

WSR 22-23-142

PERMANENT RULES

WASHINGTON STATE UNIVERSITY

[Filed November 21, 2022, 1:23 p.m., effective January 1, 2023]

Effective Date of Rule: January 1, 2023.

Purpose: Washington State University (WSU) is updating the rules regarding the standards of conduct for students.

WSU is proposing changes to the standards of conduct for students (chapter 504-26 WAC) to maintain the spirit of the chapter while simplifying processes and consolidating definitions for clarity. The university remains committed to supporting students and recognized/registered student organizations and upholding their rights, while also holding them accountable for behavior that does not meet our community expectations. The proposed changes allow us to continue serving our community to meet these goals.

Citation of Rules Affected by this Order: Repealing WAC 504-26-214, 504-26-215, 504-26-216 and 504-26-226; and amending WAC 504-26-001, 504-26-010, 504-26-015, 504-26-020, 504-26-030, 504-26-040, 504-26-045, 504-26-050, 504-26-100, 504-26-105, 504-26-110, 504-26-115, 504-26-120, 504-26-125, 504-26-201, 504-26-202, 504-26-203, 504-26-204, 504-26-205, 504-26-206, 504-26-209, 504-26-211, 504-26-212, 504-26-213, 504-26-217, 504-26-218, 504-26-219, 504-26-220, 504-26-224, 504-26-227, 504-26-401, 504-26-402, 504-26-403, 504-26-409, 504-26-415, 504-26-420, 504-26-425, 504-26-504, 504-26-510, 504-26-515, 504-26-520, and 504-26-530.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 22-18-094 on September 7, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 36, Repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 36, Repealed 4.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 36, Repealed 4.

Date Adopted: November 18, 2022.

Deborah L. Bartlett, Director
Procedures, Records, and Forms
and University Rules Coordinator

OTS-4054.2

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-001 Preamble. Students have the responsibility to read and be familiar with the standards of conduct, to abide by them, and to understand that violations of these standards, if the student is found responsible, will result in educational sanctions. The dean of students or designee is the person designated by the university president to be responsible for the administration of the standards of conduct.

Washington State (~~(University's)~~) University has a long-standing commitment to providing students with a (~~(transformational)~~) holistic learning experience (~~(continues with a focus on enhancing the quality and relevance of the learning experience, providing more personalized student services, expanding learning opportunities outside the classroom, and developing a more cohesive student community. To this end,)~~) both in and out of the classroom. Students are expected to uphold and be accountable to (~~(high)~~) our standards of conduct (~~(that)~~) to foster a safe, healthy, and inclusive campus community. The basic philosophy behind the standards of conduct and processes is one of education, centered on student learning through personal development and accountability. Therefore, the student conduct process is designed to support students, guide and correct behaviors, challenge students to make better choices, (~~(and)~~) protect the rights (~~(and safety)~~) of all students, and support a safe environment for students, the university, and the community at large.

The university strives to provide a fair process for every student without bias or favor regardless of socioeconomic status, personal or social connections, race, (~~(color, creed, religion, national or ethnic origin, sex/gender)~~) sex and/or gender, sexual orientation, gender (~~(identity/expression)~~) identity or expression, religion, age, color, creed, national or ethnic origin, marital status, (~~(disability,)~~) genetic information, (~~(or)~~) status as an honorably discharged veteran or member of the military, physical, mental, or sensory disability, including the use of a trained service animal, or immigration or citizenship status, except as authorized by federal or state law, regulation, or government contract. It also has responsibility to inform and educate the university community, parents, and the public at large on these standards, uphold them, and exercise the authority to take educational and/or disciplinary action accordingly.

~~((Correspondingly, students have the responsibility to read and be familiar with the standards of conduct, to abide by them, and to understand that violation of these standards, if the student is found responsible, will result in disciplinary and/or educational sanctions. The vice president for student affairs is the person designated by the university president to be responsible for the administration of the standards of conduct.))~~

[Statutory Authority: RCW 28B.30.150. WSR 18-23-083, § 504-26-001, filed 11/19/18, effective 12/20/18; WSR 17-13-049, § 504-26-001, filed 6/15/17, effective 7/16/17; WSR 15-11-041, § 504-26-001, filed 5/14/15, effective 6/14/15; WSR 15-01-080, § 504-26-001, filed 12/15/14, effective 1/15/15; WSR 11-11-031, § 504-26-001, filed 5/11/11, effective 6/11/11; WSR 06-23-159, § 504-26-001, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-010 Definitions. Words and phrases used in the standards of conduct regardless of their associated gender identity include all genders. Words and phrases used in the standards of conduct in the singular or plural encompass both the singular and the plural, unless the context clearly indicates otherwise. For purposes of the standards of conduct, the following definitions apply:

(1) Academic integrity hearing board. Teaching faculty and student representatives who, collectively, are authorized by the university (~~or college~~) to review an instructor's determination that a student violated university academic integrity policies and whether or not the outcome proposed by the instructor is in keeping with the instructor's published policies.

(2) Academic integrity violation. A violation of the university's academic integrity expectations, which is defined as:

(a) Use of unauthorized materials in taking quizzes, tests, or examinations, or giving or receiving unauthorized assistance by any means, including talking, copying information from another student, using electronic devices, or taking an examination for another student.

(b) Use of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments.

(c) Acquisition or possession of tests or other academic material belonging to a member of the university faculty or staff when acquired without the permission of the university faculty or staff member.

(d) Fabrication, which is the intentional invention or counterfeiting of information in the course of an academic activity. Fabrication includes, but is not limited to:

(i) Counterfeiting data, research results, information, or procedures with inadequate foundation in fact. The office of research must be consulted in matters involving alleged research misconduct as that term is defined in the university's executive policy 33.

(ii) Counterfeiting a record of internship or practicum experiences.

(iii) Submitting a false excuse for absence or tardiness or a false explanation for failing to complete a class requirement or scheduled examination at the appointed date and time.

(e) Engaging in any behavior for the purpose of gaining an unfair advantage specifically prohibited by a faculty member in the course syllabus or class discussion.

(f) Scientific misconduct. Falsification, fabrication, plagiarism, or other forms of dishonesty in scientific and scholarly research are prohibited. Complaints and inquiries involving cases of scientific misconduct are managed according to the university's policy for responding to allegations of scientific misconduct. A finding of scientific misconduct is subject to sanctions by CCS. The policy for responding to allegations of scientific misconduct (executive policy 33) may be reviewed by contacting the office of research.

(g) Unauthorized collaboration on assignments.

(h) Intentionally obtaining unauthorized knowledge of examination materials.

(i) Plagiarism. Presenting the information, ideas, or phrasing of another person as the student's own work without proper acknowledgment of the source. This includes submitting a commercially prepared paper

or research project or submitting for academic credit any work done by someone else. The term "plagiarism" includes, but is not limited to, 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.

(j) Unauthorized multiple submission of the same work.

(k) Sabotage of others' work.

(l) Tampering with or falsifying records.

(m) Violating any other academic rule or standards specified in published course policies.

(3) Appeals board. The group of students, faculty, and staff, collectively, authorized in accordance with WAC 504-26-115 to consider appeals from a university conduct board's or conduct officer's determination as to whether a student has violated the standards of conduct and any sanctions assigned.

~~((3))~~ (4) Brief adjudication. The process by which a conduct officer may adjudicate student conduct matters that are not resolving allegations that would constitute Title IX sexual harassment within the university's Title IX jurisdiction, and where possible sanctions do not include suspension for more than ~~((ten))~~ 10 instructional days, expulsion, loss of recognition, or revocation of degree. Also referred to as a "conduct officer hearing" or "brief adjudicative proceeding."

~~((4))~~ (5) CCR. The university's office of compliance and civil rights.

~~((5) Cheating. Includes, but is not limited to:~~

~~(a) Use of unauthorized materials in taking quizzes, tests, or examinations, or giving or receiving unauthorized assistance by any means, including talking, copying information from another student, using electronic devices, or taking an examination for another student.~~

~~(b) Use of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments.~~

~~(c) Acquisition or possession of tests or other academic material belonging to a member of the university faculty or staff when acquired without the permission of the university faculty or staff member.~~

~~(d) Fabrication, which is the intentional invention or counterfeiting of information in the course of an academic activity. Fabrication includes, but is not limited to:~~

~~(i) Counterfeiting data, research results, information, or procedures with inadequate foundation in fact. The office of research must be consulted in matters involving alleged research misconduct as that term is defined in the university's executive policy 33.~~

~~(ii) Counterfeiting a record of internship or practicum experiences.~~

~~(iii) Submitting a false excuse for absence or tardiness or a false explanation for failing to complete a class requirement or scheduled examination at the appointed date and time.~~

~~(e) Engaging in any behavior for the purpose of gaining an unfair advantage specifically prohibited by a faculty member in the course syllabus or class discussion.~~

~~(f) Scientific misconduct. Falsification, fabrication, plagiarism, or other forms of dishonesty in scientific and scholarly research are prohibited. Complaints and inquiries involving cases of scientific misconduct are managed according to the university's policy~~

for responding to allegations of scientific misconduct. A finding of scientific misconduct is subject to sanctions by the center for community standards. The policy for responding to allegations of scientific misconduct (executive policy 33) may be reviewed by contacting the office of research.

~~(g) Unauthorized collaboration on assignments.~~

~~(h) Intentionally obtaining unauthorized knowledge of examination materials.~~

~~(i) Plagiarism. Presenting the information, ideas, or phrasing of another person as the student's own work without proper acknowledgment of the source. This includes submitting a commercially prepared paper or research project or submitting for academic credit any work done by someone else. The term "plagiarism" includes, but is not limited to, 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.~~

~~(j) Unauthorized multiple submission of the same work.~~

~~(k) Sabotage of others' work.~~

~~(l) Tampering with or falsifying records.)~~

(6) CCS. The university's center for community standards.

(7) Complainant. Any person who is the alleged victim of prohibited student conduct, whether or not such person has made an actual complaint. ((Any individual, group, or entity, including the university, who submits a complaint alleging that a student or a registered or recognized student organization violated the standards of conduct.

~~(7-))~~ (8) Conduct board. The group of students, faculty, and staff, collectively authorized in accordance with WAC 504-26-110 to adjudicate certain student conduct matters.

((8)) (9) Conduct officer. A university official authorized by the ((vice president for student affairs)) dean of students or their designee to initiate, manage, and/or adjudicate certain student conduct matters in accordance with WAC 504-26-401 and 504-26-402.

((9)) (10) Faculty member. For purposes of this chapter, any person hired by the university to conduct classroom or teaching activities or who is otherwise considered by the university to be a member of its faculty.

