition of disciplinary action for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.

(6) The student conduct committee shall hear appeals from:

(a) The imposition of disciplinary suspensions in excess of ten instructional days;

(b) Dismissals; and

(c) Discipline cases referred to the committee by the student conduct officer, the conduct review officer, or the president.

(7) Student conduct appeals from the imposition of the following disciplinary sanctions shall be reviewed through a brief adjudicative proceeding:

- (a) Suspensions of ten instructional days or less;
- (b) Disciplinary probation;
- (c) Written reprimands; and
- (d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(8) Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary actions are final action and are not subject to appeal.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-150, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-160 Brief adjudicative proceedings—Initial hearing. (1) Brief adjudicative proceedings shall be conducted by a conduct review officer designated by the president. The conduct review officer shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) Before taking action, the conduct review officer shall conduct an informal hearing and provide each party (a) an opportunity to be informed of the agency's view of the matter; and (b) an opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon both the parties within ten days of consideration of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within twenty-one days of service of the initial decision, the initial decision shall be deemed the final decision.

(4) If the conduct review officer upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or dismissal, the matter shall be referred to the student conduct committee for a disciplinary hearing.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-160, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-170 Brief adjudicative proceedings—Review of an initial decision. (1) An initial decision is subject to review by the president, provided the respondent files a written request for review with the conduct review officer within twenty-one days of service of the initial decision.

(2) The president shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to ascertain whether the sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and

must be served on the parties within twenty days of the initial decision or of the request for review, whichever is later. The decision on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the president does not make a disposition of the matter within twenty days after the request is submitted.

(5) If the president upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or dismissal, the matter shall be referred to the student conduct committee for a disciplinary hearing.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-170, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-180 Student conduct committee. (1) The student conduct committee shall consist of five members:

- (a) Two full-time students appointed by the student government;
- (b) Two faculty members appointed by the president;
- (c) One administrative staff member (other than an administrator serving as a student conduct or conduct review officer) appointed by the president at the beginning of the academic year.

(2) The administrative staff member shall serve as the chair of the committee and may take action on preliminary hearing matters prior to convening the committee. The chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

(3) Hearings may be heard by a quorum of three members of the committee so long as one faculty member and one student are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(4) Members of the student conduct committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition for disqualification of a committee member pursuant to RCW 34.05.425(4).

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-180, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-190 Appeal—Student conduct committee. (1) Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW, and by the Model Rules of Procedure, chapter 10-08 WAC. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

(2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven days in advance of the hearing date, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown.

(3) The committee chair is authorized to conduct prehearing conferences and/or to make prehearing decisions

concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(4) Upon request filed at least five days before the hearing by any party or at the direction of the committee chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(5) The committee chair may provide to the committee members in advance of the hearing copies of the conduct officer's notification of imposition of discipline (or referral to the committee) and the notice of appeal (or any response to referral) by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(6) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(7) The student conduct officer, upon request, shall provide reasonable assistance to the respondent in obtaining relevant and admissible evidence that is within the college's control.

(8) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(9) Each party may be accompanied at the hearing by a nonattorney assistant of his/her choice. A respondent may elect to be represented by an attorney at his or her own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer. The committee will ordinarily be advised by an assistant attorney general. If the respondent is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-190, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-200 Student conduct appeals committee hearings—Presentations of evidence. (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either (a) proceed with the hearing and issuance of its decision; or (b) serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(7/13/15)

(3) The chair shall cause the hearing to be recorded by a method that he/she selects, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to any party upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by any party. Other recordings shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The student conduct officer (unless represented by an assistant attorney general) shall present the case for imposing disciplinary sanctions.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-200, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-210 Student conduct committee—Initial decision. (1) At the conclusion of the hearing, the student conduct committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within twenty days following the later of the conclusion of the hearing or the committee's receipt of closing arguments, the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(3) The committee's initial order shall also include a determination on appropriate discipline, if any. If the matter was referred to the committee by the student conduct officer, the committee shall identify and impose disciplinary sanction(s) or conditions, if any, as authorized in the student code. If the matter is an appeal by the respondent, the committee may affirm, reverse, or modify the disciplinary sanction and/or conditions imposed by the student conduct officer and/or impose additional disciplinary sanction(s) or conditions as authorized herein.

(4) The committee chair shall cause copies of the initial decision to be served on the parties and their legal counsel of record. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-210, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-220 Appeal from student conduct committee initial decision. (1) A respondent who is aggrieved by the findings or conclusions issued by the student conduct committee may appeal the committee's initial decision to the president by filing a notice of appeal with the president's office within twenty-one days of service of the

[Ch. 132J-126 WAC p. 9]

committee's initial decision. Failure to file a timely appeal constitutes a waiver of the right and the initial decision shall be deemed final.

(2) The notice of appeal must identify the specific findings of fact and/or conclusions of law in the initial decision that are challenged and must contain argument why the appeal should be granted. The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the notice of appeal.

(3) The president shall provide a written decision to all parties within forty-five days after receipt of the notice of appeal. The president's decision shall be final and shall include a notice of any rights to request reconsideration and/or judicial review.

(4) The president may, at his or her discretion, suspend any disciplinary action pending review of the merits of the findings, conclusions, and disciplinary actions imposed.

(5) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-220, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-230 Summary suspension. (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer may impose a summary suspension if there is probable cause to believe that the respondent:

(a) Has violated any provision of the code of conduct; and

(b) Presents an immediate danger to the health, safety, or welfare of members of the college community; or

(c) Poses an ongoing threat of disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two business days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension" and shall include:

(a) The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the conduct review officer for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the respondent shall be considered trespassing and subject to arrest for criminal trespass if the respondent enters the college campus other than to meet with the

student conduct officer or conduct review officer, or to attend a disciplinary hearing.

