

Chapter 132H-126 WAC

STUDENT CONDUCT CODE OF BELLEVUE COLLEGE

(Formerly chapter 132H-125 WAC)

WAC

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WAC 132H-126-010 Authority. The board of trustees, acting pursuant to RCW 28B.50.140, delegates to the president of Bellevue College the authority to administer student disciplinary action. Administration of the disciplinary procedures is the responsibility of the provost for academic and student affairs or designee and/or the designated student conduct officer. The student conduct officer shall serve as the principal investigator and administrator for alleged violations of this code.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-010, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-020 Statement of student rights. As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. 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 responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the college community.

The following enumerated rights are guaranteed to each student within the limitations of statutory law and college policy, which are deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

(a) 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.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and student affairs, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students shall be protected from academic evaluation that is arbitrary, prejudiced, or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

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

(2) Due process.

(a) The rights of students to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures is guaranteed.

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(c) A student accused of violating this code of student conduct is entitled, upon request, to procedural due process as set forth in this chapter.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-020, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-030 Statement of jurisdiction. (1) The student conduct code shall apply to student conduct that occurs:

(a) On college premises;

(b) At or in connection with college-sponsored activities; or

(c) Off-campus, if in the judgment of the college the conduct adversely affects the college community or the pursuit of its objectives.

(2) Jurisdiction extends to locations in which students are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the Bellevue College's associated student government, athletic events, training internships, cooperative and distance education, online education, internships, practicums, supervised work experiences, or any other college-sanctioned social or club activities.

(3) The college has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct that occurs off campus.

(4) Students are responsible for their conduct from the time of application for admission through the actual receipt of a degree, even though conduct may occur before classes

begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment.

(5) These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending.

(6) In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state, or local laws to civil and criminal authorities for disposition. The college shall proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-030, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-040 Definitions. The following definitions shall apply for the purposes of this student conduct code:

(1) **"Business day"** means a weekday, excluding weekends and college holidays.

(2) **"College official"** is an employee of the college performing assigned administrative, security, professional, or paraprofessional duties.

(3) **"College premises"** shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, other property owned, used, or controlled by the college, study abroad program, retreat, and conference sites, and college-sponsored and/or college-hosted online platforms.

(4) **"Conduct review officer"** is the provost for academic and student affairs or designee or other college administrator designated by the president to be responsible for receiving and reviewing or referring appeals of student disciplinary actions in accordance with the procedures of this code. The president is authorized to reassign any and all of the conduct review officer's duties or responsibilities, as set forth in this chapter, as may be reasonably necessary.

(5) **"Disciplinary action"** is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code.

(6) **"Disciplinary appeal"** is the process by which an aggrieved student can appeal the discipline imposed by the student conduct officer. Disciplinary appeals from a suspension in excess of ten instructional days or a dismissal are heard by the student conduct committee. Appeals of all other appealable disciplinary action shall be reviewed through brief adjudicative proceedings (BAP).

(7) **"Filing"** is the process by which a document is officially delivered to a college official responsible for facilitating a disciplinary review. Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official. Unless otherwise provided, filing shall be accomplished by:

(a) Hand delivery of the document to the specified college official or college official's assistant; or

(b) Sending the document by email and first class mail to the specified college official's college email and office address.

(8) **"Impacted party"** is a student or another member of the college community directly affected by an alleged violation of this student conduct code. The impacted party may be the reporting party, but not necessarily; witnesses or other third parties may report concerns. In any case involving an allegation of sexual misconduct as defined in this student conduct code, an impacted party is afforded certain rights under this student conduct code including, but not limited to:

(a) The right to be informed of all orders issued in the disciplinary case in which this person is an impacted party;

(b) The right to appeal a disciplinary decision; and

(c) The right to be accompanied by a process advisor.

(9) **"Process advisor"** is a person selected by a responding party or an impacted party to provide support and guidance during disciplinary proceedings under this student conduct code.

(10) **"Responding party"** is a student against whom disciplinary action is initiated. Each responding party is afforded certain rights including, but not limited to:

(a) The right to be informed of all orders issued in the responding party's disciplinary case;

(b) The right to appeal a disciplinary decision; and

(c) The right to be accompanied by a process advisor.

(11) **"Service"** is the process by which a document is officially delivered to a party. Service is deemed complete upon hand delivery of the document or upon the date the document is emailed and deposited in the mail. Unless otherwise provided, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) Sending the document by email and by certified mail or first class mail to the party's last known address.

(12) **"Sexual misconduct"** includes prohibited sexual- or gender-based conduct by a student including, but not limited to, sexual harassment, sexual violence, sexual exploitation, indecent exposure, or relationship violence.