((10)) (11) Full adjudication. The process by which a conduct board adjudicates matters involving possible suspension of greater than ((ten)) 10 instructional days, expulsion, loss of recognition, revocation of degree, or other matters as determined by the university. Also referred to as "formal adjudication," "formal (or full) adjudicative proceeding," or "conduct board hearing."

((11)) (12) Gender identity. Having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to the person at birth.

((12)) (13) Member of the university community. Includes any person who is a student, faculty member, university official, any person employed by the university, or any person with a relationship with the university, including guests of and visitors to the university. A person's status in a particular situation is determined by the ((vice president for student affairs)) dean of students or designee.

((13)) (14) Parties. The parties to a student conduct proceeding must include the university and the respondent. The parties in a

student conduct matter where the allegations, if true, would constitute Title IX sexual harassment within the university's Title IX jurisdiction must also include the complainant(s). The university may designate other complainants (~~(, individuals, or recognized or registered student organizations)~~) as parties to conduct proceedings (~~(, or allow individuals or recognized or registered student organizations to intervene in conduct proceedings.~~

~~(14) Policies. The written rules and regulations of the university as found in, but not limited to, the standards of conduct, university policy manuals, housing and dining policies, academic regulations, and the university's graduate, undergraduate, and professional catalogs and other publications, including electronic publications) including, but not limited to, harmed parties. The dean of students or their designee determines party status for complainants.~~

(15) Recognized or registered student organization. A group of students, collectively, that has complied with the formal requirements for university recognition or registration.

(16) Respondent. A student or recognized or registered student organization alleged to have violated these standards of conduct.

(17) Standards of conduct. The standards of conduct for students outlined in this chapter.

(18) Student. For the purposes of this chapter, any person ((taking)) who:

(a) Is enrolled in at least one undergraduate, graduate, or professional studies course((s)) at the university((, either full-time or part-time, pursuing undergraduate, graduate, or professional studies. Persons who withdraw after allegedly violating the standards of conduct, who are not officially enrolled for a particular term but who have a continuing relationship with the university (including suspended students) or who have));

(b) Has been notified of their acceptance for admission ((are considered "students" as are persons who are living in university residence halls, even if not enrolled.

~~(18))~~ but has not yet registered for their course(s);

(c) Is eligible to reenroll in classes without reapplying.

(19) Title IX. Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 and its implementing 34 C.F.R. Part 106.

~~((19))~~ (20) University. ~~((includes all locations, premises, programs, and operations of))~~ Washington State University.

~~((20))~~ (21) University official. Any person employed by the university, performing assigned administrative or professional responsibilities.

~~((21))~~ (22) University premises. All land, buildings, facilities, vehicles, websites, and other property in the possession of or owned, used, or controlled by the university (including adjacent streets and sidewalks), including its study abroad program sites, as well as university-sponsored or hosted online platforms.

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-010, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-010, filed 11/19/18, effective 12/20/18; WSR 17-13-049, § 504-26-010, filed 6/15/17, effective 7/16/17; WSR 16-08-014, § 504-26-010, filed 3/28/16, effective 4/28/16; WSR 15-01-080, § 504-26-010, filed 12/15/14, effective 1/15/15; WSR 11-11-031, § 504-26-010, filed 5/11/11, effective 6/11/11; WSR 07-11-030, § 504-26-010, filed 5/8/07, effective 6/8/07; WSR 06-23-159, § 504-26-010, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-015 Jurisdiction and applicability—Relationship to other proceedings. (1) General. The standards of conduct apply to conduct that occurs on university premises or in connection with university sponsored activities, including transit to or from the activity.

(2) Off-campus conduct. In addition to subsection (1) of this section, the standards of conduct may apply to conduct that occurs off university premises and not in connection with university-sponsored activities, if the conduct adversely affects the health and/or safety of the university community or the pursuit of the university's vision, mission, or values.

~~((a))~~ The university has sole discretion to make this determination. In making this determination, the conduct officer considers whether the alleged conduct:

~~((i))~~ (a) Requires the university to exercise jurisdiction under law or as required by federal or state agencies;

~~((ii))~~ (b) Negatively impacted the reputation of the university or its students;

~~((iii))~~ (c) Occurred on the property of recognized or registered student organizations;

~~((iv))~~ (d) Caused physical, mental, or emotional harm to another; or

~~((v))~~ (e) Was recognized by onlookers, complainants, or witnesses as being carried out by a student or recognized or registered student organization.

~~((b) When the university chooses to exercise jurisdiction for off-campus conduct not in connection with a university-sponsored activity, the parties must be notified in writing of the decision and the reasons for the decision, and their right to challenge the decision to the vice president for student affairs or designee. Challenges to jurisdiction must be in writing and filed within five calendar days from the date the notice is sent. In cases implicating Washington State University's executive policy 15, the vice president for student affairs or designee must consult with the university's Title IX coordinator.)~~

(3) Online conduct - Electronic communications. These standards of conduct may be applied to behavior conducted online, via electronic mail, text message, or other electronic means.

(4) Time frame for applicability. Each student is responsible and accountable for their conduct from the time of application for admission through the actual ~~((awarding))~~ conferral of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. These standards apply to a student's conduct during that time frame, even if the student withdraws from school, takes a leave of absence, or graduates.

(5) Group accountability. Recognized or registered student organizations that violate university policies and the standards of conduct are subject to sanctions. A recognized or registered student organization may be held accountable for the behavior of its officers, members, or guests when the university demonstrates that:

(a) The organization or its officers should have foreseen that behavior constituting a violation was likely to occur, yet failed to take reasonable precautions against such behavior;

(b) A policy or practice of the organization was responsible for a violation; or

(c) The behavior constituting a violation was committed by, condoned by, or involved a ((significant)) number of organization officers, members, or guests.

(6) International and national study programs. Students who participate in any university-sponsored or sanctioned international or national study program must observe the following rules and regulations:

(a) The laws of the host country and/or state;

(b) The academic and disciplinary regulations of the educational institution or residential housing program where the student is studying;

(c) Any other agreements related to the student's study program; and

(d) These standards of conduct.

(7) Academic and professional standards. Nothing in these standards of conduct is to be construed as limiting academic action that may be taken by a program or other academic unit against a respondent who, based on an established violation of these standards or otherwise, demonstrates a failure to meet the academic and/or professional standards of the program.

(8) Relationship between student conduct process and other legal processes. The university is not required to stay a student conduct proceeding pending any criminal or civil proceeding, nor must the disposition of any such criminal or civil proceeding control the outcome of any student conduct proceeding. Respondents may choose to remain silent during conduct proceedings, in accordance with WAC 504-26-045.

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-015, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-015, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-020 Advisors and representatives. (1) Advisors. Any party may have an advisor of their choice, provided that person agrees to serve as an advisor, to be present during all stages of a conduct process. ((Upon a party's request,)) A list of university employees who are trained advisors ((from outside the office of the dean of students (and those offices reporting to the dean of students) who)) is provided upon a party's request. Advisors can provide support at no cost to the ((student is provided)) party. Advisors may assist any party engaged in the conduct process and attend meetings and hearings. Advisors may not be witnesses to the alleged behavior. Advisors may not be employed in CCS.

(2) ~~((Communication with the center for community standards. Advisors and representatives may communicate directly with the center for community standards to receive information on dates and times of meetings, status of conduct processes, and outcomes. As a condition of participation in the conduct process, the center for community stand-~~

~~ards may require advisors and representatives to sign a statement agreeing to comply with legal requirements and university rules including, but not limited to, requirements related to confidentiality of student information.~~

~~(3))~~ Advisors in conduct meetings and conduct officer hearings. During any conduct meeting or conduct officer hearing, breaks may be taken, within reason, to allow a party to consult with their advisor. However, advisors are not permitted to speak on behalf of parties.

~~((4))~~ (3) Advisors in conduct board hearings. As with all other conduct meetings and conduct officer hearings, advisors are not permitted to speak on behalf of parties, except that in conduct board hearings, advisors are permitted to ask relevant cross-examination questions as instructed by a party.

~~((5))~~ (4) Representatives. A party may choose to be represented during a full adjudication, at their own expense. Only persons currently admitted to practice law, including licensed legal interns, are permitted to act as representatives. ~~((In conduct board hearings,))~~ Representatives are not permitted in conduct officer hearings; however, persons currently admitted to practice law may participate as advisors in conduct officer hearings.

(5) As a condition of participation in the conduct process, CCS may require advisors and representatives to sign a statement agreeing to comply with legal requirements and university rules including, but not limited to, requirements related to confidentiality of student information.

(6) Questions regarding logistical and administrative issues are to be directed to the presiding officer or conduct officer, who may impose reasonable conditions upon participation of advisors and representatives.

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-020, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-020, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-030 Consolidation. In any student conduct matter in which there are common issues or parties, ~~((the parties may request, or))~~ the conduct officer or presiding officer may decide ~~((7))~~ to consolidate the proceedings. This decision is within the sole discretion of the conduct officer or presiding officer.

[Statutory Authority: RCW 28B.30.150. WSR 18-23-083, § 504-26-030, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-040 Presumptions and standard of proof. ~~((All students and registered or recognized student organizations))~~ Respondents are presumed "not responsible" for alleged violations. Any violation must be proven by a preponderance of the evidence, meaning that it is

more likely than not that the violation occurred. (~~As part of the university's opening statement in any conduct board hearing, the university's representative must read a statement to this effect.~~)

[Statutory Authority: RCW 28B.30.150. WSR 18-23-083, § 504-26-040, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 22-07-043, filed 3/14/22, effective 4/14/22)

WAC 504-26-045 Evidence. (1) Evidence, including hearsay evidence, is admissible in student conduct proceedings if, in the judgment of the conduct officer or presiding officer, it is the kind of evidence that reasonably prudent persons are accustomed to rely on in the conduct of their affairs. The conduct officer or presiding officer determines the admissibility and relevance of all information and evidence.

(2) The sexual history of a complainant is not relevant and not admissible in a student conduct proceeding unless such evidence about the complainant's sexual predisposition or prior sexual behavior is offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

(3) (~~Students~~) Parties may choose to remain silent during conduct proceedings, recognizing that they give up the opportunity to explain their version of events and that the decision is made based on the information presented at the hearing. No (~~student~~) party must be compelled to give self-incriminating evidence, and no negative inference will be drawn from a (~~student's~~) party's refusal to participate in any stage of the conduct proceeding. If either party does not attend or participate in a hearing, the conduct officer or conduct board may resolve the matter based on the information available at the time of the hearing.

[Statutory Authority: RCW 28B.30.150. WSR 22-07-043, § 504-26-045, filed 3/14/22, effective 4/14/22; WSR 21-07-057, § 504-26-045, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-045, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-050 ((Interim)) Supportive measures. (1) While a student conduct matter is pending, the university may take a number of (~~interim actions or~~) supportive measures (~~in order~~) on an interim basis to ensure the preservation of the educational experience and the overall university environment of the parties.

