

WSR 24-18-118

PROPOSED RULES

WASHINGTON STATE UNIVERSITY

[Filed September 4, 2024, 9:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-14-139.

Title of Rule and Other Identifying Information: Chapter 504-26 WAC, Standards of conduct for students.

Hearing Location(s): On October 8, 2024, at 4:00 p.m. Join Zoom meeting from PC, Mac, Linux, iOS, or Android <https://wsu.zoom.us/j/95469684029?pwd=9XJMnXCfYasJlmlQEaTR8EhX6FJobw.1&from=addon>, Meeting ID 954 6968 4029, Passcode 461531; or join by telephone: In the US +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656, or One-tap mobile call +12532158782,,95469684029# or +16699009128,,95469684029#. (Enter meeting ID and passcode when prompted.) No in-person hearing locations are being scheduled for this hearing.

Date of Intended Adoption: November 15, 2024.

Submit Written Comments to: Deborah Bartlett, Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, email prf.forms@wsu.edu, by October 8, 2024.

Assistance for Persons with Disabilities: Contact Joy Faerber, phone 509-335-2005, email prf.forms@wsu.edu, by October 4, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Washington State university (university) is updating the rules regarding standards of conduct for students, chapter 504-26 WAC.

Reasons Supporting Proposal: The university is modifying, clarifying, and updating standards of conduct for students to comply with Title IX regulations and improve the university's conduct and academic integrity violation processes.

The United States Department of Education (DOE) promulgated regulations updating the requirements regarding university hearings related to students that went into effect on August 1, 2024. Among the changes, the new rules codified in 34 C.F.R. § 106.46 (f)(3) change how complainants, respondents, and universities are allowed to question all witnesses in cases that involve sexual harassment and discrimination. Specifically, all parties to a case must provide the question to the decision maker who must make a determination regarding its relevance and permissibility under the new regulations before that question is posed to the witness. The university can lose federal funding from DOE if it does not comply with the new regulations.

Statutory Authority for Adoption: RCW 28B.30.150.

Rule is necessary because of federal law, Education Amendments Act of 1972, 20 U.S.C. §§ 1681 - 1688 (2018).

Name of Proponent: Public.

Name of Agency Personnel Responsible for Karen Metzner, Director, Center for Community Standards, French Administration 130, Pullman, WA 99164-1013, 509-335-4532; Implementation: Romando Nash, Washington State University Pullman Vice Chancellor of Student Affairs, Lighty 360, Pullman, WA 99164-1066, 509-335-2643; and Enforcement: Chris Riley-Tillmant, Provost and Executive Vice President, French Administration 432, Pullman, WA 99164-1046, 509-335-8915.

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 university does not consider these rules to be significant legislative rules.

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: Title IX (Education Amendments Act of 1972, 2018).

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: These rule changes relate to agency hearings which are not subject to violation by a nongovernment party. Title IX rules require the university to initiate investigations and conduct hearings related to allegations of sexual discrimination and harassment. The rules are intended to comply with the university's obligations under Title IX.

Scope of exemption for rule proposal:

Is fully exempt.

September 4, 2024

Deborah L. Bartlett

Director, Procedures, Records, and Forms
and University Rules Coordinator

OTS-5764.1

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-001 Preamble. Students have the responsibility to read and be familiar with the standards of conduct, to abide by them, and to understand that violations of these standards, if the student is found responsible, will result in educational sanctions and/or remedies for cases in which executive policy 15 is implicated. The dean of students or designee is the person designated by the university president to be responsible for the administration of the standards of conduct.

Washington State University has a long-standing commitment to providing students with a holistic learning experience both in and out of the classroom. Students are expected to uphold and be accountable to our standards of conduct to foster a safe, healthy, and inclusive campus community. The basic philosophy behind the standards of conduct and processes is one of education, centered on student learning through personal development and accountability. Therefore, the student conduct process is designed to support students, guide and cor-

rect behaviors, challenge students to make better choices, protect the rights of all students, and support a safe environment for students, the university, and the community at large.

The university strives to provide a fair process for every student without bias or favor regardless of socioeconomic status, personal or social connections, sex (including sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity), race, (~~(sex and/or gender, sexual orientation, gender identity or expression,)~~) religion, age, color, creed, national or ethnic origin, marital status, genetic information, status as an honorably discharged or protected veteran or member of the military, physical, mental, or sensory disability, including the use of a trained service animal, or immigration or citizenship status, except as authorized by federal or state law, regulation, or government contract. It also has responsibility to inform and educate the university community, parents, and the public at large on these standards, uphold them, and exercise the authority to take educational and/or disciplinary action accordingly.

