

WSR 24-19-080

PROPOSED RULES

BELLEVUE COLLEGE

[Filed September 17, 2024, 9:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-17-078.

Title of Rule and Other Identifying Information: Student conduct code, policy 2050.

Hearing Location(s): On October 22, 2024, at 2:00 - 2:45 p.m., via Zoom <https://bellevuecollege.zoom.us/j/81112531610>, Meeting ID 811 1253 1610; or One-tap mobile +12532050468,,81112531610# US, +12532158782,,81112531610# US (Tacoma).

Date of Intended Adoption: December 5, 2024.

Submit Written Comments to: Loreen McRea Keller, 3000 Landerholm Circle S.E., Bellevue, WA 98007, email [loreen.keller@bellevuecollege.edu](mailto:loreen.keller@bellevuecollege.edu).

Assistance for Persons with Disabilities: Contact disability resource center.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Final Title IX regulations provide greater clarity regarding: The definition of "sex-based harassment"; the scope of sex discrimination, including schools' obligations not to discriminate based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; and schools' obligations to provide an educational environment free from discrimination based on sex. Two additional clarifications were made around document delivery methods and adding artificial intelligence to academic plagiarism.

Reasons Supporting Proposal: On April 19, 2024, the United States Department of Education (department) released its final rule to fully effectuate Title IX's promise that no person experiences sex discrimination in federally funded education. Before issuing the proposed regulations, the department received feedback on its Title IX regulations, as amended in 2020, from a wide variety of stakeholders. The final regulations strengthen several major provisions from the current regulations and provide schools with information to meet their Title IX obligations while providing appropriate discretion and flexibility to account for variations in school size, student populations, and administrative structures. The final regulations are effective on August 1, 2024, and apply to complaints of sex discrimination regarding alleged conduct that occurs on or after that date. Existing policies and procedures will remain in place for complaints of alleged conduct that occurs prior to August 1, 2024.

Statutory Authority for Adoption: Chapter 34.05 RCW and RCW 28B.50.140.

Statute Being Implemented: RCW 34.05.020.

Rule is necessary because of federal law, 34 C.F.R. 106.1.

Name of Proponent: Bellevue College, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Megan Kaptik, Bellevue College, U-219, 425-564-2757.

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. Bellevue College is not one of the enumerated agencies required to conduct cost-benefit analyses under RCW 34.05.328(5).

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

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: 34 C.F.R. 106.1 Nondiscrimination on the basis of sex.

Scope of exemption for rule proposal:

Is fully exempt.

September 16, 2024  
 Loreen M. Keller  
 Associate Director  
 Policies and Special Projects

### OTS-5664.1

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-010 Authority.** The board of trustees, acting pursuant to RCW 28B.50.140(14), delegates to the president of Bellevue College the authority to administer student disciplinary action. Administration of the disciplinary procedures is the responsibility of the (~~provost for academic and~~) vice president of student affairs or designee and/or the designated student conduct officer. (~~The~~) Except in cases involving reports of sex discrimination, including sex-based harassment, a student conduct officer, or delegate, shall serve as the principal investigator and administrator for reported violations of this code.

AMENDATORY SECTION (Amending WSR 23-04-040, filed 1/25/23, effective 2/25/23)

**WAC 132H-126-030 Statement of jurisdiction.** (1) The student conduct code shall apply to conduct by students or student groups that occurs:

- (a) On college premises;
- (b) At or in connection with college-sponsored activities; or
- (c) Off-campus, if in the judgment of the college the conduct adversely affects the college community (~~or~~), the pursuit of its objectives, or the ability of a student or staff to participate in the college's programs and activities.

(2) Jurisdiction extends to locations in which students are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the Bellevue College's associated student government, athletic events, student groups, training internships, cooperative and distance education, online education, internships, practicums, supervised work experiences, (~~or~~)

any other college-sanctioned social or club activities ((and)), or college-sponsored housing.

(3) The college has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct by students or student groups that occurs off campus.

(4) Students are responsible for their conduct from the time of application for admission through the last day of enrollment or actual ((receipt)) award 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.

(5) These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending.

(6) In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state, or local laws to civil and criminal authorities for disposition. The college shall proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

AMENDATORY SECTION (Amending WSR 23-04-040, filed 1/25/23, effective 2/25/23)

**WAC 132H-126-040 Definitions.** The following definitions shall apply for the purposes of this student conduct code:

(1) "**Business day**" means a weekday, excluding weekends and college holidays.

(2) "**College official**" is an employee of the college performing assigned administrative, security, professional, or paraprofessional duties.

(3) "**College premises**" shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, other property owned, used, or controlled by the college, study abroad program, retreat, and conference sites, and college-sponsored and/or college-hosted online platforms.

(4) "**Complainant**" ~~((is a student or another member of the college community who is allegedly directly affected by a reported violation of this student conduct code. The complainant may be the reporting party, but not necessarily; witnesses or other third parties may report concerns. In any case involving a report of sexual misconduct as defined in this student conduct code, a complainant is afforded certain rights under this student conduct code including, but not limited to:~~

~~(a) The right to be informed of all orders issued in the disciplinary case in which this person is a complainant;~~

~~(b) The right to appeal a disciplinary decision; and~~

~~(c) The right to be accompanied by a process advisor.)) means the following individuals who are alleged to have been subjected to conduct that would constitute sex discrimination:~~

~~(a) A student or employee; or~~

~~(b) A person other than a student or employee who was participating or attempting to participate in the college's education program or activity at the time of the reported discrimination.~~

(5) "**Conduct review officer**" is ~~((the provost for academic and student affairs or designee or other))~~ a college administrator designee

nated by the president to be responsible for receiving and reviewing or referring appeals of student disciplinary actions in accordance with the procedures of this code. (~~The president is authorized to re-assign any and all of the conduct review officer's duties or responsibilities, as set forth in this chapter, as may be reasonably necessary.~~)

(6) **"Disciplinary action"** is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code. A written or verbal warning is not disciplinary action.

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

(8) **"Filing"** is (~~the process by which~~) how a document is officially delivered to a college official responsible for facilitating a disciplinary review. Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official. 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) Sending the document by email (~~and first class mail~~) to the specified college official's college email (~~and office address~~).

(9) **"Pregnancy or related conditions"** means:

(a) Pregnancy, childbirth, termination of pregnancy, or lactation;

(b) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or

(c) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

(10) **"President"** is the president of the college. The president is authorized to:

(a) Delegate any of their responsibilities as set forth in this chapter as may be reasonably necessary; and

(b) Reassign any and all duties and responsibilities as set forth in this chapter as may be reasonably necessary.

(11) **"Process advisor"** is a person selected by a respondent or a complainant to provide support and guidance during disciplinary proceedings under this student conduct code.

(~~(10)~~) (12) **"Program" or "programs and activities"** means all operations of the college.

(13) **"Relevant"** means related to the reports of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the reported sex discrimination occurred, and evidence is relevant when it may aid a decision maker in determining whether the reported sex discrimination occurred.

(14) **"Remedies"** means measures provided to a complainant or other person whose equal access to the college's educational programs and activities has been limited or denied by sex discrimination. These measures are intended to restore or preserve that person's access to educational programs and activities after a determination that sex discrimination has occurred.

~~((15))~~ **"Respondent"** is a student against whom disciplinary action is initiated. ~~((Each respondent is afforded certain rights including, but not limited to:~~

~~(a) The right to be presumed not responsible for the reported misconduct unless or until a determination of responsibility is reached after completion of the disciplinary process;~~

~~(b) The right to be informed of all orders issued in the respondent's disciplinary case;~~

~~(c) The right to appeal a disciplinary decision; and~~

~~(d) The right to be accompanied by a process advisor.~~

~~((11))~~ **"Service"** is the process by which a document is officially delivered to a party. Service is deemed complete upon hand delivery of the document or upon the date the document is emailed ~~((and deposited in the mail))~~. Unless otherwise provided, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) Sending the document by email ~~((and by certified mail or first class mail to the party's last known address))~~ to the party's official college email.

~~((12))~~ **"Sexual misconduct"** includes prohibited sexual or gender-based conduct by a student including, but not limited to, sexual harassment, sexual violence, sexual exploitation, indecent exposure, dating violence, or domestic violence.

~~((13))~~ **"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, graduate, or complete courses after the date of a reported violation, 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."))~~ a "student" for purposes of this code.

