

Chapter 478-120 WAC

STUDENT CONDUCT CODE FOR THE UNIVERSITY OF WASHINGTON

WAC

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Student-faculty joint council on student conduct and activities. [Order 72-9, § 478-120-110, filed 11/30/72.] Repealed by WSR 96-10-051, filed 4/29/96, effective 5/30/96. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903.

Recording and maintenance of records. [Order 72-9, § 478-120-120, filed 11/30/72.] Repealed by WSR 96-10-051, filed 4/29/96, effective 5/30/96. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903.

Emergency authority of the president of the university. [Order 72-9, § 478-120-130, filed 11/30/72.] Repealed by WSR 96-10-051, filed 4/29/96, effective 5/30/96. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903.

WAC 478-120-010 Student conduct code—Authority. Pursuant to chapter 34.05 RCW and the authority granted by RCW 28B.20.130, the board of regents of the University of Washington has established the following rules regarding student conduct and student discipline.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-010, filed 2/17/16, effective 3/28/16. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 07-23-068, § 478-120-010, filed 11/19/07, effective 12/20/07; WSR 96-10-051, § 478-120-010, filed 4/29/96, effective 5/30/96; Order 72-9, § 478-120-010, filed 11/30/72.]

WAC 478-120-012 Preamble. The University of Washington (university) is a public institution responsible for providing instruction in higher education, for advancing knowledge through scholarship and research, and for providing related services to the community. As a center of learning, the university also has the obligation to maintain conditions conducive to the freedom of inquiry and expression to the maximum degree compatible with the orderly conduct of its functions. For these purposes, the university is governed by rules, regulations, procedures, policies, and standards of conduct, including this conduct code, that safeguard its functions and protect the rights and freedoms of all members of the university community.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-012, filed 2/17/16, effective 3/28/16.]

WAC 478-120-014 Definitions. For the purposes of this conduct code, the following definitions apply:

(1) **"Advisor"** is a person selected by a respondent or a complainant to provide support and guidance in hearings under this conduct code.

(2) **"Allegation of misconduct"** is any report of an alleged violation of this conduct code, which may include,

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

478-120-025	Off-campus conduct. [Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 8. WSR 14-17-097, § 478-120-025, filed 8/19/14, effective 9/19/14. Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 1, § 2. WSR 10-23-039, § 478-120-025, filed 11/10/10, effective 12/11/10. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 07-23-068, § 478-120-025, filed 11/19/07, effective 12/20/07.] Repealed by WSR 16-05-097, filed 2/17/16, effective 3/28/16. Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW.
478-120-050	Jurisdiction. [Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 8. WSR 14-17-097, § 478-120-050, filed 8/19/14, effective 9/19/14. Statutory Authority: RCW 28B.20.130 and BRG, Standing Orders, chapter 1. WSR 12-03-038, § 478-120-050, filed 1/9/12, effective 2/9/12. Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 1, § 2. WSR 10-23-039, § 478-120-050, filed 11/10/10, effective 12/11/10. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 07-23-068, § 478-120-050, filed 11/19/07, effective 12/20/07; WSR 96-10-051, § 478-120-050, filed 4/29/96, effective 5/30/96; Order 72-9, § 478-120-050, filed 11/30/72.] Repealed by WSR 16-05-097, filed 2/17/16, effective 3/28/16. Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW.
478-120-060	Disciplinary authority of deans and office of student affairs. [Order 72-9, § 478-120-060, filed 11/30/72.] Repealed by WSR 96-10-051, filed 4/29/96, effective 5/30/96. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903.
478-120-070	Appeals. [Order 72-9, § 478-120-070, filed 11/30/72.] Repealed by WSR 96-10-051, filed 4/29/96, effective 5/30/96. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903.
478-120-080	University disciplinary committee. [Order 72-9, § 478-120-080, filed 11/30/72.] Repealed by WSR 96-10-051,

but is not limited to, a police report, an incident report, a witness statement, other documentation, or a verbal report or written statement from a complainant or a third party.

(3) "**Attorney**" is a person permitted to practice law in Washington state.

(4) "**Complainant**" is a student or another member of the university community who reports that a violation of this conduct code has been committed against him or her. In any case involving an allegation of sexual misconduct as defined in this conduct code, a complainant is afforded certain rights under this conduct code including, but not limited to:

(a) The right to be informed of all orders issued in the disciplinary case in which he or she is a complainant;

(b) The right to appeal to the faculty appeal board an initial order issued by a conduct officer;

(c) The right to request presidential review of an initial order issued by the faculty appeal board; and

(d) The right to be accompanied to all hearings by an advisor and/or an attorney.

(5) "**Conduct officer**" is a university official who has the authority to initiate disciplinary proceedings, conduct investigations and informal hearings, and issue initial orders under this conduct code.

(6) "**FERPA**" refers to the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and its implementing regulations (34 C.F.R. Part 99).

(7) "**Initial order**" refers to an initial written decision issued in a disciplinary matter by a conduct officer, a university disciplinary committee, or the faculty appeal board in accordance with the provisions of this conduct code.

(8) "**Parties**" means collectively the conduct officer and the respondent. In any case involving an allegation of sexual misconduct, any complainant may elect to participate as a party in accordance with the provisions of this conduct code.

(9) "**Proceedings**" means all processes related to the investigation and adjudication of a disciplinary matter under this conduct code including, but not limited to, investigations, informal and formal hearings, administrative review, and requests for reconsideration of a final order.

(10) "**Respondent**" is any student accused of misconduct under this conduct code. Each respondent is afforded certain rights including, but not limited to:

(a) The right to be informed of all orders issued in the respondent's disciplinary case;

(b) The right to appeal an initial order issued by a conduct officer and a university disciplinary committee;

(c) The right to request a presidential review of an initial order issued by the faculty appeal board; and

(d) The right to be accompanied to all hearings by an advisor and/or an attorney.

(11) "**Sexual misconduct**" includes committing, or aiding, soliciting, or attempting the commission of, the following prohibited conduct: Sexual assault, sexual harassment, sexual exploitation, indecent exposure, relationship violence, stalking, and domestic violence.

(12) "**Student**" is any person enrolled in or taking courses at or through the university, either full-time or part-time, including credit, noncredit, online, and nondegree courses, and any person who has been notified of acceptance for admission by the university. A student who withdraws from a course or from the university, or completes his or her

courses after the date of an alleged violation, or who is not enrolled for a particular quarter or quarters, but has a continuing relationship with the university, is still considered a student for purposes of this conduct code.

(13) "**Student organization**" is a group of students that has complied with the requirements for university recognition or who otherwise are granted any rights or privileges by the university as a university affiliate. Student organizations include, but are not limited to, athletic teams or clubs, registered student organizations (RSOs), university service clubs, and sororities and fraternities. (Student organizations are also subject to the process and procedures outlined in the *RSO Policy Guide* and/or the organization's applicable recognition agreement.)

(14) "**University community**" includes all university students and employees. It also includes guests of and visitors to the university during the time they are present on university premises.

(15) "**University official**" is an employee of the university performing his or her assigned administrative, professional, or paraprofessional duties.

(16) "**University premises**" includes all of the university's campus buildings, grounds, and facilities, all of its extension and research locations, and all other university-leased, owned, or managed buildings, grounds, and facilities, including its global learning centers and study abroad program sites, as well as university sponsored and/or hosted online platforms.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-014, filed 2/17/16, effective 3/28/16.]

WAC 478-120-016 Statement of jurisdiction. (1) This conduct code applies to all students from the time of admission through the actual conferral of a degree, including any period between terms of enrollment.

(2) The university shall have the authority to hold students accountable under this conduct code for misconduct that occurs on any university premises or in connection with any university-sponsored event or activity.

(3) The university may also hold students accountable under this conduct code for off campus misconduct (i.e., misconduct that does not occur on university premises or in the context of a university-sponsored event or activity) that the university reasonably determines adversely affects a university interest. Nothing in this subsection shall be construed as being intended to protect any person or class of persons from injury or harm.

(4) Disciplinary proceedings may be initiated under the conduct code regardless of whether or not the incident in question is the subject of criminal or civil proceedings.

(5) Nothing in this conduct code shall be construed to limit academic action that may be taken by schools, colleges, or programs against a respondent based on an established violation of this conduct code that demonstrates a failure to meet the academic and/or professional standards of the school, college, or program.

(6) Other departments or units of the university have proceedings separate and distinct from this conduct code. For example:

(a) Campus parking and traffic regulations are under the general jurisdiction of the transportation services department

and the police department at the University of Washington Seattle campus and under the jurisdiction of public safety officers at the University of Washington Bothell and Tacoma campuses. See chapters 478-116, 478-117 and 478-118 WAC.

(b) The library fines appeals committee has the authority to consider appeals of library charges. See chapter 478-168 WAC.

(7) Nothing in this conduct code will be construed to deny students their legally and/or constitutionally protected rights.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-016, filed 2/17/16, effective 3/28/16.]

WAC 478-120-020 Standards of conduct. (1) Admission to the university carries with it the presumption that students will conduct themselves as responsible members of the university community. As a condition of enrollment, all students assume responsibility to observe standards of conduct that will contribute to the pursuit of academic goals and to the welfare of the university community. That responsibility includes, but is not limited to:

(a) Practicing high standards of academic and professional honesty and integrity;

(b) Respecting the rights, privileges, and property of others;

(c) Refraining from any conduct that would substantially disrupt or materially interfere with university operations;

(d) Refraining from any conduct that would cause harm to or endanger the health, safety, or welfare of other persons; and

(e) Complying with the rules, regulations, procedures, policies, standards of conduct, and orders of the university and its schools, colleges, departments, units, and programs.