AMENDATORY SECTION (Amending WSR 24-10-031, filed 4/23/24, effective 5/24/24)

WAC 504-26-010 Definitions. Words and phrases used in the standards of conduct regardless of their associated gender identity include all genders. Words and phrases used in the standards of conduct in the singular or plural encompass both the singular and the plural, unless the context clearly indicates otherwise. For purposes of the standards of conduct, the following definitions apply:

(1) Academic integrity hearing board. Teaching faculty and student representatives who are authorized by the university to review an instructor's (~~(determination)~~) decision that a student violated university academic integrity policies and whether or not the (~~(outcome proposed)~~) academic sanction assigned by the instructor is in keeping with the instructor's published policies.

(2) (~~(Academic integrity violation. A violation of the university's academic integrity expectations, which is defined as:~~

~~(a) Use of unauthorized materials in taking quizzes, tests, or examinations, or giving or receiving unauthorized assistance by any means, including talking, copying information from another student, using electronic devices, or taking an examination for another student.~~

~~(b) Use of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments.~~

~~(c) Acquisition or possession of tests or other academic material belonging to a member of the university faculty or staff when acquired without the permission of the university faculty or staff member.~~

~~(d) Fabrication, which is the intentional invention or counterfeiting of information in the course of an academic activity. Fabrication includes, but is not limited to:~~

~~(i) Counterfeiting data, research results, information, or procedures with inadequate foundation in fact. The office of research must be consulted in matters involving alleged research misconduct as that term is defined in the university's executive policy 33.~~

~~(ii) Counterfeiting a record of internship or practicum experiences.~~

~~(iii) Submitting a false excuse for absence or tardiness or a false explanation for failing to complete a class requirement or scheduled examination at the appointed date and time.~~

~~(e) Engaging in any behavior for the purpose of gaining an unfair advantage specifically prohibited by a faculty member in the course syllabus or class discussion.~~

~~(f) Scientific misconduct. Falsification, fabrication, plagiarism, or other forms of dishonesty in scientific and scholarly research are prohibited. Complaints and inquiries involving cases of scientific misconduct are managed according to the university's policy for responding to allegations of scientific misconduct. A finding of scientific misconduct is subject to sanctions by CCS. The policy for responding to allegations of scientific misconduct (executive policy 33) may be reviewed by contacting the office of research.~~

~~(g) Unauthorized collaboration on assignments.~~

~~(h) Intentionally obtaining unauthorized knowledge of examination materials.~~

~~(i) Plagiarism. Presenting the information, ideas, or phrasing of another person as the student's own work without proper acknowledgment of the source. This includes submitting a commercially prepared paper or research project or submitting for academic credit any work done by someone else. The term "plagiarism" includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.~~

~~(j) Unauthorized multiple submission of the same work.~~

~~(k) Sabotage of others' work.~~

~~(l) Tampering with or falsifying records.~~

~~(m) Violating any other academic rule or standards specified in published course policies.~~

~~(3)) Appeals board. The group of students, faculty, and staff, collectively, authorized in accordance with WAC 504-26-115 to consider appeals from a ((university conduct board's or conduct officer's)) decision maker's determination as to whether a student or registered student organization has violated the standards of conduct and any sanctions and/or remedies assigned.~~

~~((4)) (3) Brief adjudication.~~

~~(a) The process by which a conduct officer or conduct board may adjudicate student conduct matters ((that are not resolving allegations)). Brief adjudication is not permissible for matters that:~~

~~(i) Would constitute ((Title IX sexual)) sex discrimination or sex-based harassment ((within the university's Title IX jurisdiction, and)) as defined in the university's executive policy 15 (EP15); or~~

~~(ii) Where possible sanctions ((do not include suspension for more than 10 instructional days,)) include expulsion, loss of recognition, or revocation of degree.~~

~~(b) Also referred to as a "conduct officer hearing," "conduct board hearing," or "brief adjudicative proceeding."~~

~~((5)) (4) CCR. The university's office of compliance and civil rights.~~

~~((6)) (5) CCS. The university's center for community standards.~~

~~(6) Community standards boards. University conduct board, university appeals board, academic integrity hearing board, or any other~~

panel of individuals empowered to make community standards decisions on behalf of the university.

(7) Complainant. Any person who is the alleged victim of prohibited student conduct, whether or not such person has made an actual complaint.

(8) Conduct board. The group or individual authorized in accordance with WAC 504-26-110 to adjudicate certain student conduct matters.