~~((14))~~ **"Student conduct officer"** is a college administrator designated by the president ~~((or provost for academic and student affairs or designee))~~ to be responsible for implementing and enforcing the student conduct code. ~~((The president or provost for academic and student affairs or designee 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.~~

~~((15))~~ **"Student employee"** means an individual who is both a student and an employee of the college. When a complainant or respondent is a student employee, the college must make a fact-specific inquiry to determine whether the individual's primary relationship with the college is to receive an education; and whether any reported student conduct code violation including, but not limited to, sex-based harassment, occurred while the individual was performing employment-related work.

**"Student group"** 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.

~~((16))~~ **"The president"** is the president of the college. The president is authorized to delegate any and all of their responsibilities, as set forth in this chapter, as may be reasonably necessary.)

**"Supportive measures"** means reasonably available, individualized and appropriate, nonpunitive and nondisciplinary measures of-

ferred by the college to a complainant or respondent without unreasonably burdening either party, and without fee or charge for purposes of:

(a) Restoring or preserving a party's access to the college's educational program or activity, including measures that are designed to protect the safety of the parties or the college's educational environment; or providing support during the college's investigation and disciplinary procedures, or during any informal resolution process; or

(b) Supportive measures may include, but are not limited to: Counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of campus; restriction on contact applied to one or more parties; a leave of absence; change in class, work, housing, or extra-curricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

(22) "Title IX coordinator" is the administrator responsible for processing complaints of sex discrimination, including sex-based harassment, and overseeing investigations and informal resolution processes in accordance with college policy.

AMENDATORY SECTION (Amending WSR 23-04-040, filed 1/25/23, effective 2/25/23)

**WAC 132H-126-100 Prohibited student conduct.** The college may impose disciplinary sanctions against a student or a college-sponsored student group who commits ~~((or)),~~ attempts to commit, ~~((or))~~ aids, abets, incites, encourages, or assists another person to commit ~~((the following acts))~~ an act(s) of misconduct:

(1) **Abuse of others.** Assault, physical abuse, verbal abuse, threat(s), intimidation, or other conduct that harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property unless otherwise protected by law.

(2) **Abuse in later life.**

(a) Neglect, abandonment, economic abuse, or willful harm of an adult aged 50 or older by an individual in an ongoing relationship of trust with the victim; or

(b) Domestic violence, dating violence, sexual assault, or stalking of an adult aged 50 or older by any individual; and

(c) Does not include self-neglect.

(3) **Abuse of the student conduct process.**

(a) Abuse of the student conduct process includes:

(i) Attempting to influence the impartiality or participation of any decision maker including a student conduct officer, conduct review officer, or presiding student conduct committee member;

(ii) Influencing or attempting to influence another person to commit an abuse of the student conduct process;

(iii) Harassment or intimidation of any participant in the student conduct process; or

(iv) Submitting or providing false or misleading information in bad faith or with a view to personal gain or intentional harm to another in the conduct process.

(b) This provision does not apply to reports made or information provided in good faith, even if the respondent is ultimately found not responsible in that conduct proceeding.

(4) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, and fabrication. The decision to bring a student conduct proceeding under this code for academic dishonesty is at the sole discretion of the student conduct officer. Nothing in this code prohibits instructors and/or academic divisions or departments from imposing academic consequences, up to and including a failing grade in an academic course or dismissal from an academic program, in response to academic dishonesty. Policies and procedures governing the imposition of academic consequences for academic dishonesty can be found in the course syllabus and any applicable program handbook.

(a) **Cheating.** Any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) **Plagiarism.** Taking and using as one's own, without proper attribution, the ideas, writings, or work of another person or artificial intelligence in completing an academic assignment. Prohibited conduct may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) **Fabrication.** Falsifying data, information, or citations in completing an academic assignment. Fabrication also includes providing false or deceptive information to an instructor concerning the completion of an assignment.

(d) ~~((Multiple submissions. Submitting the same work in separate courses without the express permission of the instructor(s)).~~

~~(e))~~ **Deliberate damage.** Taking deliberate action to destroy or damage another's academic work or college property ~~((in order))~~ to gain an advantage for oneself or another.

(5) **Acts of dishonesty.** Acts of dishonesty include, but are not limited to:

(a) Forgery, alteration, submission of falsified documents, or misuse of any college document, record, or instrument of identification;

(b) Tampering with an election conducted by or for college students; ~~((or))~~

(c) Furnishing false information, or failing to furnish correct information, in response to the reasonable request or requirement of a college official or employee; or

(d) Knowingly making a false statement or submitting false information in relation, or in response, to a college academic or disciplinary investigation or process.

(6) **Alcohol.** Use, possession, manufacture, or distribution of alcoholic beverages or paraphernalia (except as expressly permitted by college policies, and federal, state, and local laws), or public intoxication on college premises or at college-sponsored events. Alcoholic beverages may not, in any circumstance, be used by, possessed by, or distributed to any person not of legal age.

(7) **Cyber misconduct.** Cyberstalking, cyberbullying, or online harassment. Use of electronic communications including, but not limited to, electronic mail, text messaging, social media sites, or applications (apps), to harass, abuse, bully, or engage in other conduct that harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's electronic communications or computer activities directly or through spyware, sending threatening emails or ~~((texts))~~ messages, disrupting electronic communications with spam or by sending a computer virus, ~~((or))~~ sending false emails or texts to third parties using another's identi-

ty (spoofing), nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

~~(8) ((**Dating violence.** Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:~~

~~(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and~~

~~(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:~~

~~(i) The length of the relationship;~~

~~(ii) The type of relationship; and~~

~~(iii) The frequency of interaction between the persons involved in the relationship.~~

~~(9)) **Discriminatory harassment.**~~

~~(a) Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, not otherwise protected by law, that is directed at a person because of such person's protected status and that is sufficiently severe, persistent, or pervasive so as to:~~

~~(i) Limit the ability of a student to participate in or benefit from the college's educational and/or social programs and/or student housing;~~

~~(ii) Alter the terms of an employee's employment; or~~

~~(iii) Create an intimidating, hostile, or offensive environment for other campus community members.~~

~~(b) Protected status includes a person's race; color; creed/religion; national origin; presence of any sensory, mental or physical disability; use of a trained service animal; sex, including pregnancy; marital status; age; genetic information; sexual orientation; gender identity or expression; ((honorably discharged)) veteran or military status; HIV/AIDS and hepatitis C status; or membership in any other group protected by federal, state, or local law.~~

~~(c) Discriminatory harassment may be physical, verbal, or nonverbal conduct and may include written, social media, and electronic communications not otherwise protected by law.~~

~~((10)) (9) **Disorderly conduct.** Conduct that is disorderly, lewd, or indecent; disturbing the peace; or assisting or encouraging another person to disturb the peace.~~

~~((11)) (10) **Disruption or obstruction.** Disruption or obstruction of any instruction, research, administration, disciplinary proceeding, or other college activity, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity, or any activity that is authorized to occur on college property, whether ((or not)) actually conducted or sponsored by the college.~~

~~((12) **Domestic violence.** Use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person:~~

~~(a) Who is a current or former spouse or intimate partner of the victim, or a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington;~~

~~(b) Who is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;~~

~~(c) Who shares a child in common with the victim; or~~



~~(d) Who commits acts against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.~~

~~(13))~~ (11) **Economic abuse.** In the context of domestic violence dating violence, economic abuse includes behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to:

(a) Restrict a person's access to money, assets, credit, or financial information;

(b) Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or

(c) Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

~~((14))~~ (12) **Ethical violation.** The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

~~((15))~~ (13) **Failure to comply with directive.** Failure to comply with the reasonable direction of a college official or employee who is acting in the legitimate performance of their duties, including failure to properly identify oneself to such a person when requested to do so.

~~((16))~~ (14) **Harassment or bullying.** Conduct unrelated to a protected class that is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance, or a person's ability to participate in or benefit from the college's programs, services, opportunities, or activities.

(a) Harassing conduct may include, but is not limited to, physical, verbal, or nonverbal conduct, including written, social media and electronic communications unless otherwise protected by law.

(b) For purposes of this code, "bullying" is defined as repeated or aggressive unwanted behavior not otherwise protected by law when a reasonable person would feel humiliated, harmed, or intimidated.

