

# Chapter 174-120 WAC

## SOCIAL CONTRACT—STUDENT CONDUCT CODE— GRIEVANCE AND APPEALS PROCESS

**WAC**

174-120-015 174-120-025 174-120-035 174-120-045 174-120-055 174-120-065 174-120-075 174-120-085	Purpose. Definitions. Student conduct code—Specific examples of student conduct code violations. Student conduct code—Levels of resolution. Student conduct code—Grievance officer review process. Student conduct code—Formal hearing notice, process and rights. Student conduct code—Examples of corrective action. Student conduct code—Procedural appeals.
--	--

174-120-090	Repealed by 96-13-086, filed 6/18/96, effective 7/19/96. Statutory Authority: RCW 28B.40.120(12). Academic appeals. [Statutory Authority: RCW 28B.40.120(12). 88-17-069 (Order 88-1, Motion No. 88-25), § 174-120-090, filed 8/18/88.] Repealed by 96-13-086, filed 6/18/96, effective 7/19/96. Statutory Authority: RCW 28B.40.120(12).
-------------	---

**DISPOSITION OF SECTIONS FORMERLY  
CODIFIED IN THIS CHAPTER**

174-120-010	Definitions. [Statutory Authority: Chapter 34.05 RCW. 89-21-073, § 174-120-010, filed 10/17/89, effective 11/17/89. Statutory Authority: RCW 28B.40.120(12). 88-17-069 (Order 88-1, Motion No. 88-25), § 174-120-010, filed 8/18/88.] Repealed by 96-13-086, filed 6/18/96, effective 7/19/96. Statutory Authority: RCW 28B.40.120(12).
174-120-020	The social contract—College philosophy. [Statutory Authority: RCW 28B.40.120(12). 88-17-069 (Order 88-1, Motion No. 88-25), § 174-120-020, filed 8/18/88.] Repealed by 89-21-073, filed 10/17/89, effective 11/17/89. Statutory Authority: Chapter 34.05 RCW.
174-120-030	Student conduct code—Specific examples of social contract violations. [Statutory Authority: Chapter 34.05 RCW. 89-21-073, § 174-120-030, filed 10/17/89, effective 11/17/89. Statutory Authority: RCW 28B.40.120(12). 88-17-069 (Order 88-1, Motion No. 88-25), § 174-120-030, filed 8/18/88.] Repealed by 96-13-086, filed 6/18/96, effective 7/19/96. Statutory Authority: RCW 28B.40.120(12).
174-120-040	Student conduct code—Corrective action. [Statutory Authority: Chapter 34.05 RCW. 89-21-073, § 174-120-040, filed 10/17/89, effective 11/17/89. Statutory Authority: RCW 28B.40.120(12). 88-17-069 (Order 88-1, Motion No. 88-25), § 174-120-040, filed 8/18/88.] Repealed by 96-13-086, filed 6/18/96, effective 7/19/96. Statutory Authority: RCW 28B.40.120(12).
174-120-050	Student conduct code—Informal conflict resolution. [Statutory Authority: Chapter 34.05 RCW. 89-21-073, § 174-120-050, filed 10/17/89, effective 11/17/89. Statutory Authority: RCW 28B.40.120(12). 88-17-069 (Order 88-1, Motion No. 88-25), § 174-120-050, filed 8/18/88.] Repealed by 96-13-086, filed 6/18/96, effective 7/19/96. Statutory Authority: RCW 28B.40.120(12).
174-120-060	Student conduct code—Grievance officer. [Statutory Authority: Chapter 34.05 RCW. 89-21-073, § 174-120-060, filed 10/17/89, effective 11/17/89. Statutory Authority: RCW 28B.40.120(12). 88-17-069 (Order 88-1, Motion No. 88-25), § 174-120-060, filed 8/18/88.] Repealed by 96-13-086, filed 6/18/96, effective 7/19/96. Statutory Authority: RCW 28B.40.120(12).
174-120-070	Student conduct code—Formal hearing notice and rights. [Statutory Authority: Chapter 34.05 RCW. 89-21-073, § 174-120-070, filed 10/17/89, effective 11/17/89. Statutory Authority: RCW 28B.40.120(12). 88-17-069 (Order 88-1, Motion No. 88-25), § 174-120-070, filed 8/18/88.] Repealed by 96-13-086, filed 6/18/96, effective 7/19/96. Statutory Authority: RCW 28B.40.120(12).
174-120-080	Student conduct code—Formal procedures. [Statutory Authority: Chapter 34.05 RCW. 89-21-073, § 174-120-080, filed 10/17/89, effective 11/17/89. Statutory Authority: RCW 28B.40.120(12). 88-17-069 (Order 88-1, Motion No. 88-25), § 174-120-080, filed 8/18/88.]

