

WSR 22-08-090
PROPOSED RULES
COMMUNITY COLLEGES
OF SPOKANE

[Filed April 5, 2022, 2:21 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-24-019.

Title of Rule and Other Identifying Information: Chapter 132Q-10 WAC, Standards of conduct for students.

Hearing Location(s): On May 17, 2022, at 8:30 a.m., at Lodge Building, 3305 West Whistalks Way, Spokane, WA 99224. Virtual meeting option - join Zoom meeting, <https://ccs-spokane.zoom.us/j/83755648757?pwd=ZGZGaHhXdnFvaldjU25zOG0wZjJ0UT09&from=addon>, Meeting ID 837 5564 8757, Passcode 252751; Mobile US +1 253 215 8782 or +1 346 248 7799 or +1 669 900 6833 or +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592. In-person attendees will be required to follow community colleges of Spokane (CCS) campus guidelines pertaining to COVID-19.

Date of Intended Adoption: May 17, 2022.

Submit Written Comments to: John O'Rourke, 501 North Riverpoint Boulevard, Mailstop 1006, Spokane, WA 99217-6000, email john.orourke@ccs.spokane.edu, mobile 509-220-4200, by October 14, 2021.

Assistance for Persons with Disabilities: Contact John O'Rourke, phone 509-434-5185, fax 509-434-5279, TTY 509-434-5275, email john.orourke@ccs.spokane.edu, mobile 509-220-4200, by March 11, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updates to the rules are necessary in order to add new language clarifying the appeal process including that parties have the right to appeal the dismissal of a formal complaint as well as language clarifying a president's authority to appoint an administrative law judge or third party to serve as hearing officer. In addition, on August 4, 2020, the Washington Court of Appeals Division III filed an opinion regarding academic misconduct in the *Daniel Nelson v. Spokane Community College* case (No. 36556-5-III). CCS will provide clarification regarding its treatment of academic misconduct to ensure compliance with the decision of the court of appeals.

Reasons Supporting Proposal: Clarifying the appeal process as well as language clarifying a president's authority to appoint an administrative law judge or third party to serve as hearing officer, and ensuring compliance with the decision of the Court of Appeals.

Statutory Authority for Adoption: Chapter 34.05 RCW; and RCW 28B.50.140(13).

Statute Being Implemented: Title IX 20 U.S.C. § 1681 et seq.

Rule is necessary because of federal law and state court decision, *Daniel Nelson v. Spokane Community College* case (No. 36556-5-III).

Name of Proponent: CCS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Patrick McEachern or Glen Cosby, Spokane, Washington, 509-533-3514 or 509-533-7015.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. CCS is not a listed agency under RCW 34.05.328 and is therefore exempt from this provision.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

April 5, 2022
John O'Rourke
WAC Coordinator

OTS-3575.2

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 1320-10-210 Academic dishonesty and other ethical violations. (1) Acts of academic dishonesty (~~((will be reported to the student conduct officer and))~~) include the following:

(a) Cheating which includes:

(i) Use of unauthorized assistance in taking quizzes, tests, or examinations.

(ii) Acquisition, without permission, of tests or other academic material belonging to a member of the college faculty or staff.

(iii) Fabrication, which is the intentional invention or counterfeiting of information in the course of an academic activity. Fabrication includes:

- Counterfeiting data, research results, information, or procedures with inadequate foundation in fact;
- Counterfeiting a record of internship or practicum experiences;
- Submitting a false excuse for absence or tardiness;
- Unauthorized multiple submission of the same work; sabotage of others' work.

(iv) Engaging in any behavior specifically prohibited by a faculty member in the course syllabus or class discussion.

(v) Plagiarism which includes the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

(vi) Facilitation of dishonesty, including not challenging academic dishonesty.

(b) Knowingly furnishing false information to any college official, faculty member, or office including submission of fraudulent transcripts from other institutions.

(c) Forgery, alteration or misuse of any college document, record or instrument of identification.

(d) Tampering with an election conducted by or for CCS college students.