(c) For purposes of this code, "intimidation" is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though an explicit threat or display of physical force has not been made. Intimidation is evaluated based on the intensity, frequency, ~~((e))~~ context, and duration of the comments or actions.

~~((17))~~ (15) **Hazing.**

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

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

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

~~((18))~~ **(16) Indecent exposure.** The intentional or knowing exposure of a person's genitals or other private body parts when done in a place or ~~((manner in which))~~ way such exposure is likely to cause affront or alarm. Breastfeeding or expressing breast milk is not indecent exposure.

~~((19))~~ **(17) Cannabis or other drugs.**

(a) **Cannabis.** The use, possession, growing, delivery, sale, or being visibly under the influence of cannabis or the psychoactive compounds found in cannabis and intended for human consumption, regardless of form, or the possession of cannabis paraphernalia on college premises or college-sponsored events. While state law permits the recreational use of cannabis, federal law prohibits such use on college premises or in connection with college activities.

(b) **Drugs.** The use, possession, production, delivery, sale, or being under the influence of any prescription drug or possession of drug paraphernalia, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner.

~~((20))~~ **(18) Misuse of electronic resources.** Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

(a) Unauthorized opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of computer time or resources to interfere with someone else's work;

(e) Use of computer time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of computer time or resources to interfere with normal operation of the college's computing system or other electronic information resources;

(g) Use of computer time or resources in violation of applicable copyright or other law;

(h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or

(i) Failure to comply with the college's electronic use policy.

~~((21))~~ **(19) Property violation.** Damage to, misappropriation of, unauthorized use or possession of, vandalism of, or other nonaccidental damaging or destruction of college property or the property of another person. Property, for purposes of this subsection, also includes computer passwords, access codes, identification cards, personal fi-

nancial account numbers, other confidential personal information, intellectual property, and college trademarks.

~~((22))~~ (20) Retaliation. Harming, threatening, intimidating, coercing, or ~~((taking adverse action of any kind against a person because such person reported a violation of this code or college policy, provided information about a reported violation, or participated as a witness or in any other capacity in a college investigation or disciplinary proceeding.~~

~~(23))~~ other adverse action taken against any individual for reporting, providing information, exercising one's rights or responsibilities, participating, or refusing to participate, in the process of responding to, investigating, or addressing allegations or violations of federal, state, or local law, or college policies.

(21) Safety violations. ~~((Safety violations include committing any))~~ Nonaccidental, reckless, or unsafe ((aet)) conduct that ((endangers others, failing to follow established safety procedures (e.g., failing to evacuate during a fire alarm), or interfering with or otherwise compromising any college equipment relating to the safety and security of the campus community including, but not limited to, tampering with fire safety or first-aid equipment, or)) interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

~~((24))~~ (22) Sexual exploitation. Taking nonconsensual or abusive sexual advantage of another for the respondent's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, when the behavior does not otherwise constitute one of the other ~~((sexual misconduct))~~ sex-based harassment offenses described herein. Examples of sexual exploitation may include, but are not limited to:

- (a) Invading another person's sexual privacy;
- (b) Prostituting another person;
- (c) Nonconsensual photography and digital or video recording of nudity or sexual activity, or nonconsensual audio recording of sexual activity;
- (d) Unauthorized sharing or distribution of photographs or digital or video recording of nudity or sexual activity, or audio recording of sexual activity, unless otherwise protected by law;
- (e) Engaging in voyeurism. A person commits voyeurism if they knowingly view, photograph, record, or film another person, without that person's knowledge and consent, while the person being viewed, photographed, recorded, or filmed is in a place where the person has a reasonable expectation of privacy;
- (f) Knowingly or recklessly exposing another person to a significant risk of sexually transmitted disease or infection; or
- (g) Causing the nonconsensual indecent exposure of another person, as defined by subsection ~~((18))~~ (16) of this section.

~~((25))~~ Sexual harassment. ~~Unwelcome sexual or gender-based conduct, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual or gender-based nature that is sufficiently severe, persistent or pervasive as to:~~

- ~~(a) Deny or limit the ability of a student to participate in or benefit from the college's educational program;~~
- ~~(b) Alter the terms or conditions of employment; or~~

~~(c) Create an intimidating, hostile, or offensive environment for other campus community members.~~

~~For sexual harassment prohibited under Title IX, refer to WAC 132H-126-410.~~

~~(26) **Sexual violence.** A type of sexual harassment that includes nonconsensual intercourse, nonconsensual sexual contact, and sexual coercion.~~

~~(a-)) (23) **Sex discrimination.** The term "sex discrimination" includes sex-based harassment and may occur when a respondent causes more than de minimis (insignificant) harm to an individual by treating them differently from a similarly situated individual on the basis of: Sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Conduct that prevents an individual from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis harm on the basis of sex and is prohibited.~~

~~(a) **Sex-based harassment.** A form of sex discrimination and means sexual harassment or other harassment on the basis of sex, including the following conduct:~~

~~(i) **Quid pro quo harassment.** A student, employee, agent, or other person authorized by the college to provide an aid, benefit, or service under the college's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.~~

~~(ii) **Hostile environment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:~~

~~(A) The degree to which the conduct affected the complainant's ability to access the college's education program or activity;~~

~~(B) The type, frequency, and duration of the conduct;~~

~~(C) The parties' ages, roles within the college's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;~~

~~(D) The location of the conduct and the context in which the conduct occurred; and~~

~~(E) Other sex-based harassment in the college's education program or activity.~~

~~(iii) **Sexual violence.**~~

~~(A) **Nonconsensual sexual intercourse.** Any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.~~

~~(B) **Nonconsensual sexual contact (fondling).** Any actual or attempted intentional sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.~~

~~(C) **Incest.** Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, or sibling, brother or sister either wholly~~

or half related. Descendant includes stepchildren and adopted children under the age of 18.

(D) **Statutory rape (rape of a child).** Nonforcible sexual intercourse with a person who is under the statutory age of consent.

(E) **Domestic violence.** Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, coercive control, damage or destruction of personal property, or stalking or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington.

(F) **Dating violence.** Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

(I) The length of the relationship;

(II) The type of relationship; and

(III) The frequency of interaction between the persons involved in the relationship.

(G) **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or to suffer substantial emotional distress.

(b) **Consent.** For purposes of this code, "consent" means knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity.

(i) Each party has the responsibility to make certain that the other has consented before engaging in the activity. Effective consent cannot result from force, ((~~or~~)) threat of physical force, coercion, dishonesty, or intimidation.

(ii) ((Physical force means someone is physically exerting control of another person through violence. Physical force includes, but is not limited to, hitting, kicking, and restraining.

(iii) Threatening someone to obtain consent for a sexual act is a violation of this policy. Threats exist where a reasonable person would have been compelled by the words or actions of another to give permission to sexual activity to which they otherwise would not have consented.

(iv)) Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

((~~v~~)) (iii) A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.

(iv) Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

~~((b) **Nonconsensual sexual intercourse.** Any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.~~

~~(c) **Nonconsensual sexual contact.** Any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.~~

~~(d) **Sexual coercion.** Unreasonably pressuring another for sexual contact. When a complainant makes it clear through words or actions that they do not want to engage in sexual contact, want to stop, or do not want to go past a certain point of sexual interaction, continued pressure beyond that point is presumptively unreasonable and coercive. Other examples of coercion may include using blackmail or extortion, or administering drugs and/or alcohol to overcome resistance or gain consent to sexual activity. Sexual contact that is the result of coercion is nonconsensual.~~

~~(e) **Incest.** Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of 18.~~

~~(f) **Statutory rape.** Consensual sexual intercourse between someone who is 18 years of age or older and someone who is under the age of 16.~~

~~(27) **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the perpetrator lacks such an intent.~~

~~(28)) (c) **Title IX retaliation.** Intimidation, threats, coercion, or discrimination against any person by a student, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in a sex discrimination investigation, proceeding, or hearing under this part, including during an informal resolution process, during a sex discrimination investigation, or during any disciplinary proceeding involving reports of sex discrimination.~~

~~(24) **Technological abuse.** An act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology including, but not limited to: Internet-enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.~~

~~((29)) (25) **Tobacco, electronic cigarettes, and related products.** The use of tobacco, electronic cigarettes, and related products is prohibited in any building owned, leased, or operated by the college or in any location where such use is prohibited, including 25 feet from entrances, exits, windows that open, and ventilation intakes~~

of any building owned, leased, or operated by the college. The use of tobacco, electronic cigarettes, and related products on the college campus is restricted to designated smoking areas. The use of tobacco, electronic cigarettes, and related products is prohibited in vehicles owned, leased, rented, or operated by the college. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.