(13) **"Student"** includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw, graduate, or complete courses after the date of an alleged violation, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered "students."

(14) **"Student conduct officer"** is a college administrator designated by the president or provost for academic and student affairs or designee to be responsible for implementing and enforcing the student conduct code. The president or provost for academic and student affairs or designee is authorized to reassign any and all of the student conduct officer's duties or responsibilities, as set forth in this chapter, as may be reasonably necessary.

(15) **"The president"** is the president of the college. The president is authorized to delegate any and all of their responsibilities, as set forth in this chapter, as may be reasonably necessary.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-040, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-100 Prohibited student conduct. The college may impose disciplinary sanctions against a student who commits or attempts to commit, or aids, abets, incites, encourages, or assists another person to commit the following acts of misconduct:

(1) **Abuse of others.** Assault, physical abuse, verbal abuse, threat(s), intimidation, or other conduct that harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property unless otherwise protected by law.

(2) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, and fabrication.

(a) **Cheating.** Any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) **Plagiarism.** Taking and using as one's own, without proper attribution, the ideas, writings, or work of another person in completing an academic assignment. May also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

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

(d) **Multiple submissions.** Submitting the same work in separate courses without the express permission of the instructor(s).

(e) **Deliberate damage.** Taking deliberate action to destroy or damage another's academic work or college property in order to gain an advantage for oneself or another.

(3) **Acts of dishonesty.** Acts of dishonesty include, but are not limited to:

(a) Forgery, alteration, submission of falsified documents, or misuse of any college document, record, or instrument of identification;

(b) Tampering with an election conducted by or for college students; or

(c) Furnishing false information, or failing to furnish correct information, in response to the reasonable request or requirement of a college official or employee.

(4) **Alcohol.** Use, possession, manufacture, or distribution of alcoholic beverages or paraphernalia (except as expressly permitted by college policies, and federal, state, and local laws), or public intoxication on college premises or at college-sponsored events. Alcoholic beverages may not, in any circumstance, be used by, possessed by, or distributed to any person not of legal age.

(5) **Cyber misconduct.** Cyberstalking, cyberbullying, or online harassment. Use of electronic communications including, but not limited to, electronic mail, text messaging, social media sites, or applications (apps), to harass, abuse, bully, or engage in other conduct that 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 electronic communications or computer activities directly or through spyware, sending threatening emails or texts, disrupting electronic communications with spam or by sending a computer virus, or sending false emails or texts to third parties using another's identity (spoofing).

(6) **Discriminatory harassment.**

(a) Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, not otherwise protected by law, that is directed at a person because of such person's protected status and that is sufficiently severe, persistent, or pervasive so as to:

(i) Limit the ability of a student to participate in or benefit from the college's educational and/or social programs and/or student housing;

(ii) Alter the terms of an employee's employment; or

(iii) Create an intimidating, hostile, or offensive environment for other campus community members.

(b) Protected status includes a person's race; color; creed/religion; national origin; presence of any sensory, mental or physical disability; use of a trained service animal; sex, including pregnancy; marital status; age; genetic information; sexual orientation; gender identity or expression; honorably discharged veteran or military status; HIV/AIDS and hepatitis C status; or membership in any other group protected by federal, state, or local law.

(c) Discriminatory harassment may be physical, verbal, or nonverbal conduct and may include written, social media, and electronic communications not otherwise protected by law.

(7) **Disorderly conduct.** Conduct that is disorderly, lewd, or indecent; disturbing the peace; or assisting or encouraging another person to disturb the peace.

(8) **Disruption or obstruction.** Disruption or obstruction of any instruction, research, administration, disciplinary proceeding, or other college activity, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity, or any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

(9) **Ethical violation.** The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing an educational goal or major.

(10) **Failure to comply with directive.** Failure to comply with the reasonable direction of a college official or employee who is acting in the legitimate performance of their duties, including failure to properly identify oneself to such a person when requested to do so.

(11) **Harassment or bullying.** Conduct unrelated to a protected class that is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance, or a person's ability to participate in or benefit from the college's programs, services, opportunities, or activities.

(a) Harassing conduct may include, but is not limited to, physical, verbal, or nonverbal conduct, including written, social media and electronic communications unless otherwise protected by law.

(b) For purposes of this code, "bullying" is defined as repeated or aggressive unwanted behavior not otherwise protected by law when a reasonable person would feel humiliated, harmed, or intimidated.

(c) For purposes of this code, "intimidation" is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though an explicit threat or display of physical force has not been made. Intimidation is evaluated based on the intensity, frequency, or duration of the comments or actions.

(12) **Hazing.** Hazing includes, but is not limited to, any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm to any student.