(a) These actions may include, but are not limited to:

(~~(a)~~) (i) A no-contact (~~order~~) directive assigned to any party;

(~~(b)~~) (ii) University housing room change for one or more involved parties; and/or

~~((e))~~ (iii) Changes in academic schedules or assignments for (any party) one or more involved parties.

~~((2) As stated in the university's housing and dining policies, the university reserves the right to assign roommates, to change room or hall assignments, and/or to consolidate vacancies by requiring residents to move from one room to another in the event such reassignments are determined to be necessary by the university.~~

~~(3))~~ (b) These actions for registered or recognized student organizations may include, but are not limited to:

(i) Loss of recognition;

(ii) Restriction of specified operational activities.

(2) University departments ~~((taking interim or))~~ implementing supportive measures must coordinate with ~~((the center for community standards))~~ CCS, which advises the parties of the ~~((interim))~~ supportive measures and the process for challenging them. For matters involving the university's executive policy 15, the departments must also consult with CCR regarding ~~((interim or))~~ supportive measures. ~~((Interim and))~~ Supportive measures are not sanctions and do not imply or assume responsibility for a violation of the standards of conduct.

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-050, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-050, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-100 Presiding officers. Full adjudicative proceedings are conducted by the conduct board and are presided over by an individual who is licensed to practice law in the state of Washington and has judicial training. The presiding officer's role is to ensure a fair and impartial process and is limited to making procedural and evidentiary rulings and handling logistical and other matters related to facilitating the proceedings to ensure compliance with legal requirements. The presiding officer must transmit a full and complete record of the proceedings to ~~((the center for community standards))~~ CCS and the conduct board, including such comments upon demeanor of witnesses as the presiding officer deems relevant, in accordance with RCW 34.05.461. The presiding officer does not vote and is not considered for purposes of creating a quorum of the conduct board.

[Statutory Authority: RCW 28B.30.150. WSR 18-23-083, § 504-26-100, filed 11/19/18, effective 12/20/18; WSR 17-13-049, § 504-26-100, filed 6/15/17, effective 7/16/17; WSR 15-11-041, § 504-26-100, filed 5/14/15, effective 6/14/15; WSR 15-01-080, § 504-26-100, filed 12/15/14, effective 1/15/15; WSR 12-04-049, § 504-26-100, filed 1/30/12, effective 3/1/12; WSR 06-23-159, § 504-26-100, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-105 Recruitment, appointment, and term of conduct and appeals board members. A committee comprised of students, staff, ~~((and))~~ and/or faculty members and convened by the ~~((vice president for student affairs))~~ dean of students selects a pool of members of the university community to serve as conduct board members ~~((, as well as a separate pool for))~~ and appeals board members. ~~((Each pool must include representatives from all WSU campuses.))~~ Pool members are approved by the university president and must be in good standing with the university. Pool members serve a maximum term of four calendar years but may apply to serve another four-year term after a break of two years. Terms of pool members are staggered. ~~((Boards are convened by the vice president for student affairs or designee. The center for community standards))~~ CCS is not involved in the recruitment or application processes for board members.

[Statutory Authority: RCW 28B.30.150. WSR 18-23-083, § 504-26-105, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 20-07-075, filed 3/16/20, effective 4/16/20)

WAC 504-26-110 Composition of conduct board. A conduct board must consist of at least three members. A quorum of three is needed to hear a matter. The presiding officer is not a member of the conduct board and therefore is not considered for purposes of determining whether there is a quorum. A minimum of one conduct board member hearing a matter must be ~~((an enrolled WSU))~~ a student ~~((undergraduate, graduate, or professional) and may be full-time or part-time))~~. The remaining members may be students, or full-time or part-time faculty or staff of any rank or classification. When the complainant or respondent is enrolled at a particular campus, at least one member of the conduct board must be from that campus. No conduct board member may serve on a case if the member previously served on a board in a case involving the same complainant or respondent.

[Statutory Authority: RCW 28B.30.150. WSR 20-07-075, § 504-26-110, filed 3/16/20, effective 4/16/20; WSR 18-23-083, § 504-26-110, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-115 Composition of appeals board. ~~((The))~~ An appeals board must consist of at least three members. A quorum of three is needed to review a matter. A ~~((majority of))~~ minimum of one appeals board member ~~((s))~~ hearing a matter must be ~~((enrolled WSU students (undergraduate, graduate, or professional) and may be full-time or part-time))~~ a student. The remaining members may be students, or full-time or part-time faculty or staff of any rank or classification. No appeals board member may serve on a case if the member previously

served on a board (~~(en)~~) in a case involving the same complainant or respondent. (~~The vice president for student affairs or designee is responsible for designating one of the three appeals board members as chair.~~) One member of the appeals board serves as the chair of the board. The chair is responsible for ensuring a fair and impartial process and is a voting member of the appeals board.

[Statutory Authority: RCW 28B.30.150. WSR 18-23-083, § 504-26-115, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-120 Training. (1) Board members (~~and presiding officers~~). Conduct board members (~~(r)~~) and appeals board members (~~(r) and presiding officers~~) must not participate in any student conduct matter until, at a minimum, training in the following areas has been completed:

- (a) (~~Cultural competency~~) Diversity, equity, inclusion, and implicit bias;
- (b) Student development and student conduct philosophies, including the educational component of the student conduct process;
- (c) (~~Identifying bias against individuals and against groups;~~
- ~~(d) Conflict of interest;~~
- ~~(e)~~) Fair and equitable decision making, including:
 - (i) Due process;
 - (ii) Standards of proof;
 - (iii) Relevant and admissible evidence;
 - (iv) Conflict of interest; and
 - (v) Identifying bias;
 - (d) Sexual assault and gender-based violence;
 - (~~(f)~~) (e) Alcohol and drug prevention;
 - (~~(g) Due process and burden of proof in student conduct matters;~~
 - ~~(h)~~) (f) Sanctioning principles and guidelines; and
 - (~~(i)~~) (g) Title IX regulatory definitions, jurisdiction, and grievance processes (~~(j) and~~
 - ~~(j) Relevant and admissible evidence).~~

(2) Conduct officers. Conduct officers must not participate in any student conduct matter until, at a minimum, training in the following areas has been completed:

- (a) Alternative dispute resolution;
- (b) Restorative justice; and
- (c) All training required of board members (see subsection (1) of this section).

(3) Presiding officers. Presiding officers must not participate in any student conduct matter until, at a minimum, training in the following areas has been completed:

- (a) Diversity, equity, inclusion, and implicit bias;
- (b) Student development and student conduct philosophies, including the educational component of the student conduct process;
- (c) Title IX regulatory definitions, jurisdiction, and grievance processes.

(4) Renewal of training. Training must be renewed on (~~an annual~~) a biennial basis.

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-120, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-120, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-125 Recusal. (1) Notification of names of conduct officers and board members. All parties must be notified of the names of conduct officers, conduct board members, and/or appeals board members assigned to their case no later than ~~((ten))~~ seven calendar days prior to the hearing or appeals board meeting date.

(2) Requesting recusal of conduct officers and board members. A party requesting recusal of a conduct officer or conduct/appeals board member must demonstrate good cause. ~~((The request must be made in writing no later than five calendar days prior to the date of the conduct hearing or appeals board meeting.))~~ For conduct board members, the presiding officer is responsible for granting or denying requests. For conduct officers and appeals board members, the ~~((vice president for student affairs))~~ dean of students or designee is responsible for granting or denying requests.

(3) Presiding officer. Requests for recusal of the presiding officer are governed by the model rules of procedure, WAC 10-08-050(2).

~~((4) Self-recusal in the event of conflict of interest. Conduct officers and board members must be trained in conflict of interest. For any matter in which they are participating, if they identify a potential conflict of interest, appeals board members and conduct officers must promptly notify and consult with the vice president for student affairs or designee, while conduct board members must promptly notify and consult with the presiding officer. Conduct officers and board members must recuse themselves if, after consultation, an actual conflict is determined to exist. If a potential conflict is identified but is determined by the vice president or designee or presiding officer, as applicable, to be insufficient to justify removal of the person, the parties must be notified of the potential conflict and reasons for determining that it does not pose an actual conflict. For purposes of this subsection, a conflict of interest is defined as a personal interest, financial, familial, or otherwise, that might impair, or reasonably appear to an objective, outside observer to impair, a person's independent unbiased judgment in the discharge of their official responsibilities.))~~

[Statutory Authority: RCW 28B.30.150. WSR 18-23-083, § 504-26-125, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-201 Misconduct—Rules and regulations. Any student or recognized or registered student organization found to have committed, assisted, conspired, or attempted to commit the following miscon-

duct (WAC 504-26-202 through 504-26-230) is subject to the disciplinary sanctions outlined in WAC (~~(504-26-405)~~) 504-26-425.

[Statutory Authority: RCW 28B.30.150. WSR 18-23-083, § 504-26-201, filed 11/19/18, effective 12/20/18; WSR 15-01-080, § 504-26-201, filed 12/15/14, effective 1/15/15; WSR 08-05-001, § 504-26-201, filed 2/6/08, effective 3/8/08; WSR 07-11-030, § 504-26-201, filed 5/8/07, effective 6/8/07; WSR 06-23-159, § 504-26-201, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 15-01-080, filed 12/15/14, effective 1/15/15)

WAC 504-26-202 Acts of dishonesty. Acts of dishonesty (~~(include, but are not limited to, those listed in this chapter)~~) are defined as:

(1) Academic integrity violations (~~(including, but not limited to, cheating as defined in WAC 504-26-010)~~).

(2) Knowingly furnishing false information, knowingly omitting relevant information, or knowingly misrepresenting information to any person, including university officials, faculty members, or administrators. It is not a violation of this section to refuse to give self-incriminating evidence to a university official, faculty member, or administrator. (See WAC 504-26-045.)

(3) Forgery, alteration, or misuse of any university document or record, or instrument of identification whether issued by the university or other state or federal agency.

(4) Fraud (~~(or misrepresentation)~~).

[Statutory Authority: RCW 28B.30.150. WSR 15-01-080, § 504-26-202, filed 12/15/14, effective 1/15/15; WSR 08-05-001, § 504-26-202, filed 2/6/08, effective 3/8/08; WSR 07-11-030, § 504-26-202, filed 5/8/07, effective 6/8/07; WSR 06-23-159, § 504-26-202, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-203 Disruption or obstruction. Students have the right to freedom of speech, including the right to dissent (~~(or)~~) and protest, but this expression may not interfere with the rights of others or substantially disrupt or materially interfere with the university's activities. Time, place, and manner restrictions apply. (See chapter 504-33 WAC.) Behavior prohibited ((behavior includes)) by this section is:

(1) Substantial disruption or ((obstruction of)) material interference with the university's activities by any means including use of telephone, computer, or some other medium. University activities include, but are not limited to, teaching, research, administration, or disciplinary proceedings ((, other university activities, including its public service functions on or off campus, or of other authorized non-university activities when the conduct occurs on university premises or is directed toward any member of the university community by any

~~means including use of telephone, computer, or some other medium)).~~
University activities may also include activities of other entities that are authorized to be conducted on the university premises.