(2) The disciplinary sanctions specified in WAC 478-120-040 may be imposed on any student or student organization found to have committed, to have assisted with the commission of, or to have attempted to commit any act of misconduct that is in violation of the general standards of conduct in subsection (1) of this section, or any of the prohibited conduct specified in WAC 478-120-024.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-020, filed 2/17/16, effective 3/28/16. Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 1, § 2. WSR 13-14-002, § 478-120-020, filed 6/19/13, effective 7/20/13; WSR 10-23-039, § 478-120-020, filed 11/10/10, effective 12/11/10. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 07-23-068, § 478-120-020, filed 11/19/07, effective 12/20/07. Statutory Authority: RCW 28B.20.130. WSR 07-03-069, § 478-120-020, filed 1/17/07, effective 2/17/07. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 96-10-051, § 478-120-020, filed 4/29/96, effective 5/30/96; Order 72-9, § 478-120-020, filed 11/30/72.]

WAC 478-120-024 Prohibited conduct. Specific instances of misconduct include, but are not limited to:

(1) **Abuse of others.** Abuse of others includes assault and other forms of physical abuse of any person, or any conduct intended to threaten bodily harm or to endanger the health or safety of any person.

(2) **Abuse of the student conduct process.** Abuse of the student conduct process includes:

(a) Knowingly making false allegations of misconduct under this conduct code;

(b) Attempting to coerce a person not to make a report or to participate in proceedings under this conduct code;

(c) Attempting to influence the impartiality or participation of a member of a university disciplinary committee or the faculty appeal board, any conduct officer, or any reviewing officer; or

(d) Influencing or attempting to influence another person to commit an abuse of the student conduct process.

(3) **Academic misconduct.** Academic misconduct includes:

(a) "Cheating," which includes, but is not limited to:

(i) The use of unauthorized assistance in taking quizzes, tests, or examinations; or

(ii) The acquisition, use, or distribution of unpublished materials created by another student without the express permission of the original author(s).

(b) "Falsification," which is the intentional use or submission of falsified data, records, or other information including, but not limited to, records of internship or practicum experiences or attendance at any required event(s). Falsification also includes falsifying scientific and/or scholarly research.

(c) "Plagiarism," which is the submission or presentation of someone else's words, composition, research, or expressed ideas, whether published or unpublished, without attribution. Plagiarism includes, but is not limited to:

(i) The use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment; or

(ii) The unacknowledged use of materials prepared by another person or acquired from an entity engaging in the selling of term papers or other academic materials.

(d) Prohibited collaboration.

(e) Engaging in behavior specifically prohibited by an instructor in the course of class instruction or in a course syllabus.

(f) Multiple submissions of the same work in separate courses without the express permission of the instructor(s).

(g) Taking deliberate action to destroy or damage another's academic work in order to gain an advantage for oneself or another.

(h) The recording of instructional content without the express permission of the instructor(s), and/or the dissemination or use of such unauthorized records.

(4) **Acts of dishonesty.** Acts of dishonesty include:

(a) Knowingly furnishing false information to any university official;

(b) Impersonating, or providing false information in the name of, any university official;

(c) Forging, altering, or misusing any university document or record, or instrument of identification;

(d) Falsely claiming an academic credential; and

(e) Providing dishonest or misleadingly incomplete information or answers on application forms or in response to other official university requests for information.

(5) **Aiding, solicitation, and attempt.** The following conduct is prohibited:

(a) Aiding or abetting another student or student organization in the commission of any misconduct prohibited by this conduct code;

(b) Requesting, hiring, or encouraging another person to commit any act of misconduct prohibited by this conduct code, either intending that the other person commit the misconduct or with the knowledge that the other person intends to commit the misconduct; or

(c) Attempting to commit any act of misconduct prohibited by this conduct code.

(6) **Alcohol violations.** The unlawful possession, use, distribution, or manufacture of alcohol is prohibited. A conduct officer may elect not to initiate disciplinary action under this subsection against a student who, while in the course of helping another student seek medical assistance, admits to the unlawful possession or use of alcohol. Generally, no disciplinary action under this subsection will be initiated against a complainant or another reporting student, who admits to the possession or use of alcohol (in violation of this subsection) in connection with an incident of sexual misconduct.

(7) **Computer abuses.** Computer abuses include, but are not limited to:

(a) Unauthorized use of university computer resources;

(b) Use of another person's university user name and/or password;

(c) Use of university computing facilities and resources to interfere with the work of another student, an instructor, or other university official;

(d) Use of university computing facilities or resources to send intimidating, harassing, or threatening messages;

(e) Use of a computer or software to interfere with normal operations of the university's computing systems;

(f) Use of the university's computing facilities and resources in violation of any law, including copyright laws; and

(g) Any violation of the university's computer use policies.

(8) **Creating a public nuisance in neighboring communities.** In furtherance of the university's interest in maintaining positive relationships with its surrounding communities, the university shall have the authority to hold students accountable under this conduct code for misconduct within any residential or commercial communities adjacent to a university campus as follows:

(a) A student or a student organization may be subject to disciplinary proceedings if the university is made aware that the student or student organization has been contacted by a law enforcement agency regarding, and is determined to have engaged in, conduct that is in violation of a state statute or municipal ordinance and has a direct quality of life impact on community residents or businesses, including, but not limited to: Creating a public nuisance due to noise, residential disturbance, intentional destruction of property, urinating in public, or criminal trespass.

(b) A first minor violation under (a) of this subsection will not subject the student or student organization to disciplinary sanctions under this conduct code; however, the student or student organization may receive a letter regarding the expectations of university community members as resi-

dents in the area. This letter shall constitute a warning that repeated misconduct under this subsection may result in the imposition of disciplinary sanctions.

(c) A second violation of this subsection will result in the initiation of disciplinary proceedings under this conduct code.

(9) **Discriminatory harassment.** Discriminatory harassment is language or conduct directed at a person because of the person's race, color, creed, religion, national origin, citizenship, sex, age, pregnancy, marital status, sexual orientation, gender identity or expression, disability, or veteran status that is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance, or the person's ability to participate in or benefit from the university's programs, services, opportunities, or activities.

(10) **Disruption or obstruction.**

(a) Disruption or obstruction includes intentionally and substantially obstructing or disrupting, through words or conduct, the teaching or learning environment of any university educational setting, or any university functions or activities.

(b) An instructor has the authority to exclude a student from any individual class session or other academic activity in which the student is disorderly or disruptive and such conduct may also be subject of disciplinary proceedings under this conduct code.

(11) **Domestic violence.** Domestic violence includes:

(a) The infliction of physical harm, bodily injury, assault, or the fear of imminent physical harm, bodily injury or assault committed against a family or household member. Family or household members include:

(i) A current or former spouse or intimate partner;

(ii) A person with whom the person shares a child in common;

(iii) A person with whom one is cohabitating or has cohabitated; or

(iv) A person with whom one resides including a roommate, suitemate, or housemate.

(b) Sexual assault of one family or household member by another family or household member; or

(c) Stalking, as defined in subsection (23) of this section, of one family or household member by another family or household member.

(12) **Drug violations.**

(a) The possession, use, distribution, or manufacture of controlled substances (as defined in chapter 69.50 RCW or Title 21 U.S.C. Sec. 802) on university premises or during university sponsored activities where such possession, use, distribution, or manufacture is illegal under federal, state, or local law is prohibited.

(b) The possession, use, distribution, or growing of marijuana in all forms is prohibited on university premises or during university sponsored activities.

(c) A conduct officer may elect not to initiate disciplinary action under this subsection against a student who, while in the course of helping another student seek medical assistance, admits to the unlawful possession or use of drugs. Generally, no disciplinary action under this subsection will be initiated against a complainant or another reporting stu-

dent, who admits to the use or possession of drugs (in violation of this subsection) in connection with an incident of sexual misconduct.

(13) **Failure to comply.** Failure to comply includes:

(a) Any failure to comply with the directions of a university official acting in the performance of his or her duties and/or the failure to identify oneself to a university official when requested to do so.

(b) Any failure to comply with the rules, regulations, procedures, policies, standards of conduct, or any order or directive of the university or any of its schools, colleges, and departments.

(c) Any failure to comply with any interim measures implemented pursuant to WAC 478-120-038.

(14) **Harassment or bullying.** Harassment or bullying is language or conduct that is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance, or a person's ability to participate in or benefit from the university's programs, services, opportunities, or activities.

(15) **Hazing.**

(a) Hazing includes 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 other person. Hazing activities may include, but are not limited to, encouraging or promoting the abuse of alcohol; striking another person whether by use of any object or any part of one's body; causing someone to experience excessive fatigue or physical and/or psychological shock; and causing someone to engage in degrading or humiliating games or activities that create a risk of serious mental, emotional, and/or physical harm. Consent of a victim or victims is not a defense to an allegation of hazing.

(b) Hazing does not include generally accepted practice, training, and conditioning activities, or activities reasonably designed to test a participant's ability to meet eligibility requirements for established athletic events such as intramural or club sports, intercollegiate athletics, or other similar contests or competitions.

(16) **Indecent exposure.** Indecent exposure includes the exposure of a person's genitals or other private body parts when done in a place or manner in which such exposure is likely to cause affront or alarm, or is against generally accepted standards of decency. Breast feeding or expressing breast milk is not indecent exposure.

(17) **Possession or use of firearms, explosives, dangerous chemicals, or other dangerous weapons.**

(a) Firearms, explosives, dangerous chemicals, or other dangerous weapons or instrumentalities are not permitted on university premises, except for authorized university purposes, or unless prior written approval has been obtained from the chief of the university police department, or any other university official designated by the president of the university.

(b) Firearms include, but are not limited to, what are commonly known as air guns or rifles, BB guns, and pellet

guns, and any instrument used in the propulsion of shot, shell, bullets, or other harmful objects by:

(i) The action of gunpowder or other explosives;

(ii) The action of compressed air; or

(iii) The power of springs or other forms of propulsion.

(c) The exhibition or display of a replica or a dangerous weapon prohibited under this subsection is also prohibited if done in a manner, and at a time or place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons.