(9) Conduct hearing. The process in which a decision is made regarding a student or registered student organization's responsibility for alleged behavior and assignment of applicable sanctions and/or remedies, where appropriate. (Remedies may be considered for matters implicating executive policy 15 part 15.B.) Conduct hearings include brief adjudications and full adjudications. Also referred to as "student conduct hearing" or "student conduct proceeding."

(10) Conduct officer. A university official authorized by the dean of students or their designee to initiate, manage, and/or adjudicate certain student conduct matters in accordance with WAC 504-26-401 and 504-26-402.

~~((10))~~ (11) Executive policy 15. The university's policy prohibiting discrimination and harassment. Also referred to as "EP15."

(12) Faculty member. For purposes of this chapter, any person hired by the university to conduct classroom or teaching activities or who is otherwise considered by the university to be a member of its faculty.

~~((11))~~ (13) Full adjudication.

(a) The process ~~((by which a conduct board adjudicates))~~ for adjudicating matters involving ((possible suspension of greater than 10 instructional days,)):

(i) Sex discrimination or sex-based harassment, or retaliation stemming from those as underlying complaint, as defined in EP15; and

(ii) Possible sanction including expulsion, loss of recognition, revocation of degree, or ((other matters as determined by the university)) otherwise utilized at the discretion of the CCS when deemed appropriate, in accordance with WAC 504-26-401(4).

(b) Also referred to as "formal adjudication," "formal ~~((or full))~~ adjudicative proceeding," or ((("conduct board hearing.")) "full adjudicative proceeding."

(c) In a full adjudication, the presiding officer is also the decision maker.

~~((12))~~ (14) Gender identity. Having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to the person at birth.

~~((13))~~ (15) Member of the university community. Includes any person who is a student, faculty member, university official, any person employed by the university, or any person with a relationship with the university, including guests of and visitors to the university. A person's status in a particular situation is determined by the dean of students or designee.

~~((14))~~ (16) Parties. The parties to a ~~((student))~~ conduct ((proceeding)) hearing must include the university and the respondent. ~~((The parties in a student conduct matter where the allegations, if true, would constitute Title IX sexual harassment within the university's Title IX jurisdiction must also include the complainant(s).))~~ Where the conduct hearing includes allegations that constitute viola-

tions of EP15, the parties may include the university, the respondent, and the complainant. The university may designate other complainants as parties to conduct proceedings including, but not limited to, harmed parties. The dean of students or their designee determines party status (~~(for complainants)~~).

~~((15) Recognized or)~~ (17) Registered student organization. A group of students, collectively, that has complied with the formal requirements for university recognition (~~(or registration)~~).

~~((16))~~ (18) Respondent. A student or (~~recognized or~~) registered student organization alleged to have violated these standards of conduct.

~~((17))~~ (19) Staff. Individuals employed by the university of any rank or classification who are not considered faculty members as defined in subsection (12) of this section.

(20) Standards of conduct. The standards of conduct for students outlined in this chapter.

~~((18))~~ (21) Student. For the purposes of this chapter, any person who:

(a) Is enrolled in at least one undergraduate, graduate, or professional studies course at the university;

(b) Has been notified of their acceptance for admission but has not yet registered for their course(s);

(c) Is eligible to reenroll in classes without reapplying.

~~((19))~~ (22) Title IX. Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 and its implementing 34 C.F.R. Part 106.

~~((20))~~ (23) University. Washington State University.

~~((21))~~ (24) University official. Any person employed by the university, performing assigned administrative or professional responsibilities.

~~((22))~~ (25) University premises. All land, buildings, facilities, vehicles, websites, and other property in the possession of or owned, used, or controlled by the university (including adjacent streets and sidewalks), including its study abroad program sites, as well as university-sponsored or hosted online platforms.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-015 Jurisdiction and applicability—Relationship to other proceedings. (1) General. The standards of conduct apply to conduct that occurs on university premises or in connection with university sponsored activities, including transit to or from the activity.

(2) Off-campus conduct. In addition to subsection (1) of this section, the standards of conduct may apply to conduct that occurs off university premises and not in connection with university-sponsored activities, if the conduct adversely affects the health and/or safety of the university community or the pursuit of the university's vision, mission, or values.

The university has sole discretion to make this determination. In making this determination, the conduct officer considers whether the alleged conduct:

(a) Requires the university to exercise jurisdiction under law or as required by federal or state agencies;

(b) Negatively impacted the reputation of the university or its students;

(c) Occurred on the property of (~~recognized or~~) registered student organizations;

(d) Caused physical, mental, or emotional harm to another; or

(e) Was recognized by onlookers, complainants, or witnesses as being carried out by a student (~~or recognized~~) or registered student organization.

