

Chapter 72-120 WAC

STUDENT CONDUCT CODE

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<p>72-120-230</p>	<p>Long-term suspension. [Statutory Authority: RCW 72.4.011 [72.40.022]. WSR 01-16-023, § 72-120-230, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022. WSR 90-16-005, § 72-120-230, filed 7/19/90, effective 8/19/90.] Repealed by WSR 16-13-069, filed 6/13/16, effective 7/14/16. Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq.</p>	<p>72-120-307</p>	<p>Determination of interim alternative educational setting. [Statutory Authority: RCW 72.4.011 [72.40.022]. WSR 01-16-023, § 72-120-307, filed 7/20/01, effective 8/20/01.] Repealed by WSR 16-13-069, filed 6/13/16, effective 7/14/16. Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq.</p>
<p>72-120-234</p>	<p>Long-term suspension—Misconduct not a manifestation of disability—Notice. [Statutory Authority: RCW 72.4.011 [72.40.022]. WSR 01-16-023, § 72-120-234, filed 7/20/01, effective 8/20/01. Statutory Authority: RCW 72.40.022. WSR 90-16-005, § 72-120-234, filed 7/19/90, effective 8/19/90.] Repealed by WSR 16-13-069, filed 6/13/16, effective 7/14/16. Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq.</p>	<p>72-120-308</p>	<p>Manifestation determination review requirements. [Statutory Authority: RCW 72.4.011 [72.40.022]. WSR 01-16-023, § 72-120-308, filed 7/20/01, effective 8/20/01.] Repealed by WSR 16-13-069, filed 6/13/16, effective 7/14/16. Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq.</p>
		<p>72-120-309</p>	<p>Procedures for conducting a manifestation determination. [Statutory Authority: RCW 72.4.011 [72.40.022]. WSR 01-16-023, § 72-120-309, filed 7/20/01, effective 8/20/01.] Repealed by WSR 16-13-069, filed 6/13/16, effective 7/14/16. Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq.</p>
		<p>72-120-310</p>	<p>Determination that behavior was not manifestation of disability. [Statutory Authority: RCW 72.4.011 [72.40.022]. WSR 01-16-023, § 72-120-310, filed 7/20/01, effective 8/20/01.] Repealed by WSR 16-13-069, filed</p>

- 6/13/16, effective 7/14/16. Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq.
- 72-120-311 Expedited due process hearings. [Statutory Authority: RCW 72.4.011 [72.40.022]. WSR 01-16-023, § 72-120-311, filed 7/20/01, effective 8/20/01.] Repealed by WSR 16-13-069, filed 6/13/16, effective 7/14/16. Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq.
- 72-120-312 Placement during appeals. [Statutory Authority: RCW 72.4.011 [72.40.022]. WSR 01-16-023, § 72-120-312, filed 7/20/01, effective 8/20/01.] Repealed by WSR 16-13-069, filed 6/13/16, effective 7/14/16. Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq.
- 72-120-313 Referral to and action by law enforcement and judicial authorities. [Statutory Authority: RCW 72.4.011 [72.40.022]. WSR 01-16-023, § 72-120-313, filed 7/20/01, effective 8/20/01.] Repealed by WSR 16-13-069, filed 6/13/16, effective 7/14/16. Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq.
- 72-120-314 Aversive interventions. [Statutory Authority: RCW 72.4.011 [72.40.022]. WSR 01-16-023, § 72-120-314, filed 7/20/01, effective 8/20/01.] Repealed by WSR 16-13-069, filed 6/13/16, effective 7/14/16. Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq.

WAC 72-120-001 Purpose and application. The purpose of this chapter is to establish standards of conduct for students and prescribe the substantive and procedural due process rights of students at the school. The procedures and standards set forth in this chapter shall govern the imposition of discipline. "Discipline" means all forms of corrective action other than emergency removal from a class, subject, or activity, suspension, or expulsion and shall include the exclusion of a student from a class by a teacher or administrator for a period of time not exceeding the balance of the immediate class period: Provided that the student is in the custody of a school district employee for the balance of such period. Discipline shall also mean the exclusion of a student from any other type of activity conducted by or on behalf of the school. Discipline is considered part of the school's educational process. In every case of misconduct, the nature and circumstances of the violation will be considered and appropriate discipline will be administered on a less restrictive alternative basis including, but not limited to, time out, detention, behavior contracts, restriction of privileges, reprimand, restitution, suspension or expulsion.

[Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq. WSR 16-13-069, § 72-120-001, filed 6/13/16, effective 7/14/16.]

WAC 72-120-010 Student responsibilities and duties. The mission of the Washington state school for the blind is to provide specialized educational services to blind, visually impaired and deaf-blind students which will assist those students to develop skills, competencies and attitudes that are fundamental to the development of responsible, contributing citizens. Admission to the Washington state school for the blind carries with it the obligation of responsibility for the welfare of the school. In order to advance the mission of the school, it shall be the responsibility and duty of each student to pursue his/her course of studies, respect the rights of others, comply with written rules adopted herein, and submit to reasonable corrective action for violation(s) of such rules. This chapter is intended to assure that corrective action is imposed for just cause and in a fair and reasonable manner.

[Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq. WSR 16-13-069, § 72-120-010, filed 6/13/16, effective 7/14/16. Statutory Authority: RCW 72.40.022. WSR 90-16-005, § 72-120-010, filed 7/19/90, effective 8/19/90.]

WAC 72-120-012 Jurisdiction. The student conduct code shall apply to student conduct that occurs on school premises, during transportation to and from school, to conduct that occurs at or in connection with school-sponsored programs or activities, or to off-campus conduct (or in non-school electronic environments) that in the judgment of the school threatens safety or security or otherwise adversely impacts the school community.

[Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq. WSR 16-13-069, § 72-120-012, filed 6/13/16, effective 7/14/16.]

WAC 72-120-015 Student rights. (1) Each student shall possess the following substantive rights:

(a) No student shall be unlawfully denied an equal educational opportunity or be unlawfully discriminated against because of sex, race, creed, religion, color, national origin, age, veteran or military status, sexual orientation, gender expression or identity, disability, or the use of a trained dog guide or service animal.

(b) Students possess the constitutional right to freedom of speech and press, and the constitutional right to peaceably assemble and to petition the government and its representatives for a redress of grievances.

(c) Students possess the rights, guaranteed under the Constitution, to the free exercise of religion and to have their school free from sectarian control or influence, subject to reasonable limitations upon the time, place, and manner of exercising such right.

(d) Students possess the constitutional right to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures, subject to limitations set forth in RCW 28A.67.300, 28A.67.310, 28A.67.320, and 28A.67.330.

(e) Students shall have the right to be free from unlawful interference in their pursuit of an education while enrolled at the Washington state school for the blind.

(f) Students shall not be deprived of the right to an equal educational opportunity in whole or in part by the Washington state school for the blind without due process including:

(i) Notice to the accused of the nature of the charges and the proposed disciplinary action; and

(ii) The opportunity to request a hearing as set forth in this chapter.

(2) The foregoing enumeration of rights shall not be construed to deny or disparage other rights guaranteed in the Constitution and the laws of the state of Washington.

(3) The school shall publish and make available to all students and parents, on an annual basis, written rules which state with reasonable clarity the types of misconduct for which disciplinary action may be imposed.

[Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq. WSR 16-13-069, § 72-120-015, filed 6/13/16, effective 7/14/16. Statutory Authority: RCW 72.40.022. WSR 90-16-005, § 72-120-015, filed 7/19/90, effective 8/19/90.]

CONDUCT RULES

WAC 72-120-020 References to OSPI's rules. Where OSPI's rules are incorporated by reference: "School district" means "Washington state school for the blind"; "school district superintendent" means "superintendent of the Washington state school for the blind." These substitutions should be made as appropriate. They should not be made where the "school district" referred to is the student's district of residence.

[Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq. WSR 16-13-069, § 72-120-020, filed 6/13/16, effective 7/14/16.]

WAC 72-120-110 Prohibited student conduct. The school may impose disciplinary sanctions against a student who commits, or aids, abets, incites, encourages or assists another person to commit, an act(s) of misconduct set forth in this section. As applicable, the term "conduct" includes acts performed by electronic means.

(1) **Personal offenses.** The term "personal offense" is an offense against the safety or security of any person and includes physical assault, reckless endangerment, physical or verbal abuse, threats, intimidation, harassment, bullying, stalking, invasion of privacy, or other similar conduct that harms any person, or that is reasonably perceived as threatening the health or safety of any person, or that has the purpose or effect of unlawfully interfering with any person's rights. The term includes personal offenses committed by electronic means.