**WAC 174-120-015 Purpose.** The purpose of this chapter is to provide currently enrolled students, faculty and staff with a process to address grievances related to student conduct. If the person wishing to file a grievance against a student is not an enrolled student, staff or faculty, but is here at the invitation of the college, they may contact the campus grievance officer, who will decide whether or not to take on the case on behalf of the college. Students at The Evergreen State College enjoy the basic rights of all members of society. At the same time, students have an obligation to fulfill the responsibilities incumbent upon all citizens as well as the responsibilities of their particular roles within the academic community. Students may be accountable to civil and criminal authorities and to the college for acts occurring on or off campus which constitute violations of law. Students may be accountable to civil and criminal authorities and to the college for acts occurring on college premises and at college sponsored events.

[Statutory Authority: RCW 28B.40.120(12). 96-13-086, § 174-120-015, filed 6/18/96, effective 7/19/96.]

**WAC 174-120-025 Definitions.** For the purposes of these rules the following terms have the meanings indicated:

(1) "Adjudicative hold" means a notification by the campus grievance officer or vice-president for student affairs that a student will not be allowed to register for classes until he/she gets a clearance from the grievance officer.

(2) "Binding arbitration" means a process in which parties in conflict submit their differences to the judgment of an impartial third party appointed by the campus mediator with the consent of both parties.

(3) "Calendar day" means all days of the month not just working days. In cases where a specified due date falls on a weekend or holiday, the working day closest to the date due will be used (i.e., if the tenth day deadline falls on Saturday, the document will be done on Friday).

(4) "Campus grievance officer" means a faculty or staff person who shall be appointed by and accountable to the vice-president for student affairs. The grievance officer is responsible for determining if violations of this policy have occurred, for investigating and initiating formal disciplinary action on behalf of the college, and for keeping all records specified in these hearings procedures.

(5) "College facilities/premises" means property owned, leased, operated, controlled, or supervised by the college.

(6) "College-sponsored event or activity" means activities or events involving planning or funding or other approved or authorized participation by the college.

(7) "Default judgment" means a decision made by the trier of fact that, due to the appealing student's failure to appear, the proposed sanctions of the campus grievance officer will be adopted by the trier of fact.

(8) "Evergreen community" means currently enrolled students and currently employed faculty and staff members.

(9) "Exception to trier of fact's findings" means a written request by either the campus grievance officer or the student requesting a review of the findings by the reviewing officer.

(10) "Hearing board" means five community members appointed by and from the different sectors of the college community, which includes one faculty; one classified or exempt staff; and three students; to hear appeals of the campus grievance officer's findings. The vice-president for student affairs shall be responsible for ensuring that hearing board members and their alternates are appointed. The vice-president for student affairs will appoint the chair of the hearing board, who, with technical and clerical assistance of the vice-president for student affairs office, will write and issue the board's finding. An assistant attorney general, an administrative law judge, or any qualified community member may serve as a nonvoting advisor to the hearing board on the hearing process.

(11) "Housing grievance officer" means the director of housing or his/her designee. The housing grievance officer is responsible for determining if violations of the housing policy have occurred, for investigating and initiating formal disciplinary action on behalf of the college, and for keeping all records specified in the procedures.

(12) "Mediator" means an impartial, neutral third party who helps disputants reach their own mutually agreeable settlement. Trained volunteer mediators are available through the campus center for mediation services, which also provides telephone conciliation and resource referral. In addition, the dean of student and academic support service is the campus mediator and has been appointed by the vice-president for student affairs. Any third party may serve as a mediator if mutually agreed upon by the parties in conflict.

