

# Chapter 132X-90 WAC

## PROCESS FOR HEARINGS

### WAC

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**WAC 132X-90-010 Purpose.** The purpose of this chapter is to provide process for brief and full adjudicative hearings.

[Statutory Authority: Chapter 28B.50 RCW and RCW 42.56.040. WSR 12-03-093, § 132X-90-010, filed 1/17/12, effective 2/17/12.]

**WAC 132X-90-020 Model rules of procedure.** The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, are hereby adopted for use at the college. Those rules may be found at chapter 10-08 WAC. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and procedural rules adopted in this title, the procedural rules adopted by the college shall govern.

[Statutory Authority: Chapter 28B.50 RCW and RCW 42.56.040. WSR 12-03-093, § 132X-90-020, filed 1/17/12, effective 2/17/12.]

**WAC 132X-90-030 Variation from time limits.** The college finds that in light of its governance structure it may be necessary from time to time to change the time limits set forth in chapter 34.05 RCW for adjudicative or brief adjudicative hearings. The college is hereby authorized to provide for emergency variation of the time limits as required in a specific case(s). Any modification in the time limits shall be to new time limits that are reasonable under the specific circumstances. The presiding or reviewing officer shall give reasonable and adequate notice of the pertinent time limits to the affected persons. Affected persons may also waive any rights conferred upon them by chapter 34.05 RCW.

[Statutory Authority: Chapter 28B.50 RCW and RCW 42.56.040. WSR 12-03-093, § 132X-90-030, filed 1/17/12, effective 2/17/12.]

**WAC 132X-90-040 Brief adjudicative procedure.** This rule adopts the provision of RCW 34.05.482 through 34.05.494. Brief adjudicative procedures may, at the election of college, be used in all appeals related to:

- (1) Residency classifications made pursuant to RCW 28B.15.013;
- (2) Outstanding debts of college employees or students;
- (3) Loss of eligibility to participate in athletic events;

(1/17/12)

(4) Contents of educational records pursuant to 34 C.F.R. section 99.21;

(5) Denial of mandatory tuition and fee waivers;

(6) Denial of tuition and fee refunds;

(7) Use of college facilities;

(8) Any other rule adopted by college which specifically provides for a brief adjudicative procedure.

[Statutory Authority: Chapter 28B.50 RCW and RCW 42.56.040. WSR 12-03-093, § 132X-90-040, filed 1/17/12, effective 2/17/12.]

**WAC 132X-90-050 Appointment of presiding officers.** The president or his/her designee shall designate a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, a member in good standing of the Washington Bar Association, a panel of individuals, the president or his/her designee, or any combination of the above. Where more than one individual is designated to be the presiding officer, one person shall be designated by the president or president's designee to make decisions concerning discovery, closure, witness exclusion, means of recording adjudicative proceedings, and similar matters.

[Statutory Authority: Chapter 28B.50 RCW and RCW 42.56.040. WSR 12-03-093, § 132X-90-050, filed 1/17/12, effective 2/17/12.]

**WAC 132X-90-060 Application for adjudicative proceeding.** An application for adjudicative proceeding shall be in writing and should be submitted to the following address within twenty-one days of the college action giving rise to the application, unless provided for otherwise by statute or rule: President's Office, South Puget Sound Community College, 2011 Mottman Road S.W., Olympia, Washington 98512-6292.

[Statutory Authority: Chapter 28B.50 RCW and RCW 42.56.040. WSR 12-03-093, § 132X-90-060, filed 1/17/12, effective 2/17/12.]

**WAC 132X-90-070 Discovery and prehearing conferences.** Discovery including investigation in adjudicative proceeding may be permitted at the discretion of the presiding officer. In permitting discovery, the presiding officer shall make reference to the civil rules of procedure. The presiding officer shall have the power to control the frequency and nature of discovery permitted, and to order discovery conferences to discuss discovery issues.

Prehearing conferences or other conferences may be held for the settlement or simplification of issues at the discretion of the presiding officer, or pursuant to a motion by either of the parties for a prehearing conference. The prehearing conference may be conducted by telephone, television or other electronic means, in the discretion of the presiding officer and where the rights of the parties will not be prejudiced. Each participant in the conference shall have an opportunity to participate effectively in, to hear, and if technically and

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economically feasible, to see the entire proceeding while it is taking place.

[Statutory Authority: Chapter 28B.50 RCW and RCW 42.56.040. WSR 12-03-093, § 132X-90-070, filed 1/17/12, effective 2/17/12.]

**WAC 132X-90-080 Method of recording.** Proceedings shall be recorded by a method determined by the presiding officer, among those available pursuant to the model rules of procedure in WAC 10-08-170.

[Statutory Authority: Chapter 28B.50 RCW and RCW 42.56.040. WSR 12-03-093, § 132X-90-080, filed 1/17/12, effective 2/17/12.]

**WAC 132X-90-090 Recording devices.** No camera or recording devices shall be allowed in those parts of proceedings which the presiding officer has determined shall be closed pursuant to WAC 132X-90-050 and 132X-90-100, except for the method of official recording selected by the college.

[Statutory Authority: Chapter 28B.50 RCW and RCW 42.56.040. WSR 12-03-093, § 132X-90-090, filed 1/17/12, effective 2/17/12.]

**WAC 132X-90-100 Procedure for closing parts of the hearing.** The hearing is open to public observation, except for the parts that the presiding officer states to be closed under a provision of law expressly authorizing closure or under a protective order entered by the presiding officer. A party may apply for a protective order to close part of a hearing. The party making the request should state the reasons for making the application to the presiding officer. If the other party opposes the request, a written response to the request shall be made within ten days of the request to the presiding officer. The presiding officer shall determine which, if any, parts of the proceeding shall be closed and state the reasons therefore in writing within twenty days of receiving the request.

[Statutory Authority: Chapter 28B.50 RCW and RCW 42.56.040. WSR 12-03-093, § 132X-90-100, filed 1/17/12, effective 2/17/12.]

**WAC 132X-90-110 Process for excluding witnesses.** A party may apply for an order excluding witnesses for good cause. If the other party opposes the request, a written response to the request shall be made within ten days of the request to the presiding officer. The presiding officer shall determine and may order, upon a showing of good cause, which, if any, witnesses should be excluded and state the reasons therefore in writing within twenty days of receiving the request.

[Statutory Authority: Chapter 28B.50 RCW and RCW 42.56.040. WSR 12-03-093, § 132X-90-110, filed 1/17/12, effective 2/17/12.]

**WAC 132X-90-120 Petitions for stay of effectiveness or to stop action.** A party may submit to the presiding or reviewing officer a petition for stay of effectiveness of a final order within ten days of service of the final order unless otherwise provided by statute or stated in the final order. Disposition of a petition for stay of effectiveness of a final order shall be made by the official, officer, or body of officers who entered the final order. Disposition denying a stay is not subject to judicial review.