(3) Online conduct - Electronic communications. These standards of conduct may be applied to behavior conducted online, via electronic mail, text message, or other electronic means.

(4) Time frame for applicability. Each student is responsible and accountable for their conduct from the time of application for admission through the actual conferral 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. These standards apply to a student's conduct during that time frame, even if the student withdraws from school, takes a leave of absence, or graduates.

(5) Group accountability. (~~Recognized or~~) Registered student organizations that violate university policies and the standards of conduct are subject to sanctions. A (~~recognized or~~) registered student organization may be held accountable for the behavior of its officers, members, or guests when the university demonstrates that:

(a) The organization or its officers should have foreseen that behavior constituting a violation was likely to occur, yet failed to take reasonable precautions against such behavior;

(b) A policy or practice of the organization was responsible for a violation; or

(c) The behavior constituting a violation was committed by, condoned by, or involved a number of organization officers, members, or guests.

(6) International and national study programs. Students who participate in any university-sponsored or sanctioned international or national study program must observe the following rules and regulations:

(a) The laws of the host country and/or state;

(b) The academic and disciplinary regulations of the educational institution or residential housing program where the student is studying;

(c) Any other agreements related to the student's study program; and

(d) These standards of conduct.

(7) Academic and professional standards. Nothing in these standards of conduct is to be construed as limiting academic action that may be taken by a program or other academic unit against a respondent who, based on an established violation of these standards or otherwise, demonstrates a failure to meet the academic and/or professional standards of the program.

(8) Relationship between student conduct process and other legal processes. The university is not required to stay a (~~student~~) conduct (~~proceeding~~) hearing pending any criminal or civil proceeding, nor must the disposition of any such criminal or civil proceeding control the outcome of any (~~student~~) conduct (~~proceeding~~) hearing. Respondents may choose to remain silent during conduct proceedings, in accordance with WAC 504-26-045.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-020 Advisors and representatives. (1) Advisors. Any party may have an advisor of their choice, provided that person agrees to serve as an advisor, to be present during all stages of a conduct process. A list of university employees who are trained advisors is provided upon a party's request. Advisors can provide support at no cost to the party. Advisors may assist any party engaged in the conduct process and attend meetings and hearings. Advisors may not be witnesses to the alleged behavior. Advisors may not be employed in CCS.

(2) Advisors in conduct (~~(meetings and conduct officer)~~) hearings. During any conduct meeting (~~(or conduct officer hearing)~~), brief adjudicative hearing, or full adjudicative hearing, breaks may be taken, within reason, to allow a party to consult with their advisor. However, advisors are not permitted to speak on behalf of parties (~~(-~~

~~(3) Advisors in conduct board hearings. As with all other conduct meetings and conduct officer hearings, advisors are not permitted to speak on behalf of parties),~~ except that in (~~(conduct board hearings)~~) full adjudicative proceedings, advisors are permitted to (~~(ask relevant cross-examination)~~) direct questions (~~(as instructed by a party)~~) for witnesses to the presiding officer.

(~~(4)~~) (3) Representatives. A party may choose to be represented during a full adjudication, at their own expense. Only persons currently admitted to practice law, including licensed legal interns, are permitted to act as representatives. Representatives are not permitted in (~~(conduct officer hearings)~~) brief adjudications; however, persons currently admitted to practice law may participate as advisors in (~~(conduct officer hearings)~~) brief adjudications.

(~~(5)~~) (4) As a condition of participation in the conduct process, CCS may require advisors and representatives to sign a statement agreeing to comply with legal requirements and university rules including, but not limited to, requirements related to confidentiality of student information.