(13) "Preponderance of the evidence" means the greater weight of evidence or evidence more convincing to the mind than not.

(14) "Reviewing officer" means an individual designated by the president to provide a review of the trier of fact's findings, conclusions, and sanctions, if any.

(15) "Student" means a person enrolled for any amount of credit at the college. On-leave students, i.e., those admitted but not currently enrolled, may have their enrollment eligibility withdrawn if they do not abide by the student conduct code while on campus and are accountable to civil and criminal authorities.

(16) "Trier of fact" means the hearing board, administrative law judge, or any other individual(s) designated by the vice-president for student affairs and responsible for hearing appeals of the campus grievance officer's findings and proposed corrective action.

[Statutory Authority: RCW 28B.40.120(12), 96-13-086, § 174-120-025, filed 6/18/96, effective 7/19/96.]

**WAC 174-120-035 Student conduct code—Specific examples of student conduct code violations.** (1) Academic dishonesty: Cheating, facilitating academic dishonesty and plagiarism are violations of the academic honesty policy and if persistent or severe may be treated as violations of the student conduct code.

(2) Destroying or damaging property: Intentionally, recklessly and/or persistently destroying or damaging college property or the property of others on college premises or at college-sponsored events.

(3) Disrupting college functions: Intentionally, recklessly and/or persistently interfering with normal college or college-sponsored activities, including but not limited to studying, teaching, research, college administration, fire, police, emergency services, or public safety.

(4) Drugs: Using, possessing, or distributing of any controlled substance or illegal drug on college premises or at college-sponsored activities (as defined in the Uniform Controlled Substances Act chapter 69.50 RCW, as amended). Public appearance on campus or at any college-sponsored event while under the influence of illegal drugs will be considered a violation.

(5) False accusations: Intentionally making false charges against another member of the college community to harass, harm, defame and/or intimidate that individual.

(6) False alarms: Intentionally causing a false police or fire alarm that involves college property or a college-sponsored event.

(7) False information: Intentionally providing false information to the college for the purpose of gaining admission or employment or to avoid determination of facts in accordance with any college investigation or hearing.

(8) Harm/harassment: Discriminating against, sexually harassing, and threatening or intimidating against another person by word or gesture, or physically molesting or assaulting another person which substantially harms or causes reasonable apprehension of such harm to that person or which is intended to harm him or her. This includes, but is not limited to, physical, psychological or sexual harm/harassment or harassment based on religion, nationality, ability/disability, gender, sexual orientation, racial or ethnic origin, cultural identity or political affiliation. This provision in the codes is intended to protect members of the college community against damage or threat of damage to property and injury or threat of injury to physical person or psychological well-being.

(9) Hazing: According to chapter 28B.10 RCW hazing is defined as 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.

(10) Housing contract violations: Violation of residence hall contracts.

(11) Interfering with the adjudicative process: Harassment of students, faculty or staff involved in the adjudicative process. Violation of any agreement made during the adjudicative process, including but not limited to no-contact orders. Perjury or retaliatory or disruptive behavior will also be grounds for further disciplinary action.

(12) Liquor: Use, possession, or distribution of liquor on college property. This is not intended to apply to use by students of legal age in a residence or at a college-sponsored event provided the event has an approved alcoholic beverage banquet permit (chapter 174-157 WAC, as amended). However, public appearance on campus or at any college-sponsored event while intoxicated, as defined by state law, will be considered a violation.

(13) Refusal to desist from prohibited conduct: Refusal of students to desist from conduct prohibited by these rules.

(14) Smoking: Smoking in an area not designated as a smoking area as defined by college rules. (WAC 174-136-160 to 174-136-170, as amended.)

(15) Theft or conversion: Deprivation of another's property, including college property or services, without that individual's or the college's authorization.

(16) Violation of published campus policies: Violation of published campus policies including, but not limited to, the academic honesty policy, the habitation policy, the sexual harassment policy, the discrimination policy, the hazing policy and the pet policy.

(17) Weapons, firearms, explosives and dangerous chemicals: Firearms and weapons, as defined by state law, are prohibited on campus. Unauthorized use, possession or storage of any explosives, dangerous chemicals, substances or instruments which may be used to inflict bodily harm on another individual or damage upon college premises or at a college-sponsored event are prohibited.