(13) **Indecent exposure.** The intentional or knowing exposure of a person's genitals or other private body parts when done in a place or manner in which such exposure is likely to cause affront or alarm. Breastfeeding or expressing breast milk is not indecent exposure.

(14) **Marijuana or other drugs.**

(a) **Marijuana.** The use, possession, growing, delivery, sale, or being visibly under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form, or the possession of marijuana paraphernalia on college premises or college-sponsored events. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

(b) **Drugs.** The use, possession, production, delivery, sale, or being under the influence of any prescription drug or possession of drug paraphernalia, 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.

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

- (a) Unauthorized 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 computer time or resources to interfere with someone else's work;
- (e) Use of computer time or resources to send, display, or print an obscene or abusive message, text, or image;
- (f) Use of computer time or resources to interfere with normal operation of the college's computing system or other electronic information resources;
- (g) Use of computer time or resources in violation of applicable copyright or other law;
- (h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or
- (i) Failure to comply with the college's electronic use policy.

(16) **Property violation.** Damage to, misappropriation of, unauthorized use or possession of, vandalism of, or other nonaccidental damaging or destruction of college property or the property of another person. Property, for purposes of this subsection, also includes computer passwords, access codes,

identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

(17) **Relationship violence.** The infliction of physical harm, bodily injury, assault, psychological harm, or the fear of imminent physical harm, bodily injury, or assault committed by:

- (a) The impacted party's current or former spouse;
- (b) Current or former cohabitant;
- (c) A person with whom the person shares a child in common; or
- (d) A person who has been in a romantic or intimate relationship with the impacted party. Whether such a relationship exists will be gauged by the length, type, and frequency of interaction.

(18) **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 college policy, provided information about an alleged violation, or participated as a witness or in any other capacity in a college investigation or disciplinary proceeding.

(19) **Safety violations.** Safety violations include committing any reckless or unsafe act that endangers others, failing to follow established safety procedures (e.g., failing to evacuate during a fire alarm), or interfering with or otherwise compromising any college equipment relating to the safety and security of the campus community including, but not limited to, tampering with fire safety or first-aid equipment, or triggering false alarms or other emergency response systems.

(20) **Sexual exploitation.** Taking nonconsensual or abusive sexual advantage of another for the responding party's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, when the behavior does not otherwise constitute one of the other sexual misconduct offenses described herein. Examples of sexual exploitation may include, but are not limited to:

- (a) Invading another person's sexual privacy;
- (b) Prostituting another person;
- (c) Nonconsensual photography and digital or video recording of nudity or sexual activity, or nonconsensual audio recording of sexual activity;
- (d) Unauthorized sharing or distribution of photographs or digital or video recording of nudity or sexual activity, or audio recording of sexual activity, unless otherwise protected by law;
- (e) Engaging in voyeurism. A person commits voyeurism if they knowingly view, photograph, record, or film another person, without that person's knowledge and consent, while the person being viewed, photographed, recorded, or filmed is in a place where the person has a reasonable expectation of privacy;
- (f) Knowingly or recklessly exposing another person to a significant risk of sexually transmitted disease or infection; or

(g) Causing the nonconsensual indecent exposure of another person, as defined by subsection (13) of this section.

(21) **Sexual harassment.** Unwelcome sexual- or gender-based conduct, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual- or gender-based nature that is sufficiently severe, persistent or pervasive as to:

(a) Deny or limit the ability of a student to participate in or benefit from the college's educational program;

(b) Alter the terms or conditions of employment; or

(c) Create an intimidating, hostile, or offensive environment for other campus community members.

(22) **Sexual violence.** A type of sexual harassment that includes nonconsensual intercourse, nonconsensual sexual contact, and sexual coercion.

(a) Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity.

(i) Effective consent cannot result from force, or threat of physical force, coercion, dishonesty, or intimidation.

(ii) Physical force means someone is physically exerting control of another person through violence. Physical force includes, but is not limited to, hitting, kicking, and restraining.

(iii) Threatening someone to obtain consent for a sexual act is a violation of this policy. Threats exist where a reasonable person would have been compelled by the words or actions of another to give permission to sexual activity to which they otherwise would not have consented.

(iv) Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

(v) A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(b) **Nonconsensual sexual intercourse.** Any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(c) **Nonconsensual sexual contact.** Any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(d) **Sexual coercion.** Unreasonably pressuring another for sexual contact. When an impacted party makes it clear through words or actions that they do not want to engage in sexual contact, want to stop, or do not want to go past a certain point of sexual interaction, continued pressure beyond that point is presumptively unreasonable and coercive. Other examples of coercion may include using blackmail or extortion, or administering drugs and/or alcohol to overcome resistance or gain consent to sexual activity. Sexual contact that is the result of coercion is nonconsensual.

