

# Chapter 132K-126 WAC

## STUDENT RIGHTS AND RESPONSIBILITIES AND STUDENT CODE OF CONDUCT

### WAC

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### INTRODUCTION

**WAC 132K-126-010 Title.** This chapter shall be known as the Student Code of Community College District No. 11.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-010, filed 2/18/09, effective 3/21/09.]

(2/18/09)

**WAC 132K-126-020 Preamble.** Pierce College is a two-year public institution of higher education and is committed to providing a quality, comprehensive student-centered education, committed to lifelong learning, diversity, and educational opportunities to the communities we serve.

Students are encouraged through free inquiry and free expression to develop their capacity for critical judgment and to engage in a sustained and independent search for knowledge. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility.

The student is in the unique position of being a member of the community at large, having the rights and responsibilities of any citizen, and of being a member of the college community. Admission to Pierce College carries with it the expectation that students shall conduct themselves as responsible members of the Pierce College community; that they shall observe the standards of conduct, respect the rights, privileges and property of other members of the academic community, shall maintain a high standard of integrity and honesty; and shall not interfere with legitimate college business appropriate to the pursuit of academic goals.

The student's success is dependent on the district fostering a positive district-wide climate that supports learning, communication, recognition and collaboration among a diverse faculty, staff and student body.

As an agency of the state of Washington, Pierce College must respect and adhere to all laws established by local, state and federal authorities. Pierce College also has developed a set of rules and regulations to ensure the orderly conduct of the affairs of the district. These rules and regulations, if violated, may result in student discipline in accordance with the procedures established in the student code of conduct.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-020, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-030 Procedural standards in disciplinary proceedings.** (1) In assisting students to develop responsible behavior, the student code of conduct has been developed to play a complementary role to counseling, guidance, and other forms of student development action. Pierce College has a duty and the corollary disciplinary powers to protect its educational endeavors through the setting of standards of scholarship and conduct for its students and through the regulations of the use of its facilities.

(2) If any of these rules or regulations are broken, discipline shall be administered so as to guarantee procedural fairness to an accused student. The regular disciplinary procedures, rules of conduct, including the student's right to appeal

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a decision shall be clearly formulated and communicated. Disciplinary procedures may vary in formality with the gravity of the offense and the sanctions that may be applied. Some student code of conduct violations may be adjudicated informally under prescribed procedures.

(3) Pierce College shall adhere to procedural fairness by requiring that in all situations the student receive, in advance, the nature of the charges against him or her, an opportunity for a hearing including the right to hear evidence against them and question adverse witnesses (counsel may not question witnesses), and substantial evidence to support the determination.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-030, filed 2/18/09, effective 3/21/09.]

## DEFINITIONS

**WAC 132K-126-040 Definitions.** As used in this chapter, the following words and phrases shall be defined as follows:

(1) **Academic dishonesty** means plagiarism, misrepresentation of self or student work product or representation of work of others as your own, or other acts of academic dishonesty.

(2) **Alcoholic beverages** means beer, wine or hard liquor as defined in RCW 66.04.010(15) as now law or hereafter amended.

(3) **Arbitrary and capricious** refers to willful or unreasonable action, taken without consideration of, or in disregard of, fact or circumstances of a particular case. Where there is room for two reasonable opinions, an action shall not be deemed to be arbitrary or capricious when taken honestly and upon due considerations, however much it may be believed that an erroneous conclusion has been reached.

(4) **Assembly** means any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information.

(5) **ASPCFS** means the associated students of Pierce College - Fort Steilacoom as defined in the constitution of that body.

(6) **ASPCP** means the associated students of Pierce College - Puyallup as defined in the constitution of that body.

(7) **Board** means the board of trustees of Community College District No. 11, state of Washington.

(8) **Chancellor** means the duly appointed chief executive officer of the district, holding all express or implied authority to carry out the administration and operation of Community College District No. 11.

(9) **Cheating** includes, but is not limited to:

(a) Use of any unauthorized assistance in taking quizzes, tests, or examinations; writing papers, preparing reports, solving problems, or carrying out other assignments; or

(b) The acquisition, without permission, of tests or other academic material belonging to a member of Pierce College faculty or staff;

(c) Allowing one person to represent another person as the enrolled student in any course;

(d) Representing oneself as another person in any course.

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(10) **College** includes all land, buildings, facilities, and other property in the possession of, or owned, rented, leased, operated, used on behalf of, or controlled by the college.

(11) **College disciplinary committees** means the judicial bodies provided in this chapter.

(12) **College facilities and infrastructure** means and includes any and all personal property, real property, or electronic networked systems owned, rented, leased, or operated by or used on behalf of the college or associated students and the board of trustees of Community College District No. 11.