(a) Bullying is physical or verbal abuse, repeated over time, and involving a power imbalance between the aggressor and victim.

(b) Stalking is intentional and repeated following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the perpetrator lacks such an intent.

(2) **Property violations.** The term "property violation" includes the theft, misappropriation, unauthorized use or possession, vandalism, or other nonaccidental damaging or destruction of school property or the property of another person; including possession of such property or money after it has been stolen. Property for purposes of this subsection includes computer passwords, access codes, identification cards, other confidential personal information, and intellectual property.

(3) **Sexual misconduct.** The term "sexual misconduct" includes, but is not limited to, sexual harassment and sexual violence.

(a) **Sexual harassment.** The term "sexual harassment" means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature that is sufficiently serious as to deny or limit, and that does deny or limit, based on sex, the ability of a student to participate in or benefit from the school's educational programs/activities or that creates an intimidating, hostile, or offensive educational environment.

Sexual harassment may include conduct or communication that involves adult to student, student to adult, student to student, adult to adult, male to female, female to male, male to male, and female to female.

(b) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex, including stalking (or cyberstalking), voyeurism, indecent exposure, or the nonconsensual recording of sexual activity or distribution of such recording.

(c) **Sexual violence.** The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated without clear, knowing, and voluntary consent, such as committing a sexual act against a person's will, exceeding the scope of consent, or where the person is incapable of giving consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, sexual coercion, sexual exploitation, or gender- or sex-based stalking. A person may be incapable of giving consent because she or he is underage, unable to understand what is happening, or is disoriented, helpless, asleep or unconscious for any reason, including due to drug or alcohol consumption, is disabled, or cannot consent because of threat or intimidation.

(4) **Disruptive or obstructive conduct.** The term "disruptive" or "obstructive conduct" means conduct, not protected by law, that interferes with, impedes, or otherwise unreasonably hinders the normal teaching, learning, administrative, or other functions, procedures, services, programs, or activities of the school. The term includes disorderly conduct, breach of the peace, lewd or obscene conduct, obstruction of pedestrian or vehicular traffic, or interfering with the orderly conduct of school investigations or disciplinary proceedings, including interfering with or retaliating against any complainant, witness, or other participant.

(5) **Failure to comply.** Refusal or failure to comply with instructions or directions of school officials, refusing to comply with any term or condition of a disciplinary sanction.

(6) **Safety violations.** Any nonaccidental conduct that interferes with or otherwise compromises any school policy, equipment, or procedure relating to the safety and security of the center and school community, including tampering with or disabling safety equipment and triggering false alarms or other emergency response systems.

(7) **False or deceptive conduct.** The term "false" or "deceptive conduct" means dishonest conduct (other than academic dishonesty) that includes forgery, altering or falsifying of school records, furnishing false or misleading information, or falsely accusing any person of misconduct.

(8) **Academic dishonesty.** All forms of cheating, plagiarism and fabrication.

(a) **Cheating.** Cheating includes any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment. This includes assisting another to commit an act of academic dishonesty or allowing someone to do these things for one's benefit.

(b) **Plagiarism.** Plagiarism includes taking and using as one's own, without proper attribution, the ideas, writings or work of another person in completing an academic assignment. Prohibited conduct may also include the unauthorized

submission for credit of academic work that has been submitted for credit in another course.

(c) **Fabrication.** Fabrication includes falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to a teacher concerning the completion of an assignment.

(9) **Unauthorized access.** The term "unauthorized access" means gaining entry without permission to any restricted area or property of the school or the property of another person, including any computer system, email account, or electronic or paper files. Unauthorized access includes computer hacking and the unauthorized possession or sharing of any restricted means of gaining access, including keys, keycards, passwords, or access codes.

(10) **Alcohol, drug and tobacco violations.**

(a) **Alcohol.** Use, possession, delivery, or being visibly under the influence of any alcoholic beverages.

(b) **Marijuana.** Use, possession, delivery, or being visibly under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form.

(c) **Drug.** Use, possession, distribution, delivery, or being under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner. The abuse, misuse, or unlawful sale or distribution of prescription or over-the-counter medications may also constitute a drug violation.

(d) **Tobacco.** Smoking or use of tobacco, tobacco products, electronic smoking devices, or other smoking devices.