~~((30))~~ (26) Unauthorized access. Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property. Providing keys to an unauthorized person or providing access to an unauthorized person is also prohibited.

~~((31))~~ (27) Unauthorized recording. The following conduct is prohibited:

(a) Making audio, video, digital recordings, or photographic images of a person without that person's consent in a location where that person has a reasonable expectation of privacy (e.g., restroom or residence hall room).

(b) Storing, sharing, publishing, or otherwise distributing such recordings or images by any means.

~~((32))~~ (28) Violation of other laws or policies. Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including ~~((on-campus))~~ college housing ~~((policies and college))~~, traffic, and parking rules.

~~((33))~~ (29) Weapons.

~~((a))~~ Possessing, holding, wearing, transporting, storing, or exhibiting any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device, or any other weapon apparently capable of producing bodily harm is prohibited on the college campus and during college programming and activities, subject to the following exceptions:

~~((i))~~ (a) Commissioned law enforcement personnel ~~((; or (ii)))~~ or legally authorized military personnel while in performance of their official duties.

(b) Students with legally issued concealed weapons permits may store their weapons in vehicles parked in accordance with RCW 9.41.050 on campus provided the vehicle is locked and the weapon is concealed from view.

(c) The president or delegate 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 any terms or conditions ~~((incorporated therein))~~ in the written permission.

(d) Possession and/or use of disabling chemical sprays for purposes of self-defense is not prohibited.

AMENDATORY SECTION (Amending WSR 19-01-082, filed 12/17/18, effective 1/17/19)

**WAC 132H-126-110 Corrective action, disciplinary sanctions—**  
**Terms and conditions.** (1) ~~((The following disciplinary sanctions may be imposed upon students found to have violated the student conduct code:))~~ One or more of the following corrective actions or disciplinary sanctions may be imposed upon a student or upon college-sponsored

student groups found responsible for violating the student conduct code.

(a) **((Disciplinary)) Warning.** A verbal or written statement to a student that ~~((they are violating or have violated the student conduct code))~~ there is a violation and that continuation of the same or similar behavior may result in more severe discipline. Warnings are corrective actions, not disciplinary, and may not be appealed.

(b) **Written reprimand.** Notice in writing that the student has violated one or more terms of ~~((the))~~ this student conduct code and that continuation of the same or similar behavior may result in more severe disciplinary action.

(c) **Disciplinary probation.** Formal action placing specific conditions and restrictions upon the student's continued attendance, depending upon the seriousness of the violation, which may include a deferred disciplinary sanction.

(i) Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.

(ii) If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction, which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation.

(d) **Disciplinary suspension.** Separation from the college and from the student status for a stated period of time.

(i) There will be no refund of tuition or fees for the quarter in which the action is taken.

(ii) Conditions of suspension may be imposed and will be specified. Except as otherwise specified in the final order, all conditions must be fulfilled before the end of the suspension period. Failure to fulfill all conditions of suspension in a timely manner ~~((will))~~ may extend the suspension period and any conditions, and may result in additional disciplinary sanctions.

(iii) The college may put a conduct hold in place during the suspension period.

(e) **Dismissal.** The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or college-controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the action is taken.

(2) Disciplinary terms and conditions that may be imposed in conjunction with the imposition of a disciplinary sanction include, but are not limited to, the following:

(a) **Education.** Participation in or successful completion of an educational assignment designed to create an awareness of the student's misconduct.

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

(c) **No contact ~~((order))~~ directive.** ~~((A prohibition of direct or indirect physical, verbal, electronic, and/or written contact with another individual or group.))~~ An order directing a student to have no contact with a specified student, college employee, a member of the college community, or a particular college facility.

(d) **Not in good standing.** A student found to be "not in good standing" with the college shall be subject to the following restrictions:



(i) Ineligible to hold an office in any student (~~(organization)~~) group recognized by the college or to hold any elected or appointed office of the college.

(ii) Ineligible to represent the college to anyone outside the college community in any way, including representing the college at any official function, or any forms of intercollegiate competition or representation.

(e) **Professional evaluation.** Referral for drug, alcohol, psychological, or medical evaluation by an appropriately certified or licensed professional.

(i) The student may choose the professional within the scope of practice and with the professional credentials as defined by the college.

(ii) The student will sign all necessary releases to allow the college access to any such evaluation.

(iii) The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

(f) **Residence hall suspension.** Separation of the student from a residence hall or halls for a definite period of time, after which the student may be eligible to return. Conditions (~~for reacceptance may be specified~~) may be imposed before a student is permitted to return to a residence hall.

(g) **Residence hall dismissal.** Permanent separation of the student from a residence hall or halls.

(h) **Restitution.** Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(i) **Trespass or restriction.** A student may be restricted from any or all college premises and/or college-sponsored activities based on the violation.

(3) More than one of the disciplinary terms and conditions listed above may be imposed for any single violation.

(4) If a student withdraws from the college or fails to reenroll before completing a disciplinary sanction or condition, the disciplinary sanction or condition must be completed either prior to or upon the student's reenrollment, depending on the nature of the sanction, condition, and/or the underlying violation. Completion of disciplinary sanctions and conditions may be considered in petitions for readmission to the college.

AMENDATORY SECTION (Amending WSR 23-04-040, filed 1/25/23, effective 2/25/23)

**WAC 132H-126-115 Hazing prohibited—Sanctions.** (1) (~~Hazing by a student or a student group is prohibited pursuant to WAC 132H-126-100(17).~~)

~~(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)) (2) 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.~~

~~((e)) (3) Any student group((s)) 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)) (4) 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.~~

AMENDATORY SECTION (Amending WSR 23-04-040, filed 1/25/23, effective 2/25/23)

**WAC 132H-126-120 Initiation of disciplinary action.** (1) Any member of the college community may file a complaint against a student or student group for possible violations of the student conduct code.

(2) Upon receipt, a student conduct officer, or designee, may review and investigate any complaint to determine whether it appears to state a violation of the student conduct code.

~~(a) ((**Student on student sexual misconduct.** The college's Title IX coordinator or designee shall investigate complaints or other reports of sexual misconduct by a student against a student.~~

~~(b) **Sexual misconduct involving an employee.** The college's human resource office or designee shall investigate complaints or other reports of sexual misconduct in which an employee is either the complainant or respondent.~~

~~(c)) **Sex discrimination, including sex-based harassment.** The college's Title IX coordinator or designee shall review, process, and, if applicable, investigate complaints or other reports of sex discrimination, including sex-based harassment. Allegations of sex discrimination, including sex-based harassment, by a student shall be addressed through the student conduct code. Reports involving employees, student employees, or third parties associated with the college will be handled in accordance with college policies.~~

~~(b) **Hazing by student groups.** A student conduct officer, or designee, may review and investigate any complaint or allegation of hazing by a student group. A student group will be notified through its named officer(s) and address on file with the college. A student group may designate one representative who may speak on behalf of a student~~

group during any investigation and/or disciplinary proceeding. A student group will have the rights of a respondent as set forth below.

~~((d))~~ (3) Investigations will be completed in a timely manner according to college procedures and the results of the investigation shall be referred to the student conduct officer for student disciplinary action.

~~((e))~~ College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done in compliance with federal and state laws and without unreasonably risking the health, safety, and welfare of the complainant or other members of the college community.

~~(3))~~ (4) If a student conduct officer determines that a complaint appears to state a violation of the student conduct code, the student conduct officer will consider whether the matter might be resolved through agreement with the respondent or through alternative dispute resolution proceedings involving the complainant and the reporting party.

(a) Informal dispute resolution shall not be used to resolve ~~((sexual misconduct complaints))~~ sex discrimination reports without written permission from both the complainant and the respondent.

(b) If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time.

~~((4))~~ (5) If the student conduct officer has determined that a complaint has merit and if the matter is not resolved through agreement or alternative dispute resolution, the student conduct officer may initiate disciplinary action against the respondent.

~~((a))~~ (6) Both the respondent and the complainant in cases involving ~~((allegations of sexual misconduct))~~ reports of sex discrimination shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the ~~((initial))~~ disciplinary ~~((decision-making))~~ process and to appeal any disciplinary decision.

