



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: CENTRAL WASHINGTON UNIVERSITY

- Permanent Rule
 Emergency Rule

(1) Date of adoption:

(2) Purpose:
To provide a procedure and rules by which a student will be afforded due process in the matter of alleged violations of university standards, rules and requirements governing academic and social conduct of students.

(3) Citation of existing rules affected by this order:

Repealed:

Amended: 106-120-004, 005, 023, 024, 026, 027, 028, 033, 131, 132, 143

Suspended:

(4) Authority for adoption: RDW 34.05 and 28B.35.120(11)

Statute:

Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR _____ on _____ (date).

Describe any changes other than editing from proposed to adopted version:

(5.2) EMERGENCY RULE ONLY

Pursuant to RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Chapter 34.05 RCW went into effect July 1, 1989. To comply with the law, emergency adoption is necessary. In addition, an updated judicial code is needed immediately to meet catalog publication deadlines thereby facilitating distribution to students.

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If yes, explain:

(6) Effective date of rule:

Permanent Rules

- 31 days after filing
 Other (specify) _____ *

* (If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Emergency Rules

- Immediately
 Later (specify) _____

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

DEC 06 1990

TIME: 4:25

WSR 91-01-013

NAME (TYPE OR PRINT)

Donald L. Garrity

SIGNATURE

Donald L. Garrity

TITLE

President

DATE

12-4-90

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-004 DEFINITIONS. (1) "University" shall mean Central Washington University.

(2) ((~~"Dean"~~)) "Vice-president" shall mean the ((~~dean--of--students~~)) vice-president for student affairs of the university or the ((~~dean's~~)) vice-president's designee.

(3) "Student" shall mean a person enrolled at the university either full or ((~~parttime~~)) part time, pursuing undergraduate, graduate, or extension studies, or a person accepted for admission or readmission to the university.

(4) "University community" shall include the employees and students of Central Washington University and all property and equipment of the university.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-005 PROVISION FOR DUE PROCESS. The ((~~dean~~)) vice-president shall provide for due process for students throughout the behavioral problem solving intervention by following the proper steps related to the initiation, investigation, and disposition of complaints against a student which is outlined in WAC 106-120-131.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-023 CAMPUS JUDICIAL COUNCIL--MEMBERSHIP. The campus judicial council shall consist of three faculty members holding the rank of assistant professor or above, and ((~~six~~)) eight students, at least one of whom should be a graduate student if a graduate student files for appointment to the council.

(1) The faculty members of the council shall be designated in accordance with procedures established by the faculty senate.

(2) The student members of the council shall be selected in accordance with procedures established by the constitution of the associated students of Central Washington University. ((~~Six~~)) Eight student members shall be appointed, each student being appointed for a term of one calendar year. Terms of office for students begin with the first day of instruction of the academic year for which the student is appointed.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-024 CAMPUS JUDICIAL COUNCIL--CHAIR. A campus judicial council chair shall be elected at the first meeting each academic year and shall continue in office until the person resigns or is recalled. The duties of the chair are as follows:

(1) To call regular and special meetings of the council by notification to members at least twenty-four hours in advance of the meeting time, except in bona fide emergency situations.

(2) To preside over all regular and special meetings.

(3) To act as ((~~hearing~~)) presiding officer at all meetings of the ((~~hearing~~)) proceeding board.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-026 CAMPUS JUDICIAL COUNCIL--ADVISOR. The ((dean)) vice-president shall appoint a faculty member as a judicial council advisor whose duties shall be to convene the council, and advise the council during all meetings and hearings.

AMENDATORY SECTION (Amending Order 59, filed 11/7/86)

WAC 106-120-027 PROSCRIBED CONDUCT. A student shall be subject to disciplinary action or sanction upon violation of any of the following conduct proscriptions:

(1) Disruptive and disorderly conduct which interferes with the rights and opportunities of other students to pursue their academic studies.

(2) Academic dishonesty in all its forms including, but without being limited to:

(a) Cheating on tests.

(b) Copying from another student's test paper.

(c) Using materials during a test not authorized by the person giving the test.

(d) Collaboration with any other person during a test without authority.

(e) Knowingly obtaining, using, buying, selling, transporting, or soliciting in whole or in part the contents of an unadministered test or information about an unadministered test.

(f) Bribing any other person to obtain an unadministered test or information about an unadministered test.