(2) Obstruction of the free flow of persons, including pedestrian or vehicular traffic on university premises or at university-sponsored or supervised functions.

(3) Conduct that substantially prevents any member of the university community from completing their duties.

[Statutory Authority: RCW 28B.30.150. WSR 18-23-083, § 504-26-203, filed 11/19/18, effective 12/20/18; WSR 07-11-030, § 504-26-203, filed 5/8/07, effective 6/8/07; WSR 06-23-159, § 504-26-203, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-204 (~~Abuse of others or disruption or interference with the university community.~~) Physical harm or direct threat.

~~((Abuse of others or disruption or interference with the university community is defined as:~~

~~(1)) Physical ((abuse)) harm, direct threats, ((intimidation,)) and/or other conduct that ((threatens, endangers, harms, or)) undermines the ((health,)) safety((, or welfare)) of the university community or any person.~~

~~((2) Conduct that disrupts the university community or prevents any member of the university community from completing their duties.~~

~~(3) Conduct that interferes with or disrupts the university's mission, operations, or activities.))~~

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-204, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-204, filed 11/19/18, effective 12/20/18; WSR 15-01-080, § 504-26-204, filed 12/15/14, effective 1/15/15; WSR 14-11-025, § 504-26-204, filed 5/12/14, effective 6/12/14; WSR 06-23-159, § 504-26-204, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 06-23-159, filed 11/22/06, effective 12/23/06)

WAC 504-26-205 Theft or damage to property. Theft of, and/or the intentional or reckless damage to, the property of another.

[Statutory Authority: RCW 28B.30.150. WSR 06-23-159, § 504-26-205, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-206 Hazing. (1) ~~((No student or recognized or registered student organization at Washington State University may conspire to engage in hazing or participate in hazing of another.~~

~~(a)) Hazing includes any ((activity expected of someone joining a group (or maintaining full status in a group) that causes or is likely to cause a risk of mental, emotional and/or physical)) act committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a recognized or registered 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 psychological or emotional harm, regardless of the person's willingness to participate.~~

~~((b))~~ (2) Hazing activities may include, but are not limited to ~~((, the following))~~:

~~((Abuse))~~ (a) Use of alcohol during ((new member)) activities targeted towards new members;

(b) Striking another person whether by use of any object or one's body;

(c) Creation of excessive fatigue;

(d) Physical and/or psychological shock;

(e) Morally degrading or humiliating games or activities ((that create a risk of bodily, emotional, or mental harm.

~~((e)))~~;

(f) Causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance regardless of the person's willingness to participate;

(g) Unreasonable or unnatural physical activity.

(3) Hazing does not include practice, training, conditioning and eligibility requirements for customary athletic events such as intramural or club sports and NCAA athletics, or other similar contests or competitions ~~((, but gratuitous hazing activities occurring as part of such customary athletic event or contest are prohibited))~~.

~~((2))~~ Washington state law also prohibits hazing which may subject violators to criminal prosecution. As used in RCW 28B.10.901 and 28B.10.902, "hazing" includes any method of initiation into a recognized or registered student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending a public or private institution of higher education or other postsecondary education institution in this state.

(3) Washington state law (RCW 28B.10.901) also provides sanctions for hazing:

(a) Any person who violates this rule, in addition to other sanctions that may be assigned, forfeits any entitlement to state-funded grants, scholarships, or awards for a period of time determined by the university.

(b) Any recognized or registered student organization that knowingly permits hazing by its members or others subject to its direction or control must be deprived of any official recognition or approval granted by the university.)

(4) Hazing is prohibited both on and off campus.

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-206, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-206, filed 11/19/18, effective 12/20/18; WSR 06-23-159, § 504-26-206, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-209 Violation of university policy, rule, or regulation. Violation of any university policy, rule, or regulation published electronically on the university website or in hard copy including, but not limited to, (~~Washington State~~) the university's alcohol and drug policy, executive policy 15, and housing and residence life policy.

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-209, filed 3/15/21, effective 4/15/21; WSR 15-01-080, § 504-26-209, filed 12/15/14, effective 1/15/15; WSR 11-11-031, § 504-26-209, filed 5/11/11, effective 6/11/11; WSR 06-23-159, § 504-26-209, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 06-23-159, filed 11/22/06, effective 12/23/06)

WAC 504-26-211 Drugs and drug paraphernalia. Use, possession, manufacture, or distribution of (~~marijuana~~) cannabis, narcotics, or other controlled substances, (~~and~~) or drug paraphernalia except as permitted by federal, state, and local law.

[Statutory Authority: RCW 28B.30.150. WSR 06-23-159, § 504-26-211, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 15-11-041, filed 5/14/15, effective 6/14/15)

WAC 504-26-212 Alcohol. Use, possession, manufacture, or distribution of alcoholic beverages to any person under 21 years old or by any person under 21 years old (except as expressly permitted by university regulations, and federal, state, and local laws), or public intoxication (~~(. Alcoholic beverages may not, in any circumstance, be used by, possessed by, or distributed to any person not of legal))~~) at any age.

[Statutory Authority: RCW 28B.30.150. WSR 15-11-041, § 504-26-212, filed 5/14/15, effective 6/14/15; WSR 15-01-080, § 504-26-212, filed 12/15/14, effective 1/15/15; WSR 06-23-159, § 504-26-212, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 20-07-075, filed 3/16/20, effective 4/16/20)

WAC 504-26-213 Firearms and dangerous weapons. No student may ~~((carry,))~~ possess ~~((,))~~ or use any firearm (including airsoft guns), explosive (including fireworks), dangerous chemicals (excluding pepper spray), or ~~((any))~~ other dangerous weapons or instrumentalities (including tasers) on university premises ~~((or in university-approved housing. Airsoft guns and other items that shoot projectiles are not permitted in university-approved housing))~~. This prohibition does not apply to possession of such items for authorized university purposes; possession of such items by authorized law enforcement officers; or individuals who have obtained prior written approval from the university chief of police, president, or designee.

[Statutory Authority: RCW 28B.30.150. WSR 20-07-075, § 504-26-213, filed 3/16/20, effective 4/16/20; WSR 18-23-083, § 504-26-213, filed 11/19/18, effective 12/20/18; WSR 08-05-001, § 504-26-213, filed 2/6/08, effective 3/8/08; WSR 06-23-159, § 504-26-213, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-217 Unauthorized use of electronic or other devices. ~~((Unauthorized use of electronic or other devices:))~~ Making an audio, digital, or video record of any person ~~((while on university premises))~~ without their prior knowledge, or without their effective consent when such a recording is of a private conversation or of images taken of a person(s) at a time and place where they would reasonably expect privacy and where such images are likely to cause injury or distress. ~~((This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom, but does not include taking pictures of persons in areas which are considered by the reasonable person to be open to public view, such as Martin Stadium or the Glenn Terrell Mall.))~~

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-217, filed 3/15/21, effective 4/15/21; WSR 06-23-159, § 504-26-217, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 15-01-080, filed 12/15/14, effective 1/15/15)

WAC 504-26-218 Computer abuses or theft. Theft or other abuse of computer facilities and resources, including but not limited to:

- (1) Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.
- (2) Unauthorized transfer of a file.
- (3) Unauthorized use of computer hardware.
- (4) Unauthorized use of another individual's identification

~~((and/or))~~, password, or multifactor authentication credentials.

- (5) ~~((Use of computing facilities and resources to interfere with the work of another student, faculty member, or university official.~~
- ~~(6) Use of computing facilities and resources to send obscene, harassing, or threatening messages.~~
- ~~(7) Use of computing facilities and resources to interfere with normal operation of the university computing system.~~
- ~~(8)) Use of computing facilities and resources in violation of any law, including copyright laws.~~
- ~~((9)) (6) Any violation of the university computer use policy found in the university's executive policy 4 (electronic communication policy).~~

[Statutory Authority: RCW 28B.30.150. WSR 15-01-080, § 504-26-218, filed 12/15/14, effective 1/15/15; WSR 12-04-049, § 504-26-218, filed 1/30/12, effective 3/1/12; WSR 08-05-001, § 504-26-218, filed 2/6/08, effective 3/8/08; WSR 06-23-159, § 504-26-218, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-219 Abuse of the student conduct system. Abuse of the student conduct system is defined as:

- (1) ~~((Failure to obey any notice from a university conduct board or other university official to appear for a meeting or hearing as part of the student conduct system.~~
- ~~(2) Willful falsification, distortion, or misrepresentation of information before a university conduct proceeding.~~
- ~~(3) Disruption or interference with the orderly conduct of a university conduct board proceeding.~~
- ~~(4)) Filing fraudulent charges or initiating a university conduct proceeding in bad faith.~~
- ~~((5)) (2) Attempting to discourage an individual's proper participation in, or use of, the student conduct system.~~
- ~~((6)) (3) Attempting to influence the impartiality of a member of the university conduct system prior to, and/or during the course of, any university conduct board proceeding.~~
- ~~((7)) (4) Harassment (verbal, written, or physical) and/or intimidation of a member of a university conduct board, any individual involved in the conduct process, or any conduct officer before, during, and/or after any university conduct proceeding.~~
- ~~((8)) (5) Failure to comply with or failure to complete any ((term or condition of any disciplinary)) sanction(s) assigned under the standards of conduct.~~
- ~~((9) Influencing or attempting to influence another person to commit an abuse of the university conduct system.~~
- ~~(10)) (6) Violation of probation or any probationary conditions.~~

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-219, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-219, filed 11/19/18, effective 12/20/18; WSR 15-01-080, § 504-26-219, filed 12/15/14, effective 1/15/15; WSR 08-05-001, § 504-26-219, filed 2/6/08, effective 3/8/08; WSR 06-23-159, § 504-26-219, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-220 Discriminatory harassment. (1) Unwelcome, intentional conduct on the basis of race; sex and/or gender; sexual orientation; gender identity or expression; religion; age; color; creed; national or ethnic origin; marital status; genetic information; status as an honorably discharged veteran or member of the military; physical, mental, or sensory disability (including disability requiring the use of a trained service animal); or immigration or citizenship status, except as authorized by federal or state law, regulation, or government practice, which is so severe or pervasive, and objectively offensive, that it substantially and unreasonably:

- (a) Interferes with, or has the potential to interfere with, an individual's ability to participate in ((WSU)) university employment, education, programs, or activities;
- (b) Adversely alters the condition of an individual's ((WSU)) university employment, education, or participation status;
- (c) Creates an objectively abusive employment, program, or educational environment; or
- (d) Results in a material or substantial disruption of ((WSU's)) the university's operations or the rights of students, staff, faculty, visitors, or program participants.