(23) **Stalking.** 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.

(24) **Tobacco, electronic cigarettes, and related products.** The use of tobacco, electronic cigarettes, and related products is prohibited in any building owned, leased, or operated by the college or in any location where such use is prohibited, including twenty-five feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased, or operated by the college. Related products include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.

(25) **Unauthorized access.** Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property. Providing keys to an unauthorized person or providing access to an unauthorized person is also prohibited.

(26) **Unauthorized recording.** The following conduct is prohibited:

(a) Making audio, video, digital recordings, or photographic images of a person without that person's consent in a location where that person has a reasonable expectation of privacy (e.g., restroom or residence hall room).

(b) Storing, sharing, publishing, or otherwise distributing such recordings or images by any means.

(27) **Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including on-campus housing policies and college traffic and parking rules.

(28) **Weapons.**

(a) Possessing, holding, wearing, transporting, storing, or exhibiting any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device, or any other weapon apparently capable of producing bodily harm is prohibited on the college campus, subject to the following exceptions:

(i) Commissioned law enforcement personnel; or

(ii) Legally authorized military personnel while in performance of their official duties.

(b) Students with legally issued concealed weapons permits may store their weapons in vehicles parked in accordance with RCW 9.41.050 on campus provided the vehicle is locked and the weapon is concealed from view.

(c) The president or delegate may authorize possession of a weapon on campus upon a showing that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to any terms or conditions incorporated therein.

(d) Possession and/or use of disabling chemical sprays for purposes of self-defense is not prohibited.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-100, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-110 Disciplinary sanctions—Terms and conditions. (1) The following disciplinary sanctions may be imposed upon students found to have violated the student conduct code:

(a) **Disciplinary warning.** A verbal statement to a student that they are violating or have violated the student conduct code and that continuation of the same or similar behavior may result in more severe discipline.

(b) **Written reprimand.** Notice in writing that the student has violated one or more terms of the student conduct code and that continuation of the same or similar behavior may result in more severe disciplinary action.

(c) **Disciplinary probation.** Formal action placing specific conditions and restrictions upon the student's continued attendance, depending upon the seriousness of the violation, which may include a deferred disciplinary sanction.

(i) Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.

(ii) If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction, which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation.

(d) **Disciplinary suspension.** Separation from the college and from the student status for a stated period of time.

(i) There will be no refund of tuition or fees for the quarter in which the action is taken.

(ii) Conditions of suspension may be imposed and will be specified. Except as otherwise specified in the final order, all conditions must be fulfilled before the end of the suspension period. Failure to fulfill all conditions of suspension in a timely manner will extend the suspension period and any conditions, and may result in additional disciplinary sanctions.

(iii) The college may put a conduct hold in place during the suspension period.

(e) **Dismissal.** The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or college-controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the action is taken.

(2) Disciplinary terms and conditions that may be imposed in conjunction with the imposition of a disciplinary sanction include, but are not limited to, the following:

(a) **Education.** Participation in or successful completion of an educational assignment designed to create an awareness of the student's misconduct.

(b) **Loss of privileges.** Denial of specified privileges for a designated period of time.

(c) **No contact order.** A prohibition of direct or indirect physical, verbal, electronic, and/or written contact with another individual or group.

(d) **Not in good standing.** A student found to be "not in good standing" with the college shall be subject to the following restrictions:

(i) Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.

(ii) Ineligible to represent the college to anyone outside the college community in any way, including representing the college at any official function, or any forms of intercollegiate competition or representation.

(e) **Professional evaluation.** Referral for drug, alcohol, psychological, or medical evaluation by an appropriately certified or licensed professional.

(i) The student may choose the professional within the scope of practice and with the professional credentials as defined by the college.

(ii) The student will sign all necessary releases to allow the college access to any such evaluation.

(iii) The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

(f) **Residence hall suspension.** Separation of the student from a residence hall or halls for a definite period of time, after which the student may be eligible to return. Conditions for reacceptance may be specified.

(g) **Residence hall dismissal.** Permanent separation of the student from a residence hall or halls.

(h) **Restitution.** Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(i) **Trespass or restriction.** A student may be restricted from any or all college premises and/or college-sponsored activities based on the violation.

(3) More than one of the disciplinary terms and conditions listed above may be imposed for any single violation.

(4) If a student withdraws from the college or fails to reenroll before completing a disciplinary sanction or condition, the disciplinary sanction or condition must be completed either prior to or upon the student's reenrollment, depending on the nature of the sanction, condition, and/or the underlying violation. Completion of disciplinary sanctions and conditions may be considered in petitions for readmission to the college.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-110, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-120 Initiation of disciplinary action.