These examples of student conduct code violations are not designed to define violations in exhaustive terms. The student conduct code does not supplant other existing policies.

[Statutory Authority: RCW 28B.40.120(12). 96-13-086, § 174-120-035, filed 6/18/96, effective 7/19/96.]

**WAC 174-120-045 Student conduct code—Levels of resolution.** (1) Voluntary mediation: Community members who come into conflict with one another should make a determined effort to resolve problems peacefully and constructively between themselves. To facilitate this objective, the college encourages voluntary mediation through mediators. The mediators will assist the two parties to reach resolution. If successful, the parties will sign an agreement stating that resolution has been reached. If unsuccessful, both parties may agree to binding arbitration or either party may file a grievance with the campus grievance officer. The accuser may bypass mediation/arbitration and file a complaint directly with the campus grievance officer. If voluntary mediation is not agreed to and the matter is referred to the campus grievance officer, the case becomes a disciplinary matter between the accused and the college. The complainant serves as a witness during the college's presentation of evidence, if a hearing occurs.

(2) Campus grievance officer review: The basic role of the campus grievance officer is to seek justice and educate the students about their rights and responsibilities. The campus grievance officer is responsible for determining if violations of the student conduct code have occurred, handling investigations in a thorough and timely manner, proposing corrective action on behalf of the college if warranted and for

keeping all records specified in these grievance procedures. Exceptions:

(a) Students presenting imminent danger to others, college property, and/or the educational process may be immediately suspended from the college by the president, vice-president for student affairs, or their designee(s).

(b) In cases involving violations of the housing contract, the director of housing or his/her designee shall act as the campus grievance officer.

[Statutory Authority: RCW 28B.40.120(12). 96-13-086, § 174-120-045, filed 6/18/96, effective 7/19/96.]

**WAC 174-120-055 Student conduct code—Grievance officer review process.** (1) Reaching a settlement agreement: If the campus grievance officer decides to pursue a case in the name of the college, the student may accept or deny responsibility for the violation. If the student accepts responsibility, she or he may propose a sanction in writing to resolve the case. The campus grievance officer may also propose a sanction. If agreement on responsibility and sanction(s) are reached, the settlement agreement shall be made in writing and signed by the student and the campus grievance officer. The student may withdraw the settlement by submitting a written statement of withdrawal which is received by the office of the vice-president for student affairs within twenty-four hours after being signed by the student.

(2) Settlement agreement: An agreement on responsibility and sanctions, if appropriate, shall be written and contain:

(a) A description of the violation for which responsibility is accepted;

(b) The agreed upon sanction, if any;

(c) Signatures of the student and the campus grievance officer.

(3) Temporary no-contact order: The campus grievance officer may impose a temporary order to restrict contact between parties or access to facilities for the duration of the student conduct code grievance and appeals process.

(4) Failure to respond to the campus grievance officer's request for a meeting: Failure to respond to a request for a meeting will result in an adjudicator hold on a student's registration file and could result in more serious sanctions.

(5) Decision by campus grievance officer of no cause finding: If the campus grievance officer determines, based on the evidence collected, that the accused has not violated the student conduct code, the accuser may request in writing within twenty calendar days that the vice-president for student affairs review the process and evidence collected by the campus grievance officer. No further review will be allowed if the vice-president for student affairs agrees that the process followed by the campus grievance officer was appropriate and that the act did not constitute a violation of the student conduct code.

(6) Failure to reach a settlement agreement: If the campus grievance officer is satisfied that sufficient evidence exists to substantiate a violation and if a settlement has not been reached, he/she shall send to the student a notice of the formal charges, recommended corrective action, and the right to a hearing. If a student is not charged with a violation potentially punishable by emergency suspension, he/she must petition the vice-president for student affairs for a formal hearing within twenty calendar days after receipt of the campus grievance officer's decision.

ance officer's charges. If the student fails to petition the vice-president for student affairs for a formal hearing, the recommended disciplinary action shall go into effect (unless emergency suspension has already occurred).

Except in cases of emergency suspension, the student's status at the college shall not be altered until the final opportunity for appeal has passed.