(2) In determining if conduct is harassing, the totality of the circumstances are assessed including, but not limited to, the following factors:

- (a) Severity;
- (b) Frequency of the discrimination;
- (c) Status of the reporting and responding parties and their relationship to each other;
- (d) Physicality, threats, or endangerment; and
- (e) Whether or not the conduct could be reasonably considered protected speech or serving some other lawful purpose.

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-220, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-220, filed 11/19/18, effective 12/20/18; WSR 14-11-025, § 504-26-220, filed 5/12/14, effective 6/12/14; WSR 06-23-159, § 504-26-220, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 06-23-159, filed 11/22/06, effective 12/23/06)

WAC 504-26-224 Reckless endangerment. Engaging in conduct that creates an unreasonable risk of harm to another person or property. Reckless endangerment includes, but is not limited to, operating a motor vehicle while intoxicated.

[Statutory Authority: RCW 28B.30.150. WSR 06-23-159, § 504-26-224, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-227 Sexual harassment. Unwelcome, intentional conduct, on the basis of sex and/or gender, which is so severe or pervasive, and objectively offensive, that it substantially and unreasonably:

- (1) Interferes with, or has the potential to interfere with, an individual's ability to participate in ((WSU)) university employment, education, programs, or activities;
- (2) Adversely alters the condition of an individual's ((WSU)) university employment, education, or participation status;
- (3) Creates an objectively abusive employment, program, or educational environment; or
- (4) Results in a material or substantial disruption of ((WSU's)) the university's operations or the rights of students, staff, faculty, visitors, or program participants.

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-227, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-227, filed 11/19/18, effective 12/20/18; WSR 14-11-025, § 504-26-227, filed 5/12/14, effective 6/12/14.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-401 Initiating conduct proceedings. (1) Complaints. Any member of the university community may submit a complaint that a student or recognized or registered student organization violated the standards of conduct. In matters that would constitute a violation of executive policy 15, the complaint must be initiated through CCR. In addition, ((the university)) CCS may initiate conduct proceedings when it receives any direct or indirect report of conduct that may violate the standards of conduct.

(2) Decision not to ((refer the matter for hearing)) initiate the community standards process. Except as provided below, after reviewing the initial information, if the conduct officer determines that ((further conduct proceedings are)) additional action from CCS is not warranted, the conduct officer dismisses the matter. If the conduct officer decides not to initiate a conduct proceeding ((when requested by a complainant)), the conduct officer must notify the ((complainant)) reporting party in writing of the decision, the reasons for the decision, and how to seek review of the decision. Conduct matters may be reopened if new relevant information becomes known. A conduct officer cannot dismiss a matter received from CCR where CCR completed a formal investigation implicating Title IX sexual harassment within the university's Title IX jurisdiction, as defined by university executive policy 15, regardless of the investigation's outcome. In such cases, the conduct officer must refer the matter to a conduct board hearing, which must be held within ((sixty)) 60 days of the date the CCR formal investigation report was received, unless good cause exists to extend the date of the hearing or the matter is resolved through agreement or alternative dispute resolution.

(3) ((Notice of informational meeting. After reviewing initial information regarding a possible student conduct violation, if the

~~student conduct officer decides conduct proceedings are warranted, the student conduct officer sends the respondent, or parties as appropriate, written notice of an informational meeting. The notice must, at a minimum, briefly describe the factual allegations or issues involved, the specific standard of conduct provision(s) the respondent is alleged to have violated, the range of possible sanctions for such violations, and the time, date, and place of the meeting. In addition, information regarding the student conduct process and student rights, as required by WAC 504-26-504 (Interpretation Policies, procedures, and guidelines) must be provided. Any request to change or extend the time or date of the informational meeting should be addressed to the conduct officer.~~

~~(4) Purpose of informational meeting. The purpose of the informational meeting is to provide the respondent with information on the conduct process and their rights and responsibilities, and to determine next steps, if any, in resolving the matter. During the informational meeting, the respondent may provide names of witnesses to the conduct officer to potentially contact. In cases involving Title IX, an informational meeting is also offered to a complainant.~~

~~(5)) Agreement and alternative dispute resolution. A conduct officer may resolve a matter by agreement. Agreements may be reached directly or through alternative dispute resolution (. In cases where agreement is not reached directly, before referring the matter to a hearing, the conduct officer must consider, and make a written determination, whether alternative dispute resolution is appropriate to resolve the matter. Alternative dispute resolution must not be used in matters involving sexual misconduct or sexual harassment) 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:~~

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

~~(b) 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 at the hearing.~~

~~((6)) (4) Referral for adjudication. Except as provided in subsection (2) of this section, ((after the informational meeting,)) if ((the conduct officer)) CCS determines that a conduct hearing is warranted, and the matter is not resolved through agreement or alternative dispute resolution, the matter is handled through either a conduct officer hearing (brief adjudication) in accordance with WAC 504-26-402, or conduct board hearing (full adjudication) in accordance with WAC 504-26-403. In determining which process is appropriate, ((the conduct officer)) CCS considers factors including, but not limited to, the nature and severity of the allegations, the respondent's past contacts with ((the center for community standards)) CCS, and the range of possible sanctions that could be assigned. A student may request that a conduct board hear the case, but the final decision regarding whether to refer the matter to the conduct board for hearing is made by ((the conduct officer)) CCS and is not subject to appeal.~~

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-401, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-401, filed 11/19/18, effective 12/20/18; WSR 17-13-049, § 504-26-401, filed

6/15/17, effective 7/16/17; WSR 15-11-041, § 504-26-401, filed
 5/14/15, effective 6/14/15; WSR 15-01-080, § 504-26-401, filed
 12/15/14, effective 1/15/15; WSR 11-11-031, § 504-26-401, filed
 5/11/11, effective 6/11/11; WSR 08-05-001, § 504-26-401, filed 2/6/08,
 effective 3/8/08; WSR 06-23-159, § 504-26-401, filed 11/22/06, effec-
 tive 12/23/06.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-402 Conduct officer hearings (brief adjudications).

(1) The majority of student conduct matters are adjudicated through conduct officer hearings. However, conduct officer hearings are not used to adjudicate matters in which the respondent faces possible sanctions of suspension for more than ~~((ten))~~ 10 instructional days, expulsion, or revocation of degree or when a recognized or registered student organization faces possible loss of recognition. In addition, conduct officer hearings generally are not used to adjudicate matters in which the respondent faces allegations of sexual misconduct, as that term is defined in WAC 504-26-221.

(2) Notice of hearing. The conduct officer must provide the parties with written notice no later than ~~((ten))~~ seven calendar days prior to the conduct officer hearing. The notice must ~~((, at a minimum, briefly describe))~~ include:

(a) A brief description of the factual allegations or issues involved((,));

(b) The specific standard of conduct provision(s) the respondent is alleged to have violated((, the range of possible sanctions for such violations, and));

(c) The time, date, and place of the hearing((. In addition,)) or process by which a respondent may schedule the hearing;

(d) Information regarding what to expect during the student conduct process and student rights((, as required by WAC 504-26-504 must be provided. The notice must also include:

(a) A jurisdiction statement if the alleged behavior occurred off campus and information regarding the right to challenge jurisdiction in accordance with WAC 504-26-015;

(b) Information regarding the right to request recusal of a conduct officer under WAC 504-26-125; and

(c)) including, but not limited to:

(i) A statement that the parties have the right to have an advisor present at the hearing;

(ii) A statement regarding the right not to self-incriminate in accordance with WAC 504-26-045;

(iii) Information regarding the right to request recusal of a conduct officer under WAC 504-26-125;

(e) Available resources, including how to access an information session and legal resources in the community;

(f) A statement that any request to ~~((extend))~~ modify the time or date of the conduct officer ~~((conference/hearing))~~ hearing should be addressed to ~~((the conduct officer))~~ CCS;

(g) A statement that indicates that respondents are presumed "not responsible" for the pending allegations;

(h) A statement that violations are determined by a preponderance of the evidence, meaning that it is more likely than not that the violation occurred.

(3) Hearing and possible outcomes. Conduct officer hearings are brief adjudications conducted in accordance with RCW 34.05.482 through 34.05.494. The hearing allows the conduct officer to review available information, hear the parties' view of the matter, render a decision regarding responsibility, and assign sanctions, as appropriate.

~~(a) ((Before the hearing begins, the conduct officer must inform the respondent that:~~

~~(i) All respondents are presumed "not responsible" for pending charges;~~

~~(ii) The university must prove all violations by a preponderance of the evidence, meaning that it is more likely than not that the violation occurred; and~~

~~(iii) The parties have the right to have an advisor present at the hearing.~~

~~(b-)) Upon conclusion of the hearing, the conduct officer may take any of the following actions:~~

~~(i) ((Terminate the proceeding and enter a finding that)) Find the respondent ((is not)) responsible for any or all of the alleged ((conduct)) violations and assign sanctions as provided in WAC 504-26-425 within the limitations described in subsection (1) of this section;~~

~~(ii) Find the respondent not responsible for any or all of the alleged violations;~~

~~(iii) Dismiss the matter with no finding regarding responsibility, in which case the matter may be reopened at a later date if relevant new information becomes known((;~~

~~(iii) Find the respondent responsible for any violations and impose sanctions within the limitations described in subsection (1) of this section)); or~~

~~(iv) Refer the matter to the conduct board.~~

(4) Notice of decision and right to appeal. The conduct officer notifies the parties in writing of the decision within ~~((ten))~~ 10 calendar days of the conduct officer hearing. This is the initial order of the university and ~~((includes information regarding the parties' right to appeal under WAC 504-26-420))~~ must include:

(a) Description of the allegations that initiated the community standards process;

(b) Description of procedural steps taken from the receipt of the formal complaint up to and including the university conduct board hearing;

(c) Appropriately numbered findings of fact and conclusions;

(d) The sanction(s) and/or remedy(ies) to be assigned, if any, and the rationale for the sanction(s) and/or remedy(ies);

(e) Information regarding the parties' right to appeal according to WAC 504-26-420, including the time frame for seeking review; and

(f) Notice that the initial order becomes final unless an appeal is filed within 20 calendar days of the date the initial order is sent to the parties.