(11) **Retaliation.** Harming, threatening, intimidating, coercing or taking adverse action of any kind against a person because such person reported an alleged violation of this code or other school policies, provided information about an alleged violation, or participated as a witness or in any other capacity in an investigation or disciplinary proceeding.

(12) **Weapons violations.** A "weapons violation" includes possessing, carrying, displaying, exhibiting, or storing any firearm or dangerous weapon. Dangerous weapons include, but are not limited to, firearms, dangerous chemicals, explosives, slung shots, sand clubs, metal knuckles, daggers, dirks, spring blade knives, nunchaku sticks, throwing stars, air guns, stun guns, and devices used or intended to be used as a weapon to injure a person by an electric shock, charge, or impulse.

(13) **Harassment, intimidation or bullying.** Harassment, intimidation or bullying means any intentional electronic, written, verbal or physical act including, but not limited to, one shown to be motivated by race, color, religion, ancestry, national origin, gender, sexual orientation including gender identity or expression, mental or physical disability, socio-economic status, physical appearance, or other distinguishing characteristic, when the act:

(a) Physically harms a student or damages the student's property;

(b) Has the effect of substantially interfering with a student's education;

(c) Is so severe, persistent or pervasive that it creates an intimidating or threatening educational environment; or

(d) Has the effect of substantially disrupting the orderly operation of the school.

Nothing in this section requires the affected student to actually possess a characteristic that is a basis for the harassment, intimidation, or bullying.

"Intentional act" refers to the individual's choice to engage in the act rather than the ultimate impact of the action(s).

Harassment, intimidation, and bullying are often carried out through acts of misconduct, which are addressed and prohibited under other rules in this chapter.

(14) **Gang activity.** Claiming membership in, association with, affiliation with, or participation in a gang, in gang-related activities or similar destructive or illegal group behavior at school, during school-related functions, or on any school property. "Gang" has the meaning given the term under RCW 28A.600.455.

(15) **Theft or misuse of electronic resources.** Theft or misuse of computer time or other electronic information resources of the school. Such misuse includes, but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

(e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of such time or resources to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person;

(g) Use of such time or resources to interfere with normal operation of the school's computing system or other electronic information resources;

(h) Use of such time or resources in violation of applicable copyright or other law;

(i) Failure to comply with the student computing resources policy.

(16) **Cyber misconduct.** Cyberstalking, cyberbullying, or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites to harass, abuse, bully, or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's email identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

(17) **Violation of other laws or policies.** Violation of any federal, state, local law, rule, or regulation or other school rules or policies which are published annually in the student/parent handbook.

[Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq. WSR 16-13-069, § 72-120-110, filed 6/13/16, effective 7/14/16.]

DISCIPLINE

WAC 72-120-201 Discipline procedures. Disciplinary procedures for students at the school who are eligible for special education shall follow the requirements in WAC 392-172A-05140 through 392-172A-05175, which are adopted by reference. In addition to the rules and procedures in this chapter, students may also be subject to rules and procedures governing discipline for all students in public schools in chapter 392-400 WAC. The school shall determine on a case-by-case basis whether and to what extent the rules and procedures in chapter 392-400 WAC may apply.

[Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq. WSR 16-13-069, § 72-120-201, filed 6/13/16, effective 7/14/16.]

WAC 72-120-205 Limitations. (1) No form of disciplinary action shall be enforced in such a manner as to prevent a student from accomplishing specific academic grade, subject, or graduation requirement: Provided, That a student's academic grade or credit in a particular subject or course may be adversely affected as a result of excessive tardiness or absences.

(2) Corporal punishment as defined by the superintendent of public instruction in WAC 392-400-235(2) as now or hereafter amended, is prohibited.

[Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq. WSR 16-13-069, § 72-120-205, filed 6/13/16, effective 7/14/16. Statutory Authority: RCW 72.40.022. WSR 90-16-005, § 72-120-205, filed 7/19/90, effective 8/19/90.]

WAC 72-120-315 Emergency actions. WAC 392-400-290 through 392-400-305, the rules for emergency removal from a class, subject, or activity, or emergency expulsion are incorporated by reference.

[Statutory Authority: RCW 72.40.022, 28A.300.285 and 20 U.S.C. § 1681 et seq. WSR 16-13-069, § 72-120-315, filed 6/13/16, effective 7/14/16.]