~~((b))~~ The student conduct officer, prior to initiating disciplinary action in cases involving allegations of sexual misconduct, will make a reasonable effort to contact the complainant to discuss the results of the investigation and possible disciplinary sanctions and/or conditions, if any, that may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.

~~(5))~~ (7) All disciplinary actions will be initiated by a student conduct officer. If that officer is the subject of a complaint initiated by the respondent or the complainant, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complaint.

~~((6))~~ (8) A student conduct officer shall initiate disciplinary action by serving the respondent with written notice directing them to attend a disciplinary meeting. ~~((a))~~ The notice shall briefly describe the factual allegations, the provision(s) of the student conduct code the respondent is reported to have violated, the range of possible sanctions for the reported violation(s), and it will specify the time and location of the meeting.

~~((b))~~ (9) At the ~~((disciplinary))~~ meeting, the student conduct officer will present the allegations to the respondent ~~((r))~~ and the respondent shall be afforded an opportunity to explain what occurred. ~~((e))~~ If the respondent fails to attend the meeting, the student conduct officer may take disciplinary action based upon the available information.

~~((7))~~ (10) Within 10 business days of the initial disciplinary meeting and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer shall serve the respondent with a written decision setting forth the facts and conclusions supporting the decision, the specific student conduct code provisions found to have been violated, the discipline imposed, if any, and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal. This period may be extended ~~((if))~~ at the sole discretion of the student conduct officer ~~(, based on information presented at the disciplinary meeting, concludes that additional investigation is necessary. If the period is extended, the student conduct officer will notify the respondent, and the complainant in cases involving allegations of sexual misconduct, of this extension, the reason(s), and the anticipated extension time frame))~~ if additional information is necessary to reach a determination. The student conduct officer will notify the parties of any extension period and the reason therefore.

~~((8))~~ (11) A student conduct officer may take any of the following disciplinary actions:

- (a) Exonerate the respondent and terminate the proceedings ~~((-))~~;
- (b) Impose a disciplinary sanction(s), with or without condition(s), as described in WAC 132H-126-110 and 132H-126-115 ~~((-))~~; or
- (c) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct committee, with a copy served on the respondent.

~~((9) In cases involving allegations of sexual misconduct, the student conduct officer, on the same date that a disciplinary decision is served on the respondent, will serve a written notice informing the complainant of the decision, the reasons for the decision, and any disciplinary sanctions and/or conditions that may have been imposed upon the respondent, including disciplinary suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure prompt notice of the protective disciplinary sanctions and/or conditions.))~~

(12) In cases involving reports of sex discrimination, the student conduct officer shall review the investigation report provided by the Title IX coordinator, and determine whether, by a preponderance of the evidence, there was a violation of the student conduct code; and if so, what disciplinary sanction(s) and/or remedies will be recommended. The student conduct officer shall, within five business days of receiving the investigation report, serve respondent, complainant, and the Title IX coordinator with a written recommendation, setting forth the facts and conclusions supporting their recommendation. The time for serving a written recommendation may be extended by the student conduct officer for good cause.

(a) The complainant and respondent may either accept the student conduct officer's recommended disciplinary sanction(s) or request a hearing before a student conduct committee.

(b) The complainant and respondent shall have 21 calendar days from the date of the written recommendation to request a hearing before a student conduct committee.

(c) The request for a hearing may be verbal or written but must be clearly communicated to the student conduct officer.

(d) The student conduct officer shall promptly notify the other party of the request.

(e) In cases involving sex discrimination, the student conduct officer may recommend dismissal of the complaint if:

(i) The college is unable to identify respondent after taking reasonable steps to do so;

(ii) Respondent is not participating in the college's educational programs or activities;

(iii) The complainant has voluntarily withdrawn any or all of the allegations in the complaint, and the Title IX coordinator has declined to initiate their own complaint;

(iv) The college determines that, even if proven, the conduct reported by the complainant would not constitute sex discrimination; or

(v) The conduct reported by the complainant falls outside the college's disciplinary jurisdiction.

(f) In cases involving allegations of sex-based harassment, the college must obtain the complainant's voluntary withdrawal in writing before the matter can be dismissed.

(g) If no request for a full hearing is provided to the student conduct officer, the student conduct officer's written recommendation shall be final and implemented immediately following the expiration of 21 calendar days from the date of the written recommendation.

(h) Upon receipt of the student conduct officer's written recommendation, the Title IX coordinator or their designee shall review all supportive measures and, within five business days, provide written direction to the complainant and respondent as to any supportive measures that will be implemented, continued, modified, or terminated. If either party is dissatisfied with the supportive measures, the party may seek review in accordance with the college's sex discrimination resolution procedure.

(i) If the respondent is found responsible for engaging in sex discrimination, the Title IX coordinator shall also take prompt steps to coordinate and implement any necessary remedies to ensure that sex discrimination does not recur and that complainant has equal access to the college's programs and activities.

AMENDATORY SECTION (Amending WSR 23-04-040, filed 1/25/23, effective 2/25/23)

**WAC 132H-126-130 Appeal from disciplinary action.** (1) Except as specified for cases involving allegations of sex discrimination, as set forth in WAC 132H-126-120, the respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within 21 calendar days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's decision shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent, complainant if any, and the student conduct officer. ((If a case involves allegations of sexual misconduct, a complainant also has a right to appeal a disciplinary decision or to intervene in the respondent's appeal of a disciplinary decision to the extent the disciplinary decision, sanc-

tions or conditions relate to allegations of sexual misconduct against the respondent.)

(4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.

(6) Imposition of disciplinary action for violation of the student conduct code shall be stayed pending appeal, unless the respondent has been summarily suspended.

(7) The student conduct committee shall hear appeals (~~regard-~~ing) from:

(a) (~~The imposition of~~) Disciplinary suspensions in excess of 10 instructional days (or, for a student group, suspensions in excess of two academic quarters);

(b) ~~Dismissals (or, for a student group, deprivation of recognition or approval granted by the college); (and)~~

(c) Sex discrimination, including sex-based harassment cases; and

(d) Discipline cases referred to the committee by (the) a student conduct officer, (the) a conduct review officer, or the president.

(8) (~~Student conduct appeals from the imposition of the following disciplinary sanctions shall be reviewed through a brief adjudicative proceeding:~~) A conduct review officer shall conduct a brief adjudicative proceeding for appeals of:

(a) Residence hall dismissals;

(b) Residence hall suspensions;

(c) Suspensions of 10 instructional days or less;

(d) Disciplinary probation;

(e) Written reprimands; and

(f) (~~Sanctions against a student group, other than those set forth in subsection (7)(a) and (b) of this section;~~

~~(g)) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions (;~~ and

~~(h) Appeals by a complainant in student disciplinary proceedings involving allegations of sexual misconduct in which the student conduct officer:~~

~~(i) Dismisses disciplinary proceedings based upon a finding that the allegations of sexual misconduct have no merit; or~~

~~(ii) Issues a verbal warning to the respondent.~~

(9) ~~Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary complaints are final actions and are not subject to appeal.~~

(10) ~~In cases involving allegations of sexual misconduct, the complainant has the right to appeal the following actions by the student conduct officer following the same procedures as set forth above for the respondent:~~

~~(a) The dismissal of a sexual misconduct complaint; or~~

~~(b) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.~~

(11) ~~If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.~~

~~(12) Except as otherwise specified in this chapter, a complainant who timely appeals a disciplinary decision or who intervenes as a party to respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent).~~

AMENDATORY SECTION (Amending WSR 19-01-082, filed 12/17/18, effective 1/17/19)

**WAC 132H-126-150 Amnesty policy.** (1) Bellevue College values the health, safety and wellness of those in our college community. Students are encouraged to report crimes, share concerns, and seek medical attention for themselves or others in need.

(2) A student conduct officer may elect not to initiate disciplinary action against a student who, while in the course of helping another person seek medical or other emergency assistance, admits to a possible policy violation under this student conduct code, provided that any such violations did not and do not place the health or safety of any other person at risk.

(3) A student conduct officer may elect not to initiate disciplinary action against a student who, while in the course of reporting violence, (~~sexual misconduct~~) sex discrimination, or a crime in progress, admits to personal consumption of alcohol or drugs at or near the time of the incident, provided that any such use did not place the health or safety of any other person at risk.