(5) An officer designated by the president, who shall be someone other than the conduct review officer, shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension. The hearing will be conducted as a brief adjudicative proceeding.

(a) During the summary suspension hearing, the issue before the reviewing officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

(b) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

(c) If the student fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

(d) As soon as practicable following the hearing, the conduct review officer shall issue a written decision which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.

(e) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices who may be bound or protected by it.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-230, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-240 Supplemental procedures for sexual misconduct cases. Both the respondent and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the initial disciplinary decision-making process and to appeal any disciplinary decision.

Application of the following procedures is limited to student conduct code proceedings involving allegations of sexual misconduct by a student. In such cases, these procedures shall supplement the student disciplinary procedures in WAC 132J-126-140 through 132J-126-230. In the event of conflict between the sexual misconduct procedures and the student disciplinary procedures, the sexual misconduct procedures shall prevail.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-240, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-250 Supplemental definitions. The following supplemental definitions shall apply for purposes of student conduct code proceedings involving allegations of sexual misconduct by a student:

(1) A "complainant" is an alleged victim of sexual misconduct, as defined in subsection (2) of this section.

(2) "Sexual misconduct" is prohibited sexual- or gender-based conduct by a student including, but not limited to:

(a) Sexual activity for which clear and voluntary consent has not been given in advance;

(b) Sexual activity with someone who is incapable of giving valid consent because, for example, she or he is underage, sleeping or otherwise incapacitated due to alcohol or drugs;

(c) Sexual harassment;

(d) Sexual violence, which includes, but is not limited to, sexual assault, domestic violence, intimate violence, and sexual- or gender-based stalking;

(e) Nonphysical conduct such as sexual- or gender-based digital media stalking, sexual- or gender-based online harassment, sexual- or gender-based cyberbullying, nonconsensual recording of a sexual activity, and nonconsensual distribution of a recording of a sexual activity.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-250, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-260 Supplemental complaint process. The following supplemental procedures shall apply with respect to complaints or other reports of alleged sexual misconduct by a student:

(1) The college's Title IX compliance officer shall investigate complaints or other reports of alleged sexual misconduct by a student. Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(2) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

(3) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done without unreasonably risking the health, safety, and welfare of the complainant or other members of the college community or compromising the college's duty to investigate and process sexual harassment and sexual violence complaints.

(4) The student conduct officer, prior to initiating disciplinary action, will make a reasonable effort to contact the complainant to discuss the results of the investigation and possible disciplinary sanctions and/or conditions, if any, that may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.

(5) The student conduct officer, on the same date that a disciplinary decision is served on the respondent, will serve a written notice informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including disciplinary suspension or dismissal of the respondent. The notice will also inform the complainant of his or her appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure that prompt notice of the protective disciplinary sanctions and/or conditions.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-260, filed 12/3/14, effective 1/3/15.]

(7/13/15)

WAC 132J-126-270 Supplemental appeal rights. (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 132J-126-260. 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 a 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) Exoneration and dismissal of the proceedings;

(b) A disciplinary warning;

(c) A written 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 a dismissal shall be reviewed by the student conduct board.

(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. The 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) In proceedings before the student conduct committee, complainant and respondent shall not directly question or cross examine one another. All questions shall be directed to the committee chair, who will act as an intermediary and pose questions on the parties' 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 nonattorney assistants and/or attorneys may attend portions of the hearing where argument, testimony and/or evidence are presented to the student conduct committee.

(10) The chair of the student conduct committee, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The notice will also inform the complainant of his or her appeal rights.

(11) Complainant may appeal the student conduct committee's initial decision to the president subject to the same procedures and deadlines applicable to other parties.

(12) The president, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-270, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-280 Brief adjudicative proceedings authorized. This rule is adopted in accordance with RCW 34.05.482 through 34.05.494. Brief adjudicative proceedings shall be used, unless provided otherwise by another rule or determined otherwise in a particular case by the president, or a designee, in regard to:

(1) Student conduct appeals involving the following disciplinary actions:

- (a) Suspensions of ten instructional days or less;
- (b) Disciplinary probation;
- (c) Written reprimands;
- (d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions; and
- (e) Appeals by a complainant in student disciplinary proceedings involving allegations of sexual misconduct in which the student conduct officer:

(i) Dismisses disciplinary proceedings based upon a finding that the allegations of sexual misconduct have no merit; or

(ii) Issues a verbal warning to respondent.

(2) Brief adjudicative proceedings are informal hearings and shall be conducted in a manner which will bring about a prompt fair resolution of the matter.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-280, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-290 Brief adjudicative proceedings—Agency record. The agency record for brief adjudicative proceedings shall consist of any documents regarding the matters that were considered or prepared by the presiding officer for the brief adjudicative proceeding or by the reviewing officer for any review. These records shall be maintained as the official record of the proceedings.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-290, filed 12/3/14, effective 1/3/15.]

WAC 132J-126-300 Recordkeeping. (1) The vice-president of student affairs shall maintain for at least six years the following records of student grievance and disciplinary actions and proceedings:

(a) Initial and final orders in cases where a student's grievance has been sustained or a disciplinary action against a student has been reversed and the student fully exonerated;

(b) The complete records in all cases where adjudication has been requested; and

(c) A list or other summary of all disciplinary actions reported or known to the vice-president and not appealed.

(2) Final disciplinary actions shall be entered on student judicial records, provided that the vice-president of student affairs shall have discretion to remove some or all of that information from a student's judicial record upon the student's request and showing of good cause.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-300, filed 12/3/14, effective 1/3/15.]