

WSR 23-01-108

PROPOSED RULES

GREEN RIVER COLLEGE

[Filed December 18, 2022, 5:20 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-22-083.

Title of Rule and Other Identifying Information: Green River College, rules of student conduct.

Hearing Location(s): On January 24, 2023, at 2:00 p.m., at Green River College, 31920 124th Avenue S.E., Emerald City Room SU 200, Auburn, WA 98092.

Date of Intended Adoption: February 25, 2023.

Submit Written Comments to: Shawn Percell, 31920 124th Avenue S.E., Auburn, WA 98092, email conduct@greenriver.edu, by January 24, 2023.

Assistance for Persons with Disabilities: Contact disability support services, phone 253-931-6460, TTY 253-288-3359, email dss@greenriver.edu, www.greenriver.edu/accessibility, by January 17, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Address state and federal law compliance requirements and general updates to organization and usefulness of the student conduct code for students and the campus community.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Statute Being Implemented: RCW 28B.50.140(13).

Rule is necessary because of 2SHB 1751.

Name of Proponent: Green River College, Student Affairs, public.

Name of Agency Personnel Responsible for Drafting and Implementation: Shawn Percell, Director of Judicial Affairs, SA - 206, 253-833-9111; Enforcement: Deb Casey, Vice President of Student Affairs, SA - 206, 253-833-9111.

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

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule will not impose any costs for the institution.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule will not impose any costs for the institution or community.

December 18, 2022

Shawn Percell

Director of Judicial Affairs and Compliance

OTS-4045.2

AMENDATORY SECTION (Amending WSR 15-15-071, filed 7/13/15, effective 8/13/15)

WAC 132J-126-030 Definitions. The following definitions shall apply for the purpose of this student conduct code:

"Assembly" is any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, peti-

tion for a cause or disseminate information to any person, persons, or groups of persons.

"Business day" means a weekday, excluding weekends and college holidays.

"Cheating" is defined as intentional deception in producing or creating academic work. Cheating includes, but is not limited to:

- (a) Intentional plagiarism;
- (b) Selling or giving your own completed work to others who intend to turn it in as their own;
- (c) Purchasing or accepting the work of others with the intent of turning it in as your own;
- (d) Acquiring and/or using teachers' editions of textbooks, without the permission of the specific instructor, in order to complete your course assignments;
- (e) Obtaining or attempting to obtain an examination prior to its administration;
- (f) Referring to devices, materials or sources not authorized by the instructor;
- (g) Receiving assistance from another person when not authorized by the instructor;
- (h) Providing assistance to another person when not authorized by the instructor;
- (i) Taking an examination for another person;
- (j) Obtaining or attempting to obtain another person to take one's own examination;
- (k) Falsifying laboratory results or copying another person's laboratory results; and
- (l) Falsifying or attempting to falsify the record of one's grades or evaluation.

"College" means Green River College.

"College facilities" includes all buildings, structures, grounds, office space, and parking lots.

"College groups" shall mean individuals or groups who are currently enrolled students or current employees of the college, or guests of the college who are sponsored by a recognized student organization, employee organization, or the administration of the college.

"College official" includes any person employed by the college, performing assigned administrative or professional responsibilities.

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

"Complainant" means any person who submits a charge alleging that a student violated the student code. When a student believes that she/he has been a victim of another student's misconduct, the student who believes she/he has been a victim will have the same rights under this student code as are provided to the complainant, even if another member of the college community submitted the charge himself or herself.

"Conduct review officer" is the vice president of student affairs or other college administrator designated by the president to be responsible for receiving and for reviewing or referring appeals of student disciplinary actions in accordance with the procedures of this code. The president is authorized to reassign any and all of the conduct review officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.

"Disciplinary action" is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code.

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

"Expressive activity" includes, but is not necessarily limited to, informational picketing, petition circulation, the distribution of informational leaflets or pamphlets, speech making, demonstrations, rallies, appearances of speakers in outdoor areas, protests, meetings to display group feelings or sentiments and/or other types of assemblies to share information, perspectives or viewpoints.

"Fabrication" is defined as intentional misrepresentation of an activity done by a student for an academic project or practicum. Fabrication includes, but is not limited to:

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

"Faculty member" means any person hired by the college to conduct classroom, counseling, or teaching activities or who is otherwise considered by the college to be a member of its faculty.