(13) **College official** includes any person employed by Pierce College District No. 11 performing assigned administrative or professional responsibilities.

(14) **Controlled substance** includes any illegal drug or substance as defined in chapter 69.50 RCW as now law or hereafter amended.

(15) **Disciplinary sanction** means that action taken as a consequence to any violation of the student code of conduct as provided in this chapter.

(16) **Faculty** means any person hired by Pierce College to conduct one or a combination of instruction, counseling, or library services.

(17) **Hate crimes** shall mean a criminal offense committed against a person or property, which is motivated, in whole or in part, by the offender's bias against the victim's actual or perceived race, ethnicity, religion, sexual orientation, disability or gender.

(18) **Hazing** means 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 attending any institution of higher education or post secondary institution. Excluded from this definition are "customary athletic events or other similar contests or competitions."

(19) **Judicial advisor** means a Pierce College official authorized by the vice-president of learning and student success to investigate complaints of alleged conduct violations, determine validity of the complaint, and impose disciplinary sanctions.

(20) **Judicial body** means the Pierce College disciplinary review committee which is authorized to adjudicate the formal hearing of appeals to disciplinary action imposed by the judicial advisor and determine whether a student has violated the student code of conduct and to recommend imposition of sanctions.

(21) **May** is used in the permissive sense.

(22) **Member of Pierce College community** includes any person who is a student, faculty member, staff member, Pierce College official, trustee, guest on a college owned or controlled facility or any other person employed by Pierce College. A person's status in a particular situation shall be determined by the vice-president of learning and student success or vice-president of human resources.

(23) **Organization** means any number of persons who have complied with the formal requirements for college or student government recognition of clubs or organizations.

(24) **Plagiarism** includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowl-

egment of the source, to include print or electronic means, using recognized and acceptable citation. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

(25) **Policy** is defined as the official, written regulations of Pierce College as found in, but not limited to, the student code of conduct, the *Student Handbook*, class schedules/bulletins, college catalogs, or the Pierce College web site.

(26) **President** means the duly appointed chief executive officer of Pierce College - Fort Steilacoom and Pierce College - Puyallup.

(27) **Rules and regulations of conduct** means those rules contained within this chapter as now exist or which may be hereafter amended, the violation of which subjects a student to disciplinary sanction.

(28) **Shall** is used in the imperative sense.

(29) **Student** includes all persons enrolled in courses offered by Pierce College, both full time and part time. Persons who are not officially enrolled for a particular term, but who have a continuing academic relationship with Pierce College are considered "students."

(30) **Trespass** means the definition of trespass as contained in chapter 9A.52 RCW as now law or hereafter amended.

(31) **Vice-president of learning and student success** means the administrator responsible for instruction and student services and designated by the college president to be responsible for the administration of this chapter.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-040, filed 2/18/09, effective 3/21/09.]

## JURISDICTION

### WAC 132K-126-050 Jurisdiction of the college. (1)

**Scope.** The code shall apply to every student whenever the student is present upon or in any college premises, and whenever the student is present at or engaged in any college sponsored offering, event or activity held in noncollege facilities, to include distance learning options. It shall also apply to students who are engaged in official college training and/or activities including places of training internships, cooperative education, practicums or supervised work experiences, trips, conferences, and retreats.

(2) **Remedies not exclusive.** The remedies provided for in this code are not exclusive. Seeking or obtaining any remedies under this code is not intended to bar the college, the complainant, or any other person or entity from seeking or obtaining such other remedies as may be available under other college policies, or in any other forum under applicable civil or criminal law.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-050, filed 2/18/09, effective 3/21/09.]

## STUDENT RIGHTS

### WAC 132K-126-060 Student rights.

The college endorses the following rights for each student within the limitations of statutory law and college policy, which are deemed necessary to achieve the educational goals of the college.

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[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-060, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-070 Freedom of access to higher education.** Pierce College is an open-door institution that, within the limits of its facilities and subject to the prevailing admissions policy, is open to all students. The facilities and services of the college are open to all of its enrolled students. Provisions allow that the vice-president of learning and student success may deny admission to a prospective student, or continued attendance to an enrolled student, if it reasonably appears that the student would not be competent to profit from the curriculum offerings of the college, or would, by the student's presence or conduct, create a disruptive atmosphere within the college or a substantial risk of actual harm to a member of the campus community.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-070, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-080 Academic freedom.** (1) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

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

(3) Students shall be protected against prejudice or arbitrary and capricious academic evaluation. At the same time, they are responsible for maintaining the standards of academic performance established by each of their instructors.

