

WAC 516-21-270 Proceedings for violations of the code. (1) Any member of the university community may file a complaint against a student for a violation of the student conduct code. A complaint should be made in writing to the office of student life. Additionally, information received from any source (police report, third party, online, etc.) may be considered a complaint.

(2) After a consideration of the complaint, a conduct officer may take any of the following actions:

(a) Review the complaint, and make a determination to resolve it through a brief hearing or full hearing, and communicate that decision to the relevant parties;

(b) Terminate the proceeding and enter a finding that there is no violation of the code and/or that the respondent is not responsible for the alleged conduct violation;

(c) Dismiss the complaint, which may be reopened at a later date if relevant information that was unknown to the conduct officer arises; or

(d) A conduct officer may resolve a matter by agreement/alternative dispute resolution. Agreements may be reached directly or through alternative dispute resolution including, but not limited to, shuttle diplomacy or mediation. When resolution of a matter is reached by agreement or alternative dispute resolution, the agreement must be in writing and signed by the parties and the conduct officer. In the agreement, the parties must be advised in writing that:

(i) The disposition is final and they are waiving any right to a hearing on the matter, including any right to appeal; and

(ii) If any party decides not to sign the agreement, and the matter proceeds to a hearing, neither the agreement nor a party's refusal to sign will be used against either party in the student conduct process. Complaints alleging conduct covered by Title IX are not subject to agreement/alternative dispute resolution through the student conduct process.

(3) In complaints alleging a violation of any type of sexual misconduct or gender-based discrimination including Title IX sexual harassment which encompasses quid pro quo harassment, hostile environment, domestic violence, dating violence, stalking or sexual assault which includes nonconsensual sexual intercourse, nonconsensual sexual contact, incest or statutory rape, complaints should be made to Western Washington University's office of civil rights and Title IX compliance. A final investigation report from Western Washington University's office of civil rights and Title IX compliance (or their designee) will be provided to the conduct officer. The conduct officer will then make determinations regarding which code prohibitions may have been violated, and whether to resolve the matter through a brief hearing or full hearing.

(4) Brief hearings. The majority of student conduct matters are resolved through a brief hearing with a conduct officer. Such a hearing is a brief adjudication conducted in accordance with the Washington state Administrative Procedure Act chapter 34.05 RCW and allows the conduct officer to review available information, hear the relevant parties' views, make a determination, and assign sanctions.

(5) Full hearings. Full hearings are conducted by a conduct board and are used in matters in which the respondent faces possible suspension or expulsion; generally, a final investigation report from Western Washington University's office of civil rights and Title IX compliance are resolved through full hearings. Full board hearings are

conducted in accordance with the Washington state Administrative Procedure Act.

(6) Any student charged by a conduct officer with a violation of the student code is provided at least three days written notice of the student's meeting date, time and location (five days for full hearings). Any request to extend the time and/or date of the conduct officer meeting should be addressed to the conduct officer. The written notice shall include:

(a) A brief summary of the complaint, including the sections of the code allegedly violated;

(b) The approximate time and place of the alleged behavior that forms the factual basis for the charge of violation;

(c) The time, date, and place of the meeting;

(d) A copy of, or link to, the code.

(7) The respondent and complainant (if applicable) are notified in writing of the determination made by the conduct officer or board, including the basis for any findings and sanctions. The notice includes information regarding the right to request an appeal.

(8) All notifications under the code are delivered by electronic mail to the students' university email account. Any notifications sent via regular U.S. mail (for instance, to students not currently enrolled) may be sent to the party's last known address or the address on file with the university registrar. Students are responsible for maintaining an updated mailing address on file with the registrar. Deadlines described in the code begin the date the notification is sent via electronic means.

(9) Upon written request to the dean of students' office, staff will be available to the respondent and complainant (if applicable) to assist in understanding the student conduct process.

(10) A conduct officer's or board's determinations and findings are made on the basis of a "preponderance of the evidence," that is, whether it is more likely than not that the respondent violated the code.

(11) Evidence is relevant if it tends to make existence of a fact more or less probable. A conduct officer, conduct board chair, or dean of students shall have the discretion to determine admissibility of evidence.

(12) If respondent or complainant (if applicable) to whom notice of a meeting or hearing has been sent does not appear before a conduct officer or board, the complaint may be considered in their absence, and the conduct officer or board may issue a decision based upon that information.

(13) If any provision of this code is invalidated by court order or operation of law, the affected provision of the code will no longer apply.

[Statutory Authority: RCW 28B.35.120(12). WSR 24-21-105, s 516-21-270, filed 10/18/24, effective 11/18/24. Statutory Authority: RCW 28B.35.120(12) and 20 U.S.C. 1681-1688. WSR 22-01-075, § 516-21-270, filed 12/10/21, effective 12/11/21. Statutory Authority: RCW 28B.35.120, chapter 34.05 RCW, and 20 U.S.C. 1681-1688. WSR 17-05-100, § 516-21-270, filed 2/15/17, effective 3/18/17. Statutory Authority: RCW 28B.35.120(12) and 20 U.S.C. 1681-1688. WSR 12-01-021, § 516-21-270, filed 12/9/11, effective 1/9/12.]