"Filing" is the process by which a document is officially delivered to a college official responsible for facilitating a disciplinary review. Unless otherwise provided, filing shall be accomplished by:

- (a) Hand delivery of the document to the specified college official or college official's assistant; or
- (b) By sending the document by email and first class mail to the specified college official's office and college email address.

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

"May" is used in the permissive sense.

"Member of the college community" includes any person who is a student, faculty member, college official or any other person employed by the college. A person's status in a particular situation shall be determined by the vice president of student affairs or designee.

"Noncollege groups" shall mean individuals, or combinations of individuals, who are not currently enrolled students or current employees of the college and who are not officially affiliated or associated with, or invited guests of a recognized student organization, recognized employee group, or the administration of the college.

"Organization" means number of persons who have complied with the formal requirements for college recognition/registration.

"Plagiarism" is defined as using others' original ideas in your written or spoken work without giving proper credit.

- (a) Ideas include, but are not limited to:
 - (i) Facts;
 - (ii) Opinions;
 - (iii) Images;
 - (iv) Statistics;

- (v) Equations;
- (vi) Hypotheses;
- (vii) Theories.

(b) Plagiarism can occur in two ways: Intentional and unintentional.

(c) Ways that intentional plagiarism occur include, but are not limited to:

- (i) Turning in someone else's work as your own;
 - (ii) Copying words or ideas from someone else without giving credit;
 - (iii) Failing to put a quotation in quotation marks;
 - (iv) Giving incorrect information about the source of a quotation;
 - (v) Changing words but copying the sentence structure of a source without giving credit;
 - (vi) Copying so many words or ideas from a source that it makes up the majority of your work, whether you give credit or not.
- (d) Unintentional plagiarism may occur when a student has tried in good faith to document their academic work but fails to do so accurately and/or thoroughly. Unintentional plagiarism may also occur when a student has not had course work covering plagiarism and documentation and is therefore unprepared for college academic writing or speaking.

"Policy" means the written regulations of the college as found in, but not limited to, the student code, the college web page and computer use policy, and catalogs.

"Respondent" is the student against whom disciplinary action is initiated.

"Service" is the process by which a document is officially delivered to a party. Unless otherwise provided, service upon a party shall be accomplished by:

- (a) Hand delivery of the document to the party; or
 - (b) By sending the document by email and by certified mail or first class mail to the party's last known address.
- Service is deemed complete upon hand delivery of the document or upon the date the document is emailed and deposited in the mail.

"Shall" is used in the imperative sense.

"Student" includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw after allegedly violating the code, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered students.

"Student conduct officer" is a college administrator designated by the president or vice president of student affairs to be responsible for implementing and enforcing the student conduct code. The president or vice president of student affairs is authorized to reassign any and all of the student conduct officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.

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

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

"Vice president of student affairs" means the college administrator who reports to the college president, who serves as the college's student judicial affairs administrator, and who is responsible for administering the student rights and responsibilities code. The vice president of student affairs may designate a student conduct officer to fulfill this responsibility.

[Statutory Authority: RCW 28B.50.140 and 34.02.353 [34.05.353]. WSR 15-15-071, § 132J-126-030, filed 7/13/15, effective 8/13/15. Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-030, filed 12/3/14, effective 1/3/15.]

AMENDATORY SECTION (Amending WSR 14-24-129, filed 12/3/14, effective 1/3/15)

WAC 132J-126-090 Conduct—Student responsibilities. Any student or student group shall be subject to disciplinary action as provided for in this chapter, who either as a principal actor, aide, abettor, or accomplice as defined in RCW 9A.08.020:

Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college;

Violates any provision of this chapter; or

Commits any prohibited act including, but not limited to, the following:

(1) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, and fabrication. In academically honest writing or speaking, the student documents his/her source of information whenever:

Another person's exact words are quoted;

Another person's idea, opinion or theory is used through paraphrase; and

Facts, statistics, or other illustrative materials are borrowed.

In order to complete academically honest work, students should:

Acknowledge all sources according to the method of citation preferred by the instructor;

Write as much as possible from one's own understanding of the materials and in one's own voice;

Ask an authority on the subject, such as the instructor who assigned the work; and

Seek help from academic student services such as the library and/or writing center.

(2) **Tobacco, electronic cigarettes, and related products.** The use of tobacco, electronic cigarettes, and related products are not allowed on college campus. In addition to the main campus, this also includes any building and premises owned, leased or operated by the college outside of the main campus. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.