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

(5) Students are protected against improper disclosure of information about their views, beliefs, and political associations that instructors acquire in the course of their work as instructors, advisers, and counselors. Such information is considered confidential. Students have the right to privacy of all student records according to the Family Education Rights and Privacy Act of 1974.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-080, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-090 Freedom of expression.** Students and student organizations are free to examine and to discuss all questions of interest to them, and to express opinions publicly and privately. They are free to support causes by orderly means that do not disrupt the regular and essential operation of the institution. It should be made clear to the campus community and the larger community that in their public expressions or demonstrations, students or student organizations speak only for themselves.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-090, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-100 Freedom of assembly.** The college reserves the right to prescribe time, place, and manner restrictions on assembly and protests. Identified forums and

locations shall be considered to be consistent with public/private forum practice.

(1) Students shall have the right of "assembly" as defined in WAC 132K-126-040 upon college facilities that are generally available to the public provided that such assembly shall:

(a) Be conducted in an orderly manner;

(b) Not unreasonably interfere with vehicular or pedestrian traffic;

(c) Not unreasonably interfere with classes, schedules, meetings, or ceremonies, or with educational and administrative functions of the college;

(d) Not unreasonably interfere with the regular activities of the college; and

(e) Not cause damage or destruction to college property or private property on college facilities.

(2) A student or student organization that conducts or participates in an assembly violation of any provision of this code shall be subject to disciplinary action.

(3) Nonstudents who participate in or aid or abet any assembly or assemblies in violation of this section shall be subject to possible prosecution under the state criminal trespass law and/or any other possible civil or criminal remedies available to the college.

(4) Assemblies which violate these rules may be ordered to disperse by the college in accordance with Washington state statutes.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-100, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-110 Freedom of association.** (1) Students are free to organize and join associations to promote any legal purpose, whether it is religious, cultural, political, educational, recreational, or social. Student organizations must be granted a charter by the ASPCP or ASPCFS before they may be officially recognized. Procedures for becoming chartered are located in the student programs office.

(2) Campus organizations, including those affiliated with an intramural or extramural organization, are open to all students. Affiliation with an intramural or extramural organization does not itself disqualify a student organization from institutional recognition provided that other conditions for charter issuance have been met.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-110, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-120 Distribution and posting.** Students may distribute or post material subject to official procedures printed and available in the office of student programs. The college may restrict distribution of any publications, where such distribution unreasonably interferes with college operations. Any person desiring to distribute such publications shall first register with the respective office of student programs so that reasonable areas and times can be assured and the activities of the institution shall not be unduly interfered with. All handbills, leaflets, newspapers, and similarly related matter must bear identification as to the publishing agency and distributing organization and individual.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-120, filed 2/18/09, effective 3/21/09.]

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**WAC 132K-126-130 Off-campus speaker policy.** (1) Student organizations officially recognized by the college shall have the right to invite outside speakers to speak on campus subject to the availability of campus facilities, funding, and in compliance with college procedures available in the respective office of student programs. Speakers are subject to the legal restraints imposed by the laws of the United States and the state of Washington.

(2) The appearance of an invited speaker on college facilities does not represent an endorsement, either implicitly or explicitly, or views or opinions of the speaker by the college, its students, its faculty, its college personnel, its administration, or its board.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-130, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-140 Incidental sales.** Students have the right to engage in incidental sales of personal property in a private transaction, provided college facilities are not explicitly used for this purpose.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-140, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-150 Commercial activities.** (1) College facilities shall not be used for commercial solicitation, advertising, or promotional activities except when such activities clearly serve Community College District No. 11 educational objectives, including but not limited to display of books of interest to the academic community or the display or demonstration of technical or research equipment, and when such commercial activities relate to educational objectives and are conducted under the sponsorship or the request of a college department or the office of student programs of the college, provided that such solicitation does not interfere with or operate to the detriment of the conduct of college affairs or the free flow of pedestrian or vehicular traffic.

(2) For the purpose of this regulation, the term "commercial activities" does not include handbills, leaflets, newspapers, and similarly related materials as regulated in WAC 132K-126-120.

(3) Credit card companies and associated products shall be prohibited from campus.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-150, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-160 Student participation in college governance.** As members of the college community, students shall be free, individually and collectively, to express their views on college policy, and on matters of general interest to the student body. The associated students' constitutions and the college's administrative procedures provide clearly defined means to participate in the formulation and application of institutional policy affecting academic and student affairs.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-160, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-170 Due process.** Students have the right to due process. No disciplinary action shall be imposed without notice to the accused of the nature of the charges. Notice may be given by a judicial advisor verbally and in

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writing within ten days of a charge being submitted against a student to include the alleged violations of the code and the opportunity for advanced inspection of any affidavits or exhibits the college intends to submit at the hearing. A student accused of violating the code of conduct is entitled to procedural due process as set forth in this chapter.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-170, filed 2/18/09, effective 3/21/09.]