(1) Any member of the college community may file a complaint against a student for possible violations of the student conduct code.

(2) Upon receipt, a student conduct officer, or designee, may review and investigate any complaint to determine whether it appears to state a violation of the student conduct code.

(a) **Student on student sexual misconduct.** The college's Title IX coordinator or designee shall investigate complaints or other reports of alleged sexual misconduct by a student against a student.

(b) **Sexual misconduct involving an employee.** The college's human resource office or designee shall investigate complaints or other reports of sexual misconduct in which an employee is either the impacted or responding party.

(c) Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for student disciplinary action.

(d) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done in compliance with federal and state laws and without unreasonably risking the health, safety, and welfare of the impacted party or other members of the college community.

(3) If a student conduct officer determines that a complaint appears to state a violation of the student conduct code, the student conduct officer will consider whether the matter might be resolved through agreement with the responding party or through alternative dispute resolution proceedings involving the impacted party and the reporting party.

(a) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the impacted party and the responding party.

(b) If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time.

(4) If the student conduct officer has determined that a complaint has merit and if the matter is not resolved through agreement or alternative dispute resolution, the student conduct officer may initiate disciplinary action against the responding party.

(a) Both the responding party and the impacted party in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the initial disciplinary decision-making process and to appeal any disciplinary decision.

(b) The student conduct officer, prior to initiating disciplinary action in cases involving allegations of sexual misconduct, will make a reasonable effort to contact the impacted party to discuss the results of the investigation and possible disciplinary sanctions and/or conditions, if any, that may be imposed upon the responding party if the allegations of sexual misconduct are found to have merit.

(5) All disciplinary actions will be initiated by a student conduct officer. If that officer is the subject of a complaint initiated by the responding party or the impacted party, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities.

(6) A student conduct officer shall initiate disciplinary action by serving the responding party with written notice directing them to attend a disciplinary meeting.

(a) The notice shall briefly describe the factual allegations, the provision(s) of the student conduct code the responding party is alleged to have violated, the range of possible sanctions for the alleged violation(s), and it will specify the time and location of the meeting.

(b) At the disciplinary meeting, the student conduct officer will present the allegations to the responding party, and the responding party shall be afforded an opportunity to explain what occurred.

(c) If the responding party fails to attend the meeting, the student conduct officer may take disciplinary action based upon the available information.

(7) Within ten days of the initial disciplinary meeting and after considering the evidence in the case, including any facts or argument presented by the responding party, the student conduct officer shall serve the responding party with a written decision setting forth the facts and conclusions supporting the decision, the specific student conduct code provisions found to have been violated, the discipline imposed, if any, and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal. This period may be extended if the student conduct officer, based on information presented at the disciplinary meeting, concludes that additional investigation is necessary. If the period is extended, the student conduct officer will notify the responding party, and the impacted party in cases involving allegations of sexual misconduct, of this extension, the reason(s), and the anticipated extension time frame.

(8) A student conduct officer may take any of the following disciplinary actions:

(a) Exonerate the responding party and terminate the proceedings.

(b) Impose a disciplinary sanction(s), with or without condition(s), as described in WAC 132H-126-110.

(c) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct committee, with a copy served on the responding party.

(9) In cases involving allegations of sexual misconduct, the student conduct officer, on the same date that a disciplinary decision is served on the responding party, will serve a written notice informing the impacted party of the decision, the reasons for the decision, and any disciplinary sanctions and/or conditions that may have been imposed upon the responding party, including disciplinary suspension or dismissal of the responding party. The notice will also inform the impacted party of their appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the impacted party to ensure prompt notice of the protective disciplinary sanctions and/or conditions.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-120, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-130 Appeal from disciplinary action. (1) The responding party may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within twenty-one days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's decision shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the responding party is seeking review.

(3) The parties to an appeal shall be the responding party and the student conduct officer. If a case involves allegations of sexual misconduct, an impacted party also has a right to appeal a disciplinary decision or to intervene in the respond-

ing party's appeal of a disciplinary decision to the extent the disciplinary decision, sanctions or conditions relate to allegations of sexual misconduct against the responding party.

(4) A responding party, who timely appeals a disciplinary action or whose case is referred to the student conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.

(6) Imposition of disciplinary action for violation of the student conduct code shall be stayed pending appeal, unless the responding party has been summarily suspended.

(7) The student conduct committee shall hear appeals regarding:

(a) The imposition of disciplinary suspensions in excess of ten instructional days;

(b) Dismissals; and

(c) Discipline cases referred to the committee by the student conduct officer, the conduct review officer, or the president.