(g) Substitution for another student or permitting any other person to substitute for oneself to take a test.

(h) "Plagiarism" which shall mean the appropriation of any other person's work and the unacknowledged incorporation of that work in one's own work offered for credit.

(i) "Collusion" which shall mean the unauthorized collaboration with any other person in preparing work offered for credit.

(3) Filing a formal complaint with the ((dean-of-students)) vice-president with the intention of falsely accusing another with having violated a provision of this code.

(4) Furnishing false information to any university official, especially during the investigation of alleged violations of this code.

(5) Furnishing false information to the campus judicial council with the intent to deceive, the intimidation of witnesses, the destruction of evidence with the intent to deny its presentation to the campus judicial council or the willful failure to appear before the campus judicial council or the ((dean-of-students)) vice-president when properly notified to appear.

((5)) (6) Intentionally setting off a fire alarm or reporting a fire or other emergency or tampering with fire or emergency equipment except when done with the reasonable belief in the existence of a need therefore.

((6)) (7) Forgery, alteration, or misuse of university documents, records, or identification cards.

((7)--Physically-abusing-or-intentionally-inflicting-severe-emotional-distress-upon-another-person,-whether-a-member-or-nonmember--of-the-university-community,-whether-occurring-on-or-off-campus))

(8) Sexual assault in any form, including acquaintance rape and other forced and/or nonconsensual sexual activity.

(9) Actual or attempted physical/emotional abuse of any person or conduct which threatens or endangers the health and safety of any person or which intentionally or recklessly causes a reasonable apprehension of harm to any person.

(10) Harassment of any sort or any malicious act which causes harm to any person's physical or mental well being.

(11) Recklessly engaging in conduct which creates a substantial risk of physical harm to another person.

(12) Creating noise in such a way as to interfere with university functions or using sound amplification equipment in a loud and raucous manner.

(13) Theft or malicious destruction, damage or misuse of university property, private property of another member of the university community, whether occurring on or off campus; or theft or malicious destruction, damage or misuse on campus of property of a nonmember of the university community.

((f9)) (14) Unauthorized seizure or occupation or unauthorized presence in any university building or facility.

((f0)) (15) Intentional disruption or obstruction of teaching, research, administration, disciplinary proceedings, or other university activities or programs whether occurring on or off campus or of activities or programs authorized or permitted by the university to be conducted on campus.

((f7)) (16) Intentional participation in a demonstration which is in violation of rules and regulations governing demonstrations promulgated by the university.

((f2)) (17) Unauthorized entry upon the property of the university or into a university facility or any portion thereof which has been reserved, restricted in use, or placed off limits; unauthorized presence in any university facility after closing hours; or unauthorized possession or use of a key to any university facility.

((f3)) (18) Possession or use on campus of any firearm, dangerous weapon or incendiary device or explosive unless such possession or use has been authorized by the university.

((f4)) (19) Possession, use, or distribution on campus of any controlled substance as defined by the laws of the United States or the state of Washington except as expressly permitted by law.

((f5)) (20) Violation of the university policy on alcoholic beverages which states:

(a) Persons twenty-one years of age or older may possess and/or consume alcoholic beverages within the privacy of their residence hall rooms or apartments. Washington state law provides severe penalties for the possession or consumption of alcoholic beverages by persons under twenty-one years of age and for persons who furnish alcoholic beverages to minors. All university students should be aware of these laws and the possible consequences of violations.

(b) The university does not condone the consumption of alcoholic beverages by minors at functions sponsored by Central Washington University organizations. Organizations are held responsible for the conduct of their members at functions sponsored by the organization and for failure to comply with Washington state law.

(c) The campus judicial council may place on probation any organization or prohibit a specific campus social function when the consumption of alcoholic beverages has become a problem of concern to the university.

((f6)) (21) Conduct which violates the university policies on computer use.

(22) Violation of clearly stated proscriptions in any published rule or regulation promulgated by any official campus committee or commission or council acting within the scope of its authority.

((f7)) (23) Violation on campus of any state or federal law or violation of any state or federal law off campus while participating in any university sponsored activity.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-028 DISCIPLINARY SANCTIONS. The following definitions of disciplinary terms have been established and may be the sanctions imposed by the ((dean)) vice-president or by the campus judicial council.