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-402, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-402, filed 11/19/18, effective 12/20/18; WSR 17-13-049, § 504-26-402, filed 6/15/17, effective 7/16/17; WSR 16-08-014, § 504-26-402, filed 3/28/16, effective 4/28/16; WSR 15-01-080, § 504-26-402, filed

12/15/14, effective 1/15/15; WSR 12-04-049, § 504-26-402, filed 1/30/12, effective 3/1/12; WSR 11-11-031, § 504-26-402, filed 5/11/11, effective 6/11/11; WSR 08-05-001, § 504-26-402, filed 2/6/08, effective 3/8/08; WSR 06-23-159, § 504-26-402, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-403 Conduct board hearings (full adjudications). (1)

Conduct board hearings are used in matters in which the respondent faces possible sanctions of suspension for more than (~~ten~~) 10 instructional days, expulsion, or revocation of degree and matters in which a recognized or registered student organization faces possible loss of recognition. In addition, conduct board hearings are generally used to adjudicate matters in which the respondent faces allegations of sexual misconduct, as that term is defined in WAC 504-26-221. Other matters may be referred to a conduct board (~~in~~) at the discretion of (~~the conduct officer~~) CCS.

(2) Adoption of model rules of procedure. Conduct board hearings are full adjudications governed by the Administrative Procedure Act, RCW 34.05.413 through 34.05.476, and chapter 10-08 WAC, Model rules of procedure, except as otherwise provided in this chapter. In the event of a conflict between the rules in this chapter and the model rules, this chapter governs.

(3) Notice of hearing. Notice to the parties of a conduct board hearing must comply with model rule WAC 10-08-040 and standards of conduct rule WAC 504-26-035. In addition, information regarding the student conduct process and student rights, as required by WAC (~~504-26-504~~) 504-26-401 must be provided.

(4) Time for conduct board hearings. The conduct board hearing is scheduled not less than (~~ten~~) seven calendar days after the parties have been sent notice of the hearing.

In accordance with WAC 10-08-090, requests to extend the time and/or date for hearing must be addressed to the presiding officer. A request for extension of time is granted only upon a showing of good cause.

(5) Subpoenas. Subpoenas may be issued and enforced in accordance with model rule WAC 10-08-120. In determining whether to issue, quash, or modify a subpoena, the presiding officer must give due consideration to state and federal legal requirements including, but not limited to, Title IX, its implementing regulations, and guidance issued by the federal Office for Civil Rights. The party requesting the subpoena has the burden of showing that a subpoena is necessary for full disclosure of all the relevant facts and issues.

(6) Discovery. Depositions, interrogatories, and physical or medical examinations of parties are not permitted in adjudications of student conduct matters. Other forms of discovery may be permitted at the discretion of the presiding officer; however, discovery should be limited to help ensure the prompt completion of the adjudication process.

(7) Cross-examination. As required by RCW 34.05.449, cross-examination of witnesses is permitted to the extent necessary for full disclosure of all relevant facts and issues. Cross-examination is conducted orally through the party's advisor or representative. If a party

does not have an advisor or representative, an advisor is provided by the university free of charge to conduct cross-examination on that party's behalf. Advisors and representatives are required to engage in cross-examination questioning in a respectful manner. In no circumstance may the complainant or respondent be permitted to cross-examine each other directly. Before any witness or party may answer a cross-examination question, the presiding officer must first determine whether the question is relevant. The presiding officer must instruct parties or witnesses not to answer cross-examination questions that are irrelevant, immaterial, or unduly repetitious.

(8) Decision requirements. Decisions regarding responsibility and sanctions are made by a majority of the conduct board hearing the matter (~~(, except that any sanction of expulsion, revocation of degree, or loss of recognition of a recognized or registered student organization requires a supermajority consisting of no more than one "no" vote)~~).

(9) Notice of decision and right to appeal. Within (~~(ten)~~) 10 calendar days of the completion of the hearing, the conduct board must issue a decision simultaneously to all parties, which is the initial order of the university and must contain the following:

- (a) Description of the allegations that initiated the community standards process;
- (b) Description of procedural steps taken from the receipt of the formal complaint up to and including the university conduct board hearing;
- (c) Appropriately numbered findings of fact and conclusions;
- (d) The sanction(s) and/or remedy(ies) to be assigned, if any, and the rationale for the sanction(s) and/or remedy(ies);
- (e) Information regarding the parties' right to appeal according to WAC 504-26-420, including the time frame for seeking review; and
- (f) Notice that the initial order becomes final unless an appeal is filed within (~~(twenty)~~) 20 calendar days of the date the initial order is sent to the parties.

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-403, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-403, filed 11/19/18, effective 12/20/18; WSR 16-08-014, § 504-26-403, filed 3/28/16, effective 4/28/16; WSR 15-11-041, § 504-26-403, filed 5/14/15, effective 6/14/15; WSR 15-01-080, § 504-26-403, filed 12/15/14, effective 1/15/15; WSR 11-11-031, § 504-26-403, filed 5/11/11, effective 6/11/11; WSR 08-05-001, § 504-26-403, filed 2/6/08, effective 3/8/08; WSR 06-23-159, § 504-26-403, filed 11/22/06, effective 12/23/06.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-409 Emergency suspension. (1) Definition. An emergency suspension is a temporary exclusion of a student from all or specified portions of university premises, programs, or activities pending an investigation or student conduct proceeding relating to alleged standards of conduct violations. An emergency suspension may be assigned at any time prior to the issuance of the university's final order in the matter.

(2) Circumstances warranting emergency suspension.

(a) For matters which would not constitute Title IX sexual harassment within the university's Title IX jurisdiction, as defined by university executive policy 15, emergency suspension may be assigned only in situations when the dean of students or ~~((campus))~~ a vice chancellor for student affairs (in consultation with ~~((the center for community standards))~~ CCS), or their designee, has cause to believe that the student:

(i) Has violated any provision of the standards of conduct; and

(ii) Presents an immediate danger to the health, safety, or welfare of any part of the university community or the public at large. Conduct that creates an ongoing disruption of, or interference with, the operations of the university and that prevents other students, employees, or invitees from completing their duties or accessing their education or the educational environment, is conduct harmful to the welfare of members of the university community.

(b) For matters which would constitute Title IX sexual harassment within the university's Title IX jurisdiction, as defined by university executive policy 15, emergency suspension may be assigned only in a situation where the dean of students or ~~((campus))~~ a vice chancellor for student affairs (in consultation with ~~((the center for community standards))~~ CCS), or their designee, has engaged in an individualized safety and risk analysis, and determines that removal is justified because the student:

(i) Has violated any provision of the standards of conduct; and

(ii) Is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX sexual harassment.

(3) Procedure. The dean of students or ~~((campus))~~ a vice chancellor for student affairs, or their designee, ordering an emergency suspension must send the student a written notice of emergency suspension. The notice must contain the reasons for the decision (both the factual basis and the conclusions as to why those facts constitute a violation of the standards of conduct), the policy reasons for the emergency suspension, and the process to challenge the decision. The emergency suspension does not replace the regular hearing process, which must proceed to a conduct officer hearing or conduct board hearing, as applicable, as quickly as feasible. Once a final order is entered, any emergency suspension is lifted and the sanction, if any, set forth in the final order is assigned.

(4) Challenge of the decision. The student can challenge the emergency suspension decision within ~~((ten))~~ 10 calendar days of the date of notice. Challenges are reviewed by the vice president ~~((of))~~ for student affairs or their designee, provided the designee is not the same person who made the original emergency suspension decision. The vice president ~~((of))~~ for student affairs or designee has ~~((ten))~~ 10 calendar days to respond to the review and can uphold, reverse, or modify the emergency suspension. The submission of a challenge does not stay the emergency suspension decision.

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-409, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-409, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-415 Procedure for academic integrity violations. (1) Initial hearing.

(a) When a responsible instructor (~~(finds)~~) believes that (~~(a violation of)~~) an academic integrity violation has occurred, the instructor must assemble the evidence and, upon reasonable notice to the (~~(student)~~) respondent of the date, time, and nature of the allegations, make reasonable attempts to meet with the (~~(student)~~) respondent suspected of (~~(violating)~~) committing an academic integrity (~~(policies)~~) violation.

(b) If the (~~(student)~~) respondent admits (~~(violating)~~) that they committed an academic integrity (~~(policies)~~) violation, the instructor assigns an outcome in keeping with published course policies and notifies (~~(the center for community standards)~~) CCS in writing, including the allegations, the (~~(student's)~~) respondent's admission, and the sanctions assigned.

(~~(b)~~) (c) If the instructor is unable to meet with the (~~(student)~~) respondent or if the respondent disputes the allegation(s) and/or the outcome proposed by the instructor, the instructor must make a determination as to whether the (~~(student)~~) respondent did or did not (~~(violate the)~~) commit an academic integrity (~~(policies)~~) violation based on a preponderance of the evidence standard, meaning that it is more likely than not that the violation occurred. If the instructor finds that the (~~(student)~~) respondent was in violation, the instructor must provide the (~~(student)~~) respondent and (~~(the center for community standards)~~) CCS with a written determination, the evidence relied upon, and the sanctions assigned.

(~~(e)~~) (d) The (~~(student)~~) respondent has (~~(twenty-one)~~) 21 calendar days from the date of the decision letter to request review of the instructor's determination and/or sanction(s) assigned to the academic integrity hearing board.

(2) Review.

(a) Upon timely request for review by a (~~(student)~~) respondent who has been found by their instructor to have (~~(violated the)~~) committed an academic integrity (~~(policies)~~) violation, the academic integrity hearing board must make a separate and independent determination of whether or not the (~~(student)~~) respondent is responsible for (~~(violating the)~~) committing an academic integrity (~~(policies)~~) violation and/or whether the outcome proposed by the instructor is in keeping with the instructor's published course policies.

(b) The academic integrity hearing board must consist of a minimum of three members. A quorum of three is needed to review a matter. A minimum of one academic integrity hearing board member must be an enrolled student. The remaining members may be students, or full-time or part-time faculty of any rank or classification. No academic integrity hearing board member may serve on a case if the member previously served on a board in a case involving the same student.

(c) The academic integrity hearing board is empowered to provide an appropriate remedy for a (~~(student)~~) respondent including arranging a withdrawal from the course, having the (~~(student's)~~) respondent's work evaluated, or changing a grade where it finds that:

(i) The (~~(student)~~) respondent is not responsible for violating academic integrity policies; or

(ii) The outcome assigned by the instructor violates the instructor's published policies.

~~((e))~~ (d) Academic integrity hearing board proceedings.