(8) Student conduct appeals from the imposition of the following disciplinary sanctions shall be reviewed through a brief adjudicative proceeding:

(a) Residence hall dismissals;

(b) Residence hall suspensions;

(c) Suspensions of ten instructional days or less;

(d) Disciplinary probation;

(e) Written reprimands;

(f) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions; and

(g) Appeals by an impacted party in student disciplinary proceedings involving allegations of sexual misconduct in which the student conduct officer:

(i) Dismisses disciplinary proceedings based upon a finding that the allegations of sexual misconduct have no merit; or

(ii) Issues a verbal warning to the responding party.

(9) Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary complaints are final actions and are not subject to appeal.

(10) In cases involving allegations of sexual misconduct, the impacted party has the right to appeal the following actions by the student conduct officer following the same procedures as set forth above for the responding party:

(a) The dismissal of a sexual misconduct complaint; or

(b) Any disciplinary sanction(s) and conditions imposed against a responding party for a sexual misconduct violation, including a disciplinary warning.

(11) If the responding party timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the impacted party of the appeal and provide the impacted party an opportunity to intervene as a party to the appeal.

(12) Except as otherwise specified in this chapter, an impacted party who timely appeals a disciplinary decision or who intervenes as a party to responding party's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the responding party.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972,

20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-130, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-140 Conduct hold on student records. (1) A student conduct officer or other designated college official may place a conduct hold on the student's record if the student is the responding party in a pending complaint of prohibited conduct, a pending conduct proceeding under this code, or in conjunction with a disciplinary sanction or condition under this code.

(2) A conduct hold may restrict the student from registering for classes, requesting an official transcript, or receiving a degree from the college until the hold has been removed.

(3) If the conduct hold is placed pending or during a conduct proceeding, the student will be notified of the hold and be advised how to raise an objection about the hold or request that it be made less restrictive. The hold will remain in place until lifted by the student conduct officer or other designated college official with authority to do so.

(4) Implementation of any conduct hold prior to disciplinary action does not assume any determination of, or create any expectation of, responsibility for prohibited conduct under this conduct code.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-140, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-150 Amnesty policy. (1) Bellevue College values the health, safety and wellness of those in our college community. Students are encouraged to report crimes, share concerns, and seek medical attention for themselves or others in need.

(2) A student conduct officer may elect not to initiate disciplinary action against a student who, while in the course of helping another person seek medical or other emergency assistance, admits to a possible policy violation under this student conduct code, provided that any such violations did not and do not place the health or safety of any other person at risk.

(3) A student conduct officer may elect not to initiate disciplinary action against a student who, while in the course of reporting violence, sexual misconduct, or a crime in progress, admits to personal consumption of alcohol or drugs at or near the time of the incident, provided that any such use did not place the health or safety of any other person at risk.

(4) While policy violations cannot be overlooked, the college may elect to offer educational options or referrals, rather than initiating disciplinary action against students who report crimes, serve as witnesses, or seek medical attention as described in this section.

(5) This amnesty policy may not apply to students who repeatedly violate college policies in regards to alcohol, drugs, or other prohibited conduct.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-150, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-160 Interim measures. (1) After receiving a report of alleged sexual misconduct or other serious student misconduct, a student conduct officer or designee

may implement interim measures which may include, but are not limited to:

- (a) A no-contact order prohibiting direct or indirect contact, by any means, with an impacted party, a responding party, a reporting party, other specified persons, and/or a specific student organization;
- (b) Reassignment of on-campus housing;
- (c) Changes to class schedules, assignments, or test schedules;
- (d) Modified on-campus employment schedule or location;
- (e) Restrictions on access to portions of campus including, but not limited to, on-campus housing; or
- (f) Alternative safety arrangements such as campus safety escorts.

(2) If an interim measure is put in place pending or during a conduct proceeding, the student will be notified of the interim measure and be advised how to raise an objection about the interim measure or request that it be made less restrictive. The student conduct officer may adjust or modify interim measures as students' situations and schedules change and evolve over time. Interim measures will remain in place until the student receives notice they have been lifted or modified from the student conduct officer.

(3) Implementation of any interim measure does not assume any determination of, or create any presumption regarding responsibility for, a violation under this student conduct code.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-160, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-170 Summary suspension. (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a responding party might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer may impose a summary suspension if there is reasonable basis to believe that the responding party:

- (a) Has violated a provision of the student conduct code; and
- (b) Presents an immediate danger to the health, safety, or welfare of members of the college community; or
- (c) Poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.

(3) Notice. Any responding party who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the responding party within two business days of the oral notice.

