

WSR 21-05-041

PROPOSED RULES

SEATTLE COLLEGES

[Filed February 11, 2021, 12:51 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-01-088.

Title of Rule and Other Identifying Information: Student complaints.

Hearing Location(s): On March 31, 2021, at 9:00 - 10:00 a.m., Zoom - virtual.

Date of Intended Adoption: April 8, 2021.

Submit Written Comments to: Jennie Chen, 1500 Harvard Avenue, Seattle, WA 98122, email jennie.chen@seattlecolleges.edu, fax 206-934-3894, by March 29, 2021.

Assistance for Persons with Disabilities: Contact Jennie Chen, phone 206-934-3873, email jennie.chen@seattlecolleges.edu, by March 24, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Increase integration and alignment as more students attend multiple campuses during their time as a student; make the process more student focused by encouraging all parties to engage in sincere efforts to listen and resolve complaints informally; ensure students are supported through the complaint process; enhance an accepting culture and provide supports to encourage students to raise concerns.

Statutory Authority for Adoption: RCW 28B.50.140, 28B.50.090(3).

Statute Being Implemented: Not applicable.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Seattle Colleges, public.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kurt Buttleman, Siegal Center, 206-934-4111.

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

A cost-benefit analysis is not required under RCW 34.05.328. The district is not one of the enumerated agencies listed in 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 34.05.328.

Explanation of exemptions: Pursuant to RCW 34.05.328 (5)(a)(i), this agency is not an agency mandated to comply with RCW 34.05.328. Further, the agency does not voluntarily make that section applicable to the adoption of this rule pursuant to subsection (5)(a)(ii), and to date, the joint administrative rules review committee has not made the section applicable to the adoption of this rule.

February 3, 2021

Kurt Buttleman

Vice Chancellor for Academic and Student Success

OTS-2682.1

AMENDATORY SECTION (Amending WSR 13-11-127, filed 5/21/13, effective 6/21/13)

WAC 132F-121-060 Student ((complaints)) grievances generally.

(1) ~~((The procedures in this chapter are to be used for the processing and disposition of complaints by students (complainants) against college employees or other students, except to the extent that a complaint is against a college employee and the processing is dictated otherwise by a collective bargaining agreement or other applicable process. These procedures are available to all students and are intended to protect the rights of both the complainant and the respondent.~~

(2) For the purposes of this chapter, a "complaint") The purpose of these procedures is to provide guidelines which enable a student to express and resolve misunderstandings, complaints, or grievances in a fair and equitable manner. These procedures are to be used for addressing informal grievances and formal grievances against college employees as far as the collective bargaining agreement under which the employee works allows.

(2) Students have the right to receive clear information and fair application of college policies, standards, rules and requirements and are responsible for complying with them in their relationships with college personnel. The grievance procedure emphasizes an informal resolution which promotes constructive dialogue and understanding. Available to all students and it is intended to protect the rights of both the complainant and the respondent. The formal procedures should be used when informal process does not resolve the issue.

(3) A "grievance" is defined as a good faith allegation based on personal experience or knowledge by a student or students that there has been a violation, misapplication, or misinterpretation of some service or rule as it applies to students in the institution by a staff or faculty member of the institution, resulting in loss or detriment to the complainant. However, an objection to disciplinary action under the student conduct code is only appealable under that code, and cannot constitute a ((complaint)) grievance.

~~((3))~~ (4) The student grievance procedure described is not intended to cover grievances of discrimination or sexual harassment. The college has separate, specific procedures for such grievances.

(5) Each college president shall appoint a ((complaints)) grievance officer to handle student ((complaints)) grievances. This position shall be filled by an employee whose position is below the level of vice president. The district chancellor shall designate a ((complaints)) grievance officer to handle ((complaints)) grievances against Siegal Center employees. If the president or chancellor determines, upon request, that the ((complaints)) grievance officer has a disqualifying ((personal)) conflict of interest in a particular matter, ((he/she)) they may appoint a substitute ((complaints)) grievance officer for that matter. Information on the identity and location of the ((complaints)) grievance officer(s) and about this procedure shall be readily available within each college.

~~((4) The complaints officer shall be responsible for taking appropriate actions to try to resolve complaints.~~

~~(5) A complaint may be addressed under either the informal process or the formal process, as set forth below. Students are encouraged to begin with the informal process.)~~

(6) Each campus will appoint one or more nonstudent employees who will serve as student process advocates. This role will guide the student through the informal and formal process.

~~(7) No respondent or district employee shall take adverse action or otherwise retaliate against a student because that student initiated a good faith ((complaint)) grievance or assisted another student with a ((complaint)) grievance.~~

~~((7) If more than one type of complaint or more than one respondent is included in one complaint, the complaints officer may, upon request, provide for appropriate modification(s) of these procedures.~~

~~(8) If a respondent employee is unavailable, or otherwise fails or refuses to participate timely in a complaint proceeding, the respondent's supervisor may act or designate another person to act in the complaint proceeding on that employee's behalf. However, no action by a substitute may subject the respondent employee to discipline.))~~

(8) Federal and state laws, rules and regulations, in addition to policies, regulations and procedures adopted by the state board for community college education or the board of trustees of Seattle Colleges shall not be grievable matters.