(18) **Relationship violence.** Relationship violence, also referred to as "dating violence," is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

(a) The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

(b) For the purposes of this definition, relationship or dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

(c) Relationship or dating violence does not include acts covered under the definition of domestic violence.

(19) **Retaliation.** Retaliation includes engaging or attempting to engage in any action, directly or indirectly, including through a third party, that is intended to harass, intimidate, or improperly influence any person who:

(a) Files a complaint, grievance, or allegation of misconduct under any university policy or rule or under any law;

(b) Participates in and/or cooperates with an investigation;

(c) Appears as a witness at a hearing; or

(d) Opposes an unlawful act, discriminatory practice, or policy.

(20) **Sexual assault.**

(a) Sexual assault is sexual contact with another person without, or that exceeds, that person's consent.

(b) For the purposes of this subsection, "sexual contact" includes:

(i) Any touching of another person for the purposes of sexual gratification; or

(ii) Any penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ, of another person.

(c) For the purposes of this subsection:

(i) "Consent" means that at the time of and throughout the sexual contact, there are actual words or conduct indicating freely given agreement between the parties to engage in the sexual contact.

(A) Past consent does not imply future consent.

(B) Consent given to one person does not imply consent given to another person.

(C) Consent to one sexual act does not imply consent to other sexual acts.

(D) Lack of resistance to sexual contact does not imply consent.

(E) Consent can be withdrawn at any time.

(ii) Consent cannot be given or granted by a person who, at the relevant time, cannot understand the facts, nature, extent, or implications of the sexual contact for any reason

including, but not limited to, being asleep, unconscious, mentally or physically impaired due to an intellectual or other disability, or mentally or physically incapacitated due to the effects of drugs or alcohol.

(A) Indicators that a person may be incapacitated by drugs or alcohol and therefore, cannot grant consent include, but are not limited to: Stumbling, falling down, an inability to stand or walk on their own, slurred speech or incoherent communication, an inability to focus their eyes or confusion about what is happening around them, passing out, or vomiting.

(B) A failure to exhibit any of these behaviors does not necessarily mean that a person is capable of giving consent or is not incapacitated.

(d) Sexual contact is not consensual when force or coercion is threatened or used to gain acquiescence.

(i) Force includes the use of physical violence, physical force, threats, or intimidation to overcome resistance or gain agreement to sexual contact.

(ii) Coercion includes using pressure, deception, or manipulation to cause someone to agree to sexual contact against that person's will, without the use of physical force. Pressure can mean verbal or emotional pressure.

(e) Sexual assault also includes sexual contact with a person who is under the statutory age of consent in accordance with chapter 9A.44 RCW.

(f) Use of alcohol or drugs is not a valid defense to a violation of this subsection.

(21) **Sexual exploitation.** Sexual exploitation includes:

(a) Taking nonconsensual or abusive advantage of another for one's own sexual benefit, or for the sexual benefit of anyone other than the one being exploited;

(b) Compelling another by threat or force to engage in sexual conduct or activity;

(c) Transmitting, distributing, publishing, or threatening to transmit, distribute, or publish photos, video, or other recordings of a private and sexual nature where such transmission, publication, or distribution is without the consent of the subject(s) and is likely to cause emotional distress to the subject(s);

(d) Taking or making photographs, films, or digital images of the private body parts of another person without that person's consent;

(e) Causing or attempting to cause the impairment of another person to gain nonconsensual sexual advantage over that person;

(f) Prostituting another person;

(g) Knowingly allowing another to surreptitiously watch otherwise consensual sexual activity; or

(h) Taking, making, or directly transmitting nonconsensual video or audio recordings of sexual activity.

(22) **Sexual harassment.** Sexual harassment is language or conduct of a sexual nature that is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance or a person's ability to participate in or benefit from the university's programs, services, opportunities, or activities.

(23) **Stalking.**

(a) Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(i) Fear for the person's safety or safety of others; or

(ii) Suffer substantial emotional distress.

(b) For the purposes of this subsection, "course of conduct" means two or more acts including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

(c) For the purposes of this subsection, "substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

(24) **Theft.** Theft is the taking of property or services without express permission of the owner. This includes, but is not limited to, taking, possessing, or aiding another to take university property or services, or property belonging to members of the university community.

(25) **Unauthorized keys, entry or use.** The unauthorized possession, duplication, or use of keys (including conventional keys, key cards, or alphanumeric passcodes) to any university premises is prohibited, as is the unauthorized entry upon or use of university premises or property. Providing keys to an unauthorized person or providing access to an unauthorized person is also prohibited.

(26) **Unauthorized recording.** The following conduct is prohibited:

(a) Making audio, video, digital recordings, or photographic images of a person without that person's consent in a location where that person has a reasonable expectation of privacy.

(b) Storing, sharing, publishing, or otherwise distributing such recordings or images by any means.

(27) **Vandalism.** Vandalism includes maliciously damaging or misusing university property, or the property of any member of the university community.

(28) **Violation of disciplinary sanctions.** The violation of any term or condition of any final disciplinary order issued under this conduct code, or the failure to complete a disciplinary sanction in the specified time frame, may be grounds for additional disciplinary action.

(29) **Violation of law.** Any conduct that would constitute a violation of any federal, state, or local criminal law may be the subject of disciplinary proceedings under this conduct code.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-024, filed 2/17/16, effective 3/28/16.]

WAC 478-120-026 Reporting violations of the student conduct code and initiating conduct proceedings. (1) Persons who believe that a violation of this conduct code has been committed may contact and make a report to the vice-president for student life at University of Washington Seattle, or the chancellors of University of Washington Bothell or Tacoma, or their authorized delegates, which includes the director of community standards and student conduct at University of Washington Seattle, the dean of student affairs at

University of Washington Bothell, and the dean of student engagement at University of Washington Tacoma.

(2) Violations involving academic misconduct should be reported to the dean of the appropriate school or college at the University of Washington Seattle, or the dean or program director at the University of Washington Bothell and Tacoma, or their authorized delegates.

(3) Only the following university officials may initiate disciplinary action under this conduct code:

(a) The vice-president for student life at University of Washington Seattle;

(b) The chancellors at University of Washington Bothell and Tacoma;

(c) Deans of a school or college (including the graduate school) at University of Washington Seattle; and

(d) Deans or directors of any school or program at University of Washington Bothell or Tacoma.

The above named university officials may delegate the authority to initiate disciplinary proceedings to members of their respective staffs and to students. They may also establish student or student-faculty-staff hearing bodies to advise or to act for them in disciplinary matters.

(4) The university may hold the granting or conferral of a respondent's degree if the respondent is the subject of a preliminary investigation or other disciplinary proceedings under this conduct code until at least the conclusion of all disciplinary proceedings.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-026, filed 2/17/16, effective 3/28/16.]

WAC 478-120-030 General procedures for disciplinary sanctions. (1) This section describes the general process under the student conduct code for enforcing the university's rules, regulations, procedures, policies, standards of conduct, and orders. The specific procedures to be used at each step of the process are described in the following sections of this chapter. In all situations, whether handled formally or informally, basic standards of fairness will be observed in the determination of:

(a) Whether the alleged misconduct violates this code; and if so,

(b) The sanctions to be imposed, if any.

The criteria for judging student misconduct shall include, but not be limited to, the standards of conduct as stated in this conduct code. Informal hearings and hearings before the university disciplinary committees shall be conducted as brief adjudicative proceedings under chapter 34.05 RCW. Formal hearings conducted by the faculty appeal board shall follow the procedures required by chapter 34.05 RCW for formal adjudicative proceedings. Informal settlements may be conducted under the authority of RCW 34.05.060.

(2) The conduct officer will begin a disciplinary proceeding by holding, or directing a member of his or her staff to hold, an informal hearing with the respondent consistent with WAC 478-120-065.

(3) In cases not involving an allegation of sexual misconduct, respondents have the right to appeal any sanction imposed at an informal hearing to the appropriate university disciplinary committee, except that when such sanction identifies an existing or potential exceptional circumstance as

defined in WAC 478-120-100 (3)(b)(i), the matter shall be referred to the faculty appeal board. Appeal rights in cases involving an allegation of sexual misconduct are provided for in WAC 478-120-137.

(4) Any decisions of the university disciplinary committees may be appealed to the faculty appeal board. In addition, the university disciplinary committees may, at any time, at their discretion, refer a matter to the faculty appeal board consistent with WAC 478-120-095. The faculty appeal board performs distinct functions. In most cases, the faculty appeal board conducts an administrative review. In certain cases (as described in WAC 478-120-100(3) and 478-120-115(1)), the faculty appeal board conducts a formal hearing.

(5) Any decision based on a formal hearing conducted by the faculty appeal board may be appealed to the president of the university or the president's delegate for a final review. All orders of dismissal shall be reviewed by the president or the president's delegate. Orders entered by the president or the president's delegate are final. (See WAC 478-120-125.)

(6) The president or delegate, or chancellors or their delegates, may take emergency disciplinary action when a student's conduct threatens the health, welfare, or safety of the university community or members thereof or poses an ongoing threat of substantially disrupting or materially interfering with university activities or operations. (See WAC 478-120-140.)

(7) The following persons conducting proceedings under this chapter shall have the authority to issue protective orders and subpoenas: Deans, or at the University of Washington Bothell and Tacoma campuses, the dean or director of the program in which the student is enrolled, the vice-president for student life, the chancellors of the University of Washington Bothell and Tacoma campuses, or the chairs of their respective university disciplinary committees, the chair of the faculty appeal board, and the president or his or her delegate.

(8) In a case involving an allegation of sexual misconduct, the complainant and the respondent are entitled to the same opportunities to have others present during a disciplinary hearing and they shall both be informed of the outcome of such disciplinary proceeding.

(9) Any final order resulting from a disciplinary proceeding shall become a part of the respondent's disciplinary record and be maintained in accordance with WAC 478-120-145.