## STUDENT RESPONSIBILITIES

**WAC 132K-126-180 Student responsibilities.** Students who choose to attend Pierce College also choose to actively participate in the learning process offered by the college. The college is responsible for providing an educational environment rich in the high quality resources needed by students to attain their educational goals. In return, the college has the expectation that each student shall assume responsibility for the following:

- (1) Become knowledgeable of and adhere to policies, practices, procedures and rules of the college and its departments;
- (2) Practice personal and academic integrity;
- (3) Respect the dignity, rights and property of all persons;
- (4) Strive to learn from differences in people, ideas and opinions;
- (5) Participate actively in the learning process, in and out of the classroom;
- (6) Refrain from and discourage behaviors which undermine the respect all Pierce College community members deserve;
- (7) Abide by the standards set forth in the student rights and responsibilities/code of conduct policy.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-180, filed 2/18/09, effective 3/21/09.]

## STUDENT CODE OF CONDUCT

**WAC 132K-126-190 Rules and regulations.** Any student found to have committed, aided, or abetted others to commit any of the following violations is subject to the disciplinary actions outlined in this chapter:

- (1) **Acts of dishonesty**, including, but not limited to, the following:
  - (a) Cheating, plagiarism, or other forms of academic dishonesty;
  - (b) Furnishing false information to any Pierce College official, faculty member, staff department;
  - (c) Forgery, alteration, or misuse of a Pierce College document, record, fund or instrument of identification;
  - (d) Tampering with the election of any Pierce College recognized student organization;
  - (e) Assuming the identity of another student;
  - (f) Allowing another student to assume your identity.
- (2) **Assault, reckless endangerment, intimidation**, physical abuse, harassment, coercion and/or other conduct which threatens or endangers the health and safety of any person.
- (3) **Disorderly, lewd, indecent, or other behavior** which breaches the peace, interferes with the rights of others

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or which obstructs or disrupts teaching, research, administrative functions, or other college-authorized activities and otherwise interferes with the learning environment.

(4) **Failure to follow the reasonable instructions** of faculty members, staff member, Pierce College official thereby infringing upon the rights and privileges of other members of the college community.

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

(6) **Engaging in hate incidents and/or hate crimes** to include conduct, speech, other expressions and actions motivated by bias against a victim based on his or her actual or perceived race, ethnicity, national origin, religion, gender, age, sexual orientation or disability. Examples of behaviors that may constitute a hate incident or crime include, but are not limited to:

- (a) Threatening phone calls or text messages;
- (b) Hate mail to include all forms of electronic messages;
- (c) Physical assault;
- (d) Threats of harm or violence;
- (e) Arson;
- (f) Vandalism;
- (g) Cross burning;
- (h) Bombing and bomb threats.

(7) **Attempted or actual theft** of, and/or damage to property of the college or property of a member of the college community or other personal or public property.

(8) **Possession or unauthorized use of college equipment** and supplies including, but not limited to, converting college equipment or supplies for personal gain or use without proper authority.

(9) **Intentionally gaining access, without authorization, to a computer system** or electronic data owned or used by the Washington state Community College District No. 11 shall be subject both to disciplinary action pursuant to this chapter and to criminal prosecution pursuant to RCW 9A.52.110 through 9A.52.130, and any or all other statutory laws or regulations pertaining thereto.

(10) **Entering any administrative or other employee office** or any locked or otherwise closed college facility in any manner, at any time, without authority or permission of the college employee or agent in charge.

(11) **Smoking in college vehicles or on college premises** outside of designated smoking areas.

(12) **Use, possession or distribution or being under the influence of alcoholic beverages**, except as expressly permitted by law and college regulations.

(13) **Use, possession, distribution, or being demonstrably under the influence of narcotics** or other controlled substances, except as expressly permitted by law.

(14) **Possession or use (to include exhibiting, displaying or drawing any weapon) of firearms**, explosives, other weapons or dangerous chemicals or any other device or substance which can be used to inflict bodily harm on college premises or at college-sponsored or supervised activities, except for authorized college purposes or for law enforcement officers.

(15) **Failure to comply with the directions of Pierce College officials** or law enforcement officers acting in per-

formance of their duties, and/or failure to identify oneself to these persons when requested to do so.

(16) **Refusal to provide positive identification** (e.g., valid driver's license or state identification card) in appropriate circumstances to any college employee in the lawful discharge of that employee's duties.

