

## Chapter 132R-04 WAC STUDENT CONDUCT CODE

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### WAC

132R-04-010	Statement of student rights.
132R-04-015	Definitions.
132R-04-017	Statement of jurisdiction.
132R-04-019	Right to demand identification.
132R-04-040	Freedom of expression.
132R-04-042	Freedom of access to higher education.
132R-04-047	Freedom of association and organization.
132R-04-053	Authority.
132R-04-056	Standards.
132R-04-057	Prohibited student conduct.
132R-04-061	Hazing sanctions.
132R-04-063	Corrective action, disciplinary sanctions terms and conditions.
132R-04-064	Summary suspension.
132R-04-103	Supplemental sexual misconduct procedures.
132R-04-112	Initiation of disciplinary action.
132R-04-113	Appeal from disciplinary action.
132R-04-115	Brief adjudicative proceedings—General.
132R-04-116	Brief adjudicative proceedings—Initial hearing.
132R-04-1170	Brief adjudicative proceedings—Review of an initial decision.
132R-04-118	Brief adjudicative proceedings—Agency record.
132R-04-125	Student conduct committee—General.
132R-04-130	Student disciplinary committee—Prehearing.
132R-04-131	Student disciplinary committee hearing—Presentation of evidence.
132R-04-140	Student disciplinary committee—Initial decision.
132R-04-150	Appeal from student conduct committee initial decision.
132R-04-170	Criminal prosecution.
132R-04-180	Effective date.
132R-04-190	Prior rules.
132R-04-200	Severability.
132R-04-300	Order of precedence.
132R-04-305	Prohibited conduct under Title IX.
132R-04-310	Title IX jurisdiction.
132R-04-315	Initiation of discipline.
132R-04-320	Prehearing procedure.
132R-04-325	Rights of parties.
132R-04-330	Evidence.
132R-04-335	Initial order.
132R-04-340	Appeals.

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132R-04-020	Liquor. [Order 69-4, § 132R-04-020, filed 12/5/69.] Repealed by WSR 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.
132R-04-030	Drugs. [Order 69-4, § 132R-04-030, filed 12/5/69.] Repealed by WSR 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.
132R-04-035	Damaging property. [Order 69-4, § 132R-04-035, filed 12/5/69.] Repealed by WSR 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.
132R-04-050	Criminal violations. [Order 69-4, § 132R-04-050, filed 12/5/69.] Repealed by WSR 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.
132R-04-055	Classroom conduct. [Order 69-4, § 132R-04-055, filed 12/5/69.] Repealed by WSR 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.
132R-04-060	Commercial activities. [Order 69-4, § 132R-04-060, filed 12/5/69.] Repealed by WSR 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.
132R-04-067	Appeal from disciplinary action. [Statutory Authority: RCW 28B.50.140. WSR 16-15-011, § 132R-04-067, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-067, filed 7/14/03, effective 8/14/03.] Amended and decodified by WSR 17-22-054, filed 10/25/17, effective 11/25/17. Statutory Authority: RCW 28B.50.140. Recodified as § 132R-04-113.
132R-04-070	Outside speakers. [Order 69-4, § 132R-04-070, filed 12/5/69.] Repealed by WSR 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.
132R-04-080	Trespass. [Order 69-4, § 132R-04-080, filed 12/5/69.] Repealed by WSR 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.
132R-04-090	Distribution of materials. [Order 69-4, § 132R-04-090, filed 12/5/69.] Repealed by WSR 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.
132R-04-100	Authority. [Statutory Authority: RCW 28B.50.140. WSR 16-15-011, § 132R-04-100, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-100, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-100, filed 12/5/69.] Amended and decodified by WSR 17-22-054, filed 10/25/17, effective 11/25/17. Statutory Authority: RCW 28B.50.140. Recodified as § 132R-04-053.

- 132R-04-110 Disciplinary action. [Order 69-4, § 132R-04-110, filed 12/5/69.] Repealed by WSR 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.
- 132R-04-117 Student disciplinary committee. [Statutory Authority: RCW 28B.50.140. WSR 16-15-011, § 132R-04-117, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-117, filed 7/14/03, effective 8/14/03.] Amended and decodified by WSR 17-22-054, filed 10/25/17, effective 11/25/17. Statutory Authority: RCW 28B.50.140. Recodified as § 132R-04-125.
- 132R-04-120 Disciplinary committee. [Order 69-4, § 132R-04-120, filed 12/5/69.] Repealed by WSR 03-15-063, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW.
- 132R-04-160 Brief adjudication proceedings—Review of an initial order. [Statutory Authority: RCW 28B.50.140. WSR 16-15-011, § 132R-04-160, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-160, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-160, filed 12/5/69.] Amended and decodified by WSR 17-22-054, filed 10/25/17, effective 11/25/17. Statutory Authority: RCW 28B.50.140. Recodified as § 132R-04-1170.
- 132R-04-165 Brief adjudication proceedings—Agency record. [Statutory Authority: RCW 28B.50.140. WSR 16-15-011, § 132R-04-165, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-165, filed 7/14/03, effective 8/14/03.] Amended and decodified by WSR 17-22-054, filed 10/25/17, effective 11/25/17. Statutory Authority: RCW 28B.50.140. Recodified as § 132R-04-118.

**WAC 132R-04-010 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 maintain and to respect the general conditions necessary for a free and effective learning environment is expected of 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 services, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students shall be protected from academic evaluation which 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 which 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: RCW 28B.50.140. WSR 17-22-054, § 132R-04-010, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-010,

filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-010, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. WSR 90-02-019, § 132R-04-010, filed 12/26/89, effective 1/26/90; Order 69-4, § 132R-04-010, filed 12/5/69.]

**WAC 132R-04-015 Definitions.** For the purposes of this chapter, terms are defined as follows:

(1) "Student conduct officer" is a college administrator designated by the president to be responsible for implementing and enforcing the student conduct code. The vice president of learning and student success will serve as the student conduct officer or may appoint a designee.

(2) "Conduct review officer" is a college administrator designated by the president to be responsible for reviewing or referring appeals of student disciplinary actions as specified in this code. The director of student programs will serve as the conduct review officer, unless otherwise designated by the president.

(3) "The president" is the president of the college. The president is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary and to reassign any and all duties and responsibilities as set forth in this chapter as may be reasonably necessary.

(4) "Disciplinary action" is the process by which discipline is imposed by the student conduct officer against a student for a violation of the student conduct code. A written or verbal warning is not disciplinary action.

(5) "Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed or recommended by the student conduct officer. Disciplinary appeals from a suspension in excess of 10 instructional days or dismissal from the college are heard by the student conduct committee. Appeals of all other disciplinary action may be reviewed through brief adjudicative proceedings.

(6) "Pregnancy or related conditions" means:

(a) Pregnancy, childbirth, termination of pregnancy, or lactation;

(b) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or

(c) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

(7) "Program" or "programs and activities" means all operations of the college.

(8) "Relevant" means related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decision maker in determining whether the alleged sex discrimination occurred.

(9) "Remedies" means measures provided to a complainant or other person whose equal access to the college's educational programs and activities has been limited or denied by sex discrimination. These measures are intended to restore or preserve that person's access to educational programs and activities after a determination that sex discrimination has occurred.

(10) "Respondent" is the student who is alleged to have violated the student conduct code.

(11) "Service" is the process by which a document is officially delivered to a party. Unless expressly specified otherwise, service upon a party shall be accomplished by:

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

(b) By sending the document by email, once one has been generated, and by certified mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date the document is emailed, if possible, and deposited into the mail.

(12) "Filing" is the process by which a document is officially delivered to a school official responsible for facilitating a disciplinary review by a presiding officer. Unless expressly specified otherwise, filing shall be accomplished by:

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

(b) By sending the document by email and first class mail to the recipient's college-assigned email and office address.

Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified official or presiding officer.

(13) "College premises" shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college.

(14) "Student" is defined as all persons taking courses at or through the college, including those concurrently attending secondary or postsecondary institutions and college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses (excluding those trainings occurring through the Center for Business and Industry Service and the Japanese Agriculture Training Program), irrespective of modality. Persons who withdraw after allegedly violating the student code of conduct, 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" for the purposes of this chapter. "Continuing relationship" is established when a student is registered for an upcoming term or has indicated an intent to do so via a transaction, such as submitting a financial aid application for an upcoming term.