(10) In accord with FERPA and pursuant to RCW 34.05.250, all hearings conducted under this chapter generally will be held in closed session out of respect for the privacy of all the students involved. However, the students involved may waive in writing this requirement and request a hearing in open session, and the conduct officer or presiding officer shall conduct the hearing in a room that will accommodate a reasonable number of observers. The conduct officer or presiding officer may exclude from the hearing room any persons who are disruptive of the proceedings and may limit the number who may attend the hearing in order to afford safety and comfort to the participants and orderliness to the proceedings. To ensure the privacy of all students involved, no cameras or recording devices shall be permitted except for the official recording by the university.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-030, filed 2/17/16, effective 3/28/16. Statutory Authority:

RCW 28B.20.130 and UWBR, Standing Orders, chapter 8. WSR 14-17-097, § 478-120-030, filed 8/19/14, effective 9/19/14. Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 1, § 2. WSR 10-23-039, § 478-120-030, filed 11/10/10, effective 12/11/10. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 07-23-068, § 478-120-030, filed 11/19/07, effective 12/20/07; WSR 96-10-051, § 478-120-030, filed 4/29/96, effective 5/30/96; Order 72-9, § 478-120-030, filed 11/30/72.]

WAC 478-120-032 Participation of advisors and attorneys. Any party and, in any case involving an allegation of sexual misconduct, a complainant, may, at their own expense, be accompanied by an advisor and/or an attorney to any proceeding conducted under this conduct code. Persons admitted to practice law in the state of Washington may advise, but may not participate in an informal hearing and in a hearing before a university disciplinary committee, and may represent a party at a hearing before the faculty appeal board. The chair of a university disciplinary committee or the faculty appeal board or a conduct officer in an informal hearing has the discretion to impose reasonable conditions upon the participation of an advisor and/or an attorney.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-032, filed 2/17/16, effective 3/28/16.]

WAC 478-120-034 Service of notices and orders and time limits. (1) Service of all university notices of hearing, initial orders, final orders, and orders on reconsideration shall be by electronic mail addressed to the respondent's, and in any case involving an allegation of sexual misconduct, the complainant's university-issued email address, or such alternative email address as may have been provided to the university in writing. Service by electronic mail is complete at the moment the email is sent to such address. In the alternative, service of university notices of hearing, initial orders, final orders, and orders on reconsideration may also be accomplished by personal service or by posting it in the United States mail, properly addressed, and postage prepaid. Service by mail is complete upon deposit in the United States mail.

(2) Students have an ongoing obligation to update their address via MyUW.

(3) The time limits for appealing an initial order shall be determined based upon the date of service of the initial order. The time limit for seeking judicial review of a final order shall be determined based upon the date of service of the final order, except as otherwise provided in this chapter.

(4) In computing any period of time under this conduct code, the day of service of any order, notice, or other document is not counted. The last day of the applicable period of time is counted. If the last day of the applicable period of time falls on a Saturday, Sunday, or official state holiday (which includes the day after Thanksgiving), the period ends on the next business day.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-034, filed 2/17/16, effective 3/28/16.]

WAC 478-120-036 Standard and burden of proof. The applicable standard of proof in all disciplinary hearings is the "preponderance of evidence" standard. This means that, in order for a respondent to be held responsible for a violation of this conduct code, the conduct officer, the university disci-

plinary committee, or the faculty appeal board must conclude, based on all of the evidence in the record, that it is more likely than not that the respondent engaged in an act or acts of misconduct. The burden of proof in a hearing before a university disciplinary committee or the faculty appeal board rests with the party seeking to establish that the violation occurred.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-036, filed 2/17/16, effective 3/28/16.]

WAC 478-120-038 Interim measures. (1) After receiving a report of alleged sexual misconduct or other serious misconduct, the university may implement interim measures which may include, but are not limited to:

(a) A no-contact order prohibiting direct or indirect contact, by any means, with a complainant, a respondent, a reporting student, other specified persons, and/or a specific student organization;

(b) Reassignment of on-campus housing; or

(c) Changes to class schedules, assignments, or test schedules.

(2) Interim measures will remain in place until lifted or modified by the university official who implemented the interim measures.

(3) Implementation of any interim measure does not assume any determination of, or create any presumption regarding responsibility for, a violation under this conduct code.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-038, filed 2/17/16, effective 3/28/16.]

WAC 478-120-040 Disciplinary sanctions. (1) One or more of the following disciplinary sanctions may be imposed for any violation of this conduct code:

(a) Disciplinary reprimand. A respondent may be issued a written reprimand. Reprimands shall include a statement that continuation or repetition of the specific conduct or other misconduct may result in additional disciplinary sanctions.

(b) Restitution. A respondent may be required to make restitution for damage or other loss of property and for injury to persons. A failure to pay, or to make in writing university-approved arrangements to pay restitution, will result in a hold being placed on the respondent's registration preventing the respondent from registering at the university.

(c) Disciplinary probation. A respondent may be placed on disciplinary probation (meaning formal conditions are imposed on the respondent's continued attendance). The time period for the disciplinary probation and any conditions shall be specified. Disciplinary probation serves as a warning to a respondent that further misconduct will raise the question of suspension or dismissal from the university. Failure to fulfill conditions of the disciplinary probation in a timely manner will extend the probationary period (and the conditions) and may result in additional disciplinary sanctions, including possible suspension or dismissal.

(d) Loss of privileges. A respondent may be denied specified privileges for a designated period of time such as the privilege to participate in a particular campus activity and may be restricted from any or all university premises based on the misconduct for a specific duration.

(e) Suspension. A respondent may be suspended (i.e., temporarily separated) from the university for a specified period of time. Conditions of suspension may be imposed and will be specified. Except as otherwise specified in the disciplinary order, all conditions must be fulfilled before the end of the suspension period. Failure to fulfill all conditions of suspension in a timely manner will extend the suspension period and any conditions, and may result in additional disciplinary sanctions. Suspension serves as a warning that further misconduct will raise the question of dismissal from the university. The university may place a hold on a suspended student's registration and may withhold the conferral of the student's degree, during the suspension period.

(f) Dismissal. A respondent may be dismissed (i.e., permanently separated) from the university.

(g) Sanctions for hazing. In addition to other sanctions, a student who participates in hazing of another shall forfeit any entitlement to state funded grants, scholarships, or awards for a specified period of time.

(2) In determining an appropriate sanction for a violation of this conduct code, the seriousness of the misconduct, the impact on the university community, and a respondent's past disciplinary record will be considered. The use of alcohol or drugs by a respondent will not be considered a mitigating factor in imposing discipline.

(3) If a respondent withdraws from the university (or fails to reenroll) before completing a sanction, the sanction must be completed prior to or upon the respondent's reenrollment, depending on the nature of the sanction. Completion of disciplinary sanctions may be considered in applications for readmission to the university.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-040, filed 2/17/16, effective 3/28/16. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 96-10-051, § 478-120-040, filed 4/29/96, effective 5/30/96; Order 72-9, § 478-120-040, filed 11/30/72.]

WAC 478-120-065 Informal disciplinary hearings.

(1) A dean, the vice president for student life, or, at the University of Washington Bothell and Tacoma campuses, the chancellors or the dean or director of the program in which the student is enrolled, or their delegates, may initiate a disciplinary proceeding by conducting, or directing a member of his or her staff to conduct, an informal hearing with the respondent. This informal disciplinary hearing may be nothing more than a face-to-face meeting between the conduct officer or staff person and the respondent, and no special notice of the meeting is required. The purpose of this informal disciplinary hearing is to provide an opportunity for the respondent to respond to allegations of misconduct before disciplinary action is taken. The respondent waives any rights to an informal hearing by his or her failure to attend and the conduct officer may place a hold on a respondent's registration and/or transcript, or make a decision and issue an initial order without the input of the respondent.

(2) During an informal disciplinary hearing, the respondent must be provided with the following information:

- (a) An explanation of the student conduct process;
- (b) The alleged misconduct;
- (c) The specific section(s) of the student conduct code allegedly violated; and

(d) The possible sanctions that may be imposed.

(3) Following the informal disciplinary hearing, the conduct officer may conduct further investigation including, but not limited to, additional interviews of the complainant, the respondent, and any witnesses.

(4) Based on the findings of the informal hearing and any further investigation, the conduct officer shall enter in writing:

(a) An order exonerating the respondent, dismissing the disciplinary proceeding if it appears that there has been no misconduct, or finding that a preponderance of the evidence does not establish a violation of this conduct code;

(b) An initial order (subject to appeal and/or review as provided in this conduct code), imposing one or more of the disciplinary sanctions specified in WAC 478-120-040;

(c) An order referring the matter to the appropriate university disciplinary committee; and/or

(d) An order referring the matter to the faculty appeal board because exceptional circumstances as defined in WAC 478-120-100 (3)(b)(i) may exist.

(5)(a) If the initial order imposes a sanction and exceptional circumstances as defined in WAC 478-120-100 (3)(b)(i) exist, the matter shall be referred to the faculty appeal board and the respondent, and in the case involving an allegation of sexual misconduct, a complainant, shall be informed that he or she has the right to request a formal hearing according to the procedures set forth in WAC 478-120-075(3). Supplemental procedures applicable to cases involving an allegation of sexual misconduct are set forth in WAC 478-120-137.

(b) If the initial order imposes a sanction, but exceptional circumstances do not exist and the case does not involve an allegation of sexual misconduct, then the respondent shall be informed that he or she has twenty-one calendar days from the date of the service of the initial order to request a hearing before the appropriate university disciplinary committee. If the respondent chooses not to appeal, the order becomes the final order.

(6) Within ten days of the conclusion of the conduct officer's investigation, the respondent, and in any case involving an allegation of sexual misconduct, the complainant, shall be provided with a written order which shall include a statement of the decision, the reasons for the decision, and information about appealing the decision. No unfavorable action may be taken against the respondent until the respondent has been given such notice and information. In a case where the respondent is a minor, the disciplinary sanctions imposed may be reported to the respondent's parents or legal guardian at the discretion of the conduct officer.