(2) (~~(Acts of)~~) Other ethical violations (~~((will be reported to the student conduct officer and))~~) include the following: 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.

[Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-210, filed 7/21/15, effective 8/21/15.]

NEW SECTION

WAC 132Q-10-221 Faculty member authority to respond to academic dishonesty and other ethical violations. (1) A faculty member need not give credit for course work that is the product of cheating, plagiarism, or other dishonesty. For any act of dishonesty that occurs during an instructional course, the faculty member may impose reprimands, educational opportunities, and/or adjust the student's grade accordingly for the particular examination, paper, or other work product where that dishonesty occurred. Any such faculty response shall not limit or preclude disciplinary sanction(s) from the student conduct office for the same act of dishonesty.

(2) A student who has received a grade adjustment by the faculty member on the basis of academic dishonesty under this code may grieve that adjustment under the student complaint procedure; however, any sanction that is imposed by the student conduct officer or student conduct board or panel must be reviewed under the student disciplinary procedure. See WAC 132Q-10-335.

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AMENDATORY SECTION (Amending WSR 21-10-010, filed 4/23/21, effective 5/24/21)

WAC 132Q-10-600 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 Community Colleges of Spokane's standard disciplinary procedures, WAC 132Q-10-101 through 132Q-10-503, these supplemental procedures shall take precedence. The college may, at its discretion, contract with an administrative law judge or other person to act as presiding officer and assign such presiding officer to exercise any or all of the duties in lieu of the student conduct committee and committee chair.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13). WSR 21-10-010, § 132Q-10-600, filed 4/23/21, effective 5/24/21.]

AMENDATORY SECTION (Amending WSR 21-10-010, filed 4/23/21, effective 5/24/21)

WAC 132Q-10-608 Appeals. (1) ~~((The))~~ All parties, including the student conduct officer in their capacity as a representative of the college shall have the right to appeal from the ((initial order's)) determination of responsibility and/or from a dismissal ((of an allegation(s) of sexual harassment in a formal complaint. The right to ap-

peal will be subject to the same procedures and time frames set forth in WAC 132Q-10-335.)), in whole or part, of a formal complaint during the investigative or hearing process. Appeals must be in writing and filed with the appropriate vice president's office within 21 days of service of the initial order or notice of dismissal. Appeals must identify the specific findings of fact and/or conclusions of law in the initial order or dismissal that the appealing party is challenging and must contain argument as to why the appeal should be granted. Failure to file a timely appeal constitutes a waiver of the right to appeal and the initial order or dismissal shall be deemed final.

(2) For appeals coming from Spokane Community College, the vice president of student affairs at Spokane Falls Community College 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). For appeals coming from Spokane Falls Community College, the vice president of student services at Spokane Community College 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)) process the appeal. For appeals coming from Spokane Falls Community College, the vice president of student services at Spokane Community College will process the appeal.

(3) Upon receiving a timely appeal, the appropriately identified vice president's office will serve a copy of the appeal on all parties, who will have 10 days from the date of service to submit written responses to the appropriate vice president's office addressing issues raised in the appeal. Failure to file a timely response constitutes a waiver of the right to participate in the appeal. Upon receipt of written responses, the appropriate vice president shall serve copies of the responses to the other parties.

(4) Parties receiving a copy of the responses shall have five days in which to submit a written reply addressing issues raised in the responses to the appropriate vice president's office.

(5) The appropriate vice president or their delegate, based on their review of parties' submission and the hearing or investigative record, will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether a dismissal if affirmed or denied, or if the disciplinary sanctions and conditions imposed in the initial order are affirmed, vacated, or amended, and if amended set for the new disciplinary sanctions and conditions.

(6) The appropriate vice president of student affairs/services shall serve the final decision on the parties simultaneously.

(7) All administrative decisions reached through this process are and may be judicially appealed pursuant to applicable provisions of chapter 34.05 RCW including, but not limited to, the timelines set forth in RCW 34.05.542.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13). WSR 21-10-010, § 132Q-10-608, filed 4/23/21, effective 5/24/21.]