(15) "Student employee" means an individual who is both a student and an employee of the college. When a complainant or respondent is a student employee, the college must make a fact-specific inquiry to determine whether the individual's primary relationship with the college is to receive an education and whether any alleged student conduct code violation including, but not limited to, sex-based harassment, occurred while the individual was performing employment-related work.

(16) "Supportive measures" means reasonably available, individualized and appropriate, nonpunitive and nondisciplinary measures offered by the college to the complainant or respondent without unreasonably burdening either party, and without fee or charge for purposes of:

(a) Restoring or preserving a party's access to the college's educational program or activity, including measures that are designed to protect the safety of the parties or the college's educational environment; or providing support during the college's investigation and disciplinary procedures, or during any informal resolution process; or

(b) Supportive measures may include, but are not limited to: Counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of campus; restriction on contact applied to one or more parties; a leave of absence; change in class, work, housing, or extra-curricular or any other activity regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

(17) "Student group" for purposes of this code, is a student organization, athletic team, or living group including, but not limited to, student clubs and organizations, members of a class or student cohort, student performance groups, and student living groups within student housing.

(18) "Title IX coordinator" is the administrator responsible for processing complaints of sex discrimination, including sex-based harassment, overseeing investigations, and informal resolution processes, and coordinating supportive measures, in accordance with college policy.

(19) "Business day" means a weekday, excluding weekends and college holidays. If a time period is not specifically stated in business days, then calendar days apply.

(20) "Complainant" means the following individuals who are alleged to have been subjected to conduct that would constitute sex discrimination:

(a) A student or employee; or

(b) A person other than a person or employee who was participating or attempting to participate in the college's education program or activity at the time of the alleged discrimination.

(21) "Sexual misconduct" has the meaning ascribed to this term in WAC 132R-04-057.

[Statutory Authority: RCW 28B.50.140(13). WSR 25-02-065, s 132R-04-015, filed 12/23/24, effective 1/23/25. Statutory Authority: RCW 28B.50.140. WSR 23-11-048, § 132R-04-015, filed 5/11/23, effective 6/11/23; WSR 18-17-026, § 132R-04-015, filed 8/6/18, effective 9/6/18; WSR 17-22-054, § 132R-04-015, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-015, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-015, filed 7/14/03, effective 8/14/03.]

**WAC 132R-04-017 Statement of jurisdiction.** (1) The student conduct code shall apply to conduct by students and student groups that occurs:

(a) On college premises; or

(b) At or in connection with college programs or activities; or

(c) To off-campus conduct that in the judgment of the college adversely affects the college community or the pursuit of its objectives or the ability of a student or staff to participate in the college's programs and activities.

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

(3) Students are responsible for their conduct from notification of admission to the college through the actual receipt of a certificate or 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.

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

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

[Statutory Authority: RCW 28B.50.140(13). WSR 25-02-065, s 132R-04-017, filed 12/23/24, effective 1/23/25. Statutory Authority: RCW 28B.50.140. WSR 23-11-048, § 132R-04-017, filed 5/11/23, effective 6/11/23; WSR 17-22-054, § 132R-04-017, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-017, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-017, filed 7/14/03, effective 8/14/03.]

**WAC 132R-04-019 Right to demand identification.** For the purpose of determining identity of a person as a student any faculty member or other college personnel authorized by the college president may demand that any person on college facilities produce evidence of student enrollment at the college. Tender of the student identification card will satisfy this requirement.

Refusal by a student to produce identification as required may subject the student to disciplinary action.

[Statutory Authority: RCW 28B.50.140. WSR 17-22-054, § 132R-04-019, filed 10/25/17, effective 11/25/17. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-019, filed 7/14/03, effective 8/14/03.]

**WAC 132R-04-040 Freedom of expression.** (1) Fundamental to the democratic process are the rights of free speech and peaceful assembly. Students, other members of the college community, and nonstudents shall always be free to express their views or support causes by orderly means which do not disrupt the regular and essential operations of the college.

(2) Concomitantly, while supporting the rights of students and others, the college recognizes the responsibility to maintain an atmosphere conducive to a sound educational endeavor.

(3) To ensure the reconciliation of such rights and responsibilities, while respecting the private rights of all individuals, campus demonstrations may be conducted only in areas which are generally available to the public provided such demonstrations:

- (a) Are conducted in an orderly manner; and
- (b) Do not unreasonably interfere with classes, scheduled meetings or ceremonies, or with the general educational processes of the college; or
- (c) Do not unreasonably interfere with vehicular or pedestrian traffic; or
- (d) Do not unreasonably interfere with regular college functions.

(4) A student who conducts or participates in a demonstration which violates any provision of this rule shall be subject to disciplinary action. A nonstudent who violates any provision of the rule will be referred to civilian authorities for criminal prosecution.

[Statutory Authority: RCW 28B.50.140. WSR 17-22-054, § 132R-04-040, filed 10/25/17, effective 11/25/17. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-040, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-040, filed 12/5/69.]

**WAC 132R-04-042 Freedom of access to higher education.** Each student is free to pursue his or her educational goals; and to that end, appropriate opportunities for learning in the classroom shall be provided by the district. The college shall maintain an open door policy, to the end that no student will be denied admission because of the location of the student's residence, or because of the student's educational background or ability; that, insofar as is practical in the judgment of the board, curriculum offerings shall be provided to meet the educational and training needs of the community generally and the students thereof; and that all students, regardless of their differing courses of study, will be considered, known and recognized equally as members of the student body; provided, that the administrative officers of the college may deny admission to a prospective student or attendance to an enrolled student if, in their judgment, the student would not be competent to profit from the curriculum offerings of the community college, or would, by the student's presence or conduct, create a disrupting atmosphere within the community college inconsistent with the purposes of the institution.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-042, filed 7/14/03, effective 8/14/03.]

**WAC 132R-04-047 Freedom of association and organization.** Students bring to the campus a variety of previously acquired interests and develop many new interests as members of the college community. They are free to organize and join associations to promote any legal purpose, whether it be religious, political, educational, recreational or social.

Student organizations must be granted a charter by the college student government before they may be officially recognized. Prior to becoming chartered, a student organization must submit to the student government a statement of purpose, criteria for membership, a statement of operating rules or procedures, and the name of a college employee who has agreed to serve as an advisor. All student organizations must also submit to the student government a list of officers and keep that list updated when changes occur.

In order to qualify for issuance of a charter, a student organization must be open to all students without respect to race, sex, creed, national origin, or religion. Membership in all student organizations shall be open to any member of the college community who is willing to subscribe to the stated aims of the student organization. Affiliation with a noncampus organization shall not be grounds for denial of charter, provided that other conditions for charter issuance have been met.

[Statutory Authority: RCW 28B.50.140. WSR 17-22-054, § 132R-04-047, filed 10/25/17, effective 11/25/17. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-047, filed 7/14/03, effective 8/14/03.]

**WAC 132R-04-053 Authority.** The Big Bend Community College (BBCC) board of trustees, acting according to RCW 28B.50.140(14), delegates to the president of the college the authority to administer student disciplinary action. Administration of the student disciplinary procedures is the responsibility of the vice president of learning and student success. The vice president of learning and student success will serve as the student conduct officer, or appoint a designee, except in the cases involving allegations of sex discrimination including sex-based harassment when the Title IX coordinator or designee will serve as the student conduct officer. Unless otherwise specified, the student conduct officer or designee shall serve as the principal investigator and administrator for alleged violations of this code.

[Statutory Authority: RCW 28B.50.140(13). WSR 25-02-065, § 132R-04-053, filed 12/23/24, effective 1/23/25. Statutory Authority: RCW 28B.50.140. WSR 17-22-054, amended and recodified as § 132R-04-053, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-100, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-100, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-100, filed 12/5/69.]

**WAC 132R-04-056 Standards.** Attendance at Big Bend Community College presupposes that students will observe the laws and deport themselves according to accepted standards of personal and group conduct. It further presupposes that each student will comply with the rules, regulations and procedures as are, or may be, established by Big Bend Community College. Failure to observe such laws, standards, rules, regulations and procedures shall render a student subject to penalties, which may include dismissal from the college.

The provisions of this section on student conduct and discipline do not apply to probation or suspension arising solely from low scholarship.

[Statutory Authority: RCW 28B.50.140. WSR 17-22-054, § 132R-04-056, filed 10/25/17, effective 11/25/17. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-056, filed 7/14/03, effective 8/14/03.]