(1) Warning. Notice in writing that the student has violated university rules or regulations or has otherwise failed to meet the university's standard of conduct. Such warning will contain the statement that continuation or repetition of the specific conduct involved or other misconduct will normally result in one of the more serious disciplinary actions described below.

(2) Disciplinary probation. Formal action specifying the conditions under which a student may continue to be a student at the university including limitation of specified activities, movement, or presence on the CWU campus. The conditions specified may be in effect for a period of time or for the duration of the student's attendance at the university.

(3) Restitution. An individual student may be required to make restitution for damage or loss to university or other property and for injury to persons. Failure to make restitution will result in suspension for an indefinite period of time as set forth in subsection (4) below provided that a student may be reinstated upon payment.

(4) Suspension. Dismissal from the university and from status as a student for a stated period. The notice suspending the student will state in writing the term of the suspension and any condition(s) that must be met before readmission is granted. The student so suspended must demonstrate that the conditions for readmission have been met. There is to be no refund of fees for the quarter in which the action is taken, but fees paid in advance for a subsequent quarter are to be refunded.

(5) Deferred suspension. Notice of suspension from the university with the provision that the student may remain enrolled contingent on meeting a specified condition. Not meeting the contingency shall immediately invoke the suspension for the period of time and under the conditions originally imposed.

(6) Expulsion. The surrender of all rights and privileges of membership in the college community and exclusion from the campus without any possibility for return.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-033 READMISSION AFTER SUSPENSION. Any student suspended from the university under the provisions of the student judicial code may be readmitted upon expiration of the time period specified in the document of original suspension.

If circumstances warrant reconsideration of the suspension prior to its time of expiration, the student may be readmitted following approval of a written petition submitted to the ((dean)) vice-president. Such petitions must state reasons which either provide new evidence concerning the situation which resulted in the suspension, or demonstrate that earlier readmission is in the best interest of the student and the university. Approval for such readmission must be given by the ((dean)) vice-president or by the campus judicial council.

Students who have been suspended and whose suspension upon appeal is found to have been unwarranted shall be provided full opportunity to reestablish their academic and student standing to the extent possible within the abilities of the university, including an opportunity to retake examinations or otherwise complete course offerings missed by reason of such action.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-131 INITIATION, INVESTIGATION, AND DISPOSITION OF COMPLAINTS. (1) Philosophy.

When student behavioral problems occur, the university employs a team problem-solving approach. The director of housing, director of residence living, and the chief of campus police join the assistant and associate vice-president weekly to review residence living incident reports filed by living group advisors and hall managers, as well as campus police reports which cover both on-campus and off-campus students. This problem-solving team then deals with student behavioral problems which constitute violations of this code.

The problem-solving team works together to suggest intervention strategies which are considered to be most appropriate and effective for eliminating specific negative student behaviors.

(2) Process.

Incidents which come to the attention of the problem-solving team may be addressed in one of the following ways:

(a) No action;(b) Informal meetings with relevant university officials;

(c) Referral to the residence hall arbitration council, for resolving certain disputes within the residence halls;

(d) Proceedings in the office of the vice-president.

Official proceedings in the vice-president's office are conducted when it becomes apparent to the problem-solving team that the initial and more informal forms of intervention with a student have been unsuccessful in positively modifying a student's behavior. The following rules will govern the processing of alleged violations of the proscribed conduct listed in the ((campus)) student judicial code.

((1)) (3) A complaint alleging misconduct against any student at the university may be filed by anyone at the office of the ((dean)) vice-president. Students, faculty members, administrators and other employees of the university shall have concurrent authority to request the commencement of the disciplinary proceedings provided for in this chapter. A person filing a complaint shall be complainant of record.

((2)) (4) Any student charged in a complaint shall receive oral or written notification from the ((dean)) vice-president. Such notice shall:

(a) Inform the student that a complaint has been filed alleging that the student violated specific provisions of the students judicial code and the date of the violation(s); ((and))

(b) Set forth those provisions allegedly violated; ((and))

(c) Specify a time and date the student is required to meet with the ((dean)) vice-president or designee; and

(d) Inform the student that failure to appear at the appointed time at the ((dean's)) vice-president's office may subject the student to suspension from the university.

((3)) (5) When the ((dean)) vice-president meets with the student, the ((dean)) vice-president shall:

(a) Provide for the student a copy of the student judicial code;

(b) Review the facts of the alleged violation with the student;

and

(c) Conduct an investigation into the alleged violation.