(4) While policy violations cannot be overlooked, the college may elect to offer educational options or referrals, rather than initiating disciplinary action against students who report crimes, serve as witnesses, or seek medical attention as described in this section.

(5) This amnesty policy may not apply to students who repeatedly violate college policies in regard(~~s~~) to alcohol, drugs, or other prohibited conduct.

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-160 Interim measures.** (1) After receiving a report of (~~sexual misconduct~~) sex discrimination or other serious student misconduct, a student conduct officer or designee may implement interim measures which may include, but are not limited to:

(a) A no-contact order prohibiting direct or indirect contact, by any means, with a complainant, a respondent, a reporting party, other specified persons, and/or a specific student group or organization;

(b) Reassignment of on-campus housing;

(c) Changes to class schedules, assignments, or test schedules;

(d) Modified on-campus employment schedule or location;

(e) Restrictions on access to portions of campus including, but not limited to, on-campus housing; or

(f) Alternative safety arrangements such as campus safety escorts.

(2) If an interim measure is put in place pending or during a conduct proceeding, the student will be notified of the interim measure and be advised how to raise an objection about the interim measure or request that it be made less restrictive. (~~The~~) A student conduct

officer may adjust or modify interim measures as students' situations and schedules change and evolve over time. Interim measures will remain in place until ~~((the))~~ student receives notice they have been lifted or modified from ~~((the))~~ a student conduct officer.

(3) Implementation of any interim measure does not assume any determination of, or create any presumption regarding responsibility for, a violation under this student conduct code.

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-170 Summary suspension.** (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) ~~((The))~~ A student conduct officer may impose a summary suspension if there is reasonable basis to believe that the respondent:

(a) Has violated a provision of the student conduct code; and

(b) Presents an immediate danger to the health, safety, or welfare of members of the college community; or

(c) Poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two business days of the oral notice.

(4) The written notice shall be entitled "Notice of Summary Suspension" and shall include:

(a) The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the student conduct code or the law reportedly violated;

(b) The date, time, and location when the respondent must appear before the conduct review officer for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included that warns the student that their privilege to enter or remain on college premises has been withdrawn and that the respondent shall be ~~((considered to be))~~ trespassing and subject to arrest for criminal trespass if the respondent enters the college campus. The respondent may be authorized to access college premises for the limited purpose of meeting with the student conduct officer, the conduct review officer, or to attend a disciplinary hearing. All such meetings and hearings shall be confirmed in writing in advance and the respondent entering college premises shall be required to produce the written permission to a college official on request.

(5) ~~((The))~~ A conduct review officer shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension.

(a) During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe



that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

(b) The respondent shall be afforded an opportunity to explain why the summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

(c) If the respondent fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

(d) As soon as practicable following the hearing, the conduct review officer shall issue a written decision which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.

(e) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices who may be bound or protected by it.

(6) In cases involving ~~((allegations of sexual misconduct))~~ reports of sex discrimination, the complainant shall be notified that a summary suspension has been imposed on the same day that the summary suspension notice is served on the respondent. The college will also provide the complainant with timely notice of any subsequent changes to the summary suspension order.

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-200 Brief adjudicative proceedings—~~((Initial))~~**

**Hearing.** (1) Brief adjudicative proceedings shall be conducted by a conduct review officer designated by the president. The conduct review officer shall not participate in any case in which they are a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) The parties to a brief adjudicative proceeding are the respondent and the student conduct officer. Before ~~((taking action))~~ acting, the conduct review officer shall conduct an informal hearing and provide each party:

(a) An opportunity to be informed of the agency's view of the matter; and

(b) An opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon the parties within ~~((ten business))~~ 10 calendar days of consideration of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within ~~((twenty-one))~~ 21 calendar days of service of the initial decision, the initial decision shall be deemed the final decision.

(4) ~~((If the matter is an appeal by the respondent, or the complainant in the case of sexual misconduct, the conduct review officer may affirm, reverse, or modify the disciplinary sanctions and/or conditions imposed by the student conduct officer and/or impose addition-~~

~~al disciplinary sanctions or conditions as authorized herein. If the conduct review officer, upon review, determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.~~

~~(5) In cases involving allegations of sexual misconduct, the conduct review officer, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant of the decision, the reasons for the decision, and a description of any disciplinary sanctions and/or conditions that may have been imposed upon the respondent. The notice will also inform the complainant of their appeal rights.) If the conduct review officer upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension in excess of 10 instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.~~

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-210 Brief adjudicative proceedings—Review of an initial decision.** (1) An initial decision is subject to review by the president, provided the respondent files a written request for review with the conduct review officer within (~~twenty-one~~) 21 calendar days of service of the initial decision.

(2) The president shall not participate in any case in which they are a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to determine whether the findings or sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.

(4) The decision on review must be in writing, include a brief statement of the reasons for the decision and typically must be served on the parties within (~~twenty~~) 20 calendar days of the initial decision or the request for review, whichever is later. The decision on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the president does not make a disposition of the matter within (~~twenty~~) 20 calendar days after the request is submitted without a response from the president.

(5) If the president, upon review, determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than (~~ten~~) 10 instructional days or dismissal, the matter shall be referred to the student conduct committee for a disciplinary hearing.

~~((6) In cases involving allegations of sexual misconduct, the president, on the same date as the final decision is served on the respondent, will serve a written notice upon the complainant informing the complainant of the decision, the reasons for the decision, and a description of any disciplinary sanctions and/or conditions that may~~

have been imposed upon the respondent. The notice will also inform the complainant of their appeal rights.)

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

- WAC 132H-126-300 Student conduct committee.** (1) The student conduct committee shall consist of six members:
- (a) Two full-time students appointed by the student government;
  - (b) Two faculty members appointed by the president;
  - (c) Two administrative staff members, other than an administrator serving as a student conduct or conduct review officer, appointed by the president prior to the beginning of the academic year for alternating two-year terms.
- (2) One of the administrative staff members shall serve as the chair of the committee and may ~~((take action))~~ act on preliminary hearing matters prior to convening the committee. ~~((The administrative staff members shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.))~~
- (3) Hearings may be heard by a quorum of three members of the committee, so long as one faculty member, one student, and one administrative staff member are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.
- (4) Members of the student conduct committee shall not participate in any case in which they ~~((:~~
- ~~(a) Are a complainant or witness;~~
  - ~~(b) Have direct or personal interest, prejudice, or bias; or~~
  - ~~(c) Have acted previously in an advisory capacity.~~
- ~~(5) Any party may petition for disqualification of a committee member pursuant to RCW 34.05.425(4))~~ are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition the committee for disqualification of a committee member.
- (5) For cases involving reports of sex discrimination, including sex-based harassment, members of the student conduct committee must receive training on serving impartially, avoiding prejudgment of facts at issue, conflicts of interest, and bias. The chair must also receive training on the student conduct process for sex discrimination cases, as well as the meaning and application of the term "relevant," in relations to questions and evidence, and the types of evidence that are impermissible, regardless of relevance in accordance with 34 C.F.R. §§ 106.45 and 106.46.
- (6) In sex discrimination cases, the college may, in its sole and exclusive discretion, contract with an administrative law judge or other qualified person to act as the presiding officer, authorized to exercise any or all duties of the student conduct committee and/or committee chair.

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-310 Student conduct committee—Prehearing.** (1)

Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW, and by the Model Rules of Procedure, chapter 10-08 WAC. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

(2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven calendar days in advance of the hearing date (~~(, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045)~~). The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown. The notice must include:

- (a) A copy of the student conduct code;
- (b) The basis for jurisdiction;
- (c) The reported violation(s);
- (d) A summary of facts underlying the allegations;
- (e) The range of possible sanctions that may be imposed; and
- (f) A statement that retaliation is prohibited.

(3) The (~~committee~~) chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(4) Upon request, filed at least five calendar days before the hearing by any party or at the direction of the (~~committee~~) chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(5) The (~~committee~~) chair may provide to the committee members in advance of the hearing copies of: (a) The conduct officer's notice of discipline, or referral to the committee(~~(r)~~) and (b) the notice of appeal, or any response to referral, by the respondent or, in a case involving (~~allegations of sexual misconduct~~) reports of sex discrimination, the complainant. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(6) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the (~~committee~~) chair may provide copies of these admissible exhibits to the committee members before the hearing.