(17) **Participating in a campus demonstration** or other activity which disrupts the normal operations of the college and infringes on the rights of other members of the college community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area; intentional obstruction which unreasonably interferes with freedom of movement, either pedestrian or vehicular, on campus or at college-sponsored activities.

(18) **Intentionally and repeatedly following another person** to that person's home, school, place of employment, business, or any other location, or following the person while in transit between locations may be subject to disciplinary action if the person being followed is intimidated, harassed, or placed in fear that the stalker intends to injure the person or property of the person being followed, or another person. The feeling of fear, intimidation, or harassment must be one that a reasonable person in the same situation would experience under all the circumstances. RCW 9A.46.110 and 10.14.020 shall be guidance for this regulation.

(19) **Any act of misconduct, which substantially disrupts any college function** or renders it difficult or impossible to continue such a function in an orderly manner.

(20) **Abuse of the judicial system**, including, but not limited to:

(a) Failure to obey the summons of a judicial advisor or body or Pierce College official.

(b) Falsification, distortion, or misrepresentation of information before a judicial advisor or body.

(c) Disruption or interference with the orderly conduct of a judicial proceeding.

(d) Knowingly initiating a judicial proceeding without cause (i.e., filing a false report).

(e) Attempting to discourage an individual's proper participation in, or use of, the judicial system or to encourage sharing of false testimony or information.

(f) Attempting to improperly influence the impartiality of a member of a judicial body prior to and/or during the course of the judicial proceeding.

(g) Harassment (verbal or physical) and/or intimidation of a member of the judicial advisor or judicial body prior to, during, and/or after a judicial proceeding.

(h) Failure to comply with the sanction(s) imposed under the code of conduct.

(i) Influencing or attempting to influence another person to abuse the judicial system.

**(21) Violation of:**

(a) Pierce College policies, rules or regulations; and/or

(b) Federal, state or local law on Pierce College facilities at Pierce College sponsored or supervised activities.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-190, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-200 Trespass.** (1) The vice-president of learning and student success or his/her designee is authorized in the instance of any event deemed to be disruptive of

order or deemed to impede the movement of persons or vehicles or which the vice-president of learning and student success deems to disrupt or threatens to disrupt the ingress and/or egress of persons from college facilities. The vice-president of learning and student success or such other person designated by the vice-president of learning and student success, shall have the authority and power to:

(a) Prohibit the entry of, or withdraw the license or privilege of a person or persons or any group of persons to enter onto or remain upon any portion of college property or of a college facility; or

(b) To give notice against trespass by any manner provided by law, to any person, persons, or group of persons against whom the license or privilege has been withdrawn or who have been prohibited from, entering onto or remaining upon all or any portion of college property or a college facility; or

(c) To order any person, persons, or group of persons to leave or vacate all of any portion of college property or of a college facility.

(2) Any individual who shall disobey a lawful order given by the vice-president of learning and student success, or his or her designee, shall be subject to disciplinary action and/or charges of criminal trespass.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-200, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-210 Hazing policy.** (1) Hazing is prohibited.

**(2) Penalties.**

(a) Any organization, association or student living group that knowingly permits hazing shall:

(i) Be liable for harm caused to persons or property resulting from hazing; and

(ii) Be denied recognition by Pierce College as an official organization, association, or student living group on this campus. If the organization, association or student living group is a corporation, whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

(b) A person who participates or conspires to participate in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for a period of not less than one quarter and up to permanent forfeiture.

(c) An act of hazing, in addition to violating this policy, may constitute a violation of the student code of conduct. WAC 132K-126-190(2) assault, reckless endangerment, etc. These offenses are subject to disciplinary action.

(d) Hazing violations are also misdemeanors punishable under state criminal law according to RCW 9A.20.021.

(3) Sanctions for impermissible conduct not amounting to hazing.

(a) Impermissible conduct associated with initiation into a student organization or living group or any pastime or amusement engaged in, with respect to the organization or living group, shall not be tolerated.

(b) Impermissible conduct which does not amount to hazing may include conduct which causes embarrassment, sleep deprivation or personal humiliation, or may include ridicule or unprotected speech amounting to verbal abuse.

(c) Impermissible conduct not amounting to hazing is subject to any sanction available under the student code of conduct, depending upon the seriousness of the violation.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-210, filed 2/18/09, effective 3/21/09.]

## JUDICIAL AUTHORITY

**WAC 132K-126-220 Judicial authority.** (1) Administration of this chapter is the responsibility of the vice-president of learning and student success.

(2) The college president shall be notified of any disciplinary action in which there is a recommendation that a student be suspended or expelled from the college.