[Statutory Authority: RCW 28B.50.140(13). WSR 13-11-127, § 132F-121-060, filed 5/21/13, effective 6/21/13. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. WSR 03-16-015, § 132F-121-060, filed 7/28/03, effective 8/28/03.]

AMENDATORY SECTION (Amending WSR 13-11-127, filed 5/21/13, effective 6/21/13)

WAC 132F-121-070 Informal processing of ((complaints)) student grievances. (1) ~~((This informal process is intended to facilitate prompt and amicable resolution of a complaint apart from the formal complaint process.~~

~~(2) A student who has a complaint is encouraged to discuss the matter directly with the respondent to attempt to resolve it.)) The goal is to informally resolve the grievance with the employee most closely responsible for the policy, procedure, or action. The college employee and student shall make a good faith effort to resolve the issue on a one-to-one basis.~~

(2) Both parties should openly discuss the concern, attempt to understand the other's perspective, explore alternatives and attempt to arrive at a satisfactory resolution. For assistance in identifying the appropriate person a student should contact the student grievance process advocate, as designated by the VPSS. In such cases, the student may choose to engage with the student grievance process advocate as designed by the institution in support of these efforts.

(3) If the student complainant believes that discussion with an employee respondent will not achieve or has not achieved a satisfactory result, the student may communicate about the matter with the respondent's supervisor.

~~(4) ((Any participant in the informal process may request the complaint officer's assistance in obtaining a resolution.~~

~~(5-)) This informal process must be completed in a timely manner. In general, a student wishing to express a grievance should do so as soon as the grievance arises, but no later than the end of the quarter in which the issue occurred.~~

[Statutory Authority: RCW 28B.50.140(13). WSR 13-11-127, § 132F-121-070, filed 5/21/13, effective 6/21/13. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. WSR 03-16-015, § 132F-121-070, filed 7/28/03, effective 8/28/03.]

AMENDATORY SECTION (Amending WSR 13-11-127, filed 5/21/13, effective 6/21/13)

WAC 132F-121-080 Formal processing of ((complaints)) grievances.

~~((1)) To be considered under the formal process, a complaint must be filed in writing with the campus complaints officer by the final day of the quarter following the quarter in which the problem occurred, except as otherwise provided in WAC 132F-121-090 for a grade complaint. For purposes of complaints, the quarter which follows spring quarter is fall quarter. The written document should fully specify the facts and other grounds on which the complaint is based, and should include copies of relevant supporting documents when feasible. The complaints officer may extend any deadline herein for good cause.~~

~~(2) If the complaints officer determines that the complaint does not qualify to be addressed through the formal process, that officer must inform the student, explaining the reasons in writing within five working days. The student complainant may obtain review of that notice of complaint disqualification by filing a written request with the complaints officer under subsection (9) of this section.~~

~~(3) If the complaints officer determines that the complaint does qualify as such, that officer must serve copies of the complaint and the supporting documents on the individual named in the complaint (the respondent) and the respondent's supervisor, within five working days.~~

~~(4) The respondent, upon receiving notice of the formal complaint, shall provide a response in writing to the complaints officer, and to the respondent's supervisor, within ten working days.~~

~~(5) The complaints officer must forward the written response, or the information that no response was received, to the student complainant within five working days of receipt of the response, or five working days from when a response was due.~~

~~(6) If the student complainant finds that the response or lack thereof is unsatisfactory she/he has five working days in which to submit a written request for the complaints officer to schedule a conference with the respondent to discuss the matter.~~

~~(7) Upon receipt of such request, the complaints officer has five working days to schedule the conference which must be convened within ten working days of receipt of the students' request or as soon thereafter as feasible. This conference will include the student, the respondent, and his or her supervisor, and be moderated by the complaints officer.~~

~~(8) During this conference the complaints officer shall try to facilitate resolution. The complaints officer shall produce a written statement summarizing the conference and provide copies to all parties within ten working days of the conference.~~

~~(9) The student complainant may request a review of the outcome of the complaint conference (or of a complaint disqualification) by submitting a written request for administrative review to the complaints officer within five working days of receiving the conference summary.~~

~~(10) The complaints officer shall forward, within five working days, the request for administrative review, the complaint, supporting documents, and the conference summary either to the vice president of instruction (if the officer determines that the complaint is predominantly an instructional matter), or to the vice president for student services (if the officer determines that the complaint is predominantly noninstructional in nature).~~

~~(11) This administrator shall review the complaint and documentation, and may also interview knowledgeable persons as appropriate. The administrator should render a written decision within ten working days after receiving the complaint and documents, or as soon thereafter as feasible. The administrator may accept, reject, or modify any of the previous action(s) in the matter, and/or take other action(s). This decision shall be in writing and shall be served on the student complainant and others deemed appropriate.~~

~~(12) This decision of the reviewing administrator shall be the final decision of the district on that complaint.)~~ (1) A grievance is a formal procedure instituted when a grievance is not resolved through the informal grievance process. It involves submitting a written grievance to the student grievance officer often with the help of the student grievance process advocate.