(7) The official record of this informal hearing shall consist of all documents prepared or considered by the dean, the vice president for student life, or, at the University of Washington Bothell and Tacoma campuses, the chancellors, or the dean or director of the program in which the respondent is enrolled, or their delegates, with regard to the dispute at hand.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-065, filed 2/17/16, effective 3/28/16. Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 8. WSR 14-17-097, § 478-120-065, filed 8/19/14, effective 9/19/14. Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 1, § 2. WSR 10-23-039, § 478-120-065, filed 11/10/10, effective 12/11/10. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 07-23-068, § 478-

120-065, filed 11/19/07, effective 12/20/07; WSR 96-10-051, § 478-120-065, filed 4/29/96, effective 5/30/96.]

WAC 478-120-075 Appeals. Any initial order may be appealed by timely submission of a written petition to the appropriate body. An order only referring a matter from one hearing body to another, not determining the matter on its merits, is not an initial order.

(1) If no appeal is filed with the appropriate body within twenty-one days of service of the initial order the right to appeal is waived and the order becomes final, except that any initial order imposing the sanction of dismissal shall be subject to review in accordance with WAC 478-120-125.

(2) All petitions for appeal must be made in writing to the appropriate authority (the appropriate chair of one of the university disciplinary committees (Seattle, Bothell or Tacoma), the chair of the faculty appeal board, or the president). The petition must state the reasons for the appeal and indicate points of disagreement with the initial order.

(3) If a student wishes to request a formal hearing before the faculty appeal board, the student's written petition for appeal must also state that a formal hearing is being requested and must identify the specific exceptional circumstances (as defined in WAC 478-120-100 (3)(b)(i)) warranting such a hearing. When conducting administrative reviews of initial orders, the faculty appeal board shall make any inquiries necessary to ascertain whether the proceeding must be converted to a formal disciplinary hearing.

(4) Additional provisions regarding appeals in cases involving an allegation of sexual misconduct are set forth in WAC 478-120-137.

(5) After conducting the appropriate review, the appeal body may sustain, reduce, or vacate the sanction imposed by the initial order, except if that review is in the form of a formal hearing before the faculty appeal board, that board may increase any sanction.

(6) Review by the president or the president's delegate shall be conducted in accordance with WAC 478-120-125.

(7) Only the president or the president's delegate may issue a final order of dismissal.

(8) Sanctions, if any, will be imposed only after an order becomes final, except for actions taken under WAC 478-120-140.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-075, filed 2/17/16, effective 3/28/16. Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 8. WSR 14-17-097, § 478-120-075, filed 8/19/14, effective 9/19/14. Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 1, § 2. WSR 10-23-039, § 478-120-075, filed 11/10/10, effective 12/11/10. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 07-23-068, § 478-120-075, filed 11/19/07, effective 12/20/07; WSR 96-10-051, § 478-120-075, filed 4/29/96, effective 5/30/96.]

WAC 478-120-085 The university disciplinary committees. Each University of Washington campus shall have its own university disciplinary committee. The university disciplinary committees shall consist of a nonvoting chair, at least three voting faculty members, and at least three voting student members. The committees shall be maintained for the purpose of providing hearings for disciplinary actions that have been initiated by the deans or, at the University of Washington Bothell and Tacoma campuses, the dean or

director of the program in which a respondent is enrolled, the vice president for student life at the University of Washington Seattle campus, the chancellors of the University of Washington Bothell and Tacoma campuses, or their delegates.

(1) The president of the University of Washington Seattle campus and the chancellors of the University of Washington Bothell and Tacoma campuses shall designate a member of the faculty or administration to serve as chair of each respective university disciplinary committee for a term of one year. All chairs may be reappointed for consecutive terms.

(a) The chairs shall ensure that all procedural safeguards and guidelines are followed. Accordingly, the chairs shall decide all procedural questions that arise in relation to hearings, including rulings on evidence (as defined in WAC 478-120-095(3)) and challenges to the impartiality of committee members. The chairs shall have the discretion to regulate all aspects of the proceedings.

(b) The chairs shall take whatever steps are necessary to ensure that hearings are conducted in a safe and orderly manner.

(2) The voting faculty members of each university disciplinary committee shall be selected by the faculty senate at the University of Washington Seattle, or at the University of Washington Bothell and Tacoma campuses, their respective faculty assembly or organization to serve one-year terms. Voting faculty members may be reappointed to consecutive terms.

Faculty members must have been members of the faculty for at least one year in order to be eligible to serve as voting members of the university disciplinary committees.

(3) The voting student members of the university disciplinary committees shall be selected from each student body to serve one-year terms. Student members of the committees may not be reappointed.

(a) For each university disciplinary committee, students shall be selected from a pool of students who express interest in serving on the committee and at the University of Washington Seattle at least one member must be a professional or graduate student and the other members must represent different undergraduate classes.

(b) To be eligible to serve on the university disciplinary committees, students must be full-time and in good standing with the university.

(4) In addition to the chairs, a quorum shall be two faculty members and two student members. The chairs shall select alternates from the panels of eligible faculty or students as needed to produce a quorum.

(5) Committee members may be disqualified from a particular hearing for bias, prejudice, conflict of interest, or any other reason which may prevent him or her from serving as an impartial judge of the matter before the committees.

(a) Committee members may excuse themselves for any of the causes set forth in this section by submitting a written statement to the appropriate committee chair stating facts and reasons for the disqualification.

(b) A student before any of the university disciplinary committees may challenge the impartiality of a committee member by written petition. The appropriate chair shall determine whether to grant the petition and excuse the committee

member from the case, and shall state the facts and reasons for that determination in writing.

(c) Any person who has been delegated the authority to initiate disciplinary proceedings is disqualified from serving as a member of the university disciplinary committees.

(6) The appropriate chair may relieve a member of his or her university disciplinary committee from serving on that committee for a particular case, for a specific period of time, or for the rest of the year after the member submits a written request to the chair.

(7) Members of the university disciplinary committees shall begin their terms on the first day of classes of autumn quarter. Those terms shall expire on the first day of classes of the next autumn quarter, except that cases in process shall be continued until a decision is reached.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-085, filed 2/17/16, effective 3/28/16. Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 8. WSR 14-17-097, § 478-120-085, filed 8/19/14, effective 9/19/14. Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 1, § 2. WSR 10-23-039, § 478-120-085, filed 11/10/10, effective 12/11/10. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 07-23-068, § 478-120-085, filed 11/19/07, effective 12/20/07; WSR 96-10-051, § 478-120-085, filed 4/29/96, effective 5/30/96.]

WAC 478-120-095 Hearings before the university disciplinary committees. The purpose of a hearing before a university disciplinary committee is to provide all parties with an opportunity to present evidence and argument before disciplinary sanctions are imposed on a respondent. A university disciplinary committee may not hear any cases involving an allegation of sexual misconduct. Based on the evidence presented at this hearing, the committee shall determine whether the respondent has engaged in the alleged misconduct. If there is a finding of misconduct, the committee shall then determine the appropriate sanction to be imposed.

(1) When a hearing is scheduled before a university disciplinary committee, the chair of the appropriate committee shall provide the respondent with written notice of the following information:

- (a) The time and place of the hearing;
- (b) The allegations of misconduct against the respondent;
- (c) A list of all witnesses who may be called to testify;
- (d) A description of all documentary and real evidence to be presented at the hearing, including a copy of the respondent's disciplinary file; and
- (e) The sanctions that may be imposed at the hearing if the allegations of misconduct are found to be true.

(2) The chair of each committee shall adhere to the following procedures at all disciplinary hearings:

(a) The respondent shall be provided with a reasonable opportunity (at least seven days) to gather evidence, contact witnesses, and prepare a defense for the hearing.

(b) The respondent may be accompanied by an advisor and/or an attorney of the respondent's choice.

(c) The respondent is entitled to hear all testimony and examine all evidence that is presented at the hearing. In response, the respondent may present evidence and witnesses on his or her own behalf and may ask questions of any other witnesses.

(d) No respondent shall be compelled to give self-incriminating evidence.

(3) Evidence shall be admissible at the hearing if it is the type of evidence that reasonably prudent members of the university community would rely upon in the conduct of their affairs.

(4) The conduct officer (the appropriate dean, or at the University of Washington Bothell and Tacoma campuses, dean or director of the program in which the respondent is enrolled, the vice president for student life, the chancellors of the University of Washington Bothell and Tacoma campuses, or their delegates) must prove by a preponderance of the evidence presented at the hearing that the respondent has engaged in the alleged misconduct. The committee shall base its factual determination solely on the evidence presented at the hearing.

(a) Decisions of the university disciplinary committee will be made based on a simple majority vote of the committees.

(b) If a university disciplinary committee cannot reach a decision by simple majority vote, an order shall be entered referring the matter to the faculty appeal board. In cases where the faculty appeal board determines that exceptional circumstances may exist, the respondent shall be notified of the right to request a formal hearing. Otherwise, the faculty appeal board shall make a decision based upon its review of the record of the hearing before the university disciplinary committee.

(5) If at any time after a matter has been referred to a university disciplinary committee the appropriate chair determines that the matter should properly be before the faculty appeal board, the chair may refer the matter to the faculty appeal board and shall provide the respondent with written notice of the referral. Any case involving an allegation of sexual misconduct shall be referred to the faculty appeal board.

(6) If the committee determines that the respondent has violated the university's rules, regulations, procedures, policies, standards of conduct, or orders, it shall then determine the appropriate sanction to be imposed. When determining the appropriate sanction, the committee shall consider the factors listed in WAC 478-120-040(2).

(7) The chair of the appropriate university disciplinary committee shall provide the respondent with a written statement of the committee's decision within ten days of the conclusion of the hearing. This written statement shall include the committee's factual findings, the conclusions that have been drawn from those findings, the reasons for those conclusions, and the sanctions, if any, to be imposed. If sanctions are imposed, the respondent must also be informed of the appropriate procedures for appealing the committee's decision to the faculty appeal board. In a case where the respondent is a minor, the written statement of the committee's decision may be reported to the respondent's parents or legal guardian at the discretion of the chair of the appropriate university disciplinary committee.