(3) The instructor is responsible for conduct in the classroom and is authorized to take such steps as are reasonably necessary when behavior of the student interrupts the normal classroom procedure. When such behavior may be as serious as to result in summary suspension from the class, the instructor must report the infraction in writing to the vice-president of learning and student success within twenty-four hours of the infraction and the specific steps taken by the instructor.

(4) The student has the right to appeal any disciplinary action of an instructor to the vice-president of learning and student success in accordance with the procedures set forth in WAC 132K-126-270 through 132K-126-280.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-220, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-230 Violation of law and college discipline.** (1) College disciplinary proceedings may be initiated against a student charged with violation of a law that is also a violation of the code of conduct. This would apply if both violations result from the same factual situation, without regard to pending civil litigation in court, or criminal arrest and prosecution. Proceedings under the code of conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings.

(2) When a student is charged by federal, state, or local authorities with a violation of law, the college may advise off-campus authorities of the existence of the code of conduct and of how such matters shall be handled internally within the college community. The college shall cooperate fully with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators. Individual members of the Pierce College community acting in their personal capacities remain free to interact with government representatives as they deem appropriate.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-230, filed 2/18/09, effective 3/21/09.]

## PROCEEDINGS

**WAC 132K-126-240 Initiation of disciplinary proceedings.** (1) **Complaints.** Any member of the Pierce College community may file charges against any student for misconduct. Complaints shall be submitted as soon as reasonably possible, preferably within five academic days after the occurrence of the incident. Charges shall be prepared in writ-

ing and directed to the judicial advisor responsible for the administration of the Pierce College judicial system. Information and location of the judicial advisor is available in the vice-president of learning and student success office.

(2) **Notice to accused student.** When a complaint is filed against a student, the judicial advisor shall, within ten days, serve written notice on the accused student, including a statement of the charges, notice of the opportunity for advance inspection of any affidavits or exhibits the college intends to submit at the hearing, the right to bring council to the hearing to advise them (but not to question witnesses), and the opportunity to present their own version of the facts, by personal statements as well as affidavits and witnesses. The notice shall be sent to the student's last known address shown on college records. Under specific conditions, the judicial advisor may determine it to be beneficial to the college and/or student to meet with a student immediately. In those circumstances, due process procedures shall follow.

(3) **Informal process.** The judicial advisor may, but not be required to, conduct an investigation to determine the merit of the complaint and if it can be disposed of informally by mutual consent of the parties involved. For adverse parties who agree to settle the complaint informally, the judicial advisor shall facilitate communication between the complainant(s) and the accused (respondent(s)). The judicial advisor shall determine the best means of conducting the informal process, the purpose of which is to reach an agreement that is mutually satisfactory to the parties, if possible. Interim sanctions may be imposed at any time during the informal process with good reason (see interim sanction section). If the matter cannot be resolved by mutual consent, a summary determination shall be initiated by the judicial advisor. The complainant and the respondent have the right to be assisted by any advisor they choose, at their own expense. The advisor may be an attorney, but advisors are not permitted to speak or participate directly in any hearing before a judicial body, except as permitted by the hearing chair. If the student chooses to be advised by a licensed attorney in the state of Washington, she/he must notify the judicial advisor at least five working days prior to the meeting or conference.

### (4) Summary proceedings.

(a) **Disposition.** After considering the evidence in the case and interviewing the respondent in a summary hearing (if the respondent has appeared at the scheduled conference), the judicial advisor may:

- (i) Terminate the proceeding exonerating the student(s);
- (ii) Dismiss the case after whatever counseling and advice the judicial advisor deems appropriate; or

(iii) Impose any of the sanctions listed in this code. A written statement of the judicial advisor's decision and findings of fact shall be issued within ten days and shall be served on both the respondent and the complainant. The statement shall indicate in that decision the review and appeals process.

(b) **Request for formal hearing.** After the judicial advisor's decision, the respondent and/or the complainant may request a formal hearing to challenge a decision reached, or a sanction imposed by the judicial advisor pursuant to the informal disciplinary hearing. Such requests shall be in writing and shall be delivered to the judicial advisor within ten days after the judicial advisor's decision. A time shall be set for a formal hearing not less than seven days or not more than

fifteen calendar days after the request for a formal hearing. Notification shall be given if the hearing shall be conducted by telephone. Notification shall be given that the college shall provide an interpreter if required. Written notices shall be in student's primary language or where to get help in interpreting it. Finally, written notices shall include the following: Names of all parties to whom notice is sent; name and address of office representing the college; name, official title, mailing address, and telephone number of the presiding officer; time, place, and nature of the proceeding; statement of the authority and jurisdiction; reference to the statutes and rules involved; plan statement of the matters asserted by the college; and a statement that a party who fails to attend shall default. If there is good reason and the complainant(s) and the respondent(s) agree, time limits for scheduling a hearing may be extended at the discretion of the judicial advisor.