**WAC 132R-04-057 Prohibited student conduct.** The college may impose sanctions against a student or student group who commits, attempts to commit, aids, abets, incites, encourages, or assists another person to commit an act(s) of misconduct, which includes, but is not limited to, any of the following:

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

(a) Cheating includes, but is not limited to, any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.



(b) Plagiarism includes, but is not limited to, taking and using as one's own, without proper attribution, the ideas, writings, or work of another person, or artificial intelligence 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 includes falsifying data, information, or citations in completing an academic assignment, and also includes providing false or deceptive information in an instructional course concerning the completion of an assignment.

(d) This section shall not be construed as preventing an instructor from taking immediate disciplinary action as provided herein where the instructor is required to act upon such breach of academic dishonesty in order to preserve order and prevent disruptive conduct in the classroom.

(e) This section shall also not be construed as preventing an instructor from adjusting the student's grade on a particular project, paper, test, or class grade for academic dishonesty.

(2) **Other 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;

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

(d) Knowingly making a false statement or submitting false information in relation, or in response, to a college academic or disciplinary investigation or process.

(3) **Obstructive or disruptive conduct.** Conduct not otherwise protected by law that interferes with, impedes, or otherwise unreasonably hinders:

(a) Any instruction, research, administration, disciplinary proceeding, or other college activities, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity; or

(b) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

(4) **Assault, intimidation, harassment.** Unwanted touching, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. For purposes of this code, bullying is repeated or aggressive unwanted behavior, not otherwise protected by law, that humiliates, harms, or intimidates the victim.

(5) **Cyber misconduct.** Cyber misconduct including, but not limited to: Cyberstalking, cyberbullying, or online harassment.

(a) Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, applications (apps), 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.

(b) 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.

(6) **Property violation.** Damage to, misappropriation of, unauthorized use or possession of, vandalism, or other nonaccidental damaging or destruction of college property or the property of another person.

Property for the purposes of this subsection includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

(7) **Failure to comply with directive.** Failure to comply with the directive(s) of a college officer or employee who is acting in the legitimate performance of his or her duties, including failure to properly identify oneself to such a person when requested to do so.

(8) **Weapons.** Possession of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device or any other weapon apparently capable of producing bodily harm, unless previously authorized by the vice president of learning and student success. This policy does not apply to the possession of a personal protection spray device, as authorized by RCW 9.91.160. This policy is subject to the following exceptions:

(a) Commissioned law enforcement personnel in the state of Washington, legally authorized military personnel while in performance of their duties, and other persons or entities authorized by contract to carry firearms in the course of their employment;

(b) A student with a valid concealed weapons permit may store a pistol in his or her vehicle parked on campus in accordance with RCW 9.41.050 (2) or (3), provided the vehicle is locked and the weapon is concealed from view; or

(c) The president or designee may grant permission to bring a weapon on campus upon a determination that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to such terms or conditions incorporated in the written permission.

(9) **Hazing.**

Hazing is any act committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a college sponsored student organization, athletic team, or living group, or any pastime or amusement engaged in with respect to such an organization, athletic team, or living group that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student, including causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm, regardless of the person's willingness to participate. "Hazing" does not include customary athletic events or other similar contests or competitions. Consent is not a valid defense against hazing. Examples of hazing include, but are not limited to:

(a) Causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm;

(b) Humiliation by ritual act;

(c) Striking another person with an object or body part;

(d) Causing someone to experience excessive fatigue, or physical and/or psychological shock; or

(e) Causing someone to engage in degrading or humiliating games or activities that create a risk of serious psychological, emotional, and/or physical harm.

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

(a) Alcohol. The use, possession, delivery, sale, or being visibly under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(b) Cannabis. The use, possession, delivery, or sale of cannabis or the psychoactive compounds found in cannabis intended for human consumption, regardless of form, or being observably under the influence of cannabis or the psychoactive compounds found in cannabis and intended for human consumption, regardless of form. While state law permits the recreational use of cannabis, federal law prohibits such use on college premises or in connection with college activities.

(c) Drugs. The use, possession, production, delivery, sale, or being observably under the influence of any legend drug (including anabolic steroids, androgens, or human grown hormones), narcotic drug or controlled substance as defined in chapters 69.41 and 69.50 RCW, except in accordance with a lawful prescription for that student by a licensed health care professional.

(d) Tobacco, electronic cigarettes, and related products. The use of tobacco, electronic cigarettes, and related products in any building owned, leased, or operated by the college, or in any location where such use is prohibited, or in any location other than the parking lots, including 25 feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased or operated by the college. The use of tobacco, electronic cigarettes, and related products on the college campus is restricted to designated smoking areas.

"Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, vaporizers, and snuff.

(11) **Disorderly conduct.** Conduct which is disorderly, lewd, indecent, or obscene, that is not otherwise protected under the law.

(12) **Discriminatory conduct.** Conduct which harms or adversely affects any member of the college community because of race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; sexual orientation; gender identity; veteran's status; or any other legally protected classification.

(13) **Sexual misconduct.** The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence. Sexual harassment prohibited by Title IX is defined in the supplemental procedures to this code. See WAC 132R-04-103.

(a) **Sexual harassment.** The term "sexual harassment" means unwelcome sexual or gender-based conduct, including unwelcomed sexual advances, requests for sexual favors, quid pro quo harassment, and other verbal, nonverbal, or physical conduct of a sexual or a gendered nature that is sufficiently severe, persistent, or pervasive as to:

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

(ii) Alter the terms or conditions of employment for a college employee(s); and/or

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

(b) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of sexual harassment and means threatening or

emotionally distressing conduct based on sex. This includes, but is not limited to, nonconsensual recording of sexual activity or the distribution of such recording.

(c) **Sexual violence.** "Sexual violence" is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.

(i) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, 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.

(ii) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any object or body part, 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.

(iii) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren, and adopted children under the age of 18.

(iv) Statutory rape. Consensual intercourse between a person who is 18 years of age or older, and a person who is under the age of 16.

(v) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(vi) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(I) The length of the relationship;

(II) The type of relationship; and

(III) The frequency of interaction between the persons involved in the relationship.

(vii) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) Fear for their safety or the safety of others; or

(B) Suffer substantial emotional distress.

(viii) Consent. Clear, knowing, and voluntary permission by word or action to engage in mutually agreed upon sexual activity. 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 actual words or conduct indicating freely given agreement to the act at the time of the act. Consent cannot be inferred from silence, passivity, or lack of active resistance. Consent can be withdrawn by

either party at any point. Consent to engage in one activity, or past agreement to engage in a particular activity, cannot be presumed to constitute consent to engage in a different activity or to engage in the same activity again. There is no consent where there is a threat of force or violence or any other form of coercion or intimidation, physical or psychological. A person cannot consent if they are unable to understand what is happening or are disoriented, or if they are 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 incapable of consent has engaged in nonconsensual conduct. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(14) **Discriminatory harassment.** 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 deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program and/or social programs and/or student housing; alter the terms of an employee's employment; or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; presence of any sensory, mental or physical disability; use of a trained service animal; sex, including pregnancy; marital status; age (40+); religion; creed; sexual orientation; gender identity or expression; veteran's or military status; HIV/AIDS and hepatitis C status; or membership in any other group protected by federal, state, or local law. See supplemental definitions: "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic communications not otherwise protected by law.

(15) **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 of federal, state, or local law, or participated as a witness or in any other capacity in a college investigation or disciplinary proceeding.

(16) **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 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 interfere with normal operation of the college's computing system or other electronic information resources;

(g) Use of such 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.

(17) **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.

(18) **Safety violations.** Safety violation includes any nonaccidental, reckless, or unsafe conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

(19) **Abuse of process.** Abuse or misuse of any of the procedures relating to student complaints or misconduct including, but not limited to:

(a) Failure to obey a subpoena or order to appear at a hearing;

(b) Falsification or misrepresentation of information;

(c) Disruption, or interference with the orderly conduct, of a proceeding;

(d) Interfering with someone else's proper participation in a proceeding;

(e) Destroying or altering potential evidence, or attempting to intimidate or otherwise improperly pressure a witness or potential witness;

(f) Attempting to influence the impartiality of, or harassing or intimidating, a student disciplinary committee member; or

(g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code.

(20) **Unsafe vehicle operation.** Operation of any motor vehicle on college property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person.

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

(22) **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 as an educational goal or major.

(23) **Aiding or abetting.** Aiding, abetting, inciting, encouraging, or assisting another person to commit any of the foregoing acts of misconduct.

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.

