

WAC 132Q-10-332 Student conduct administrative panel proceedings. The student conduct administrative panel will conduct full adjudicative proceeding in accordance with the provisions of this standards of conduct for students code, the Administrative Procedure Act (chapter 34.05 RCW), and the model rules of procedure (chapter 10-08 WAC) including a hearing, determination of findings, conclusions, and sanctions. To the extent there is a conflict between the standards of conduct for students and the model rules, this standards of conduct for students code shall prevail. The following procedures apply:

(1) The student conduct officer shall serve all parties, and student conduct administrative panel members with written notice of the hearing not less than seven calendar days or more than ten calendar days prior to the hearing date, time and location, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The student conduct officer may shorten this notice period if all parties agree, and also may continue the hearing to a later time for good cause.

(2) The student conduct administrative panel 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.

(3) Upon written 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 calendar 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.

(4) The student conduct officer may provide to the panel members in advance of the hearing copies of: (a) The student conduct officers' notice of complaint and referral; and (b) documents provided by the accused student in response to the complaint. If doing so, however, the chair should remind the panel members that these documents are not evidence of any facts they may allege.

(5) Communications between panel members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(6) An accused student may elect to be represented by an attorney at his or her own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with both the panel chair with a copy to the student conduct officer. The panel may be advised by an assistant attorney general. If the respondent is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general.

(7) 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 panel chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the panel chair may exclude that person from the hearing room.

(8) In circumstances involving more than one accused student, the student conduct officer may permit joint or separate hearings.

(9) The president of the college or his/her designee, the chair of the student conduct administrative panel, the administrators as-

signed to the student conduct administrative panel, deans, and/or the student conduct officer have the authority to issue subpoenas.

(10) The accused student and the student conduct officer may arrange for witnesses to present pertinent information to the student conduct administrative panel. The accused student is responsible for informing his/her witnesses of the time and place of the hearing.

(11) The student conduct officer, upon written request, will provide reasonable assistance to the accused student in obtaining relevant and admissible evidence that is within the college's control.

(12) All testimony and written statements shall be given under oath or affirmation.

(13) The panel chair determines which records, exhibits and written statements may be accepted as information for consideration by the panel consistent with RCW 34.05.452. Evidence, including hearsay evidence, is admissible if it is the kind of evidence on which reasonably prudent persons are accustomed to rely on in the conduct of their affairs. Evidence is not admissible if it is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The panel chair may exclude evidence that is irrelevant, immaterial or unduly repetitious. The panel chair will ensure that the hearing record reflects the basis for exclusion of any evidence.

(14) The chair of the student conduct administrative panel shall decide all procedural questions and make rulings on the admissibility of evidence, motions, objections, and on challenges to the impartiality of board members, unless a hearing examiner is appointed as provided below. The Washington rules of evidence shall serve as guidelines for those rulings on the admissibility of evidence.

(15) Questions related to the order of the proceedings are also determined by the student conduct administrative panel chair.

(16) If an accused student, with notice, does not appear before a student conduct administrative panel hearing, the information in support of the complaint is presented and considered in the absence of the accused student.

(17) The panel chair may accommodate concerns for the personal safety, well-being or fears of confrontation during the hearing by providing separate facilities, or by permitting participation by telephone, audio tape, written statement, or other means. In making such accommodations, the rights of the other parties must not be prejudiced and must have the opportunity to participate effectively in, to hear, and, if technically economically feasible, to see the entire proceeding while it is taking place.

(18) The panel chair shall cause the hearing to be recorded by a method that he/she selects in accordance with RCW 34.05.449. Panel deliberations are not recorded. The record or transcript is the property of the college. That recording, transcript or a copy, shall be made available to the parties upon request. The panel chair shall ensure 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 the respondent. Other recording shall also be permitted in accordance with WAC 10-08-190.

(19) The student conduct officer (unless represented by an assistant attorney general) shall present the case for disciplinary action. The facts justifying any such action must be established by a preponderance of the evidence.

(20) At the conclusion of the hearing, the panel shall permit the parties to make closing arguments in whatever form it wishes to re-

ceive them. The panel may also permit each party to propose findings, conclusions, and/or an order for its consideration.

(21) Conduct matters that involve allegations of sexually violent conduct as defined in WAC 132Q-10-105(18) and further detailed in WAC 132Q-10-244 shall also utilize the supplemental hearing procedures of WAC 132Q-10-501 through 132Q-10-503. The terms of the supplemental procedures will prevail in the event of any discrepancy between this provision and the provisions of the supplemental procedures.

[Statutory Authority: RCW 25B.50.140. WSR 17-11-076, § 132Q-10-332, filed 5/18/17, effective 6/18/17. Statutory Authority: RCW 28B.50.140. WSR 15-15-161, § 132Q-10-332, filed 7/21/15, effective 8/21/15.]