(5) **Formal hearings.** Formal hearings shall be convened by the judicial advisor and conducted by a judicial body (disciplinary review committee) according to the following guidelines:

(a) Hearing shall be conducted in private. Hearings shall be chaired by the administrative representative of the college disciplinary committees.

(b) The complainant(s) and the respondent(s) shall be expected to attend the formal hearing. Admission of any person to the hearing shall be at the discretion of the committee chair.

(c) In hearings involving more than one accused student, the hearing chair, at his/her discretion, may permit separate hearings for each respondent.

(d) The complainant and the respondent have the right to be assisted by any advisor they choose, at their own expense. The advisor may be an attorney, but advisors are not permitted to speak or participate directly in any hearing before a judicial body, except as permitted by the hearing chair. If the student chooses to be advised by a licensed attorney in the state of Washington, she/he must notify the judicial advisor at least five working days prior to the hearing.

(e) The complainant, the respondent and the college disciplinary committee shall have the right of presenting witnesses and evidence, subject to the right of questioning by the committee, the complainant or the respondent. The hearing chair may limit the scope and number of questions to witnesses.

(f) Pertinent records, exhibits and written statements may be accepted for consideration as evidence prior to, or during, a hearing by the hearing committee at the discretion of the hearing chair.

(g) If at any time during the conduct of a hearing visitors disrupt the proceedings, the committee chair may exclude such persons from the hearing room.

(h) All procedural questions are subject to the final decision of the hearing chair.

(i) After the hearing, the hearing committee shall determine whether the student has violated the code of conduct as charged.

(j) The hearing committee's determination shall be made on the basis of whether it is more likely than not that the respondent violated the code of conduct.

(k) If the hearing committee determines that the student has violated the code of conduct, the body shall determine

whether the sanction(s) imposed pursuant to the informal disciplinary conference were appropriate for the violation of the code of conduct that the student was found to have committed.

(l) The hearing committee may reduce or increase the sanctions imposed by the judicial advisor pursuant to the informal disciplinary conference.

(6) The hearing shall be recorded (shorthand, audio, video, stenographer). The record shall be the property of the college and shall be preserved until the decision is final (after the time for appeals has passed).

(7) Any party, at their own expense, may prepare a transcript from the college's record, or cause additional recordings to be made during the hearing if the making of the additional recording does not cause distraction or disruption.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-240, filed 2/18/09, effective 3/21/09.]

## SANCTIONS

**WAC 132K-126-250 Sanctions.** (1) Appropriate action taken shall be based on the facts of the investigation, and such action shall be consistent with policy and practice. The standard to determine a sanction is based upon a preponderance or clear and convincing determination that a violation occurred. The following sanctions may be imposed by the judicial advisor upon any student, group, or organization found to have violated the code of conduct by the judicial advisor or judicial body at any time during the informal process or formal hearings:

(a) Warning—A notice in writing to the student that the student has violated this code and that further violation may result in additional disciplinary proceedings and sanctions.

(b) Probation—A written reprimand placing conditions upon the student's continued attendance. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to be in further violation of the code of conduct. Notice shall be made in writing and shall specify the period of probation and the conditions, such as limiting the student's participating in extracurricular activities.

(c) Loss of privileges—Denial of specified privileges for a designated period of time.

(d) Fines—Fines may be imposed.

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

(f) Discretionary sanctions—Work assignments, service to the college, or other related discretionary assignments.

(g) Deactivation—(Applies to student groups or organization.) Loss of all privileges including college recognition, for a specified period of time.

(h) No contact orders—An order of no contact may be placed on a student, complainant, or any involved parties if determined to be in the best interest of the college and/or student(s).

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

(j) College expulsion—Permanent separation of the student from the college. There shall be no refund of fees for the quarter in which the action is taken, but fees paid in advance for a subsequent quarter shall be refunded.

(2) More than one of the sanctions listed above may be imposed for any single violation.

(3) Disciplinary sanctions shall not be made part of the student's permanent academic record, but shall become part of the student's confidential record. Upon graduation and application to the judicial advisor, the student's confidential record may be expunged of disciplinary actions **other than** college suspension or expulsion, consistent with the college's schedule of record disposition.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-250, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-260 Interim sanctions.** In certain circumstances, the judicial advisor may impose any of the above sanctions pending a hearing before, or decision by the college disciplinary committee. Minimum action shall be taken that is deemed necessary to prevent immediate danger.

(1) Interim sanctions may be imposed only:

(a) To ensure the public health, safety, or welfare of members of the college community or the preservation of college property;

(b) To ensure the student's own physical or emotional safety and well-being; or

(c) If the student poses a threat of disruption to, or interference with, the educational process or other normal operations of the college.

