

WSR 24-16-029

EMERGENCY RULES

EASTERN WASHINGTON UNIVERSITY

[Filed July 27, 2024, 12:53 p.m., effective August 1, 2024]

Effective Date of Rule: August 1, 2024.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: As identified in chapter 172-108 WAC, Eastern Washington University (EWU) declines to adopt the model rules of procedure issued by the office of administrative hearings. Instead, these rules are designed to emphasize the educational nature of the university community and to provide a prompt and equitable process for resolving concerns consistent with the requirements of Title VI and Title IX.

Purpose: To comply with new Title IX regulations that are effective August 1, 2024, EWU has designed an updated process for receiving and responding to concerns about students engaging in discrimination, discriminatory harassment, sexual violence, or interpersonal violence (chapter 172-125 WAC). EWU's previous procedures were contained in chapter 172-121 WAC, Student conduct code. To make the regulation more accessible for students and to provide greater support to students throughout the process, the procedures for handling complaints involving discrimination, discriminatory harassment, sexual violence, and interpersonal violence have been moved from the student conduct code to this new code. Additionally, due to the changes in Title IX, EWU will no longer be providing a formal adjudicative proceeding for Title IX complaints against employees.

Citation of Rules Affected by this Order: Amending WAC 172-108-040 and 172-108-050.

Statutory Authority for Adoption: RCW 28B.35.120(12).

Other Authority: 34 C.F.R. Part 106.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Revised definitions and procedures, including procedures for responding to complaints of discrimination against students, are required to comply with updated Title IX regulations, 34 C.F.R. Part 106. The Title IX regulations go into effect on August 1, 2024; thus, this emergency rule is being filed with an effective date of August 1, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.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 0, Repealed 0.

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

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 0, Repealed 0.

Date Adopted: June 20, 2024.

Annika Scharosch
Associate Vice President for Civil Rights
Compliance and Business Services

OTS-5548.1

AMENDATORY SECTION (Amending WSR 21-01-104, filed 12/11/20, effective 1/11/21)

WAC 172-108-040 Formal adjudicative proceedings. (1) Eastern Washington University utilizes a formal adjudicative proceeding for certain student conduct proceedings as identified in chapters 172-121 and 172-125 WAC, and certain academic integrity code proceedings as identified in chapter 172-90 WAC. The procedural rules for these formal adjudicative proceedings are contained in the student conduct code, chapter 172-121 WAC, discrimination and Title IX violations by students code, chapter 172-125 WAC, and the academic integrity code, chapter 172-90 WAC. In all other cases, Eastern Washington University only utilizes formal adjudicative proceedings when required by RCW 34.05.413 through 34.05.476 (~~or for the adjudication of formal Title IX complaints against employees as set forth in university policy~~).

(2) An application for a formal adjudicative proceeding shall be in writing. Application forms are available from: University Policy Administration; Eastern Washington University; Tawanka 211, Cheney, WA 99004-2496. Written application for a formal adjudicative proceeding in response to the institution's action must be submitted to the above address within (~~twenty-one~~) 21 calendar days of the action, unless otherwise provided by statute or rule.

AMENDATORY SECTION (Amending WSR 21-12-034, filed 5/25/21, effective 6/25/21)

WAC 172-108-050 Brief adjudicative proceedings. In accordance with RCW 34.05.410 (1)(a), the procedures identified in RCW 34.05.482 through 34.05.494 apply to all brief adjudicative proceedings at Eastern Washington University. All applications for a brief adjudicative proceeding shall be in writing. Application forms are available from: University Policy Administration; Tawanka 211; Eastern Washington University; Cheney, WA 99004-2496. Written application for a brief adjudicative proceeding in response to the institution's action must be submitted to the university within (~~twenty-one~~) 21 calendar days of the action, unless a different time frame is specified in the regulations identified below that apply to the type of decision being challenged. When required by law or constitutional right, brief adjudicative proceedings shall be used in all matters of appeal related to:

(1) Residency determinations made pursuant to RCW 28B.15.013 and chapter 250-18 WAC;

(2) Challenges to contents of education records, review of the denial to inspect such records, or challenges to the disclosure of such records. In addition to the rules identified below, these challenges are governed by chapter 172-191 WAC;

(3) Student conduct proceedings, if the potential sanction for the alleged misconduct does not include suspension, expulsion, (~~for formal Title IX complaints,~~) or an allegation of felony-level (~~sexual~~) misconduct. In addition to the rules identified below, these proceedings are governed by chapters 172-121 and 172-125 WAC;

(4) Outstanding debts owed by students or employees, pursuant to chapters 172-124 and 172-144 WAC;

- (5) Traffic and parking violations and revocations of any parking permit pursuant to chapter 172-100 WAC;
- (6) Student academic integrity proceedings, if the potential sanction for the alleged misconduct does not include suspension or expulsion. In addition to the rules identified in this section, these proceedings are governed by chapter 172-90 WAC;
- (7) Library fines and charges;
- (8) Reduction, cancellation, or nonrenewal of institutional financial aid when based in any degree on athletics ability per National Collegiate Athletic Association rules as detailed in WAC 172-108-100;
- (9) Administrative decisions regarding statutorily mandated tuition and/or fee waivers;
- (10) Research integrity violations in accordance with EWU Policy 302-05 when required by federal law;
- (11) Citations issued by university police regarding the use of golf carts and utility vehicles, in accordance with EWU Policy 603-06;
- (12) Fines imposed for impermissible use of tobacco, electronic cigarettes, and related products in accordance with WAC 172-122-310;
- (13) Financial aid appeals as provided for by federal law and in accordance with EWU policies for satisfactory academic progress for undergraduate, post-baccalaureate, and graduate students;
- (14) Denial of work study or termination from a work study position when required by federal law;
- (15) Notice against trespass issued per WAC 172-122-200;
- (16) Denial of request to waive undergraduate housing requirement under chapter 172-130 WAC;
- (17) Fines assessed under a university housing agreement; and
- (18) Penalties imposed for violations of pet control regulations in accordance with chapter 172-115 WAC.