

WAC 132T-100-210 Violation of law and college discipline. College disciplinary proceedings may be used to determine a student's responsibility for conduct that potentially violates criminal law and this student code of conduct (that is, if both alleged violations result from the same factual situation) without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under this student code of conduct may be carried out prior to, simultaneously with, or following civil or criminal proceedings. Determinations made or sanctions imposed under this student code of conduct will not be subject to change because criminal charges arising out of the same facts that gave rise to violation of college rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant. In addition to initiating discipline proceedings for violation of the student code of conduct, the college may refer any violations of federal, state, or local laws to civil and criminal authorities for disposition. The college reserves the right to pursue student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

(1) Initiation of disciplinary action. A request for disciplinary action for violation(s) of the student code of conduct must be made to the student conduct officer (SCO) as soon as possible following the violation. Conduct proceedings may be initiated when the SCO receives any direct or indirect report of conduct that may violate this code, which includes, but is not limited to, a police report, an incident report, a witness statement, other documentation, or a verbal or written report from a complainant, witness, or other third party.

(a) The college may initiate disciplinary action under the student code of conduct regardless of whether or not the incident in question is the subject of criminal or civil proceedings.

(b) Any member of the college's administration, faculty, staff, or any student or nonstudent may make a request for disciplinary action, and it must be a good faith claim.

(c) Formal rules of evidence, such as are applied in criminal or civil court, are not used in conduct proceedings. Relevant evidence, including hearsay, is admissible if it is the type of evidence that reasonable persons would rely upon in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.

(2) The student conduct officer (SCO), student conduct board (SCB), or college vice president of student services or designee will determine the admissibility of evidence and may seek clarification from witnesses as needed.

(a) If the complaint indicates that the matter involves sexual misconduct as defined by chapter 132T-105 WAC, the SCO will forward the complaint to the Title IX coordinator for review in accordance with chapter 132T-105 WAC.

(b) The SCO or designee will conduct an initial investigation of a complaint to determine whether it alleges conduct that may be prohibited by the student code of conduct. If it is determined through the initial investigation that the report has merit, the SCO will investigate to determine responsibility.

(c) Except in cases of sexual assault or sexual violence outside of the Title IX definition, the parties may elect to mediate the dispute, which shall be facilitated by the SCO or designee.

(d) If the SCO has a conflict of interest or is the subject of a complaint by the student, the president or designee shall, upon request and at their discretion, designate another person to fulfill any

such disciplinary responsibilities relative to the request for disciplinary action.

(3) Notification requirements.

(a) If it is determined through the initial investigation that an alleged violation of the student code of conduct might have occurred and which is not eligible for referral to the Title IX coordinator, the SCO will provide the following written notification:

(i) That a report has been submitted alleging conduct which violates the student code of conduct and that a conduct investigation has been initiated to determine responsibility;

(ii) The specific sections of the student code of conduct which are alleged to have been violated;

(iii) That the student may either accept responsibility for the alleged violations or request a conduct meeting with the SCO to present evidence to refute the report;

(iv) That the student may provide evidence such as names and contact information of witnesses to aid in the conduct investigation;

(v) That lists the range of possible sanctions, including the actual sanctions which are issued based on the results of the investigation; and

(vi) That if the student fails to participate in any stage of the conduct proceedings or to request a conduct meeting within 14 calendar days from the date of the notice, the college may move forward with the conduct proceeding without their participation.

(b) If the student requests a conduct meeting within 14 calendar days of the notice, the student will be provided a written notice to appear for a conduct meeting. The notice to appear will be personally delivered, sent electronically to the student's college email address or sent by mail to the most recent address in the student's record on file with the college, not later than 14 calendar days after the request for a conduct meeting. The notice will not be ineffective if presented later due to the student's absence. Such notice will:

(i) Set forth the specific provisions of the student code of conduct and the specific acts which are alleged to be violations, as well as the date(s) of the violation(s), and a description of evidence, if any, of the violation.

(ii) Notify the student of the SCO's investigation and possible sanctions, if any.

(iii) Specify the time, date, and location where the student is required to meet with the SCO. The meeting will be scheduled no earlier than three business days, but within 30 calendar days of the date on the notice that was sent to the student to appear before the SCO. The SCO may modify the time, date, and location of the meeting, either at the student's or college's request, for reasonable cause.

(iv) Inform the student that failure to attend the conduct meeting will not stop the disciplinary process and may result in a transcript/registration hold being placed on the student's account and disciplinary action(s).

(v) Inform the student that they may be accompanied at the meeting by an advisor at their expense. The advisor cannot be a college employee or witness. If the student or their advisor is found to have tampered with witnesses or evidence, or destroyed evidence, the student will be held accountable in the conduct process for their acts and those of their advisor.

(vi) Inform the student that they may present evidence to support their assertions during the meeting.

(4) Student conduct meeting - Brief adjudicative process will follow WAC 132T-100-230.

(a) During the student conduct meeting, the student will be informed of the following:

(i) The specific acts and the provision(s) of this chapter and college policy that the student is alleged to have violated;

(ii) The disciplinary process;

(iii) The range of sanctions which might result from the disciplinary process and that the actual sanctions will depend on the findings of responsibility; and

(iv) The student's right to appeal.

(b) The student will have the opportunity to review and respond to the allegation(s) and evidence and provide the SCO with relevant information, evidence and/or witnesses to the alleged violation(s), and/or explain the circumstances surrounding the alleged violation(s).

(c) The advisor may assist the student during the conduct meeting; however, the student is responsible for presenting their own information and evidence. The advisor may only communicate with the student they are advising. Any disruptions or failure to follow the conduct process and/or directions of the SCO may result in the advisor being excused from the meeting.

(5) Decision by the SCO.

(a) After interviewing the student or students involved and/or other individuals as appropriate, and considering the evidence, the SCO may take any of the following actions:

(i) Determine that the student is not responsible for a violation of the student code of conduct and thereby terminate the student conduct process;

(ii) Determine that the student is responsible for a violation of the student code of conduct and impose disciplinary sanctions as provided herein; or

(iii) Determine that further inquiry is necessary and schedule another meeting for reasonable cause.

(b) Notification of the decision by the SCO will be issued pursuant to WAC 132T-100-070 within 30 calendar days of the final student conduct meeting. Due to federal privacy law, the college may not disclose to the complainant any sanctions imposed on the responding student unless the complainant was the alleged victim of a violent crime as defined under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99), this chapter, and the college's administrative policies and procedures, or the responding student consents to such disclosure. A copy of the decision notification will be filed with the office of the SCO.

(c) Disciplinary action taken by the SCO is final unless the student exercises the right of appeal as provided herein.

[Statutory Authority: RCW 34.05.250 and 28B.50.140. WSR 22-18-029, § 132T-100-210, filed 8/29/22, effective 9/29/22.]