(8) This written statement of the committee's decision shall be the committee's initial order. If no appeal is filed, the initial order of the appropriate university disciplinary committee becomes the final order at the end of the appeal period set forth in WAC 478-120-075(1).

(9) A respondent may choose to present evidence to the chair of the appropriate university disciplinary committee rather than at a hearing before the full committee. The respondent's waiver of the right to a hearing before a university disciplinary committee must be submitted in writing to the chair of the appropriate committee. The chair will submit the respondent's evidence and arguments to the full committee and the committee will make its decision based on the chair's report.

(10) All proceedings of the committees will be conducted with reasonable dispatch and be terminated as soon as possible, consistent with fairness to all parties involved. The chair shall have the discretion to continue the hearing.

(11) An adequate summary of the proceedings will be kept. Such a summary shall include all documents that were considered by the appropriate committee and may include an audio recording of the testimony and any other documents related to the hearing.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-095, filed 2/17/16, effective 3/28/16. Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 8. WSR 14-17-097, § 478-120-095, filed 8/19/14, effective 9/19/14. Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 1, § 2. WSR 10-23-039, § 478-120-095, filed 11/10/10, effective 12/11/10. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 07-23-068, § 478-120-095, filed 11/19/07, effective 12/20/07; WSR 96-10-051, § 478-120-095, filed 4/29/96, effective 5/30/96.]

WAC 478-120-100 Faculty appeal board. There shall be a single faculty appeal board which will serve all University of Washington campuses. The faculty appeal board shall be composed of at least seven members of the faculty to be appointed by the chair of the faculty senate after consultation with the faculty council on student affairs, to include one faculty member from each of the University of Washington Bothell and Tacoma campuses. The chair of the faculty senate shall appoint one of the members to be the chair of the faculty appeal board. The faculty appeal board shall conduct either administrative reviews or formal hearings and the procedures to be used shall depend on the nature of the appeal before the board. Cases may be heard by the entire board or by panels of no fewer than three board members.

(1) The faculty appeal board may conduct an administrative review when exceptional circumstances do not exist or a student has not requested a formal hearing in writing.

(2) The procedures for conducting such administrative review are set forth in WAC 478-120-105. The chair shall maintain a record of all administrative reviews conducted by the faculty appeal board. At a minimum, such a record shall include all documents that were considered by the board and may include an audio recording of all testimony and all other documents related to the review.

(3) The faculty appeal board shall conduct a formal hearing when:

(a) The respondent, and in a case involving an allegation of sexual misconduct, a complainant, requests a formal hearing before the faculty appeal board in writing setting forth the exceptional circumstances that exist (see below); and

(b) The chair reviews the student's written request and determines that exceptional circumstances do exist. Additionally, the faculty appeal board may conduct a formal hearing in other circumstances as the board deems appropriate. If

the faculty appeal board does not conduct a formal hearing, it shall conduct an administrative review of the prior decision.

(i) Exceptional circumstances exist when:

(A) The sanction of dismissal has been recommended; or

(B) The respondent has been charged with hazing; or

(C) The sanction of restitution (in excess of three hundred dollars) has been recommended; or

(D) Suspension has been recommended.

(ii) If the faculty appeal board decides not to grant a written request for a formal hearing, the chair shall provide the parties with a written copy of the board's decision denying the request for a formal hearing within ninety days as specified in WAC 478-120-115(3).

(c) The faculty appeal board shall also conduct a formal hearing as provided in the supplemental provisions set forth in WAC 478-120-137 for cases involving an allegation of sexual misconduct.

(4) If a matter is referred directly to the faculty appeal board and there is no initial order, then the faculty appeal board shall determine whether exceptional circumstances exist or could exist. If exceptional circumstances exist or could exist, then the board shall notify the respondent and in any case involving an allegation of sexual misconduct, the complainant, in writing that he or she has twenty-one days from the date of service of the notice to request a formal hearing. If no such request is made, any right to a formal hearing is waived.

(5) Formal hearings conducted by the faculty appeal board shall be according to the procedural guidelines set forth in WAC 478-120-115 and chapter 34.05 RCW.

(a) At the conclusion of the formal hearing, the faculty appeal board shall enter an initial order based on the findings of that hearing. That initial order shall include a written statement of the board's decision and the basis for that decision, including procedures for appealing the decision to the president or president's delegate. The initial order shall be provided to the parties within sixty days of the conclusion of the hearing unless the faculty appeal board determines that an extension of time (which shall not exceed thirty additional days) is warranted and informs the parties of such extension. In a case involving an allegation of sexual misconduct, both the respondent and the complainant shall be informed of the board's decision. In a case where the respondent is a minor, the board's decision may be reported to the respondent's parents or legal guardian at the discretion of the conduct officer.

(b) An initial order from a formal hearing may be appealed to the president of the university or the president's delegate for a final review.

(c) If no appeal is timely submitted, the initial order of the faculty appeal board shall become the final order, except that orders of dismissal entered by the faculty appeal board shall be reviewed by the president or the president's delegate in accordance with WAC 478-120-125.

(6) The record in cases in which the faculty appeal board conducts a formal hearing shall be as specified in WAC 478-120-115(20).

(7) Board members may be disqualified from a particular formal hearing for bias, prejudice, conflict of interest, or any other reason which may prevent them from serving as impartial judges of the matter before the board.

(a) A committee member may excuse himself or herself for any of the causes set forth in this section by submitting a written statement to the board chair stating facts and reasons for the disqualification.

(b) A student before the faculty appeal board may challenge the impartiality of a board member by written petition. The chair shall determine whether to grant the petition and excuse the board member, stating the facts and reasons for the determination in writing.

(c) Faculty who have been delegated the authority to initiate disciplinary proceedings are disqualified from serving as members of the faculty appeal board.

(8) At the discretion of the chair, board members may be excused from a particular hearing on the basis of compelling personal need after submitting a written request to the chair explaining the basis of the request.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-100, filed 2/17/16, effective 3/28/16. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 07-23-068, § 478-120-100, filed 11/19/07, effective 12/20/07; WSR 96-10-051, § 478-120-100, filed 4/29/96, effective 5/30/96; Order 72-9, § 478-120-100, filed 11/30/72.]

WAC 478-120-105 Administrative review by the faculty appeal board. (1) The faculty appeal board may conduct administrative review when exceptional circumstances do not exist or no formal hearing has been requested. When the faculty appeal board determines that administrative review is appropriate, the chair shall notify all parties of that decision. The notice to the parties shall include a statement of:

(a) The allegations of misconduct against the respondent;

(b) The sanctions that were recommended by the conduct officer or the university disciplinary committee, if any; and

(c) A date by which any voluntarily submitted written briefs or statements must be submitted.

(2) When the faculty appeal board conducts an administrative review, the board may base its review on:

(a) All documents and any recordings considered by the initiating officer or the university disciplinary committee;

(b) Oral and/or written argument submitted by any party; and

(c) Additional evidence.

(3) At the conclusion of its review, the faculty appeal board shall enter an order. An initial order may be appealed and a final order may not be appealed. The written order shall include a statement of the board's decision within ten days of the conclusion of the review and information on rights of appeal, if any. In a case involving an allegation of sexual misconduct, both the respondent and any complainant shall be informed of the outcome of the review. In a case where the respondent is a minor, the board's decision may be reported to the respondent's parents or legal guardian at the discretion of the chair of the faculty appeal board.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-105, filed 2/17/16, effective 3/28/16. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 96-10-051, § 478-120-105, filed 4/29/96, effective 5/30/96.]

WAC 478-120-115 Formal hearings before the faculty appeal board. (1) The faculty appeal board shall con-

duct a formal hearing when exceptional circumstances exist and a request for a formal hearing has been made. The faculty appeal board shall also conduct formal hearings as provided in the supplemental provisions for cases involving an allegation of sexual misconduct set forth in WAC 478-120-137. Additionally, the faculty appeal board may conduct a formal hearing in other circumstances as the board deems appropriate.

(2) Within thirty days after receipt of a written petition for a formal hearing before the faculty appeal board, the board shall notify the requesting party of any obvious errors or omissions in the party's petition, request any additional information the board wishes to obtain and is permitted by law to require, and notify the requesting party of the name, mailing address, and telephone number of an office or person who may be contacted regarding the formal hearing.

(3) Within ninety days after receipt of a written petition for formal hearing or within ninety days after the party's response to a timely request from the board as provided in subsection (2) of this section, the board shall either deny the formal hearing or commence the formal hearing.

(4) Once the board decides to conduct a formal hearing, the chair of the faculty appeal board shall schedule the time and place of the hearing and give not less than seven days advance written notice of the hearing to all parties. That notice shall include:

(a) The names and addresses of all parties to whom notice is being given, and if known, the names and addresses of their representatives;

(b) The name, business address, and telephone number of the person designated to represent the university at the hearing;

(c) The official file number and name of the proceeding;

(d) The name, mailing address, and telephone number of the chair of the faculty appeal board;

(e) A statement of the time, place, and nature of the hearing;

(f) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(g) A reference to the particular sections of university rules that are involved;

(h) A short and plain statement of the charges against the respondent; and

(i) A statement that a student requesting the hearing who fails to attend the hearing or otherwise respond to this notice may lose his or her right to a formal hearing.

(5) Hearings before the faculty appeal board shall be conducted in accordance with the provisions of this conduct code, the Administrative Procedure Act (chapter 34.05 RCW), and the model rules of procedure (chapter 10-08 WAC). To the extent there is a conflict between the conduct code and the model rules, this conduct code shall control.

(6) The faculty appeal board will make its own determination based on the record of the hearing before the faculty appeal board.