(i) Any ~~((student))~~ respondent appealing a responsible instructor's finding of an academic integrity violation is provided written notice of an academic integrity hearing board hearing in accordance with WAC 504-26-035. The written notice must include:

(A) The specific complaint, including the university or instructor academic integrity policy or regulation allegedly violated;

(B) The approximate time and place of the alleged act that forms the factual basis for the violation;

(C) The time, date, and place of the hearing;

(D) A list of the witnesses who may be called to testify, to the extent known; and

(E) A description of all documentary and real evidence to be used at the hearing, to the extent known, including a statement that the ~~((student))~~ respondent must have the right to inspect the documentation.

(ii) Time for hearings.

(A) Academic integrity hearing board hearings are scheduled not less than seven calendar days after the ~~((student))~~ respondent has been sent notice of the hearing.

(B) Requests to extend the time and/or date for hearing must be addressed to the chair of the academic integrity hearing board, and must be copied to ~~((the center for community standards))~~ CCS. A request for extension of time is granted only upon a showing of good cause.

(iii) Academic integrity hearing board hearings are conducted according to the following procedures, except as provided by ~~((e))~~ (d)

(iv) of this subsection:

(A) Academic integrity hearing board hearings are conducted in private.

(B) The instructor, respondent, and their advisor, if any, are allowed to attend the entire portion of the hearing at which information is received (excluding deliberations). Admission of any other person to the hearing is at the discretion of the academic integrity hearing board chair.

(C) In academic integrity hearings involving more than one respondent, the academic integrity hearing board chair may permit joint or separate hearings at the chair's discretion.

(D) In hearings involving graduate ~~((students))~~ respondents, board memberships are comprised to include graduate students and graduate teaching faculty to the extent possible.

(E) The responsible instructor and the respondent may arrange for witnesses to present relevant information to the academic integrity hearing board. Witnesses must provide written statements to the conduct officer at least two weekdays before the hearing. The respondent is responsible for informing their witnesses of the time and place of the hearing. Witnesses provide information to and answer questions from the academic integrity hearing board, the responsible instructor, and the respondent, as appropriate. The respondent and/or responsible instructor may ~~((suggest))~~ submit written questions to be answered by each other or by other witnesses. Written questions are submitted to, and asked by, the academic integrity hearing board chair. This method is used to preserve the educational tone of the hearing and to avoid creation of an unduly adversarial environment, and to allow the board chair to determine the relevancy of questions. Questions concerning whether potential information may be received are resolved at the dis-

cretion of the academic integrity hearing board chair, who has the discretion to determine admissibility of information.

(F) Pertinent records, exhibits, and written statements may be accepted as information for consideration by an academic integrity hearing board at the discretion of the chair.

(G) Questions related to the order of the proceedings are subject to the final decision of the chair of the academic integrity hearing board.

(H) After the portion of the hearing concludes in which all pertinent information is received, the academic integrity hearing board determines (by majority vote) whether or not the respondent is more likely than not responsible for violating the academic integrity policy and/or whether the outcome proposed by the instructor is in keeping with the instructor's published course policies.

(I) The respondent is notified of the academic integrity hearing board's decision within (~~twenty~~) 20 calendar days from the date the matter is heard. The respondent must receive written notice of the decision, the reasons for the decision (both the factual basis therefore and the conclusions as to how those facts apply to the academic integrity policies), and the sanction.

(iv) If a respondent to whom notice of the hearing has been sent (in the manner provided above) does not appear at the hearing, the information in support of the complaint is presented and considered in the respondent's absence, and the board may issue a decision based upon that information.

(v) The academic integrity hearing board may for convenience, or to accommodate concerns for the personal safety, well-being, and/or fears of confrontation of any person, provide separate facilities, and/or permit participation by telephone, audio tape, written statement, or other means, as determined in the sole judgment of the chair of the academic integrity hearing board to be appropriate.

(vi) The written decision of the academic integrity hearing board is the university's final order. There is no appeal from findings of responsibility or outcomes assigned by (~~university or college~~) academic integrity hearing board(~~s~~).

(3) If the reported violation is the respondent's first offense, (~~the center for community standards~~) CCS ordinarily requires the respondent to attend a workshop separate from, and in addition to, any academic outcomes assigned by the instructor. (~~A hold is placed on the respondent's record preventing registration or graduation until completion of the workshop.~~)

(4) If the reported violation is the respondent's second offense, the respondent is ordinarily referred for a full adjudicative hearing in accordance with WAC 504-26-403, (~~with a recommendation that the respondent be dismissed~~) to determine appropriate sanctions, which may include expulsion from the university.

(5) If the instructor or academic integrity hearing board determines that the act of academic dishonesty for which the respondent is found responsible is particularly egregious in light of all attendant circumstances, the instructor or academic integrity hearing board may direct that the respondent's case be referred (~~for a full adjudicative hearing,~~) to the conduct board with a recommendation for (~~dismissal~~) expulsion from the university even if it is the respondent's first offense.

(6) Because instructors and departments have a legitimate educational interest in the outcomes, reports of academic integrity hearing

board and/or conduct board hearings must be reported to the responsible instructor and the chair or dean.

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-415, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-415, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-420 Appeals. (1) Time for appeals. Decisions made by a conduct officer or conduct board become final on the (~~twenty-first~~) 21st calendar day after the date the decision is sent to the parties, unless an appeal is submitted within (~~twenty~~) 20 calendar days of the date the decision is sent to the parties.

(2) Effect of appeal - Stay. Except in extraordinary circumstances, which must be explained in writing in the conduct officer's or conduct board's initial order, the implementation of an initial order assigning sanctions must be stayed pending the time for filing an appeal and the issuance of the university's final order.

(3) Appeals of conduct officer decisions. Upon receipt of a timely appeal, (~~the appeals board~~) CCS provides the other parties, if applicable, with a copy of the appeal and an opportunity to respond (~~and~~) within 10 calendar days. The appeals board then conducts a limited review as described below.

(a) Scope of review. Except as required to explain the basis of new information, appeal of a conduct officer decision is limited to a review of the record for one or more of the following purposes:

(i) To determine whether the conduct (~~officer~~) hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures; deviations from designated procedures are not a basis for sustaining an appeal unless (~~significant prejudice results~~) procedural error affected the outcome of the matter;

(ii) To determine whether the decision reached was based on substantial information, that is, whether there were facts in the case that, if believed by the fact finder, were sufficient to establish that a violation of the standards of conduct occurred;

(iii) To determine whether the sanction(s) assigned were appropriate for the violation of the standards of conduct that the respondent was found to have committed; (~~or~~)

(iv) To consider new information, sufficient to alter a decision, or other relevant facts not brought out in the original conduct officer hearing, because such information and/or facts were not known to the person appealing at the time of the original conduct officer hearing;

(v) To consider whether or not the university had jurisdiction per WAC 504-26-015 to address the situation through the community standards process. In cases implicating the university's executive policy 15, the appeals board must consult with the university's Title IX coordinator; or

(vi) To consider whether the Title IX coordinator, investigator(s), or decision maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

(b) Conversion to conduct board hearing. The appeals board makes any inquiries necessary to ascertain whether the proceeding must be converted to a conduct board hearing in accordance with WAC 504-26-403.

(4) Appeals of conduct board decisions. Upon receipt of a timely appeal, ~~((the appeals board))~~ CCS provides the other parties, if applicable, with a copy of the appeal and an opportunity to respond within 10 calendar days.

~~((a))~~ The appeals board must have and exercise all the decision-making power that the conduct board had, except that the appeals board must give due regard to the conduct board's opportunity to observe the witnesses, if applicable. The appeals board members must personally consider the whole record or such portions of it as may be cited by the parties.

~~((b) Scope of review. The appeals board conducts a full review in accordance with RCW 34.05.464.)~~

(5) University's right to initiate appeal. The university president or designee, at their own initiative, may request that the appeals board review any initial order. Prior to taking action, the appeals board must notify the parties and allow them an opportunity to explain the matter.

(6) Appeals board decisions.

(a) Actions. After reviewing the record and any information provided by the parties, the appeals board may take the following actions:

(i) Affirm, reverse, or modify the conduct board's or conduct officer's decision, or any part of the decision;

(ii) Affirm, reverse, or modify the sanctions assigned by the conduct board or conduct officer, or any part of the sanctions; or

(iii) Set aside the findings or sanctions, or any part of the findings or sanctions, and remand the matter back to the conduct board or conduct officer with instructions for further proceedings.

(b) Content of decision. The decision includes the outcome, any sanction, and a brief statement of the reasons for the decision. The letter must advise the parties that judicial review may be available. For appeals of conduct board hearings, the decision includes, or incorporates by reference to the conduct board's decision, all matters as set forth in WAC 504-26-403.

(c) Service and effective date of decision. For appeals of conduct officer decisions, the appeals board's decision must be sent simultaneously to the parties within ~~((twenty))~~ 20 calendar days of receipt of the appeal. For appeals of conduct board decisions, the appeals board's decision must be sent simultaneously to the parties within ~~((thirty))~~ 30 calendar days of receipt of the appeal, unless the appeals board notifies the parties in writing that additional time (up to ~~((ninety))~~ 90 calendar days) is needed. The appeals board's decision is the final order of the university, except in the case of remand, and is effective when sent.

(7) Reconsideration of final orders. Within ~~((ten))~~ 10 calendar days of service of a final order, any party may submit a request for reconsideration. The request must be in writing, directed to the appeals board, and must state the reasons for the request. The request for reconsideration does not stay the effective date of the final order. However, the time for filing a petition for judicial review does not commence until the date the appeals board responds to the request for reconsideration or ~~((twenty-one))~~ 21 calendar days after the request has been submitted, whichever is sooner. If the appeals board

does not respond to the request for reconsideration within (~~twenty-one~~) 21 calendar days, the request is deemed to have been denied.

(8) Stay. A party may request that the university delay the date that the final order becomes effective by requesting a stay in writing to the appeals board within (~~ten~~) 10 calendar days of the date the order was served.

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-420, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-420, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-425 Sanctions. (1) Publication of guidelines for sanctioning. Sanctioning guidelines and other information regarding sanctioning must be published on the (~~center for community standards~~) university website. Guidelines must explain in plain language the types of sanctions that a respondent may face for a particular violation and the factors that are used to determine the sanction(s) assigned for a particular violation.

(2) Factors for sanctioning must include, but not be limited to, the following:

- (a) Conduct record. Any record of past violations of the standards of conduct, and the nature and severity of such past violations;
- (b) Malicious intent. If a respondent is found to have intentionally selected a victim based upon the respondent's perception of the victim's race, color, religion, national or ethnic origin, age, sex/gender, marital status, status as an honorably discharged veteran or member of the military, sexual orientation, genetic information, gender identity/expression, or mental, physical, or sensory disability (including disability requiring the use of a trained service animal), such finding is considered an aggravating factor in determining a sanction for such conduct; (~~and~~)
- (c) Impact on victim and/or university community;
- (d) Applicable local, state, or federal laws that define sanctioning.