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

(4) **Drugs/substance abuse.**

(a) Any student who, while in any college facility or participating in a college-related program, uses, possesses, consumes, is demonstrably under the influence of, or sells any narcotic drug or controlled substance as defined in RCW 69.50.101, in violation of law or in a manner which significantly disrupts a college activity. For purposes of this section, "sell" includes the statutory meaning in RCW 69.50.410.

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

(5) **Conduct at college functions.** Any student who significantly disrupts or obstructs any teaching, research, administration, disciplinary proceedings, other college activities, including its public service functions on or off campus, or of other authorized noncollege activities when the conduct occurs on college premises.

(6) **Theft; stolen property; robbery.** Any student who, while in any college facility or participating in a college-related program, commits or attempts to commit theft as defined in RCW 9A.56.020, or possesses stolen property as defined in RCW 9A.56.140, or commits or attempts to commit robbery as defined in RCW 9A.56.190.

(7) **Damaging property.**

(a) Any student who causes or attempts to cause physical damage to property owned, controlled or operated by the college, or to property owned, controlled or operated by another person while said property is located on college facilities.

(b) Any student who in this or any other manner is guilty of malicious mischief in violation of RCW 9A.48.070 through 9A.48.100.

(8) **Abuse; intimidation.** Physical abuse, verbal abuse, threats, intimidation, coercion, and/or other conduct which threatens or endangers the health or safety of any person.

(9) **Hazing.** (~~Hazing, defined as an act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing are not neutral acts; they are violations of this rule.~~)

(a) Hazing is any act committed as part of:

(i) A person's recruitment, initiation, pledging, admission into, or affiliation with a student group;

(ii) Any pastime or amusement engaged in with respect to such a student group; or

(iii) That causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student.

(b) Examples of hazing include, but are not limited to:

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

(ii) Humiliation by ritual act;

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

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

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

(c) "Hazing" does not include customary athletic events or other similar contests or competitions.

(d) Consent is not a valid defense against hazing.

(10) **Failure to comply.** Failure to comply with directions of college officials, campus safety officers, or law enforcement officers acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so.

(11) **Possession of keys.** Unauthorized possession, duplication or use of keys to any college premises or unauthorized entry to or use of college premises.

(12) **Policy violation.** Violation of any college policy, rule, or regulation published in hard copy or available electronically on the college website.

(13) **Violation of laws.** Violation of any federal, state, or local law.

(14) **False alarms.** Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(15) **Harassment.** Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic.

(16) **Sexual misconduct.**

(a) Sexual misconduct is any sexual activity with another that is unwanted and nonconsensual. Sexual misconduct includes physical contact as well as voyeurism.

(b) Consent to sexual activity requires that, at the time of the act, there are actual words or conduct demonstrating freely given agreement to sexual activity, silence or passivity is not consent. Even if words or conduct alone seem to imply consent, sexual activity is nonconsensual when:

(i) Force or blackmail is threatened or used to procure compliance with the sexual activity; or

(ii) The person is unconscious or physically unable to communicate his or her unwillingness to engage in sexual activity; or

(iii) The person lacks the mental capacity at the time of the sexual activity to be able to understand the nature or consequences of the act, whether that incapacity is produced by illness, defect, the influence of alcohol or another substance, or some other cause.

(c) A person commits voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly views, photographs, or films another person, without that person's knowledge

and consent, while the person being viewed, photographed, or filmed is in a place where he or she has a reasonable expectation of privacy.

(d) The term "sexual harassment" means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature that is sufficiently serious as to deny or limit, and that does deny or limit, based on sex, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members.

(e) The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording.

(17) **Sexual violence.** The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated without clear, knowing, and voluntary consent, such as committing a sexual act against a person's will, exceeding the scope of consent, or where the person is incapable of giving consent, including rape, sexual assault, sexual battery, sexual coercion, sexual exploitation, gender- or sex-based stalking. The term further includes acts of dating or domestic violence. A person may be incapable of giving consent by reason of age, threat or intimidation, lack of opportunity to object, disability, drug or alcohol consumption, or other cause.