(24) **Sex discrimination.** The term "sex discrimination" includes sex-based harassment, and may occur when a respondent causes more than de minimis harm to an individual by treating them different from a similarly situated individual on the basis of: Sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Conduct that prevents an individual from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis (insignificant) harm on the basis of sex.

(a) **Sex-based harassment.** "Sex-based harassment" is a form of sex discrimination and means sexual harassment or other harassment on the basis of sex, including the following conduct:

(i) **Quid pro quo harassment.** A student, employee, agent, or other person authorized by the college to provide an aid, benefit, or service under the college's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

(ii) **Hostile environment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

(A) The degree to which the conduct affected the complainant's ability to access the college's education program or activity;

(B) The type, frequency, and duration of the conduct;

(C) The parties' ages, roles within the college's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

(D) The location of the conduct and the context in which the conduct occurred; and

(E) Other sex-based harassment in the college's education program or activity.

(iii) **Sexual violence.** "Sexual violence" includes nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, incest, statutory rape, domestic violence, dating violence, and stalking.

(A) **Nonconsensual sexual intercourse** is 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.

(B) **Nonconsensual sexual contact (fondling)** is any actual or attempted sexual touching, however slight, with any body part or 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.

(C) **Incest** is sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of 18.

(D) **Statutory rape (rape of a child)** is nonforcible sexual intercourse with a person who is under the statutory age of consent.

(E) **Domestic violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, coercive control, damage or destruction of personal property, stalking or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protec-

ted from that person's acts under the domestic or family violence laws of the state of Washington.

(F) **Dating violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

(I) The length of the relationship;

(II) The type of relationship; and

(III) The frequency of interaction between the persons involved in the relationship.

(G) **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or to suffer substantial emotional distress.

(b) **Consent.** For purposes of this code "consent" means knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity.

(i) Each party has the responsibility to make certain that the other has consented before engaging in the activity.

(ii) 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.

(iii) 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.

(iv) Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(c) **Title IX retaliation** means intimidation, threats, coercion, or discrimination against any person by a student, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in a sex discrimination investigation, proceeding, or hearing, including during an informal resolution process, during a Title IX investigation, or during any disciplinary proceeding involving allegations of sex discrimination.

[Statutory Authority: RCW 28B.50.140(13). WSR 25-02-065, s 132R-04-057, filed 12/23/24, effective 1/23/25. Statutory Authority: RCW 28B.50.140. WSR 23-11-048, § 132R-04-057, filed 5/11/23, effective 6/11/23. Statutory Authority: Chapter 34.05 RCW; and RCW 28B.50.140(13) and 34 C.F.R. Part 106; Nelson v. Spokane Community College, 14 Wn. App.2d 40, 469 P.3d 317 (2020). WSR 21-08-012, § 132R-04-057, filed 3/26/21, effective 4/26/21. Statutory Authority: RCW 28B.50.140. WSR 18-17-026, § 132R-04-057, filed 8/6/18, effective 9/6/18; WSR 17-22-054, § 132R-04-057, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-057, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-057, filed 7/14/03, effective 8/14/03.]



**WAC 132R-04-061 Hazing sanctions.** (1) Hazing by a student or a student group is prohibited pursuant to WAC 132R-04-057.

(2) No student may conspire to engage in hazing or participate in hazing of another. State law provides that hazing is a criminal offense, punishable as a misdemeanor. See RCW 28B.10.901 (2) and (3).

(3) Washington state law provides that:

(a) Any student group that knowingly permits hazing is strictly liable for harm caused to persons or property resulting from hazing. If the organization, association, or student living group is a corporation whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages. RCW 28B.10.901(3).

(b) Any person who participates in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for a period of time determined by the college. RCW 28B.10.902(1).

(c) Student groups that knowingly permit hazing to be conducted by its members or by others subject to its direction or control shall be deprived of any official recognition or approval granted by the college. RCW 28B.10.902(2).

(d) Student groups found responsible for violating the code of student conduct, college antihazing policies, or state or federal laws relating to hazing or offenses related to alcohol, drugs, sexual assault, or physical assault will be disclosed in a public report issued by the college setting forth the name of the student group, the date the investigation began, the date the investigation ended, a finding of responsibility, a description of the incident(s) giving rise to the finding, and the details of the sanction(s) imposed.

[Statutory Authority: RCW 28B.50.140(13). WSR 25-02-065, s 132R-04-061, filed 12/23/24, effective 1/23/25. Statutory Authority: RCW 28B.50.140. WSR 23-11-048, § 132R-04-061, filed 5/11/23, effective 6/11/23.]

**WAC 132R-04-063 Corrective action, disciplinary sanctions terms and conditions.** One or more corrective actions or disciplinary sanctions include, but are not limited to, the following sanctions that may be imposed alone or in conjunction upon students found to have committed the violations in WAC 132R-04-057. The college may impose additional sanctions on a student who fails to comply with any imposed sanctions including, but not limited to, preventing that student from registering for classes.

(1) Warning: A verbal or written statement to a student that there is a violation and that continued violation may be cause for further disciplinary action. Warnings are corrective actions, not disciplinary, and may not be appealed.

(2) Reprimand: Notice in writing that the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

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

tion, 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. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college. Other conditions and restrictions may include, but not be limited to, restrictions from being present on certain parts of the campus or in certain college buildings; restriction from attending certain college activities or participation in extra-curricular activities; orders of no contact between the student under probation and other students, college employees, or other persons.

(4) **Not in good standing.** A student may be deemed "not in good standing" with the college. If so the student shall be subject to the following restrictions:

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

(b) 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.

(5) **Education.** The college may require the student to complete an educational project or attend sessions, at the student's expense, which address the student's behavior such as anger management or counseling.

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

(7) **No contact directive.** An order directing a student to have no contact with a specified student, college employee, a member of the college community, or a particular college facility.

(8) **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.

(9) **Disciplinary suspension:** Dismissal from the college and from the student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the action is taken.

(10) **Professional evaluation:** Referral for drug, alcohol, psychological or medical evaluation by an appropriately certified or licensed professional may be required. The student may choose the professional within the scope of practice and with the professional credentials as defined by the college. The student will sign all necessary releases to allow the college access to any such evaluation. 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.

(11) **Expulsion:** Permanent separation of the student from the college with no promise (implied or otherwise) that the student may return at any future time. There will be no refund of tuition or fees for the quarter in which the action is taken. The student will also be barred from college premises. Expulsion actions will be accomplished by issuing both an order of expulsion and a notice of trespass pur-

suant to WAC 132R-117-020(2). The notice of trespass may be given by any manner specified in chapter 9A.52 RCW.

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

(13) **Residence hall suspension or termination.** Removal from a residence hall for a specified period or permanently. Conditions may be imposed before a student is permitted to return to a residence hall.

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

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: RCW 28B.50.140(13). WSR 25-02-065, s 132R-04-063, filed 12/23/24, effective 1/23/25. Statutory Authority: RCW 28B.50.140. WSR 19-21-080, § 132R-04-063, filed 10/14/19, effective 11/14/19; WSR 17-22-054, § 132R-04-063, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-063, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-063, filed 7/14/03, effective 8/14/03.]

**WAC 132R-04-064 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 respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer (or designee) may impose a summary suspension if there is probable cause to believe that the respondent:

- (a) Has violated any provision of the code of conduct; 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 disruption of, or interference with, the operations of the college.

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

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

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

(b) The date, time, and location when the respondent must appear before the chair of the student disciplinary committee for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a no-

tice against trespass shall be included that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the respondent shall be considered trespassing and subject to arrest for criminal trespass if the respondent enters the college campus other than to meet with the student conduct officer or designee, or to attend a disciplinary hearing.

(5) (a) The conduct review officer or designee shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension. The hearing will be conducted as a brief adjudicative proceeding.

(b) 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.

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

(d) If the notice of summary suspension proceedings has been served upon the respondent in accordance with these rules and the student 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.

(e) As soon as practicable following the hearing, the conduct review officer shall issue a written decision, which shall include a brief statement of findings of fact and conclusions of law, the policy reasons justifying imposition of the summary suspension. If summary suspension is upheld and/or other discipline imposed, the order shall inform the respondent of the duration of the summary suspension or the nature of the disciplinary action(s), conditions under which the summary suspension may be terminated or modified, and procedures by which the order may be appealed.

(f) The interim suspension shall not replace the regular discipline process, which shall proceed as quickly as feasible in light of the interim suspension.