(7) If a student requesting the hearing fails to attend or participate in a formal hearing, the faculty appeal board may:

(a) Hold the hearing and issue an initial order based on a preponderance of evidence presented at the hearing; or

(b) Issue a default or other dispositive order which shall include a statement of the grounds for the order. Within seven

days after service of a default order or other dispositive order, a student may file a written request that the order be vacated, and stating the grounds relied upon.

(8) Each party may be represented by an attorney and/or be accompanied by an advisor of that party's choice. No student shall be compelled to give self-incriminating evidence. However, a negative inference can be drawn from a refusal to testify or to answer a particular question.

(9) The chair shall determine whether discovery is to be available, and, if so, which forms of discovery may be used. The chair may condition the use of discovery procedures on a showing of necessity and unavailability by other means. In exercising such discretion, the chair shall consider:

(a) Whether all parties are represented by counsel;

(b) Whether undue expense or delay in bringing the case to a hearing will result;

(c) Whether the use of discovery will promote the orderly and prompt conduct of the proceeding; and

(d) Whether the interests of justice will be promoted.

(e) The chair may decide whether to permit the taking of depositions, the requesting of admissions, or any other procedures authorized by rules 26 through 37 of the superior court rules.

(10) At appropriate stages of the hearing, the chair may give all parties an opportunity to submit and respond to briefs, motions, proposed findings of fact and conclusions of law, and proposed initial or final orders. To the extent necessary for a full disclosure of all relevant facts and issues, the chair shall afford the parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence. A party filing a pleading, brief, or other documents with the chair shall serve copies on all other parties at the same time submitted to the chair.

(11) Evidence, including hearsay evidence, is admissible if it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Evidence is not admissible if it is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The chair shall decide all procedural questions and make rulings on the admissibility of evidence, motions, objections, and on challenges to the impartiality of board members, unless a hearing examiner is appointed as provided below. The Washington rules of evidence shall serve as guidelines for those rulings on the admissibility of evidence.

(12) All testimony of parties and witnesses shall be made under oath or affirmation. The parties are responsible for informing their witnesses of the time and place of the hearing.

(13) At the discretion of the chair, and where the rights of the parties will not be prejudiced thereby, all or part of any hearing, including the testimony of witnesses, may be conducted by telephone, video, or other electronic means. Each party in the hearing must have an opportunity to participate effectively in, to hear, and if technically and economically feasible, to see the entire proceeding while it is taking place. Such measures may be taken to accommodate concerns raised by a complainant, a respondent, or any witness.

(14) The faculty appeal board may appoint a hearing examiner to conduct the actual hearing, which includes managing administrative matters before, during, and following a

hearing, and ruling on any motions, objections, procedural questions, and the admissibility of evidence. The decision to use a hearing examiner requires the approval of a majority of the board members. The hearing examiner will then conduct the hearing and if requested by the board, will submit a detailed report to the faculty appeal board according to the provisions of this section.

(a) The hearing examiner will have all the authority of the chair of the faculty appeal board with regard to hearing procedures and will be responsible for maintaining the official record of the hearing, including an audio or video recording of the hearing, and transmitting the full official record to the chair following the hearing.

(b) The faculty appeal board may, at its option, request the hearing examiner to provide recommendations as to findings, conclusions, and decisions, but those recommendations shall not be binding on the board. The board shall make its own findings, conclusions, and decisions based on the official record.

(c) The hearing examiner must be an attorney permitted to practice law in Washington state. Any member of the faculty appeal board who is also a member of the Washington state bar, including the chair, may serve as the hearing examiner.

(15) The chair of the faculty appeal board may issue subpoenas and enter protective orders. A party may request in writing that the chair issue a subpoena for the attendance of a witness at the hearing. The requesting party is responsible for serving the subpoena upon the witness.

(16) All communications with the chair and/or members of the faculty appeal board, except for communications necessary to procedural aspects of maintaining an orderly process, must be in the presence of, or with a copy to, all other parties. Ex parte communications received by the chair or members of the board must be placed on the record, and all other parties must be informed of the ex parte communication and given an opportunity to respond on the record.

(17) At the conclusion of a hearing, and following the submission of all evidence, any written closing arguments, and any proposed orders by the parties, the board shall determine, whether based on a preponderance of the evidence, the respondent is responsible for violating this conduct code and, if so, what sanction(s) are to be imposed. The faculty appeal board shall have the full authority to impose any of the sanctions specified in WAC 478-120-040, subject to review in accordance with this conduct code. (All orders of dismissal are subject to review by the president in accordance with WAC 478-120-125.) Decisions will be determined by majority vote. Findings, conclusions, and decisions by the faculty appeal board shall be based exclusively on the evidence of record from the hearing and on matters officially noted in the record.

(18) The board shall enter an initial order which shall be served in writing on all parties within sixty days after conclusion of the hearing or after submission of memos, briefs, or proposed findings, whichever is later, unless the period is waived or extended for good cause shown. The board's initial order shall:

(a) Include a statement of findings of fact and conclusions with any findings based substantially on credibility of evidence or demeanor of witnesses so identified;

(b) Specify the section(s) of this conduct code that the respondent is responsible for violating, if any;

(c) Indicate the sanction(s) imposed, if any;

(d) Provide a statement regarding the availability of presidential review and the applicable time limits; and

(e) Include a statement of the circumstances under which the board's initial order, without further notice, may become a final order.

(19) An initial order issued by the faculty appeal board will become a final order if the respondent (or a complainant in any case involving an allegation of sexual misconduct) does not submit a request for review in accordance with WAC 478-120-125 within twenty-one days of service of the initial order, except that any initial order imposing dismissal will be automatically forwarded to the president for review under WAC 478-120-125.

(20) The chair shall maintain an official record of the hearing. The record shall contain those items specified in RCW 34.05.476.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-115, filed 2/17/16, effective 3/28/16. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 96-10-051, § 478-120-115, filed 4/29/96, effective 5/30/96.]

WAC 478-120-125 Review by the president of the university. (1) Any initial order of the faculty appeal board that is based on the findings of a formal hearing may be appealed for a final review to the president or the president's delegate by a respondent, and in any case involving an allegation of sexual misconduct, a complainant (regardless of whether the complainant participated as a party in the hearing before the faculty appeal board). Upon the submittal of such an appeal, the complainant will be considered a party to the final review. An appeal must be submitted to the president and the conduct officer in writing within twenty-one days of service of the board's initial order for which review is sought. Upon receipt, the president (or president's delegate) shall promptly serve all other parties with a copy of the appeal. Any appeal shall include the reasons for the appeal. However, the president or the president's delegate shall review all orders of dismissal, regardless of whether a student appeals. In a case imposing dismissal, any request for review submitted by a respondent or, in a case involving an allegation of sexual misconduct, a complainant, will be considered concurrently with the president's (or president's delegate's) automatic review of the matter.

(2) The president or the president's delegate shall consider the entire record of the disciplinary proceeding or such portion as may be specified by the parties. At the president's or the president's delegate's discretion, the parties may also supplement the record with additional evidence.

(3) The parties may present their arguments to the president or the president's delegate in writing, and the president or the president's delegate may, at his or her discretion, afford each party an opportunity for oral argument.

(4) Any review by the president or the president's delegate will be conducted in accordance with RCW 34.05.464.

(5) All communications with the president or president's delegate, except for communications necessary to procedural aspects of maintaining an orderly process, must be in the presence of, or with a copy to, all other parties. Ex parte com-

munications received by the president or president's delegate must be placed on the record, and all other parties must be informed of the ex parte communication and given an opportunity to respond on the record.

(6) After reviewing the record and considering the arguments of all parties, the president or the president's delegate shall enter a final order disposing of the matter or remanding the case for further proceedings. A final order shall include, or incorporate by reference to the initial order, all matters required by RCW 34.05.461(3). A copy of the final order shall be served upon all parties.

(7) In a case involving an allegation of sexual misconduct, both the respondent and the complainant shall be informed of the outcome of the review. In a case where the respondent is a minor, the decision of the president or the president's delegate may be reported to the respondent's parents or legal guardian at the discretion of the president or president's delegate.

(8) Notwithstanding any other provisions of this chapter, and before an initial order issued under this conduct code becomes final, the president or the president's delegate may determine that the initial order should be reviewed. Upon such determination, a complainant, in any case involving an allegation of sexual misconduct, if not already a party in the hearing before the faculty appeal board, shall be given the opportunity to participate as a party for the purposes of review by the president or the president's delegate. Notice of the president's (or president's delegate's) decision to review any initial order under this subsection shall be provided to all parties. Any such review shall be in accordance with RCW 34.05.464 and/or 34.05.491.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-125, filed 2/17/16, effective 3/28/16. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 96-10-051, § 478-120-125, filed 4/29/96, effective 5/30/96.]

WAC 478-120-135 Reconsideration of final orders.

(1) Within ten days of the service of a final order from the president or the president's delegate, any party may file a request for reconsideration, stating in writing specific reasons for the request. The request shall be directed to the president or the president's delegate who issued the final order, and the conduct officer. Upon receipt, the president (or president's delegate) shall promptly serve all other parties with a copy of the request for reconsideration.

(2) A request for reconsideration does not stay the effectiveness of a final order.

(3) A request for reconsideration is only intended to correct obvious mistakes in the judgment or order and should not be used to reargue the case. Filing a request for reconsideration is not a prerequisite for seeking judicial review in accordance with chapter 34.05 RCW. An order denying reconsideration or a notice provided for in subsection (4)(b) of this section is not subject to judicial review.