((4)) (6) Upon completion of the review with the student and/or the investigation, the ((dean)) vice-president may:

(a) Drop the charges, when they appear to be invalid or without substance or capricious;

(b) Issue a verbal warning;

(c) Apply any of the sanctions as outlined in WAC 106-120-028 if such sanction is warranted by the evidence;

(d) Refer the case to the campus judicial council; or

(e) Invoke the summary suspension procedure as outlined in WAC 106-120-143 when deemed appropriate.

The ((dean)) vice-president shall inform the student that the ((dean's)) vice-president's sanction may be appealed to the campus judicial council, and that if an appeal is made, the ((dean)) vice-president shall take no action ((nor)) or make any determination,

except for summary suspension, in the matter other than to inform the student of the time, date, and location of the ((hearing)) proceeding by the campus judicial council.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-132 PROCEDURES FOR ((HEARING)) PROCEEDING BEFORE THE CAMPUS JUDICIAL COUNCIL. (1) When a case is referred to the campus judicial council the ((dean)) vice-president shall forward to the council:

- (a) A statement describing the alleged misconduct;
- (b) The name and address of the complainant;
- (c) The name and address of the student charged; and
- (d) All relevant facts and statements.

(2) The council chair shall call a special meeting of the council and arrange for a ((hearing)) proceeding in the following manner:

(a) The council shall determine the time and place of the ((hearing)) proceeding, which shall be at least ten days after delivery of written notice to the student. In the interest of timeliness and efficiency, upon the request of either the student or the vice-president, this ten-day interval may be waived by the vice-president, with the student's permission. Time and place shall be set to make the least inconvenience for all interested parties. The chair may change the time and place of the ((hearing)) proceeding for sufficient cause.

(b) The council shall draw lots ((to-determine-a--hearing--board, consisting--of--four--student--members--and--two--faculty--members--of--the--council,--and--the--chair--acting--as--hearing--officer)) for five student names, one of whom will serve as an alternate to be available until the proceeding board has been constituted.

(c) No case shall be heard unless the full membership of the ((hearing)) proceeding board is present.

(d) All cases will be heard de novo, whether the case be an appeal from a subsidiary judicial body or is heard as an original complaint.

(3) The council chair shall send written notice by certified mail of the ((hearing)) proceeding to the student to the student's last known address. The notice shall contain:

(a) A statement of the date, time, place and nature of the ((hearing)) proceeding;

(b) To the extent known, a list of witnesses who will appear; and

(c) A summary description of any documentary or other physical evidence that would be presented by the university.

(4) The student shall have all authority possessed by the university to obtain information he/she specifically describes in writing and tenders to the council chair no later than two days prior to the ((hearing)) proceeding or to request the presence of witnesses, or the production of other evidence relevant to the ((hearing)) proceeding. However, the university shall not be liable for information requested by the student or the presence of any witnesses when circumstances beyond the control of the university prevent the obtaining of such information or the attendance of such witnesses at the ((hearing)) proceeding.

(5) ((Hearings)) Proceedings will ordinarily be held in closed session unless the ((hearing)) proceeding board determines there is a compelling reason for the ((hearing)) proceeding to be open, or the student requests an open ((hearing)) proceeding. A closed ((hearing)) proceeding shall include only members of the ((hearing)) proceeding board, persons directly involved in the ((hearing)) proceeding as parties and persons called as witnesses.

(6) The ((hearing)) proceeding shall be audio tape recorded, and the tape shall be on file at the office of the ((dean)) vice-president for a period of three years.

(7) The university shall be represented by the ((dean)) vice-president who shall present the university's case against the student.

(8) The student may be accompanied by counsel, or another third party, who may offer advice. If the student utilizes an attorney as advisor, the student must give to the ((dean)) vice-president two days notice of intent to do so. If the student elects to be advised by an attorney, the ((dean)) vice-president may elect to have the university advised by an assistant attorney general.

(9) The council chair shall insure that:

(a) The ((hearing)) proceeding is held in an orderly manner giving full care that the rights of all parties to a full, fair and impartial ((hearing)) proceeding are maintained.

(b) The charges and supporting evidence or testimony shall be presented first, and that there is full opportunity for the accused student to challenge the testimony and/or evidence, and to cross examine appropriately.

(c) The student charged shall next present evidence or testimony to refute the charge, and that there is full opportunity for the accuser to challenge testimony and/or evidence, and to cross examine appropriately.