(4) The written notice shall be entitled "Notice of Summary Suspension" and shall include:

- (a) The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the student conduct code or the law allegedly violated;

(12/17/18)

(b) The date, time, and location when the responding party must appear before the conduct review officer for a hearing on the summary suspension; and

(c) The conditions, if any, under which the responding party may physically access the campus or communicate with members of the campus community. If the responding party has been trespassed from the campus, a notice against trespass shall be included that warns the student that their privilege to enter or remain on college premises has been withdrawn and that the responding party shall be considered to be trespassing and subject to arrest for criminal trespass if the responding party enters the college campus. The responding student may be authorized to access college premises for the limited purpose of meeting with the student conduct officer, the conduct review officer, or to attend a disciplinary hearing. All such meetings and hearings shall be confirmed in writing in advance and the responding party entering college premises shall be required to produce the written permission to a college official on request.

(5) The conduct review officer shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension.

(a) During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

(b) The responding party shall be afforded an opportunity to explain why the summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

(c) If the responding party fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

(d) As soon as practicable following the hearing, the conduct review officer shall issue a written decision which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.

(e) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices who may be bound or protected by it.

(6) In cases involving allegations of sexual misconduct, the impacted party shall be notified that a summary suspension has been imposed on the same day that the summary suspension notice is served on the responding party. The college will also provide the impacted party with timely notice of any subsequent changes to the summary suspension order.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-170, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-180 Records. (1) Student conduct code records are maintained in accordance with the college's records retention schedule.

(2) The disciplinary record is confidential, and is released only as authorized under the Family Educational

Rights and Privacy Act (FERPA) (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-180, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-200 Brief adjudicative proceedings—Initial hearing. (1) Brief adjudicative proceedings shall be conducted by a conduct review officer designated by the president. The conduct review officer shall not participate in any case in which they are an impacted party or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) Before taking action, the conduct review officer shall conduct an informal hearing and provide each party:

(a) An opportunity to be informed of the agency's view of the matter; and

(b) An opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon the parties within ten business days of consideration of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within twenty-one days of service of the initial decision, the initial decision shall be deemed the final decision.

(4) If the matter is an appeal by the responding party, or the impacted party in the case of sexual misconduct, the conduct review officer may affirm, reverse, or modify the disciplinary sanctions and/or conditions imposed by the student conduct officer and/or impose additional disciplinary sanctions or conditions as authorized herein. If the conduct review officer, upon review, determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

(5) In cases involving allegations of sexual misconduct, the conduct review officer, on the same date as the initial decision is served on the responding party, will serve a written notice upon the impacted party of the decision, the reasons for the decision, and a description of any disciplinary sanctions and/or conditions that may have been imposed upon the responding party. The notice will also inform the impacted party of their appeal rights.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-200, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-210 Brief adjudicative proceedings—Review of an initial decision. (1) An initial decision is subject to review by the president, provided the responding party files a written request for review with the conduct review officer within twenty-one days of service of the initial decision.

(2) The president shall not participate in any case in which they are an impacted party or witness, or in which they

have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to determine whether the findings or sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.

(4) The decision on review must be in writing, include a brief statement of the reasons for the decision and typically must be served on the parties within twenty days of the request for review. The decision on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the president does not make a disposition of the matter within twenty days after the request is submitted without a response from the president.

(5) If the president, upon review, determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or dismissal, the matter shall be referred to the student conduct committee for a disciplinary hearing.

(6) In cases involving allegations of sexual misconduct, the president, on the same date as the final decision is served on the responding party, will serve a written notice upon the impacted party informing the impacted party of the decision, the reasons for the decision, and a description of any disciplinary sanctions and/or conditions that may have been imposed upon the responding party. The notice will also inform the impacted party of their appeal rights.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-210, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-300 Student conduct committee. (1) The student conduct committee shall consist of six members:

(a) Two full-time students appointed by the student government;

(b) Two faculty members appointed by the president;

(c) Two administrative staff members, other than an administrator serving as a student conduct or conduct review officer, appointed by the president prior to the beginning of the academic year for alternating two-year terms.

(2) One of the administrative staff members shall serve as the chair of the committee and may take action on preliminary hearing matters prior to convening the committee. The administrative staff members shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

(3) Hearings may be heard by a quorum of three members of the committee, so long as one faculty member, one student, and one administrative staff member are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(4) Members of the student conduct committee shall not participate in any case in which they:

(a) Are an impacted party or witness;

(b) Have direct or personal interest, prejudice, or bias; or

(c) Have acted previously in an advisory capacity.

(5) Any party may petition for disqualification of a committee member pursuant to RCW 34.05.425(4).

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-300, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-310 Student conduct committee—Prehearing. (1) Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW, and by the Model Rules of Procedure, chapter 10-08 WAC. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

(2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven days in advance of the hearing date, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown.