(~~(2)~~) (3) Effective date of sanctions. Except as provided in WAC 504-26-420(2), sanctions are implemented when a final order becomes effective. If no appeal is filed, an initial order becomes a final order on the day after the period for requesting review has expired. (See WAC 504-26-420.)

(~~(3)~~) (4) Types of sanctions. The following sanctions may be assigned to any respondent found to have violated the standards of conduct. More than one of the sanctions listed below may be assigned for any single violation:

- (a) Warning. A notice in writing to the respondent that the respondent is violating or has violated (~~institutional regulations~~) the standards of conduct.
- (b) Probation. Formal action placing conditions upon the respondent's continued attendance, recognition, or registration at the university. Probation is for a designated period of time and warns the (~~student or recognized or registered student organization~~) respondent that suspension, expulsion, loss of recognition, or any other sanction outlined in this section may be assigned if the (~~student or~~

~~recognized or registered student organization~~) respondent is found to have violated the standards of conduct or any institutional regulation(s) or fails to complete any conditions of probation during the probationary period. A ~~((student))~~ respondent on probation is not eligible to run for or hold an office in any recognized or registered student group or organization; they are not eligible for certain jobs on campus including, but not limited to, resident advisor or orientation counselor; and they are not eligible to serve on the university conduct or appeals board.

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

(d) Restitution. Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

(e) Education. ~~((The university may require the respondent))~~ Requirement to successfully complete an educational project designed to create an awareness of the respondent's misconduct.

(f) Community service. Assignment of service hours (not to exceed ~~((eighty))~~ 80 hours per ~~((student))~~ respondent or per member of a recognized or registered student organization).

(g) University housing suspension. Separation of the ~~((student))~~ respondent from a residence hall or halls for a definite period of time, after which the ~~((student))~~ respondent may be eligible to return. Conditions for readmission may be specified.

(h) University housing expulsion. Permanent separation of the ~~((student))~~ respondent from a residence hall or halls.

(i) University suspension. Separation of the ~~((student))~~ respondent from the university for a definite period of time ~~((, after which the student is eligible))~~. The respondent may be required to request readmission after completing a suspension per other university policy. ~~((Conditions for readmission may be specified.))~~

(j) University expulsion. Permanent separation of the ~~((student))~~ respondent from the university. Also referred to as university dismissal. The terms are used interchangeably throughout this chapter.

(k) Revocation of admission and/or degree. Admission to or a degree awarded from the university may be revoked for fraud, misrepresentation, or other violation of law or standard of conduct in obtaining the degree or admission, or for other serious violations committed by a ~~((student))~~ respondent before awarding of the degree.

(l) Withholding degree. The university may withhold awarding a degree otherwise earned until the completion of the process set forth in these standards of conduct, including the completion of all sanctions assigned, if any.

(m) Trespass. A ~~((student))~~ respondent may be restricted from any or all university premises based on their misconduct.

(n) Loss of recognition. A recognized or registered student organization's recognition (or ability to register) may be withheld permanently or for a specific period of time. ~~((A fraternity or sorority may be prohibited from housing first year students.))~~ Loss of recognition is defined as withholding university services, privileges, or administrative approval from a recognized or registered student organization. Services, privileges, and approval to be withdrawn include, but are not limited to, intramural sports (although individual members may participate), information technology services, university facility use and rental, student involvement office organizational activities, and their liaison relationship with the center for fraternity and sorority life ~~((advising))~~.

(o) Hold on transcript and/or registration. A hold restricts release of a ~~((student's))~~ respondent's transcript or access to registration until satisfactory completion of conditions or sanctions assigned by a conduct officer or university conduct board. Upon proof of satisfactory completion of the conditions or sanctions, the hold is released.

(p) No contact ~~((order))~~ directive. A prohibition of direct or indirect physical, verbal, and/or written contact with another individual or group.

(q) Fines. Previously established and published fines may be assigned. Fines are established each year prior to the beginning of the academic year and are approved by the vice president for student affairs.

(r) Additional sanctions for hazing. In addition to other sanctions, a ~~((student))~~ respondent who is found responsible for hazing forfeits any entitlement to state-funded grants, scholarships, or awards for a specified period of time, in accordance with RCW 28B.10.902. Any recognized or registered student organization that is found responsible for hazing must lose recognition for a specified period of time.

(s) Remedies. Sanctions designed to restore or preserve a ~~((victim's))~~ complainant's equal access to the university's educational programs or activities.

~~((4) Academic integrity violations. No credit need be given for work that is not a student's own. Thus, in academic integrity violations, the responsible instructor has the authority to assign a grade and/or educational sanction in accordance with the expectations set forth in the relevant course syllabus. The instructor's choices may include, but are not limited to, assigning a grade of "F" for the assignment and/or assigning an educational sanction such as extra or replacement assignments, quizzes, or tests, or assigning a grade of "F" for the course.))~~

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-425, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-425, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-504 Interpretation—Policies, procedures, and guidelines. (1) The ~~((vice president for student affairs))~~ dean of students or designee has authority to interpret these rules and develops policies, procedures, and guidelines for the administration of the university's student conduct system that are consistent with the provisions in this chapter. These must be published, at a minimum, on the ~~((center for community standards))~~ university website ~~((and in the university's student handbook))~~. A link to the ~~((student handbook or center for community standards))~~ website must be provided to parties ~~((prior to any informational meeting or student conduct hearing and must provide the following information:~~

~~((a) Rights in the student conduct process;~~

~~((b) A clear explanation of what to expect during the process;~~

~~(c) Information regarding legal resources available in the community;~~

~~(d) A statement that respondents are presumed "not responsible";~~
and

~~(e) A statement regarding the right not to self-incriminate in accordance with WAC 504-26-045)) during their initial contact from CCS.~~

(2) Definitions from these standards are incorporated into ((Washington State)) the university's executive policy 15.

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-504, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-504, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-510 Good Samaritan policy. ((A conduct officer)) CCS may elect not to initiate a conduct proceeding regarding alcohol or other drug violations against a student or recognized or registered student organization who, while in the course of helping another person seek medical assistance, admits to the unlawful possession or use of alcohol or drugs, provided that the possession was for personal consumption and the use did not place the health or safety of any other person at risk. In addition, ((a conduct officer)) CCS may elect not to initiate a conduct proceeding against a complainant who admits to the possession or use of alcohol or drugs in connection with a report under this policy.

[Statutory Authority: RCW 28B.30.150. WSR 18-23-083, § 504-26-510, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-515 Periodic review and assessment. At the end of each academic year, ((the center for community standards)) CCS provides a report to the ((vice president for student affairs)) dean of students which must include, at a minimum, a numerical breakdown of the types of matters handled and the sanctions assigned. The ((vice president for student affairs)) dean of students must make the report publicly available, provided all personally identifiable or readily ascertainable student information is removed.

The standards of conduct and the student conduct system as a whole are reviewed every three years under the direction of the ((vice president for student affairs)) dean of students or designee. The student government council is asked to provide recommendations and input on proposed changes. After completion of any adjudication or other resolution of a student conduct matter, ((the center for community standards)) CCS must send a survey to all parties requesting feedback on the process. Feedback results must be reviewed, at a minimum, every three years in connection with the periodic review and assessment.

[Statutory Authority: RCW 28B.30.150. WSR 21-07-057, § 504-26-515, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-515, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-520 Conduct hold on student record. When a student leaves the university or completes course work required for a degree after an incident occurs that could result in violations of the standards of conduct, (~~(the center for community standards)~~) CCS may place a conduct hold on the student's record. A conduct hold may also be placed on the student's account if the student has failed to adequately complete sanctions by the proscribed timeline. A conduct hold may restrict the student from adding or dropping classes, requesting an official transcript, or receiving a degree from the university until the hold is removed. (~~(The center for community standards)~~) CCS must advise the student of the hold and the process for challenging the hold. A conduct hold under these circumstances is not a sanction and does not imply or assume responsibility for a violation of the standards of conduct.

[Statutory Authority: RCW 28B.30.150. WSR 18-23-083, § 504-26-520, filed 11/19/18, effective 12/20/18.]

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-530 Recordkeeping and confidentiality. (1) Removal of conduct record. A student may request removal (~~((from their record))~~) of a single disciplinary violation ((relating to the possession or use of alcohol and/or marijuana, and/or other violation of the university's policies relating to alcohol and drugs)) from their record. Granting such a request is discretionary, and the student must make such a request in accordance with university policies and procedures.

(2) Conduct records are maintained in accordance with the university's records retention schedule.

(3) The conduct record is confidential and is released only as authorized under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99) and chapter 504-21 WAC, University policy on student education records. Situations where CCS may release records include, but are not limited to, releases:

(a) To another educational institution, upon request, where the student seeks or intends to enroll;

(b) To a parent or legal guardian, if a student under the age of 21 is found responsible for a drug or alcohol violation;

(c) To comply with legally served search warrants and subpoenas;

(d) To other university employees, if there is an educational need for the employee to know the information;

(e) To inform the complainant of the outcome of any conduct proceeding involving a crime of violence as defined by FERPA;

(f) To inform the complainant of the outcome of any conduct proceeding alleging dating violence, domestic violence, sexual assault, or stalking as defined by the Clery Act (34 C.F.R. 668.46(k)(2)(v)(A)).

(4) A student may request a copy of their own conduct record at their own reasonable expense by making a written request to ~~((the center for community standards))~~ CCS.

(5) Personally identifiable student information is redacted to protect other students' privacy, except as otherwise required by law.

(6) A student may authorize release of their own conduct record to a third party in compliance with FERPA by making a written request to ~~((the center for community standards))~~ CCS.

~~((7) The university may inform the complainant of the outcome of any conduct proceeding involving a crime of violence as defined by FERPA.~~

~~(8) The university informs the complainant of the outcome of any conduct proceeding alleging sexual misconduct. (34 C.F.R. 668.46 (b)(11)(vi)(B).)~~

~~(9) The university may not communicate a student's conduct record to any person or agency outside the university without the prior written consent of the student, except as required or permitted by law. Exceptions include, but are not limited to:~~

~~(a) The student's parents or legal guardians may review these conduct records if the student is a dependent for tax purposes as defined by FERPA.~~

~~(b) The university may release conduct records to another educational institution, upon request, where the student seeks or intends to enroll, as allowed by FERPA.)~~

[Statutory Authority: RCW 28B.30.150. WSR 18-23-083, § 504-26-530, filed 11/19/18, effective 12/20/18.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 504-26-214	Disruptive activity.
WAC 504-26-215	Obstruction.
WAC 504-26-216	Disorderly conduct.
WAC 504-26-226	Violation of a disciplinary sanction.