[Statutory Authority: RCW 28B.40.120(12). 96-13-086, § 174-120-055, filed 6/18/96, effective 7/19/96.]

**WAC 174-120-065 Student conduct code—Formal hearing notice, process and rights.** (1) Formal hearings will be subject to the following:

(a) Students have a right to a fair and impartial hearing on any charge of prohibited conduct and the right to confer with a representative present during the hearing.

(b) Pursuant to state law, the college president authorizes the vice-president for student affairs to determine the trier of fact.

(c) Unless the vice-president for student affairs determines otherwise, the trier of fact conducting a formal hearing shall be a hearing board.

(d) Any such hearing shall be conducted pursuant to state law, RCW 34.05.410 through 34.05.494, as amended or superseded.

(e) Hearings will be closed to the public and shall be deemed confidential.

(f) The student may request the presence of his/her representative.

(g) An open hearing may be held, at the discretion of the trier of fact with the consent of the student.

(h) In cases of emergency suspension, the process will be modified as set forth in WAC 174-120-075 (Student conduct code—Examples of corrective action).

(2) Default judgment process: The failure of the appealing party to appear may result in a default judgment. In cases of default judgment, the student has a minimum of seven calendar days in which to file a written motion requesting that the order be set aside and stating the grounds for this request. The trier of fact must respond to this request in writing within seven calendar days. The student or campus grievance officer may appeal the trier of fact's response to the reviewing officer as set forth in WAC 174-120-080 (6) and (7).

(3) Hearing process: Notice of the hearing, including a statement of the particular rules involved and matters asserted, shall be provided at least ten calendar days before any hearing. The appealing student and campus grievance officer shall inform each other of witnesses and, if applicable, representatives (through the office of the vice-president for student affairs) at least three calendar days before the hearing. Failure to provide a list of witnesses and/or the name(s) of their representatives at least three calendar days before the hearing will most likely result in disqualification of those witnesses and/or representatives. Both parties may submit brief written position statements to the designated trier of fact. Both parties have the right to:

(a) Question witnesses and have a representative advise them throughout the process. The parties shall inform each other of their witnesses (with a maximum of one character witness) and representatives at least three calendar days

before the hearing. Representatives may not appear in lieu of the student charged.

(b) Have subpoena(s) issued by the vice-president for student affairs and/or trier of fact, subject to a convincing showing of the general relevance and reasonable scope of the evidence sought.

(c) Petition for disqualification of a member of the hearing board.

(d) Challenge any hearing board member based on cause, such as personal bias. The unchallenged hearing board members shall hear the challenge for cause and make a finding. If cause is found, the vice-president for student affairs shall fill the vacancy forthwith. If the hearing board has an advisor, he/she may also challenge a hearing board committee member. Except for petitions for disqualification, hearing board members may be disqualified upon majority vote of the remaining board members.

(4) The trier(s) of fact should not discuss the case outside of the hearing, and shall base their decision upon the evidence presented at the hearing.

(5) The burden of proof shall be on the college which must establish, by a preponderance of the evidence, that the student is responsible for a violation of the student conduct code.

(6) Formal judicial rules of evidence shall not be applicable, nor shall harmless procedural errors necessarily invalidate a decision or proceeding, unless significant prejudice to the rights of the student or the college would result. The trier of fact shall recognize rules of confidentiality and privilege, but shall otherwise admit all matters into evidence which reasonable persons would accept as having probative value in the conduct of their affairs.

(7) Undue repetitious or irrelevant evidence may be excluded.

(8) Illegally obtained evidence cannot be used.

(9) The trier of fact shall reach a final decision within thirty calendar days of receipt of the petition or within fifteen calendar days of the close of the hearing, whichever is greater. Decisions of the trier of fact shall be by majority vote of the members present and voting. The trier of fact's written findings and conclusions shall be delivered to the accused student by hand or certified mail to his/her last known address.

[Statutory Authority: RCW 28B.40.120(12). 96-13-086, § 174-120-065, filed 6/18/96, effective 7/19/96.]