(2) Notice of interim sanctions shall be made in writing and shall state:

(a) The charges against the student, including reference to the provisions of this code that were allegedly violated; findings of facts, conclusions of law, and policy reasons for the decision; and

(b) That the student charged has the right to an informal hearing before the judicial advisor to challenge the interim sanctions.

(3) If such a hearing is requested, it shall be held as soon as practical after the interim sanctions have been imposed. The judicial advisor shall decide whether there is probable cause to believe that continuation of the sanctions is necessary, and/or whether some other disciplinary action is appropriate.

(4) The judicial advisor may continue to enforce the interim sanctions if, following the informal hearing, he or she finds that there is probable cause to believe that interim sanctioning of that student is necessary for the safety of the student, of other students, or persons on college facilities, the educational process of the institution, or to restore order to the campus.

(5) The result of the informal hearing shall be given to the student in writing. Written statements shall include: Findings, conclusions, reasons and basis for material issues of fact, law or discretion, sanction(s), and procedures and time limits for appeal. If sanctions are continued, the written notice shall stipulate the duration of the sanctions and conditions under which they may be terminated.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-260, filed 2/18/09, effective 3/21/09.]

(2/18/09)

## STUDENT APPEAL

**WAC 132K-126-270 Appeal.** (1) Following a formal hearing, a decision reached by the college disciplinary committee may be appealed by the respondent or complainant to the vice-president for learning and student success within ten school days of the date of the written decision. Such appeals shall be in writing and shall be delivered to the judicial advisor. The notice of appeal is deemed delivered on the date it is postmarked or the date it is hand-delivered to the office of the judicial advisor.

(2) Appeals shall be limited to review of the record of the formal hearing and supporting documents, except as required to explain the basis of new evidence, for any of the following:

(a) To determine whether the formal hearing was conducted fairly in light of the charges and evidence presented and in conformity with the prescribed procedures, giving the complaining party a reasonable opportunity to prepare and present evidence that the student code of conduct was violated, and giving the respondent a reasonable opportunity to prepare and to present a rebuttal to those allegations.

(b) To determine whether the decision reached regarding the respondent was based on substantial evidence; that is, whether the facts in the case were sufficient to establish the fact that a violation of the student code of conduct had occurred.

(c) To determine whether the sanction(s) imposed were appropriate for the violation committed.

(d) To consider new evidence, sufficient to alter a decision or other relevant facts not brought out in the formal hearing, because such evidence and/or facts were not known to the person appealing at the time of the original hearing.

(3) The vice-president of learning and student success reviews the entire record. The vice-president of learning and student success must afford each party the opportunity to present written argument. The vice-president of learning and student success may afford each party the opportunity to present oral argument.

(4) The vice-president of learning and student success may, upon review of the case, reduce or increase the sanctions imposed by the college disciplinary committee. The vice-president of learning and student success shall provide a written finding to each party to include findings, conclusions, reasons and basis for materials of fact, law, law or discretion, sanction, and appeal procedures.

(5) The vice-president's decision shall be final.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-270, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-280 Readmission after dismissal.** Any student dismissed from the college for disciplinary cases may be readmitted only on written petition to the office of the vice-president of learning and student success. Such petitions must indicate how specified conditions have been met and, if the term of the dismissal has not expired, any reasons which support a reconsideration of the matter. Because the president of the college participates in all disciplinary actions dismissing students from the college, decisions on such petitions of readmission must be reviewed and approved by the president before readmission is granted.

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

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-280, filed 2/18/09, effective 3/21/09.]

## TECHNICAL PROVISIONS

### **WAC 132K-126-290 Interpretation and revision.**

**Code interpretation.** Any question of interpretation regarding the student code of conduct shall be referred to the vice-president of learning and student success or his or her designee for final determination.

**Code revision.** The student code of conduct shall be reviewed at least every five years under the direction of the vice-president of learning and student success. Review shall include representation from the respective student government associations, faculty, staff, and Pierce College officials.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-290, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-300 Prior rules.** The rules contained within this chapter supersede all former rules relating to student conduct.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-300, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-310 Severability.** If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-310, filed 2/18/09, effective 3/21/09.]

**WAC 132K-126-320 Effective date.** WAC 132K-126-010 through 132K-126-310 shall take effect on . . . . . , and shall apply to all rule-making actions and proceedings begun on or after that date.

Approved by Pierce College Board of Trustees . . . . .

[Statutory Authority: RCW 28B.50.140(13). WSR 09-06-001, § 132K-126-320, filed 2/18/09, effective 3/21/09.]