(7) (~~The~~) A student conduct officer, upon request, shall provide reasonable assistance to the respondent and complainant in obtaining relevant and admissible evidence that is within the college's control.

(8) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate. Any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(9) ~~((All parties))~~ Each party may be accompanied at the hearing by a process advisor of their choice, which may be an attorney retained at the party's expense.

~~(10) ((The respondent, in all appeals before the committee, and the complainant, in an appeal involving allegations of sexual misconduct before the committee, may elect to be represented by an attorney at their own expense. The respondent and/or complainant will be deemed to have waived the right to be represented by an attorney unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer.~~

~~(11))~~ The committee will ordinarily be advised by an assistant attorney general or their designee. If the respondent and/or the complainant is represented by an attorney, the student conduct officer may also be represented by ~~((a second, appropriately screened,))~~ an assistant attorney general.

(11) Attorneys for students must file a notice of appearance with the committee chair at least five business days before the hearing. Failure to do so may, at the discretion of the committee chair, result in a waiver of the attorney's ability to represent the student at the hearing, although an attorney may still serve as an advisor to the student.

(12) In cases involving reports of sex discrimination, the complainant has a right to participate equally in any part of the disciplinary process, including appeals. Respondent and complainant both have the following rights:

(a) **Notice.** The college must provide a notice that includes all information required in subsection (2) of this section, and a statement that the parties are entitled to an equal opportunity to access relevant and permissible evidence, or a description of the evidence upon request.

(b) **Advisors.** The complainant and respondent are both entitled to have an advisor present, who may be an attorney retained at the party's expense.

(c) **Extensions of time.** The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date, in accordance with the procedures set forth in subsection (13)(b) of this section.

(d) **Evidence.** In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.

(e) **Confidentiality.** The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process, which may include, but are not limited to, directives by the student conduct officer or chair pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.

(13) In cases involving allegations of sex-based harassment, the following additional procedures apply:

(a) **Notice.** In addition to all information required in subsection (2) of this section, the notice must also inform the parties that:

(i) The respondent is presumed not responsible for the reported sex-based harassment;

(ii) The parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decision maker;

(iii) They may have an advisor of their choice, who may be an attorney, to assist them during the hearing;

(iv) They are entitled to an equal opportunity to access relevant and not otherwise impermissible evidence in advance of the hearing; and

(v) The student conduct code prohibits knowingly making false statements or knowingly submitting false information during a student conduct proceeding.

(b) **Extensions of time.** The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date. The party requesting an extension must do so no later than 48 hours before any date specified in the notice of hearing or by the chair in any prehearing conference. The written request must be served simultaneously by email to all parties and the chair. Any party may respond and object to the request for an extension of time no later than 24 hours after service of the request for an extension. The chair will serve a written decision upon all parties, to include the reasons for granting or denying any request. The chair's decision shall be final. In exceptional circumstances, for good cause shown, the chair may, in their sole discretion, grant extensions of time that are made less than 48 hours before any deadline.

(c) **Advisors.** The college shall provide an advisor to the respondent and any complainant, if the respondent or complainant have not otherwise identified an advisor to assist during the hearing.

(d) **Evidence.** In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.

(e) **Confidentiality.** The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process, which may include, but are not limited to, directives by the student conduct officer or chair issuing directives pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.

(f) **Separate locations.** The chair may, or upon the request of any party, must conduct the hearing with the parties physically present in separate locations, with technology enabling the committee and parties to simultaneously see and hear the party or the witness while that person is speaking.

(g) **Withdrawal of complaint.** If a complainant wants to voluntarily withdraw a complaint, they must provide notice to the college in writing before a case can be dismissed.

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-320 Student conduct committee—Presentation of evidence.** (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

- (a) Proceed with the hearing and issuance of its decision; or
- (b) Serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that they select, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to any party upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The student conduct officer, unless represented by an assistant attorney general, shall present the case for imposing disciplinary sanctions.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(7) In cases involving reports of ~~((sexual misconduct))~~ sex discrimination, the respondent and complainant shall not directly question or cross-examine one another ~~((. Attorneys for the respondent and complainant are also prohibited from directly questioning opposing parties absent express permission from the committee chair. Subject to this exception, all cross-examination questions by the respondent and complainant shall be directed to the committee chair, who in their discretion shall pose the questions on the party's behalf. All cross-examination questions submitted to the chair in this manner shall be memorialized in writing and maintained as part of the hearing record.))~~ or other witnesses. In such circumstances, the chair will determine whether questions will be submitted to the chair, who will then ask questions of the parties and witnesses or allow questions to be asked directly of any party or witness by a party's attorney or advisor. The chair may revise this process if, in the chair's determination, the questioning by any party, attorney, or advisor, becomes contentious or harassing.

(a) Prior to any question being posed to a party or witness, the chair must determine whether the question is relevant and not otherwise impermissible; and must explain any decision to exclude a question that is deemed not relevant or is otherwise impermissible. The chair will retain for the record copies of any written questions provided by any party.

(b) The chair must not permit questions that are unclear or harassing; but shall give the party an opportunity to clarify or revise such a question.

(c) The chair shall exclude, and the committee shall not consider legally privileged information unless the individual holding the privilege has waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(i) Spousal/domestic partner privilege;

(ii) Attorney-client communications and attorney work product privilege;

(iii) Clergy privileges;

(iv) Medical or mental health providers and counselor privileges;

(v) Sexual assault and domestic violence advocate privileges; and  
(vi) Other legal privileges set forth in RCW 5.60.060 or federal  
law.

(d) The chair shall exclude and the committee shall not consider questions or evidence that relate to the complainant's sexual interests or prior sexual conduct, unless such question or evidence is offered to prove someone other than the respondent committed the reported conduct, or is evidence of specific instances of prior sexual conduct with the respondent that is offered to prove consent to the reported sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the reported sex-based harassment or preclude determination that sex-based harassment occurred.

(e) The committee may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The committee must not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

(8) Except in cases involving allegations of sex-based harassment, the chair has the discretion to determine whether a respondent may directly question any witnesses; and if not, to determine whether questions must be submitted to the chair to be asked of witnesses, or to allow questions to be asked by an attorney or advisor for the respondent.

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-330 Student conduct committee—Initial decision.**

(1) At the conclusion of the hearing, the student conduct committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within (~~twenty~~) 20 calendar days following the conclusion of the hearing or the committee's receipt of closing arguments, whichever is later, the committee shall issue (~~an initial~~) a decision in accordance with RCW 34.05.461 and WAC 10-08-210. The (~~initial~~) decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified and explained.

(3) The committee's (~~initial order~~) decision shall also include a determination on appropriate (~~discipline~~) sanctions, if any. If the matter was referred to the committee by (~~the~~) a student conduct officer, the committee shall identify and impose disciplinary sanctions or conditions, if any, as authorized in the student conduct code. If the matter is an appeal by (~~the respondent or the complainant in the case of sexual misconduct~~) a party, the committee may affirm, reverse, or modify the disciplinary sanctions and/or conditions imposed by the student conduct officer and/or impose additional disci-



plinary sanctions or conditions as authorized herein. The notice will also inform the respondent of their appeal rights.

(4) ~~The committee chair shall cause copies of ((the initial)) its decision to be served on the parties and their ((legal counsel of record. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.~~

~~(5) In cases involving allegations of sexual misconduct, the chair of the student conduct committee will make arrangements to have a written notice served on the complainant informing the complainant of the decision, the reasons for the decision, and a description of any disciplinary sanctions and/or conditions that may have been imposed upon the respondent, including suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights. This notice shall be served on the complainant on the same date as the initial decision is served on the respondent. The complainant may appeal the student conduct committee's initial decision to the president subject to the same procedures and deadlines applicable to other parties.) attorney, if any. The notice will inform all parties of their appeal rights. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.~~

(5) In cases involving sex-based harassment, the initial decision shall be served on all parties simultaneously, as well as the Title IX coordinator.