(2) A student wishing to express a grievance should do so no later than the last day of the quarter after the event occurred, with the exception of spring quarter where the last day to file a formal grievance is the last day of fall quarter.

(3) The following procedures shall be used when a student initiates the grievance process. All timelines below can be adjusted as deemed appropriate by the grievance officer.

(a) Student (complainant) submits a written grievance;

(b) Grievance officer reviews and qualifies, or requests the student revise for subsequent qualification;

(c) Grievance officer notifies employee (respondent) and their supervisor with written grievance and documentation, once qualified, within five business days or the maximum days afforded in the employee's contract;

(d) Respondent must provide a written response to student grievance officer, within ten business days;

(e) The respondent's supervisor must provide a written summary of attempts to resolve or facts gathered in the grievance process to the student grievance officer within the same time frame as respondent;

(f) Student grievance officer sends response to complainant within five business days;

(g) The grievance is confirmed by the student as resolved, or if the student feels a satisfactory resolution was not achieved, they may request a conference with the respondent and their supervisor, facilitated by the student grievance officer within five business days. Students have the right to bring an advocate to the conference meeting with notification to the grievance officer;

(h) Student grievance officer initiates scheduling of one hour conference meeting to facilitate discussion for attempted resolution, within five business days;

(i) Grievance officer will provide to all parties a written summary of the conference, within five business days;

(j) If complainant is not satisfied with the resolution upon receipt of the conference summary, they may request of the grievance officer a final review by the respondent's vice president or appropriate unit administrator in writing within five business days; and

(k) The unit administrator may amend, modify, reverse or accept the recommendation. This decision must be sent to the complainant within ten business days. This decision shall be final.

(4) The grievance officer or appropriate unit administrator may extend the timeline under exceptional circumstances such as extended illness or off contract status.

[Statutory Authority: RCW 28B.50.140(13). WSR 13-11-127, § 132F-121-080, filed 5/21/13, effective 6/21/13. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. WSR 03-16-015, § 132F-121-080, filed 7/28/03, effective 8/28/03.]

AMENDATORY SECTION (Amending WSR 13-11-127, filed 5/21/13, effective 6/21/13)

WAC 132F-121-090 Additional provisions for grade ((complaints)) grievances.

(1) For student ((complaints)) grievances regarding grades received for course work, ((this section shall apply in addition to the above-described informal and formal procedures.

(2) A student may formally grieve only the final grade received in a course, but that complaint may include any or all of the components of that final grade. For a grade complaint, the respondent(s) shall be, or include, the instructor who issued the grade.

(3)) before a student can file a formal or written grade appeal, they should try to resolve the issue directly with the instructor or their dean.

(2) If direct discussion with the faculty or instructional dean does not resolve the grade dispute to the student's satisfaction, the student may begin the formal grade grievance process.

(3) A student may formally grieve only the final grade received in a course, but that grievance may include any or all of the components of that final grade. For a grade grievance, the respondent(s) shall be, or include, the instructor who issued the grade. Assignment grades before the quarter ends, must be resolved using the informal grievance process by involving the instructor and their dean.

(4) A formal ((complaint)) grievance regarding a grade must be filed not later than the last day of the quarter which follows the quarter for which the disputed grade was received, except that a ((complaint)) grievance regarding a spring quarter grade may be filed through the last day of the following fall quarter.

((4)) (5) In specifying the facts and other grounds on which it is based, the formal ((complaint)) grievance shall specify the grade that is being challenged and should attach copies of relevant documents. The response on behalf of the respondent shall include, to the extent feasible, the applicable evaluation criteria, copies of the course syllabus and relevant grading records, and the faculty member's explanation for the grade.

((5)) (6) Ordinarily the evaluation of course mastery is exclusively within the province of the instructor of a particular course, and so a grade change may be initiated only by that instructor ((However, if a formal grade complaint is ultimately reviewed by the vice president of instruction, and she/he finds that the grade was issued for an improper reason or was arbitrary and capricious or otherwise unlawful, that vice president may change the grade in the records of the college)).

((+6)) (7) Nothing in these rules shall be construed to limit the separate authority of the vice president of instruction to change a grade when required by a judicial order or a legal settlement agreement entered into by the district, regardless of whether a (~~com-~~plaint) grievance has been filed.

[Statutory Authority: RCW 28B.50.140(13). WSR 13-11-127, § 132F-121-090, filed 5/21/13, effective 6/21/13. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. WSR 03-16-015, § 132F-121-090, filed 7/28/03, effective 8/28/03.]