

Chapter 516-28 WAC

STANDARDS AND PROCEDURES FOR INVOLUNTARY ADMINISTRATIVE WITHDRAWAL OF STUDENTS AT WESTERN WASHINGTON UNIVERSITY FOR BEHAVIOR FROM MENTAL DISORDERS

WAC

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WAC 516-28-010 Preamble. Western Washington University students enjoy the basic rights of all members of society. At the same time the student is expected to respect university rules and federal, state, and local laws. Those students who because of mental disorders are unable to do so and who represent a serious threat to themselves or others and therefore may need to be administratively withdrawn from attendance at Western Washington University are assured of a fair judicial process; at the same time, other students, faculty, and staff at Western Washington University are assured of relief from disruption of the mission of the university caused by those with behavioral problems stemming from mental disorders. This chapter advises students of their rights and responsibilities regarding behavior arising from mental disorders while enrolled at Western Washington University, and of the process the university will take if involuntary administrative withdrawal is indicated.

[Statutory Authority: RCW 28B.35.120(12). WSR 89-11-039 (Order 89-01), § 516-28-010, filed 5/15/89.]

WAC 516-28-015 Standards for withdrawal. A student will be subject to involuntary administrative withdrawal from Western Washington University if it is determined that the student is suffering from a mental disorder (as defined in the American Psychiatric Association Diagnostic and Statistical Manual), and, as a result of the mental disorder (1) engages, or threatens to engage, in behavior which poses a danger of causing physical harm to self or others; or (2) engages, or threatens to engage, in behavior which would cause significant property damage, or directly and substantially impedes the lawful activities of others. These standards do not preclude removal from Western Washington University in accordance with provisions of other laws, rules, or regulations.

[Statutory Authority: RCW 28B.35.120(12). WSR 89-11-039 (Order 89-01), § 516-28-015, filed 5/15/89.]

(5/15/89)

WAC 516-28-020 Referral for evaluation. The vice president for student affairs may refer a student for evaluation by a licensed psychiatrist or psychologist chosen by but not affiliated with the university, if:

(1) He/she believes that the student may meet the criteria set forth in WAC 516-28-015; or

(2) A student subject to disciplinary charges wishes to introduce relevant evidence of any mental disorder. Results of this evaluation shall be forwarded to the vice president for student affairs.

Students referred for evaluation shall be so informed in writing, either by personal delivery or certified mail, and shall be given a copy of this code. The evaluation must be completed within five business days from receipt of the referral letter, unless a written extension is given by the vice president for student affairs or his/her designee. Students may be accompanied by a licensed psychologist or psychiatrist of their choice, who may observe but not participate in the evaluation process. Legal representation at the evaluation will not be permitted.

Any pending disciplinary action may be withheld until the evaluation is completed, at the discretion of the vice president for student affairs.

A student who fails to complete the evaluation in accordance with these standards and procedures may be withdrawn on an interim basis, or referred for disciplinary action, or both.

[Statutory Authority: RCW 28B.35.120(12). WSR 89-11-039 (Order 89-01), § 516-28-020, filed 5/15/89.]

WAC 516-28-025 Interim withdrawal. An interim administrative withdrawal may be implemented immediately if a student fails to complete an evaluation as provided above, or if the vice president for student affairs determines that a student may be suffering from a mental disorder, and the student's behavior poses an imminent danger of:

(1) Causing serious physical harm to the student or others; or

(2) Causing significant property damage, or directly and substantially impeding the lawful activities of others.

[Statutory Authority: RCW 28B.35.120(12). WSR 89-11-039 (Order 89-01), § 516-28-025, filed 5/15/89.]

WAC 516-28-030 Notice of interim withdrawal. A student subject to an interim withdrawal shall be given written notice of the withdrawal either by personal delivery or by certified mail, and shall be given a copy of this code. The student will also be given an opportunity to appear personally

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before the vice president for student affairs or his/her designee, within two business days from the effective date of the interim withdrawal, in order to review the following issues only:

(1) The reliability of the information concerning the student's behavior;

(2) Whether or not the student's behavior poses a danger of causing imminent serious physical harm to the student or others, causing significant property damage, or directly and substantially impedes the lawful activities of others;

(3) Whether or not the student has completed an evaluation, in accordance with these standards and procedures; and

(4) For what purposes and under what conditions the student may enter the campus pending completion of the informal hearing process.

If, after the meeting between the vice president for student affairs or his/her designee and the student, the vice president for student affairs or his/her designee maintains the same position as to the student's need for an evaluation by a mental health professional, such evaluation should take place within two business days after the student submits a request for an appointment with the mental health professional.

[Statutory Authority: RCW 28B.35.120(12). WSR 89-11-039 (Order 89-01), § 516-28-030, filed 5/15/89.]

WAC 516-28-035 Assistance in proceeding. A student subject to interim withdrawal may be assisted in the proceeding specified in WAC 516-28-030 by a family member and a licensed psychologist or psychiatrist or a member of the faculty or staff of the university. Furthermore, the student may be accompanied by legal counsel, whose role will be limited to providing legal advice to the student. Students will be expected to speak for themselves whenever possible.