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

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

[Statutory Authority: RCW 28B.50.140(13). WSR 25-02-065, s 132R-04-064, filed 12/23/24, effective 1/23/25. Statutory Authority: RCW 28B.50.140. WSR 17-22-054, § 132R-04-064, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-064, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-064, filed 7/14/03, effective 8/14/03.]

**WAC 132R-04-103 Supplemental sexual misconduct procedures. (1)**

Both the respondent and the complainant 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 discipline action and to appeal the student conduct officer's disciplinary order. Application of the following procedures is limited to student conduct code proceedings involving allegations of sexual misconduct. In such cases, these procedures shall supplement the student disciplinary procedures. In the event of conflict between the sexual misconduct procedures and the student disciplinary procedures, the sexual misconduct procedures shall prevail.

(2) **Supplemental complaint process.** The following supplemental procedures shall apply with respect to complaints or other reports of alleged sexual misconduct by a student.

(a) The college's Title IX compliance officer shall investigate complaints or other reports of alleged sexual misconduct by a student. Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(b) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

(c) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done without unreasonably risking the health, safety, and welfare of the complainant or other members of the college community or compromising the college's duty to investigate and process sexual harassment and sexual violence complaints.

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

[Statutory Authority: RCW 28B.50.140. WSR 17-22-054, § 132R-04-103, filed 10/25/17, effective 11/25/17.]

**WAC 132R-04-112 Initiation of disciplinary action.** (1) Any member of the college community may file a complaint against a student or student group for possible violations of the student conduct code.

(2) The 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) **Sex discrimination, including sex-based harassment.** The college's Title IX coordinator or designee shall review, process, and, if applicable, investigate complaints or other reports of sex discrimination, including sex-based harassment. Allegations of sex discrimination, including sex-based harassment, by a student shall be addressed through the student conduct code. Allegations involving employees or third parties associated with the college will be handled in accordance with college policies.

(b) **Hazing by student groups.** A student conduct officer, or designee, may review and investigate any complaint or allegation of hazing by a student group. A student group will be notified through its named officer(s) and address on file with the college. A student group

may designate one representative who may speak on behalf of a student group during any investigation and/or disciplinary proceeding. A student group will have the rights of a respondent as set forth below.

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

(4) 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 respondent or through alternative dispute resolution proceedings involving the complainant and the reporting party.

(a) Informal dispute resolution shall not be used to resolve sex-based harassment complaints without written permission from both the complainant and the respondent.

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

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

(6) Both the respondent and the complainant in cases involving allegations of sex discrimination shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the disciplinary process and to appeal any disciplinary decision.

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

(8) The student conduct officer shall initiate disciplinary action by serving the respondent with written notice directing them to attend a disciplinary meeting. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting.

(9) At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting after proper service of notice, the student conduct officer may take disciplinary action based upon the available information.

(10) Within 10 calendar days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer shall serve the respondent with a written decision setting forth the facts and conclusions supporting their 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 at the sole discretion of the student conduct officer, if additional information is necessary to reach a determination. The student conduct officer will notify the parties of any extension period and the reason therefore.

(11) The student conduct officer may take any of the following disciplinary actions:

(a) Exonerate the respondent and terminate the proceedings;

(b) Impose a disciplinary sanction(s), with or without conditions, as described in WAC 132R-04-063; or

(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 respondent.

(12) In cases involving allegations of sex discrimination, the student conduct officer shall review the investigation report provided by the Title IX coordinator, and determine whether, by a preponderance of the evidence, there was a violation of the student conduct code; and if so, what disciplinary sanction(s) and/or remedies will be recommended. The student conduct officer shall, within five business days of receiving the investigation report, serve respondent, complainant, and the Title IX coordinator with a written recommendation, setting forth the facts and conclusions supporting their recommendation. The time for serving a written recommendation may be extended by the student conduct officer for good cause.

(a) The complainant and respondent may either accept the student conduct officer's recommended disciplinary sanction(s) or request a hearing before a student conduct committee.

(b) The complainant and respondent shall have 21 calendar days from the date of the written recommendation to request a hearing before a student conduct committee.

(c) The request for a hearing may be verbal or written, but must be clearly communicated to the student conduct officer.

(d) The student conduct officer shall promptly notify the other party of the request.

(e) In cases involving sex discrimination, the student conduct officer may recommend dismissal of the complaint if:

(i) The college is unable to identify respondent after taking reasonable steps to do so;

(ii) Respondent is not participating in the college's educational programs or activities;

(iii) The complainant has voluntarily withdrawn any or all of the allegations in the complaint, and the Title IX coordinator has declined to initiate their own complaint;

(iv) The college determines that, even if proven, the conduct alleged by the complainant would not constitute sex discrimination; or

(v) The conduct alleged by the complainant falls outside the college's disciplinary jurisdiction.

(f) In cases involving allegations of sex-based harassment, the college must obtain the complainant's voluntary withdrawal in writing before the matter can be dismissed.

(g) If no request for a full hearing is provided to the student conduct officer, the student conduct officer's written recommendation shall be final and implemented immediately following the expiration of 21 calendar days from the date of the written recommendation.

(h) Upon receipt of the student conduct officer's written recommendation, the Title IX coordinator or their designee shall review all supportive measures and, within five business days, provide written direction to the complainant and respondent as to any supportive measures that will be implemented, continued, modified, or terminated. If either party is dissatisfied with the supportive measures, the party

may seek review in accordance with the college's Title IX investigation procedure.

(i) If the respondent is found responsible for engaging in sex discrimination, the Title IX coordinator shall also take prompt steps to coordinate and implement any necessary remedies to ensure that sex discrimination does not recur and that complainant has equal access to the college's programs and activities.

[Statutory Authority: RCW 28B.50.140(13). WSR 25-02-065, s 132R-04-112, filed 12/23/24, effective 1/23/25. Statutory Authority: RCW 28B.50.140. WSR 17-22-054, § 132R-04-112, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-112, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-112, filed 7/14/03, effective 8/14/03.]

**WAC 132R-04-113 Appeal from disciplinary action.** (1) Except as specified for cases involving allegations of sex discrimination, as set forth in WAC 132R-04-057, the respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within 21 calendar 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 order shall be deemed final.

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

(3) The parties to an appeal shall be the respondent, complainant if any, and the conduct review officer.

(4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student disciplinary 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) In the event of a conflict between this student conduct code and the Administrative Procedure Act, chapter 34.05 RCW, this student conduct code will govern.

(7) The college hereby adopts the Model rules of procedure, chapter 10-08 WAC, by reference. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

(8) Imposition of discipline for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.

(9) The student disciplinary committee shall hear the following cases as fully adjudicated proceedings:

(a) Appeals from suspensions in excess of ten instructional days;

(b) Appeals from dismissals;

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

(d) Cases in which students request to have their discipline case heard by the committee.

(10) Student conduct appeals involving the following disciplinary actions shall be reviewed as brief adjudicative proceedings:

(a) Suspensions of ten instructional days or less;

(b) Disciplinary probation;

(c) Reprimands; and



(d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

[Statutory Authority: RCW 28B.50.140(13). WSR 25-02-065, s 132R-04-113, filed 12/23/24, effective 1/23/25. Statutory Authority: RCW 28B.50.140. WSR 17-22-054, amended and recodified as § 132R-04-113, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-067, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-067, filed 7/14/03, effective 8/14/03.]

**WAC 132R-04-115 Brief adjudicative proceedings—General. (1)**

This rule is adopted in accordance with RCW 34.05.482 through 34.05.494. Brief adjudicative proceedings shall be used, unless provided otherwise by another rule or determined otherwise in a particular case by the president, or a designee, in regard to:

- (a) Parking violations.
- (b) Outstanding debts owed by students or employees.
- (c) Use of college facilities.
- (d) Residency determinations.
- (e) Use of library - Fines.
- (f) Challenges to contents of education records.
- (g) Loss of eligibility for participation in institution sponsored athletic events.
- (h) Student conduct appeals involving the following disciplinary actions:
  - (i) Suspensions of ten instructional days or less;
  - (ii) Disciplinary probation;
  - (iii) Written reprimands; and
  - (iv) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(i) Appeals of decisions regarding mandatory tuition and fee waivers.

(2) Brief adjudicative proceedings are informal hearings designed to resolve disputes and address concerns on the part of students, faculty, or other college personnel. Brief adjudicative proceedings shall be conducted in a manner which will bring about a prompt, fair resolution of the matter.