(4) If a request for reconsideration is timely and properly submitted, the time for filing a petition for judicial review of a final order does not commence until the university disposes of the request for reconsideration. The request for reconsideration is automatically deemed to have been denied if, within twenty days from the date the request for reconsideration is

timely submitted, the president or president's delegate who issued the final order does not either:

- (a) Dispose of the request; or
 - (b) Serve the parties with a written notice specifying the date by which he or she will act upon the request.
- (5) Unless the request for reconsideration is deemed denied under subsection (4) of this section, the request shall be disposed of by the same president or president's delegate, who issued the final order, if reasonably available. The disposition shall be in the form of a written order denying the request, granting the request and dissolving or modifying the final order, or granting the request and setting the matter for further hearing.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-135, filed 2/17/16, effective 3/28/16. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 96-10-051, § 478-120-135, filed 4/29/96, effective 5/30/96.]

WAC 478-120-137 Supplementary provisions regarding sexual misconduct. (1) Investigations and adjudications of cases involving an allegation of sexual misconduct will be conducted by university officials who receive regular (no less than annual) training on issues related to sexual misconduct. The requirement applies to conduct officers, all members of the faculty appeal board, the president, and the president's delegates. The specific training requirements shall be established by the university's Title IX coordinator.

(2) All cases involving an allegation of sexual misconduct shall be subject to the following supplementary provisions:

(a) The conduct officer will concurrently serve both the respondent and any complainant(s) with a copy of the conduct officer's initial order.

(b) Either a complainant or the respondent may appeal such initial order to the faculty appeal board in accordance with this conduct code, and both the respondent and any complainant shall receive notice of any appeal and notice of any hearing before the faculty appeal board. An initial order by a conduct officer in a case involving an allegation of sexual misconduct may be subject to review by the faculty appeal board as follows:

(i) Initial order imposes sanction and exceptional circumstances exist. If the initial order imposes a sanction and exceptional circumstances as defined in WAC 478-120-100 (3)(b)(i) exist, the matter shall be referred to the faculty appeal board and both the respondent and any complainant shall each have twenty-one calendar days from the date of service of the initial order to request a formal hearing according to the procedures set forth in WAC 478-120-075(3). (The respondent and any complainant shall be informed that the faculty appeal board may increase a sanction imposed in an initial order only if a formal hearing is held.) If no timely request for a formal hearing is submitted, the faculty appeal board shall conduct administrative review in accordance with WAC 478-120-105.

(ii) Initial order imposes sanction, but no exceptional circumstances exist. If the initial order imposes a sanction and exceptional circumstances as defined in WAC 478-120-100 (3)(b)(i) do not exist, the respondent and any complainant shall each have twenty-one calendar days from the date of service of the initial order to submit an appeal to the faculty

appeal board. If a timely appeal is submitted by either the respondent or any complainant, the faculty appeal board shall conduct a formal hearing in accordance with this conduct code. If no timely appeal is submitted by either the respondent or any complainant, all rights of appeal are waived and the order becomes the final order.

(iii) Initial orders do not impose a sanction. If the initial order does not impose a sanction, any complainant shall have twenty-one calendar days from the date of service of the initial order to submit an appeal to the faculty appeal board. (The respondent shall be informed that the complainant has this right, and that such an initial order shall not become final at least until the period for any complainant to submit an appeal has elapsed.) If a timely appeal is submitted by any complainant, the faculty appeal board shall conduct a formal hearing in accordance with this conduct code. If no timely appeal is submitted, all rights of appeal are waived and the order becomes the final order.

Any appeal petition must state the reasons for the appeal. Any appeal petition must be submitted to the faculty appeal board and to the conduct officer, who will promptly provide a copy of the appeal to any other party.

(c) If a formal hearing is held by the faculty appeal board in a case involving an allegation of sexual misconduct, such hearing shall be conducted in accordance with WAC 478-120-100 and 478-120-115 and the following supplementary procedures shall also apply:

(i) Both the respondent and any complainant shall be provided with the notice of a formal hearing as specified in WAC 478-120-115 (2), (3), and (4). Both the respondent and any complainant will have the right to participate as a party in the hearing including, but not limited to, the right to be represented by an attorney and/or be accompanied by an advisor, to call witnesses, to cross-examine witnesses, and to submit documentary evidence. A complainant (with or without an attorney and/or an advisor) may attend the formal hearing in its entirety, regardless of whether the complainant decides to participate as a party.

(ii) The respondent and a complainant may not ask questions of each other directly, but will be allowed to submit written questions to the chair of the faculty appeal board, who will ask any relevant and appropriate questions submitted by these parties. The chair has the discretion to accept, reject, or rephrase any question submitted by the respondent or a complainant.

(iii) Both the respondent and any complainant shall be concurrently served with all orders issued by the faculty appeal board.

(d) In any case involving an allegation of sexual misconduct, any complainant shall have the same rights as the respondent to participate as a party in any administrative review under WAC 478-120-105, to appeal a faculty appeal board's initial order to the president of the university under WAC 478-120-125, to participate as a party in any appeal to the president, and to seek reconsideration of a final order under WAC 478-120-135. In the event that a complainant timely appeals an initial order, such order shall not become final until that appeal is resolved. Any notices or orders issued by the president shall be concurrently served on the respondent and any complainant(s), in addition to the conduct officer.

(e) Except as otherwise provided in this section, cases involving an allegation of sexual misconduct will be subject to all the other applicable provisions for this conduct code.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-137, filed 2/17/16, effective 3/28/16.]

WAC 478-120-140 Emergency authority of the president and chancellors of the university. If there is reasonable cause to believe that a student's conduct represents a threat to the health, safety, or welfare of the university or any member of the university community, or poses an ongoing threat of substantially disrupting or materially interfering with university activities or operations, the president, the president's delegate, the vice president for student life, the chancellors of the University of Washington Bothell and Tacoma campuses, or the chancellors' delegates, may immediately suspend that student from participation in any or all university functions or privileges.

(1) In such an emergency situation, the university official placing the student on emergency suspension shall issue a written order to be served upon the student describing the terms of the emergency suspension and the reasons for the emergency suspension. The order shall be effective immediately and emergency suspension shall, unless otherwise specified in the emergency suspension order, remain in effect until the conclusion of all disciplinary proceedings. The order shall advise the student that he or she may provide information in writing at any time as to why emergency suspension should not be continued or why it should be made less restrictive.

(2) The matter shall then be referred to the appropriate conduct officer, who shall proceed as quickly as feasible to set the informal hearing. At the informal hearing, the student shall be given an opportunity to provide information as to why emergency suspension should not be continued or why it should be less restrictive.

(3) To the extent permissible under applicable law, in any case involving an allegation of sexual misconduct, a complainant may also be provided with notice of the respondent's emergency suspension and any terms of the emergency suspension that directly relate to the complainant.

(4) If a final order is entered exonerating a respondent, any emergency suspension order shall be lifted by the university official who issued the order.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-140, filed 2/17/16, effective 3/28/16. Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 8. WSR 14-17-097, § 478-120-140, filed 8/19/14, effective 9/19/14. Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 1, § 2. WSR 13-14-002, § 478-120-140, filed 6/19/13, effective 7/20/13; WSR 10-23-039, § 478-120-140, filed 11/10/10, effective 12/11/10. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 07-23-068, § 478-120-140, filed 11/19/07, effective 12/20/07; WSR 96-10-051, § 478-120-140, filed 4/29/96, effective 5/30/96.]

WAC 478-120-145 Recording and maintenance of records. (1) Records related to disciplinary proceedings shall be maintained consistent with university records retention policies and this conduct code.

(2) The president, vice president for student life at the University of Washington Seattle campus, the chancellors of the University of Washington Bothell and Tacoma campuses,

(2/17/16)

or their delegates, shall keep records related to all disciplinary actions reported to their respective offices and may notify the dean or director of the college, school, or program, in which a respondent is enrolled, of any action related to disciplinary proceedings involving the respondent, provided that the school official to whom the information is being disclosed has a legitimate educational interest in receiving such information, as permitted by FERPA.

(3) Records related to disciplinary proceedings shall be kept separate from academic records, and respondents' official academic transcripts shall not contain any notation of disciplinary action taken pursuant to this conduct code.

(4) The deans of a college or school at the University of Washington Seattle, the dean or directors of a program at the University of Washington Bothell and Tacoma campuses, or their delegates, shall maintain records related to all disciplinary matters reported to their respective offices and shall notify the office of the vice president for student life, the office of the chancellor for the University of Washington Bothell or Tacoma campuses, whichever is appropriate, or their delegates, of any disciplinary action imposed against a respondent, who is enrolled in their college, school, or program. The university officials named in this section shall also inform the appropriate registrar of any action affecting a student's official standing in the university (e.g., suspension or dismissal).

(5) The chairs of the faculty appeal board and university disciplinary committees shall maintain the official record (as indicated in RCW 34.05.476) of each disciplinary hearing until a final order is issued or entered. At such time the respective chair will transmit the official record to the vice-president for student life, the chancellor for the University of Washington Bothell, or the chancellor for the University of Washington Tacoma, whoever is appropriate, or their delegates, who will maintain the official record in accordance with this section.

(6) Disciplinary records of respondents not exonerated shall be maintained for seven years after the resolution of all disciplinary proceedings (including the resolution of any petition for judicial review filed in superior court) or until the administrative purpose for retention has been served, whichever is later. Final orders imposing suspension or dismissal may be maintained indefinitely.

(7) Student disciplinary records are "education records" as defined by FERPA and may only be disclosed consistent with FERPA and chapter 478-140 WAC.

[Statutory Authority: RCW 28B.20.130 and chapter 34.05 RCW. WSR 16-05-097, § 478-120-145, filed 2/17/16, effective 3/28/16. Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 8. WSR 14-17-097, § 478-120-145, filed 8/19/14, effective 9/19/14. Statutory Authority: RCW 28B.20.130 and UWBR, Standing Orders, chapter 1, § 2. WSR 10-23-039, § 478-120-145, filed 11/10/10, effective 12/11/10. Statutory Authority: RCW 28B.20.130 and 28B.10.900 through 28B.10.903. WSR 07-23-068, § 478-120-145, filed 11/19/07, effective 12/20/07; WSR 96-10-051, § 478-120-145, filed 4/29/96, effective 5/30/96.]