(3) The committee chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(4) Upon request, filed at least five days before the hearing by any party or at the direction of the committee chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(5) The committee chair may provide to the committee members in advance of the hearing copies of: (a) The conduct officer's notice of discipline, or referral to the committee; and (b) the notice of appeal, or any response to referral, by the responding party or, in a case involving allegations of sexual misconduct, the impacted party. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(6) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(7) The student conduct officer, upon request, shall provide reasonable assistance to the responding party and impacted party in obtaining relevant and admissible evidence that is within the college's control.

(8) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate. Any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(9) All parties may be accompanied at the hearing by a nonattorney process advisor of their choice.

(10) The responding party, in all appeals before the committee, and the impacted party, in an appeal involving allega-

tions of sexual misconduct before the committee, may elect to be represented by an attorney at their own expense. The responding and/or impacted party will be deemed to have waived the right to be represented by an attorney unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer.

(11) The committee will ordinarily be advised by an assistant attorney general. If the responding party and/or the impacted party is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened, assistant attorney general.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-310, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-320 Student conduct committee—Presentation of evidence. (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

(a) Proceed with the hearing and issuance of its decision; or

(b) Serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that they select, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to any party upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The student conduct officer, unless represented by an assistant attorney general, shall present the case for imposing disciplinary sanctions.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(7) In cases involving allegations of sexual misconduct, the responding and the impacted parties shall not directly question or cross-examine one another. Attorneys for the responding and impacted parties are also prohibited from directly questioning opposing parties absent express permission from the committee chair. Subject to this exception, all cross-examination questions by the responding and impacted parties shall be directed to the committee chair, who in their discretion shall pose the questions on the party's behalf. All cross-examination questions submitted to the chair in this manner shall be memorialized in writing and maintained as part of the hearing record.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-320, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-330 Student conduct committee—

Initial decision. (1) At the conclusion of the hearing, the student conduct committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within twenty days following the conclusion of the hearing or the committee's receipt of closing arguments, whichever is later, the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(3) The committee's initial order shall also include a determination on appropriate discipline, if any. If the matter was referred to the committee by the student conduct officer, the committee shall identify and impose disciplinary sanctions or conditions, if any, as authorized in the student conduct code. If the matter is an appeal by the responding party or the impacted party in the case of sexual misconduct, the committee may affirm, reverse, or modify the disciplinary sanctions and/or conditions imposed by the student conduct officer and/or impose additional disciplinary sanctions or conditions as authorized herein. The notice will also inform the responding party of their appeal rights.

(4) The committee chair shall cause copies of the initial decision to be served on the parties and their legal counsel of record. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.

(5) In cases involving allegations of sexual misconduct, the chair of the student conduct committee will make arrangements to have a written notice served on the impacted party informing the impacted party of the decision, the reasons for the decision, and a description of any disciplinary sanctions and/or conditions that may have been imposed upon the responding party, including suspension or dismissal of the responding party. The notice will also inform the impacted party of their appeal rights. This notice shall be served on the impacted party on the same date as the initial decision is served on the responding party. The impacted party may appeal the student conduct committee's initial decision to the president subject to the same procedures and deadlines applicable to other parties.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-330, filed 12/17/18, effective 1/17/19.]

WAC 132H-126-340 Student conduct committee—

Review of an initial decision. (1) A responding party, or an impacted party in a case involving allegations of sexual misconduct, who is aggrieved by the findings or conclusions

issued by the student conduct committee may request a review of the committee's initial decision to the president by filing a notice of appeal with the president's office within twenty-one days of service of the committee's initial decision or a written notice. Failure to file a timely appeal request within this time frame constitutes a waiver of the right and the initial decision shall be deemed final.

(2) The notice of appeal must identify the specific findings of fact and/or conclusions of law in the initial decision that are challenged and must contain an argument as to why the appeal should be granted. The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to those issues and arguments raised in the notice of appeal. As part of the review process, the president may ask the nonappealing party(ies) to respond to the arguments contained in the notice of appeal.

(3) The president shall provide a written decision to all parties within thirty days after receipt of the notice of appeal or receipt of the response from nonappealing parties, whichever is later. The president's decision shall be final and shall include a notice of any rights to request reconsideration and/or judicial review.

(4) In cases involving allegations of sexual misconduct, the president, on the same date that the final decision is served upon the responding party, shall serve a written notice informing the impacted party of the final decision. This notice shall inform the impacted party whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the responding party for the impacted party's protection, including suspension or dismissal of the responding party.

(5) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); P.L. 113-4, 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 19-01-082, § 132H-126-340, filed 12/17/18, effective 1/17/19.]