[Statutory Authority: RCW 28B.50.140. WSR 17-22-054, § 132R-04-115, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-115, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-115, filed 7/14/03, effective 8/14/03.]

**WAC 132R-04-116 Brief adjudicative proceedings—Initial hearing.**

(1) Brief adjudicative proceedings shall be conducted by the student conduct officer. The presiding officer shall not participate in any case in which he or she is a complainant 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) The parties to a brief adjudicative proceeding are the respondent and the student conduct officer. Before taking action, the conduct review officer shall conduct an informal hearing and provide

each party (a) an opportunity to be informed of the college'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 all the parties within 10 calendar days of consideration of the initial hearing. 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 21 calendar days of service of the initial decision, the initial decision shall be deemed the final order.

(4) If the conduct review officer upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension in excess of 10 instructional days or expulsion, the matter shall be referred to the student disciplinary committee for a disciplinary hearing. The conduct review officer may enter an interim order suspending the student until a hearing can be held by the student disciplinary committee. The interim order shall provide a brief explanation as to facts supporting the interim order of suspension and give the necessary notices that the case has been referred to the student disciplinary committee.

[Statutory Authority: RCW 28B.50.140(13). WSR 25-02-065, s 132R-04-116, filed 12/23/24, effective 1/23/25. Statutory Authority: RCW 28B.50.140. WSR 17-22-054, § 132R-04-116, filed 10/25/17, effective 11/25/17.]

**WAC 132R-04-1170 Brief adjudicative proceedings—Review of an initial decision.** (1) An initial decision is subject to review by the president or his or her designee, provided the respondent files a written request for review with the conduct review officer within 21 calendar days of service of the initial decision.

(2) The president or designee shall not participate in any case in which he or she is a complainant 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 or designee shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to ascertain whether the proceedings must be referred to the student disciplinary committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within 20 calendar days of the initial decision or of the request for review, whichever is later. The order 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 reviewing officer does not make a disposition of the matter within 20 calendar days after the request is submitted.

(5) If the president or designee upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than 10 instructional days or expulsion, the matter shall be referred to the student disciplinary committee for a disciplinary hearing. The president or designee may enter an interim order suspending the student until a hearing can be held by the student disciplinary committee. The interim order shall provide a brief explanation as

to facts supporting the interim order of suspension and give the necessary notices that the case has been referred to the student disciplinary committee.

[Statutory Authority: RCW 28B.50.140(13). WSR 25-02-065, s 132R-04-1170, filed 12/23/24, effective 1/23/25. Statutory Authority: RCW 28B.50.140. WSR 17-22-054, amended and recodified as § 132R-04-1170, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-160, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-160, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-160, filed 12/5/69.]

**WAC 132R-04-118 Brief adjudicative proceedings—Agency record.**

The agency record for brief adjudicative proceedings shall consist of any documents regarding the matter that were considered or prepared by the presiding officer for the brief adjudicative proceeding or by the reviewing officer for any review. These records shall be maintained as the official record of the proceedings.

[Statutory Authority: RCW 28B.50.140. WSR 17-22-054, amended and recodified as § 132R-04-118, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-165, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-165, filed 7/14/03, effective 8/14/03.]

**WAC 132R-04-125 Student conduct committee—General.** (1) The

student conduct committee shall consist of five members:

- (a) Two full-time students appointed by the student government;
- (b) Two faculty members recommended by the faculty association and appointed by the president;

(c) The conduct review officer or other member of the administration appointed by the president at the beginning of the academic year.

(2) The conduct review officer shall serve as the committee chair and may take action on preliminary hearing matters prior to the appointment of the committee. The committee chair 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 the chair, one faculty member, and one student 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 disciplinary committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition the committee for disqualification of a committee member.

(5) For cases involving allegations of sex discrimination, including sex-based harassment, members of the student conduct committee must receive training on serving impartially, avoiding prejudgment of facts at issue, conflicts of interest, and bias. The chair must also receive training on the student conduct process for sex discrimination cases, as well as the meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that

are impermissible, regardless of relevance in accordance with 34 C.F.R. §§ 106.45 and 106.46.

(6) The college may, in its sole discretion, contract with an administrative law judge or other qualified person to act as the presiding officer, authorized to exercise any or all duties of the student conduct committee and/or committee chair.

In sex discrimination cases, the college may, in its sole and exclusive discretion, contract with an administrative law judge or other qualified person to act as the presiding officer, authorized to exercise any or all duties of the student conduct committee and/or committee chair.

[Statutory Authority: RCW 28B.50.140(13). WSR 25-02-065, s 132R-04-125, filed 12/23/24, effective 1/23/25. Statutory Authority: RCW 28B.50.140. WSR 17-22-054, amended and recodified as § 132R-04-125, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-117, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-117, filed 7/14/03, effective 8/14/03.]

**WAC 132R-04-130 Student disciplinary committee—Prehearing.** (1)

The student conduct administrative panel will conduct full adjudicative proceedings in accordance with the provisions of this standards of conduct for students code, the Administrative Procedure Act (chapter 34.05 RCW), and the model rules of procedure (chapter 10-08 WAC) including a hearing, determination of findings, conclusions, and sanctions. To the extent there is a conflict between the conduct code and the model rules, this student conduct code shall control.

(2) The committee chair shall serve all parties with written notice of the hearing not less than seven business days in advance of the hearing date. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause.

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

(4) Upon request filed at least five business days before the hearing by either party or at the direction of the committee chair, the parties shall exchange, no later than the third business day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present in their respective cases. 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, unless the party can show good cause for such failure.

(5) The committee chair may provide to the committee members in advance of the hearing copies of (i) the student conduct officer's notification of imposition of discipline (or referral to the committee) and (ii) the notice of appeal (or any response to referral) by the respondent. 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, wheth-

er the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(7) The student conduct officer shall provide reasonable assistance to the respondent, upon request, 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 that are 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) Each party may be accompanied at the hearing by a nonattorney assistant of their choice. A respondent or complainant in a case involving allegations of sexual misconduct may elect to be represented by an attorney at their own cost, but will be deemed to have waived that right 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. The committee will ordinarily be advised by an assistant attorney general. If the respondent or complainant is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general.

(10) In circumstances involving more than one accused student, the student conduct officer may permit joint or separate hearings upon request by a party.

[Statutory Authority: RCW 28B.50.140(13). WSR 25-02-065, s 132R-04-130, filed 12/23/24, effective 1/23/25. Statutory Authority: RCW 28B.50.140. WSR 17-22-054, § 132R-04-130, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-130, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-130, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-130, filed 12/5/69.]

**WAC 132R-04-131 Student disciplinary committee hearing—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 ensure 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 college's case.

(6) All testimony shall be given under oath or affirmation. Except as otherwise provided in this section, evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(7) In cases involving allegations of sex-based harassment, the complainant and respondent may not directly question one another or other witnesses. In such circumstances, the chair will determine whether questions will be submitted to the chair, who will then ask questions of the parties and witnesses, or allow questions to be asked directly of any party or witnesses by a party's attorney or advisor. The committee chair may revise this process if, in the chair's determination, the questioning by any party, attorney, or advisor, becomes contentious or harassing.

(a) Prior to any question being posed to a party or witness, the chair must determine whether the question is relevant and not otherwise impermissible; and must explain any decision to exclude a question that is deemed not relevant, or is otherwise impermissible. The chair will retain for the record copies of any written questions provided by any party.

(b) The chair must not permit questions that are unclear or harassing; but shall give the party an opportunity to clarify or revise such a question.

(c) The chair shall exclude and the committee shall not consider legally privileged information unless the individual holding the privilege has waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(i) Spousal/domestic partner privilege;

(ii) Attorney-client communications and attorney work product privilege;

(iii) Clergy privileges;

(iv) Medical or mental health providers and counselor privileges;

(v) Sexual assault and domestic violence advocate privileges; and

(vi) Other legal privileges set forth in RCW 5.60.060 or federal law.

(d) The chair shall exclude and the committee shall not consider questions or evidence that relate to the complainant's sexual interests or prior sexual conduct, unless such question or evidence is offered to prove someone other than the respondent committed the alleged conduct, or is evidence of specific instances of prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

(e) The committee may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The committee must not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

(8) Except in cases involving allegations of sex-based harassment, the chair has the discretion to determine whether a respondent may directly question any witnesses; and if not, to determine whether questions must be submitted to the chair to be asked of witnesses, or to allow questions to be asked by an attorney or advisor for the respondent.