(d) Only those materials and matters presented at the ((hearing)) proceeding will be considered as evidence. The ((hearing)) presiding officer shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(10) Any person disruptive of the ((hearing)) proceeding or any other procedure described in this document may be excluded from the process by the chair of the campus judicial council or by the ((dean)) vice-president, using such means as are necessary to insure an orderly process. Any student engaging in such interference shall be in contempt and may be summarily suspended from the university by the campus judicial council or the ((dean)) vice-president immediately. The student shall be subject to a suspension or any lesser sanction as may be determined by the campus judicial council or the ((dean)) vice-president at the time the interference takes place or within fifteen working days thereafter.

(11) The student has a right to a fair and impartial ((hearing)) proceeding, but the student's failure to cooperate with or attend a ((hearing)) proceeding procedure shall not preclude the committee from making its finding of facts, conclusions, and recommendations. Failure by the student to cooperate may be taken into consideration by the campus judicial council and the ((dean)) vice-president in deciding the appropriate disciplinary action.

(12) Upon conclusion of the ((hearing)) proceeding, the ((hearing)) proceeding board in closed session shall consider all the evidence presented and decide by majority vote to exonerate the student or to impose one of the sanctions authorized by this document.

(13) The student shall be provided with a copy of the board's findings of fact and conclusions regarding whether the student did violate any rule or rules of the student judicial code and the board's decision as to the appropriate sanction to be imposed.

(14) If a student charged with misconduct under this code has been charged with a crime for the same act or closely related acts by federal, state, or local authorities, or if it appears that such criminal charge is under consideration, the campus judicial council may postpone action on the complaint until there has been a disposition of the criminal charge or of the consideration of filing such charge. However, prior to action by other agencies, the council may proceed to hear and decide the case if in the judgment of the council, the nature of the alleged misconduct and the circumstances surrounding it pose a serious risk to the health or well being of the student or other members of the university. If there is a determination of guilt by the council and if the subsequent criminal proceedings result in a judgment of acquittal, the student may petition the campus judicial council for a rehearing.

AMENDATORY SECTION (Amending Order 58, filed 3/15/85)

WAC 106-120-143 SUMMARY SUSPENSION PROCEEDINGS. The ((dean)) vice-president may summarily suspend any student from the university pending investigation, action of prosecution of charges of an alleged proscribed conduct violation or violations, if the ((dean)) vice-president has reason to believe that the student's physical or emotional safety and well-being, or the safety and well-being of other university community members, or the protection of property requires such suspension.

(1) If the ((dean)) vice-president finds it necessary to exercise the authority to summarily suspend a student the ((dean)) vice-president shall:

(a) Give to the student an oral or written notice of intent to determine if summary suspension is an appropriate action;

(b) Give an oral or written notice of the alleged misconduct and violation(s) to the student;

(c) Give an oral or written explanation of the evidence in support of the charge(s) to the student;

(d) Give an oral or written notice of the time and place of the summary suspension ((hearing)) proceeding before the ((dean)) vice-president; and

(e) Determine a time for the summary suspension ((hearing)) proceeding to be held within ((36)) thirty-six hours;

(f) Give an oral or written explanation of the summary suspension which may be imposed on the student.

(2) At the place and time designated for the summary suspension ((hearing)) proceeding, the ((dean)) vice-president shall:

(a) Consider the evidence relating specifically to the probability of danger to the student, to others on the campus, or to property;

(b) Provide the student with an opportunity to show why continued presence on campus does not constitute a danger to the physical and emotional well being of self or others, or a danger to property;

(c) Give immediate oral notice of his decision to the student to be followed by written notice; and

(d) If summary suspension is warranted, summarily suspend the student for no more than ((15)) fifteen working days with a judicial council ((hearing)) proceeding of the allegations to have commenced by the end of the suspension period.

(3) If a student has been instructed by the ((dean)) vice-president to appear for summary suspension proceedings and then fails to appear at the time designated, the ((dean)) vice-president may suspend the student from the university, and shall give written notice of suspension to the student at his last address of record on file with the university.

(4) During the period of summary suspension, the suspended student shall not enter the campus of the university other than to meet with the ((dean)) vice-president. However, the ((dean)) vice-president may grant the student special permission for the express purpose of meeting with faculty, staff, or students in preparation for a ((hearing)) proceeding before the campus judicial council.