**WAC 174-120-075 Student conduct code—Examples of corrective action.** The primary purpose for imposing corrective measures is to educate, deter and protect. Notification of corrective action shall be in writing, and shall indicate the terms of any suspension or termination and any special conditions which must be met before readmission. Students who have been sanctioned are expected to fulfill their sanctions as prescribed. A student who has been sanctioned for violating the student conduct code will be required to complete the sanctions prior to the award of the degree by the board of trustees. Factors to be considered in mitigation shall be the present demeanor and past disciplinary record of the student, as well as the nature of the offense and the severity of any damage, injury, or harm resulting from it. Repeated or aggravated violations of any rule may result in greater corrective

measures, such as expulsion or suspension, as may be appropriate. A student's off-campus criminal conduct may also be considered in determining what discipline is warranted for similar on-campus conduct.

(1) **Emergency suspension:** Students presenting immediate danger to others, college property, and/or the educational process may be immediately suspended from the college by the president, vice-president for student affairs, or their designee(s). A hearing will be scheduled within twenty calendar days unless otherwise waived by the student. At the hearing, the trier of fact will determine whether or not the summary suspension shall remain in effect throughout the duration of the grievance and appeals process. At the time of the suspension, the student shall be notified in writing if possible, and otherwise orally, of the basis for the emergency suspension and of his/her right to a formal hearing. If oral notification is given at the time of the emergency suspension, written notification shall be delivered or sent to the student's last known address within twenty-four hours. At least three days before the hearing, the grievance officer shall notify the student of her/his findings, proposed sanctions, witnesses to be called at the hearing and, if intended, representative. Except as noted here, the process will be followed as set forth in 174-120-065 (Student conduct code—Formal hearing notice, process and rights).

(2) **Expulsion:** Permanent separation from the college and termination of community membership. The student may also be barred from college premises and/or college-sponsored events.

(3) **Probation:** A trial period during which the student's conduct is monitored. Any additional violations of the student conduct code during this period may be subject to exceptional disciplinary action.

(4) **Reprimand:** Warning(s) that further misconduct may result in more severe sanctions.

(5) **Restitution:** Payment may be made to the college or to other persons, groups, or organizations for damages incurred as a result of prohibited conduct.

(6) **Suspension:** Temporary dismissal from the college and temporary termination of community membership for a stated period of time, but no longer than one year. The student shall not participate in any college-sponsored activity and may be barred from college premises. Suspension implies that the student may eventually return if evidence or other assurances are presented that convincingly ensure that prohibited conduct will not be repeated.

(7) **Temporary ejection from the premises:** Students on college property who willfully refuse to obey an order of the president, the president's designees, or law enforcement officers to desist from conduct prohibited by the college's rules and regulations may be ejected from the premises for a specified period of time not to exceed forty-eight hours. After a temporary ejection takes place, the campus grievance officer will conduct an investigation to determine if a violation of the student conduct code has occurred and, if so, what additional corrective action should be proposed. Refusal to obey the temporary ejection order will subject the student to arrest under state criminal trespass laws, in addition to such other sanctions as may be applicable.

(8) **Other sanctions and conditions for enrollment:** Other sanctions or conditions may be imposed if related to the vio-

lation. Sanctions could include, but are not limited to: Limiting extracurricular activities, restricting registration of motor vehicles, assigning community service. Students may also be removed from college housing for contract violations. Conditions for enrollment could include, but are not limited to: A psychological assessment and/or counseling.

[Statutory Authority: RCW 28B.40.120(12). 96-13-086, § 174-120-075, filed 6/18/96, effective 7/19/96.]

**WAC 174-120-085 Student conduct code—Procedural appeals.** Within ten calendar days of receipt of the trier of fact's findings and conclusions, either the campus grievance officer or the student may submit to the president (L3109, ext. 6100) a written appeal. The president will appoint a reviewing officer who will conduct a procedural review. The reviewing officer will review the written and audio taped record. Within fifteen calendar days of the filing of the appeal, the reviewing officer must render a final written order. No further agency appeal is required or provided.

If the accuser is a victim of conduct which is considered violent, she/he is entitled, according to the Federal Education Rights to Privacy Act, to receive the results of the process, upon request, after the final opportunity for appeal has passed.

[Statutory Authority: RCW 28B.40.120(12). 96-13-086, § 174-120-085, filed 6/18/96, effective 7/19/96.]