[Statutory Authority: RCW 28B.50.140(13). WSR 25-02-065, s 132R-04-131, filed 12/23/24, effective 1/23/25. Statutory Authority: RCW 28B.50.140. WSR 17-22-054, § 132R-04-131, filed 10/25/17, effective 11/25/17.]

**WAC 132R-04-140 Student disciplinary committee—Initial decision.** (1) Within twenty calendar 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.

(2) The committee's initial decision 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 determine any disciplinary sanction or conditions authorized herein. If the matter is an appeal by the respondent, the committee may affirm, reverse, or modify the discipline imposed by the student conduct officer and/or impose any other disciplinary sanction or conditions authorized herein.

(3) The committee chair shall provide copies of the initial decision to the parties and any legal counsel who have appeared. The committee chair shall also promptly transmit a copy of the order and the record of the committee's proceedings to the college president and the vice president of learning and student success.

(4) In cases involving allegations of sexual misconduct, the committee chair, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. Complainant may appeal the student conduct committee's initial decision to the president subject to the same procedures and deadlines applicable to other parties. The notice will also inform the complainant of his or her appeal rights.

[Statutory Authority: RCW 28B.50.140. WSR 17-22-054, § 132R-04-140, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-140, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-140, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-140, filed 12/5/69.]

**WAC 132R-04-150 Appeal from student conduct committee initial decision.** (1) Any party, including a complainant in sex-based harassment cases, may appeal the committee's decision to the president by filing a written appeal with the president's office within 21 calendar days of service of the committee's decision. Failure to file a timely appeal constitutes a waiver of the right and the decision shall be deemed final.

(2) The written appeal must identify the specific findings of fact and/or conclusions of law in the decision that are challenged and must contain argument why the appeal should be granted. Appeals may be based upon, but are not limited to:

(a) Procedural irregularity that would change the outcome;

(b) New evidence that would change the outcome and that was not reasonably available when the initial decision was made; and

(c) The investigator, decision maker, or Title IX coordinator had a conflict of interest or bias for or against a respondent or complainant individually or respondents or complainants generally.

(3) Upon receiving a timely appeal, the president or a designee will promptly serve a copy of the appeal on all nonappealing parties, who will have 10 business days from the date of service to submit a written response addressing the issues raised in the appeal to the president or a designee, and serve it on all parties. Failure to file a timely response constitutes a waiver of the right to participate in the appeal.

(4) If necessary to aid review, the president may ask for additional briefing from the parties on issues raised on appeal. The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the appeal.

(5) The president shall serve a written decision on all parties and their attorneys, if any, within 20 calendar days after receipt of the appeal. The president's decision shall be final and subject to judicial review pursuant to chapter 34.05 RCW, Part V.

(6) In cases involving allegations of sex-based harassment, the president's decision must be served simultaneously on the complainant, respondent, and Title IX coordinator.

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

[Statutory Authority: RCW 28B.50.140(13). WSR 25-02-065, s 132R-04-150, filed 12/23/24, effective 1/23/25. Statutory Authority: RCW 28B.50.140. WSR 17-22-054, § 132R-04-150, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-150, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-150, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-150, filed 12/5/69.]

**WAC 132R-04-170 Criminal prosecution.** College personnel or students may refer any student code of conduct violations which are also violations of federal or state law to the proper authorities for disposition.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-170, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-170, filed 12/5/69.]

**WAC 132R-04-180 Effective date.** The rules contained within chapter 132R-04 WAC shall become effective upon the date the same are filed with the code reviser.

[Order 69-4, § 132R-04-180, filed 12/5/69.]



**WAC 132R-04-190 Prior rules.** The rules contained within chapter 132R-04 WAC supersede all former rules for which a student was subject to disciplinary action as defined by WAC 132R-04-010.

[Order 69-4, § 132R-04-190, filed 12/5/69.]

**WAC 132R-04-200 Severability.** If any provision of chapter 132R-04 WAC is adjudged by a court to be unconstitutional, the remaining provisions of chapter 132R-04 WAC shall continue in effect.

[Order 69-4, § 132R-04-200, filed 12/5/69.]

**WAC 132R-04-300 Order of precedence.** This supplemental procedure applies to allegations of sexual harassment subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental hearing procedures conflict with the college's standard disciplinary procedures, WAC 132R-04-010 through 132R-04-200, these supplemental procedures shall take precedence.

[Statutory Authority: Chapter 34.05 RCW; and RCW 28B.50.140(13) and 34 C.F.R. Part 106; Nelson v. Spokane Community College, 14 Wn. App.2d 40, 469 P.3d 317 (2020). WSR 21-08-012, § 132R-04-300, filed 3/26/21, effective 4/26/21.]

**WAC 132R-04-305 Prohibited conduct under Title IX.** Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the college may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of "sexual harassment."

For purposes of this supplemental procedure, "sexual harassment" encompasses the following conduct:

(1) Quid pro quo harassment. A college employee conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.

(2) Hostile environment. Unwelcome conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's educational programs or activities, or employment.

(3) Sexual assault. Sexual assault includes the following conduct:

(a) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, 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.

(b) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or 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.

(c) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of eighteen.

(d) Statutory rape. Consensual sexual intercourse between someone who is eighteen years of age or older and someone who is under the age of sixteen.

(4) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(5) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

(6) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

[Statutory Authority: Chapter 34.05 RCW; and RCW 28B.50.140(13) and 34 C.F.R. Part 106; Nelson v. Spokane Community College, 14 Wn. App.2d 40, 469 P.3d 317 (2020). WSR 21-08-012, § 132R-04-305, filed 3/26/21, effective 4/26/21.]

**WAC 132R-04-310 Title IX jurisdiction.** (1) This supplemental procedure applies only if the alleged misconduct:

(a) Occurred in the United States;

(b) Occurred during a college educational program or activity; and

(c) Meets the definition of sexual harassment as that term is defined in this supplemental procedure.

(2) For purposes of this supplemental procedure, an "educational program or activity" is defined as locations, events, or circumstances over which the college exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred. This definition includes any building owned or controlled by a student organization that is officially recognized by the college.

(3) Proceedings under this supplemental procedure must be dismissed if the decision maker determines that one or all of the requirements of subsection (1)(a) through (c) of this section have not been met. Dismissal under this supplemental procedure does not prohibit the college from pursuing other disciplinary action based on alle-

gations that the respondent violated other provisions of the college's student conduct code, WAC 132R-04-010 through 132R-04-200.

(4) If the student conduct officer determines the facts in the investigation report are not sufficient to support Title IX jurisdiction and/or pursuit of a Title IX violation, the student conduct officer will issue a notice of dismissal in whole or part to both parties explaining why some or all of the Title IX claims have been dismissed.

[Statutory Authority: Chapter 34.05 RCW; and RCW 28B.50.140(13) and 34 C.F.R. Part 106; Nelson v. Spokane Community College, 14 Wn. App.2d 40, 469 P.3d 317 (2020). WSR 21-08-012, § 132R-04-310, filed 3/26/21, effective 4/26/21.]

**WAC 132R-04-315 Initiation of discipline.** (1) Upon receiving the Title IX investigation report from the Title IX coordinator, the student conduct officer will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX.

(2) If the student conduct officer determines that there are sufficient grounds to proceed under these supplemental procedures, the student conduct officer will initiate a Title IX disciplinary proceeding by filing a written disciplinary notice with the chair of the student conduct committee and serving the notice on the respondent and the complainant, and their respective advisors. The notice must:

(a) Set forth the basis for Title IX jurisdiction;  
(b) Identify the alleged Title IX violation(s);  
(c) Set forth the facts underlying the allegation(s);  
(d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s); and

(e) Explain that the parties are entitled to be accompanied by their chosen advisors during the hearing and that:

(i) The advisors will be responsible for questioning all witnesses on the party's behalf;

(ii) An advisor may be an attorney; and

(iii) The college will appoint the party an advisor of the college's choosing at no cost to the party, if the party fails to do so.

(3) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

[Statutory Authority: Chapter 34.05 RCW; and RCW 28B.50.140(13) and 34 C.F.R. Part 106; Nelson v. Spokane Community College, 14 Wn. App.2d 40, 469 P.3d 317 (2020). WSR 21-08-012, § 132R-04-315, filed 3/26/21, effective 4/26/21.]