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-340 Student conduct committee—Review of an initial decision.** (1) ~~((A respondent, or a complainant in a case involving allegations of sexual misconduct, who is aggrieved by the findings or conclusions issued by the student conduct committee may request a review of the committee's initial decision to the president by filing a notice of appeal with the president's office within twenty-one days of service of the committee's initial decision or a written notice.)) Any party, including a complainant in sex-based harassment cases, may appeal the committee's decision to the president by filing a written appeal with the president's office within 21 calendar days of service of the committee's decision. Failure to file a timely appeal request within this time frame constitutes a waiver of the right and the initial decision shall be deemed final.~~

(2) ~~The ((notice of)) written appeal must identify the specific findings of fact and/or conclusions of law in the initial decision that are challenged and must contain an argument as to why the appeal should be granted. ((The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to those issues and arguments raised in the notice of appeal. As part of the review process, the president may ask the non-appealing party(ies) to respond to the arguments contained in the notice of appeal.~~

~~(3) The president shall provide a written decision to all parties within thirty days after receipt of the notice of appeal or receipt of the response from nonappealing parties, whichever is later. The presi-~~

~~dent's decision shall be final and shall include a notice of any rights to request reconsideration and/or judicial review.~~

~~(4) In cases involving allegations of sexual misconduct, the president, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.~~

~~(5) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.) Appeals may be based upon, but are not limited to:~~

~~(a) Procedural irregularity that would change the outcome;~~

~~(b) New evidence that would change the outcome and that was not reasonably available when the initial decision was made; and~~

~~(c) The investigator, decision maker, or Title IX coordinator had a conflict of interest or bias for or against a respondent or complainant individually or respondents or complainants generally.~~

~~(3) Upon receiving a timely appeal, the president or a designee will promptly serve a copy of the appeal on all nonappealing parties, who will have 10 business days from the date of service to submit a written response addressing the issues raised in the appeal to the president or a designee and serve it on all parties. Failure to file a timely response constitutes a waiver of the right to participate in the appeal.~~

~~(4) If necessary to aid review, the president may ask for additional briefing from the parties on issues raised on appeal. The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the appeal.~~

~~(5) The president shall serve a written decision on all parties and their attorneys, if any, within 20 calendar days after receipt of the appeal. The president's decision shall be final and subject to judicial review pursuant to chapter 34.05 RCW, Part V.~~

~~(6) In cases involving allegations of sex-based harassment, the president's decision must be served simultaneously on the complainant, respondent, and Title IX coordinator.~~

~~(7) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.~~

**SUPPLEMENTAL TITLE IX STUDENT CONDUCT PROCEDURES FOR REPORTED INCIDENTS OCCURRING BEFORE AUGUST 1, 2024**

AMENDATORY SECTION (Amending WSR 23-04-040, filed 1/25/23, effective 2/25/23)

**WAC 132H-126-400 Order of precedence.** This supplemental procedure applies to allegations of sexual harassment occurring before Au-

gust 1, 2024, subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental hearing procedures conflict with the college's standard disciplinary procedures, WAC 132H-126-100 through 132H-126-340, these supplemental procedures shall take precedence. Bellevue College may, at its discretion, contract with an administrative law judge or other person to act as presiding officer and assign such presiding officer to exercise any or all of the duties in lieu of the student conduct committee and committee chair.

AMENDATORY SECTION (Amending WSR 23-04-040, filed 1/25/23, effective 2/25/23)

**WAC 132H-126-410 Prohibited conduct under Title IX.** Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the college may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of "sexual harassment." These definitions apply to reported incidents occurring before August 1, 2024.

For purposes of this supplemental procedure, "sexual harassment" encompasses the following conduct:

(1) **Quid pro quo harassment.** A college employee conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.

(2) **Hostile environment.** Unwelcome conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's educational programs or activities, or employment.

(3) **Sexual assault.** Sexual assault includes the following conduct:

(a) **Nonconsensual sexual intercourse.** Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(b) **Nonconsensual sexual contact.** Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(c) **Incest.** Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of 18.

(d) **Statutory rape.** Consensual sexual intercourse between someone who is 18 years of age or older and someone who is under the age of 16.

(4) **Domestic violence.** Use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a

victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person:

(a) Who is a current or former spouse or intimate partner of the victim, or a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington;

(b) Who is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(c) Who shares a child in common with the victim; or

(d) Who commits acts against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(5) **Dating violence.** Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

(6) **Economic abuse.** In the context of domestic violence dating violence, economic abuse includes behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to:

(a) Restrict a person's access to money, assets, credit, or financial information;

(b) Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or

(c) Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

(7) **Technological abuse.** An act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology including, but not limited to: Internet-enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

(8) **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-420 Title IX jurisdiction.** (1) This supplemental procedure applies only if the reported misconduct:

- (a) Occurred in the United States;
- (b) Occurred during a college educational program or activity;
- ((and))
- (c) Meets the definition of sexual harassment as that term is defined in this supplemental procedure; and
- (d) Before August 1, 2024.

(2) For purposes of this supplemental procedure, an "educational program or activity" is defined as locations, events, or circumstances over which the college exercised substantial control over both the respondent and the context in which the reported sexual harassment occurred. This definition includes any building owned or controlled by a student organization that is officially recognized by the college.

(3) Proceedings under this supplemental procedure must be dismissed if the decision maker determines that one or all of the requirements of subsection (1)(a) through ~~((e))~~ (d) of this section have not been met. Dismissal under this supplemental procedure does not prohibit the college from pursuing other disciplinary action based on allegations that the respondent violated other provisions of the college's student conduct code, chapter 132H-126 WAC.

(4) If the student conduct officer determines the facts in the investigation report are not sufficient to support Title IX jurisdiction and/or pursuit of a Title IX violation, the student conduct officer will issue a notice of dismissal in whole or part to both parties explaining why some or all of the Title IX claims have been dismissed.

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-430 Initiation of discipline.** These supplemental procedures apply to reported incidents occurring before August 1, 2024.

(1) Upon receiving the Title IX investigation report from the Title IX coordinator, the student conduct officer will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX.

(2) If the student conduct officer determines that there are sufficient grounds to proceed under these supplemental procedures, the student conduct officer will initiate a Title IX disciplinary proceeding by filing a written disciplinary notice with the chair of the student conduct committee and serving the notice on the respondent, the complainant, and their respective advisors. The notice must:

- (a) Set forth the basis for Title IX jurisdiction;
- (b) Identify the reported Title IX violation(s);
- (c) Set forth the facts underlying the allegation(s);
- (d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the reported violation(s); and
- (e) Explain that the parties are entitled to be accompanied by their chosen advisors during the hearing and that:
  - (i) The advisors will be responsible for questioning all witnesses on their party's behalf;
  - (ii) An advisor may be an attorney; and

(iii) The college will appoint the party an advisor of the college's choosing at no cost to the party, if the party fails to do so; and

(3) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-440 Prehearing procedure.** These supplemental prehearing procedures apply to reported incidents occurring before August 1, 2024.

(1) Upon receiving the disciplinary notice, the chair of the student conduct committee will send a hearing notice to all parties, in compliance with WAC 132H-126-310. In no event will the hearing date be set less than (~~ten~~) 10 business days after the Title IX coordinator provided the final investigation report to the parties.

(2) A party may choose to have an attorney serve as their advisor at the party's own expense. This right will be waived unless, at least five business days before the hearing, the attorney files a notice of appearance with the committee chair with copies to all parties and the student conduct officer.

(3) In preparation for the hearing, the parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether the college intends to offer the evidence at the hearing.

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-470 Initial order.** These supplemental procedures apply to reported incidents occurring before August 1, 2024.

(1) In addition to complying with WAC 132H-126-330, the student conduct committee will be responsible for conferring and drafting an initial order that:

(a) Identifies the allegations of sexual harassment;

(b) Describes the grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility, including notices to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;

(c) Makes findings of fact supporting the determination of responsibility;

(d) Reaches conclusions as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX;

(e) Contains a statement of, and rationale for, the committee's determination of responsibility for each allegation;

(f) Describes any disciplinary sanction or conditions imposed against the respondent, if any;

(g) Describes to what extent, if any, complainant is entitled to remedies designed to restore or preserve complainant's equal access to the college's education programs or activities; and

(h) Describes the process for appealing the initial order to the president.

(2) The committee chair will serve the initial order on the parties simultaneously.

AMENDATORY SECTION (Amending WSR 21-01-008, filed 12/2/20, effective 1/2/21)

**WAC 132H-126-480 Appeals.** These supplemental procedures apply to reported incidents occurring before August 1, 2024.

(1) The parties shall have the right to appeal from the initial order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and time frames set forth in WAC 132H-126-340.

(2) The president or their delegate will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).

(3) President's office shall serve the final decision on the parties simultaneously.