[Statutory Authority: RCW 28B.35.120(12). WSR 89-11-039 (Order 89-01), § 516-28-035, filed 5/15/89.]

WAC 516-28-040 Informal hearing. An informal hearing will be held within seven business days after the student has been evaluated by the appropriate mental health professional. The student will remain withdrawn on an interim basis pending completion of the informal hearing, but will be allowed to enter the campus to attend the hearing, or for other necessary purposes as preauthorized by the vice president for student affairs.

[Statutory Authority: RCW 28B.35.120(12). WSR 89-11-039 (Order 89-01), § 516-28-040, filed 5/15/89.]

WAC 516-28-045 Informal hearing guidelines. Students subject to an involuntary withdrawal shall be accorded an informal hearing before the vice president for student affairs or his/her designee, utilizing the following guidelines:

(1) Students will be informed to the time, date, and location of the informal hearing in writing, either by personal delivery or certified mail, at least two business days in advance.

(2) The case file shall include an evaluation prepared by the mental health professional and the names of prospective witnesses. This file will be available for inspection by the student in the office of the vice president for student affairs

during normal business hours. This file will be available at least two business days prior to the informal hearing.

(3) The informal hearing shall be conversational and nonadversarial. Formal rules of evidence will not apply. The vice president for student affairs or his/her designee shall exercise active control over the proceedings to avoid needless consumption of time and to achieve the orderly completion of the hearing. Any person who disrupts the hearing may be excluded.

(4) The student may choose to be assisted by a family member, a licensed psychiatrist or psychologist, or by a member of the faculty or staff of the university. Furthermore, the student may be accompanied by legal counsel, who is limited to providing legal advice to the student.

(5) Whenever possible, the student will be expected to respond to questions asked by the vice president for student affairs or his/her designee. A student who refuses to answer on grounds of Fifth Amendment privilege may be informed that the vice president for student affairs or his/her designee may draw a negative inference from the refusal which might result in dismissal from the institution in accordance with these standards and procedures.

(6) Those assisting the student, except for legal counsel, will be given reasonable time to ask relevant questions of any individual appearing at the informal hearing, as well as to present relevant evidence.

(7) The informal hearing may be conducted in the absence of a student who fails to appear after proper notice.

(8) A university official and/or a licensed psychiatrist or psychologist who prepared the evaluation report may be expected to appear at the informal hearing, and to respond to relevant questions or present evidence upon request of any party involved, if the vice president for student affairs or his/her designee determines that such participation is essential to the resolution of the case.

(9) The informal hearing shall be tape-recorded and kept with the pertinent case file in the confidential records of the vice president for student affairs for six years, following which the records will be destroyed. During this period, the records will be accessible only upon approval of the vice president for student affairs and then only for compelling reasons.

(10) A written decision shall be rendered by the vice president for student affairs or his/her designee within five business days after the completion of the informal hearing. The written decision, which will be personally delivered or sent by certified mail, shall contain a statement of reasons for any determination leading to involuntary withdrawal. The student will also be advised as to when a petition for reinstatement would be considered, along with any conditions of reinstatement.

(11) The decision of the vice president for student affairs or his/her designee shall be final and not subject to appeal within the institution.

[Statutory Authority: RCW 28B.35.120(12). WSR 89-11-039 (Order 89-01), § 516-28-045, filed 5/15/89.]

WAC 516-28-050 Deviations from established procedures. Deviations from these procedures will not invalidate a decision or proceeding unless significant prejudice to a student may result.

[Statutory Authority: RCW 28B.35.120(12). WSR 89-11-039 (Order 89-01), § 516-28-050, filed 5/15/89.]

WAC 516-28-060 Relationship to student rights and responsibilities code. A student accused of engaging in conduct subject to disciplinary action pursuant to chapter 516-22 WAC may be diverted from that disciplinary process and withdrawn according to these standards and procedures if the student, as a result of mental disorder (1) lacks the capacity to respond to pending disciplinary charges or (2) did not know the nature of wrongfulness of the conduct at the time of the offense.

Students otherwise subject to disciplinary charges who wish to introduce relevant evidence of any mental disorder must so inform the vice president for student affairs in writing at least two business days prior to any disciplinary hearing under chapter 516-22 WAC. If the vice president for student affairs determines that the evidence may have merit, the case shall then be resolved in accordance with this chapter. If the vice president for student affairs determines that the student does not meet the criteria set forth in this chapter, the case will be returned to the disciplinary process. The determination by the vice president for student affairs shall be made within five days after the student's written submittal. Evidence of any mental disorder may not be admitted into evidence or considered by the hearing panel in any disciplinary proceeding under chapter 516-22 WAC.

[Statutory Authority: RCW 28B.35.120(12). WSR 89-11-039 (Order 89-01), § 516-28-060, filed 5/15/89.]

WAC 516-28-065 Reinstatement. Should the above process result in a decision that the student is capable of attending classes at Western Washington University, the vice president for student affairs or his/her designee shall take equitable measures to mitigate the effects of the withdrawal upon the student.

[Statutory Authority: RCW 28B.35.120(12). WSR 89-11-039 (Order 89-01), § 516-28-065, filed 5/15/89.]