(18) **Weapons and fireworks.** Possession or use of fireworks anywhere on campus; possession, holding, wearing, transporting, storage or presence of any firearm, dagger, sword, knife, or any other cutting or stabbing instrument, or club, or incendiary device, or explosive, or any facsimile weapons, or any other weapon apparently capable of producing bodily harm and/or property damage is prohibited on the college campus, subject to the following exceptions:

(a) Commissioned law enforcement personnel, legally authorized military personnel, or bank-related security personnel required by their office to carry such weapons or devices.

(b) Possession or use of disabling chemical sprays when used for self-defense.

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

(19) **Demonstrations.** Participating in an on-campus or off-campus demonstration, riot, or activity that disrupts the normal operations of the college and/or infringes on the rights of other members of the college community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area.

(20) **Disorderly conduct.** Conduct that is disorderly, lewd, indecent, or obscene; breach of peace; or aiding, abetting, or procuring another person to breach the peace on college premises or at functions sponsored by, or participated in by, the college or members of the college community. Disorderly conduct includes, but is not limited to, any unauthorized use of electronic or other devices to make an audio or video record of any person while on college premises without his/her prior knowledge, or without his/her effective consent when such a recording is in a place or situation where he or she has a reasonable expectation of privacy. This includes, but is not limited to,

surreptitiously taking pictures of another person in a gym, locker room, or restroom.

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

(22) **Stalking.** Stalking, defined as intentionally and repeatedly harassing or following a person and intentionally or unintentionally placing the person being followed or harassed in fear of physical harm to one's self or property or physical harm to another person or another's property.

(23) **Improper use of technology.** Theft or other abuse of computer facilities and resources including, but not limited to:

(a) Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.

(b) Unauthorized transfer of a file.

(c) Use of another individual's identification and/or password.

(d) Use of computing facilities and resources to interfere with the work of another student, faculty member, or college official.

(e) Use of computing facilities and resources to view or send obscene or abusive messages.

(f) Use of computing facilities and resources to interfere with normal operation of the college computing system.

(g) Use of computing facilities and resources in violation of copyright laws.

(h) Any violation of the Student Affairs Policy SA-24 - Student Acceptable Computer Use.

(24) **Forgery or alteration of records.** Any student who, while in any college facility or participating in a college-related program, engages in forgery, as defined in RCW 9A.60.020.

(25) **Disruption of conduct process.** Abuse of the student conduct system including, but not limited to:

(a) Falsification, distortion, or misrepresentation of information before a student conduct officer.

(b) Disruption or interference with the orderly conduct of a student conduct hearing proceeding.

(c) Institution of a student conduct code proceeding in bad faith.

(d) Attempting to discourage an individual's proper participation in, or use of, the student conduct system.

(e) Attempting to influence the impartiality of a member of a student conduct officer prior to, and/or during the course of, the student conduct hearing proceeding.

(f) Harassment (verbal or physical) and/or intimidation of a member of a student conduct officer prior to, during, and/or after a student conduct hearing proceeding.

(g) Failure to comply with the sanction(s) imposed under the student code.

(h) Influencing or attempting to influence another person to commit an abuse of the student conduct code system.

(26) **False complaint.** Filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.

(27) **Classroom conduct.** Any student who significantly disrupts any college class and makes it unreasonably difficult to conduct the class in an orderly manner shall be subject to disciplinary action. An instructor/faculty member may impose any of the following actions for classroom conduct:

(a) Warning: An oral or written notice to a student that college and/or classroom expectations about conduct have not been met.

(b) Reprimand: A written notice which censures a student for improper conduct and includes a warning that continuation or repetition of improper conduct shall result in further disciplinary action.

(c) Summary suspension for a maximum of two days: As defined in WAC 132J-126-230.

At any time, severe misconduct or continued misconduct shall be just cause for the matter to be forwarded immediately to the vice president of student affairs or designee for further action.

(28) **Retaliation.** Harming, threatening, intimidating, coercing, or taking adverse action of any kind against a person because such person reported an alleged violation of this code or college policy, provided information about an alleged violation, or participated as a witness or in any other capacity in a college investigation or disciplinary proceeding.

[Statutory Authority: RCW 28B.50.140(13) and P.L. 113-4. WSR 14-24-129, § 132J-126-090, filed 12/3/14, effective 1/3/15.]

NEW SECTION

WAC 132J-126-125 Hazing prohibited—Sanctions. (1) Hazing by a student or a student group is prohibited pursuant to WAC 132-126-090(9).

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

(3) Washington state law provides that:

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

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

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

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

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