**WAC 132R-04-320 Prehearing procedure.** (1) Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW.

(2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven calendar days in advance of the hearing date. 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. The notice must include:

(a) A copy of the student conduct code;

- (b) The basis for jurisdiction;
- (c) The alleged violation(s);
- (d) A summary of facts underlying the allegations;
- (e) The range of possible sanctions that may be imposed; and
- (f) A statement that retaliation is prohibited.

(3) The 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 calendar days before the hearing by any party or at the direction of the 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 chair may provide to the committee members in advance of the hearing copies of:

(a) The student conduct officer's notification of imposition of discipline (or referral to the committee); and

(b) The notice of appeal (or any response to referral) by the respondent. 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) (Optional: The student conduct officer shall provide reasonable assistance to the respondent and complainant in procuring the presence of college students, employees, staff, and volunteers to appear at a hearing, provided the respondent and complainant provide a witness list to the student conduct officer no less than three business days in advance of the hearing. The student conduct officer shall notify the respondent and complainant no later than 24 hours in advance of the hearing if they have been unable to contact any prospective witnesses to procure their appearance at the hearing. The committee chair will determine how to handle the absence of a witness and shall describe on the record their rationale for any decision.)

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

(9) (Optional: In cases heard by the committee, each party may be accompanied at the hearing by an advisor of their choice, which may be an attorney retained at the party's expense.)

(10) (Optional: For any matters involving a disciplinary sanction of suspension of more than one quarter, dismissal, or sex-based harassment, the college shall provide an advisor to the respondent and any complainant, if they have not otherwise identified an advisor to assist them during the hearing.) The committee will ordinarily be advised by an assistant attorney general or their designee. If the respondent and/or the complainant is represented by an attorney, the student conduct officer may be represented by an assistant attorney general.

(11) Attorneys for students must file a notice of appearance with the committee chair at least four business days before the hearing. Failure to do so may, at the discretion of the committee chair, result in a waiver of the attorney's ability to represent the student at the hearing, although an attorney may still serve as an advisor to the student.

(12) In cases involving allegations of sex discrimination, the complainant has a right to participate equally in any part of the disciplinary process, including appeals. Respondent and complainant both have the following rights:

(a) **Notice.** The college must provide a notice that includes all information required in subsection (2) of this section, and a statement that the parties are entitled to an equal opportunity to access relevant and permissible evidence, or a description of the evidence upon request.

(b) **Advisors.** The complainant and respondent are both entitled to have an advisor present, who may be an attorney retained at the party's expense.

(c) **Extensions of time.** The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date, in accordance with the procedures set forth in subsection (13)(b) of this section.

(d) **Evidence.** In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.

(e) **Confidentiality.** The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process which may include, but are not limited to, directives by the student conduct officer or chair pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.

(13) In cases involving allegations of sex-based harassment, the following additional procedures apply:

(a) **Notice.** In addition to all information required in subsection (2) of this section, the notice must also inform the parties that:

(i) The respondent is presumed not responsible for the alleged sex-based harassment;

(ii) The parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decision maker;

(iii) They may have an advisor of their choice, who may be an attorney, to assist them during the hearing;

(iv) They are entitled to an equal opportunity to access relevant and not otherwise impermissible evidence in advance of the hearing; and

(v) The student conduct code prohibits knowingly making false statements or knowingly submitting false information during a student conduct proceeding.

(b) **Extensions of time.** The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date. The party requesting an extension must do so no later than 48 hours before any date specified in the notice of hearing or by the chair in any prehearing conference. The written request must be

served simultaneously by email to all parties and the chair. Any party may respond and object to the request for an extension of time no later than 24 hours after service of the request for an extension. The chair will serve a written decision upon all parties, to include the reasons for granting or denying any request. The chair's decision shall be final. In exceptional circumstances, for good cause shown, the chair may, in their sole discretion, grant extensions of time that are made less than 48 hours before any deadline.

(c) **Advisors.** The college shall provide an advisor to the respondent and any complainant, if the respondent or complainant have not otherwise identified an advisor to assist during the hearing.

(d) **Evidence.** In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.

(e) **Confidentiality.** The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process which may include, but are not limited to, directives by the student conduct officer or chair issuing directives pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.

(f) **Separate locations.** The chair may, or upon the request of any party, must conduct the hearing with the parties physically present in separate locations, with technology enabling the committee and parties to simultaneously see and hear the party or the witness while that person is speaking.

(g) **Withdrawal of complaint.** If a complainant wants to voluntarily withdraw a complaint, they must provide notice to the college in writing before a case can be dismissed.

[Statutory Authority: RCW 28B.50.140(13). WSR 25-02-065, s 132R-04-320, filed 12/23/24, effective 1/23/25. Statutory Authority: Chapter 34.05 RCW; and RCW 28B.50.140(13) and 34 C.F.R. Part 106; Nelson v. Spokane Community College, 14 Wn. App.2d 40, 469 P.3d 317 (2020). WSR 21-08-012, § 132R-04-320, filed 3/26/21, effective 4/26/21.]

**WAC 132R-04-325 Rights of parties.** (1) The college's student conduct procedures, WAC 132R-04-010 through 132R-04-200, and this supplemental procedure shall apply equally to all parties.

(2) The college bears the burden of offering and presenting sufficient testimony and evidence to establish that the respondent is responsible for a Title IX violation by a preponderance of the evidence.

(3) The respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.

(4) During the hearing, each party shall be represented by an advisor. The parties are entitled to an advisor of their own choosing and the advisor may be an attorney. If a party does not choose an advisor, then the Title IX coordinator will appoint an advisor of the college's choosing on the party's behalf at no expense to the party.

[Statutory Authority: Chapter 34.05 RCW; and RCW 28B.50.140(13) and 34 C.F.R. Part 106; Nelson v. Spokane Community College, 14 Wn. App.2d 40, 469 P.3d 317 (2020). WSR 21-08-012, § 132R-04-325, filed 3/26/21, effective 4/26/21.]

**WAC 132R-04-330 Evidence.** The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(1) Relevance: The committee chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(2) Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(4) Cross-examination required: If a party or witness does not submit to cross-examination during the live hearing, the committee must not rely on any statement by that party or witness in reaching a determination of responsibility.

(5) No negative inference: The committee may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.

(6) Privileged evidence: The committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/domestic partner privilege;

(b) Attorney-client and attorney work product privileges;

(c) Privileges applicable to members of the clergy and priests;

(d) Privileges applicable to medical providers, mental health therapists, and counselors;

(e) Privileges applicable to sexual assault and domestic violence advocates; and

(f) Other legal privileges identified in RCW 5.60.060.

[Statutory Authority: Chapter 34.05 RCW; and RCW 28B.50.140(13) and 34 C.F.R. Part 106; Nelson v. Spokane Community College, 14 Wn. App.2d 40, 469 P.3d 317 (2020). WSR 21-08-012, § 132R-04-330, filed 3/26/21, effective 4/26/21.]

**WAC 132R-04-335 Initial order.** (1) In addition to complying with WAC 132R-04-140, the student conduct committee will be responsible for conferring and drafting an initial order that:

(a) Identifies the allegations of sexual harassment;

(b) Describes the grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility, including notices to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;

(c) Makes findings of fact supporting the determination of responsibility;

(d) Reaches conclusions as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX;

(e) Contains a statement of, and rationale for, the committee's determination of responsibility for each allegation;

(f) Describes any disciplinary sanction or conditions imposed against the respondent, if any;

(g) Describes to what extent, if any, complainant is entitled to remedies designed to restore or preserve complainant's equal access to the college's education programs or activities; and

(h) Describes the process for appealing the initial order to the college president.

(2) The committee chair will serve the initial order on the parties simultaneously.

[Statutory Authority: Chapter 34.05 RCW; and RCW 28B.50.140(13) and 34 C.F.R. Part 106; Nelson v. Spokane Community College, 14 Wn. App.2d 40, 469 P.3d 317 (2020). WSR 21-08-012, § 132R-04-335, filed 3/26/21, effective 4/26/21.]

**WAC 132R-04-340 Appeals.** (1) The parties shall have the right to appeal from the initial order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and time frames set forth in WAC 132R-04-150.

(2) The president or their delegate will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).

(3) President's office shall serve the final decision on the parties simultaneously.

[Statutory Authority: Chapter 34.05 RCW; and RCW 28B.50.140(13) and 34 C.F.R. Part 106; Nelson v. Spokane Community College, 14 Wn. App.2d 40, 469 P.3d 317 (2020). WSR 21-08-012, § 132R-04-340, filed 3/26/21, effective 4/26/21.]