(~~(6)~~) (5) Questions regarding logistical and administrative issues are to be directed to the (~~(presiding officer or)~~) conduct officer, community standards board chair, or presiding officer, as applicable, who may impose reasonable conditions upon participation of advisors and representatives.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-025 Confidentiality and participation in student conduct hearings. Student conduct meetings and hearings are closed to public observation. The parties and their advisors or representatives may attend the entire hearing, excluding deliberations. Admission of any other person to the hearing is at the discretion of the conduct officer, community standards board chair, or presiding officer, as applicable. For convenience, or to accommodate concerns for the personal safety, well-being, or fears of confrontation of any party or witness, the conduct officer, community standards board chair, or presiding officer may allow participation remotely, in separate rooms, or by other means.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-030 Consolidation. In any student conduct matter in which there are common issues or parties, the conduct officer (~~or presiding officer~~), community standards board chair, or presiding officer, as applicable, may decide to consolidate the proceedings. This decision is within the sole discretion of the conduct officer (~~or presiding officer~~), community standards board chair, or presiding officer.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-035 Service and notification. Service of all university notices under this chapter is sent by electronic mail addressed to the party's university-issued email address or, if the party does not have a university-issued email address, to the email address on record with the university. Service is complete when the email is sent to the email address. Service may also be accomplished by personal delivery or regular U.S. mail. Notifications via regular U.S. mail are sent to the party's last known address or the address on file with the university registrar, and service is complete on the date the notice is placed in the mail. The student is responsible for maintaining an updated mailing address on file with the registrar. (~~Recognized or~~) Registered student organizations are responsible for updating their mailing address on file with the center for fraternity and sorority life, university recreation, or student (~~involvement~~) engagement services. Deadlines described in this chapter begin the date the notification is sent via email, personally delivered, or placed in regular U.S. mail.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-045 Evidence. (1) Evidence, including hearsay evidence, is admissible in student conduct proceedings if, in the judgment of the conduct officer or presiding officer, it is the kind of evidence that reasonably prudent persons are accustomed to rely on in the conduct of their affairs. The conduct officer or presiding officer determines the admissibility and relevance of all information and evidence.

(2) (~~The sexual history of~~) A complainant's sexual interests or prior sexual conduct is not relevant and not admissible in a (~~student~~) conduct (~~proceeding~~) hearing unless such evidence (~~about the complainant's sexual predisposition or prior sexual behavior~~) is offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The fact of prior consensual sexual conduct between a complainant and a respondent does not by itself demonstrate or imply the complainant's

consent to the alleged conduct or preclude determination that the conduct occurred.

(3) For matters involving conduct implicating EP15, evidence that was provided to a confidential employee is not admissible, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.

(4) Parties may choose to remain silent during conduct proceedings, recognizing that they give up the opportunity to explain their version of events and that the decision is made based on the information presented at the hearing. No party must be compelled to give self-incriminating evidence, and no negative inference will be drawn from a party's refusal to participate in any stage of the conduct proceeding. If either party does not attend or participate in a hearing, the ~~((conduct officer or conduct board))~~ decision maker may resolve the matter based on the information available at the time of the hearing.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-050 Supportive measures. (1) While a student conduct matter is pending, the university may take a number of supportive measures on an interim basis to ensure the preservation of the educational experience and the overall university environment of the parties.

(a) These actions may include, but are not limited to:

(i) A no-contact directive assigned to any party;

(ii) University housing room change for one or more involved parties; and/or

(iii) Changes in academic schedules or assignments for one or more involved parties.

(b) These actions for registered ~~((or recognized))~~ student organizations may include, but are not limited to:

(i) Loss of recognition;

(ii) Restriction of specified operational activities.

(2) University departments implementing supportive measures must coordinate with CCS or CCR, as applicable, which advises the parties of the supportive measures and the process for challenging them. For matters involving ~~((the university's executive policy 15, the departments must also consult with CCR regarding))~~ EP15, CCR or its designee facilities supportive measures. For all other alleged standards of conduct violations, CCS facilitates supportive measures. Supportive measures are not sanctions and do not imply or assume responsibility for a violation of the standards of conduct.

AMENDATORY SECTION (Amending WSR 24-10-031, filed 4/23/24, effective 5/24/24)

WAC 504-26-100 Presiding officers. Full adjudicative proceedings are conducted by ~~((the conduct board and are presided over by an individual who is licensed to practice law in the state of Washington and has judicial training))~~ a presiding officer/decision maker who is designated by the university in accordance with WAC 504-04-020.

(1) The presiding officer's role is to:

(a) Ensure a fair and impartial process (~~(and is limited to making)~~);

(b) Make procedural and evidentiary rulings (~~(and handling)~~);

(c) Handle logistical and other matters related to facilitating the proceedings (~~(to)~~);

(d) Ensure compliance with legal requirements; and

(e) Deliver a decision letter to the parties in accordance with WAC 504-26-403.

(2) The presiding officer must transmit a full and complete record of the proceedings to CCS (~~(and the conduct board)~~), including such comments upon demeanor of witnesses as the presiding officer deems relevant, in accordance with RCW 34.05.461. (~~(The presiding officer does not vote.)~~)

AMENDATORY SECTION (Amending WSR 24-10-031, filed 4/23/24, effective 5/24/24)

WAC 504-26-105 Recruitment, appointment, and term of (~~conduct and appeals~~) community standards board members. A committee convened by the dean of students and comprised of students, staff, and/or faculty members (~~(and convened by the dean of students)~~) selects a pool of members of the university community to serve as (~~conduct board members and appeals~~) community standards board members.

(1) Pool members are (~~approved~~) appointed by the university president or designee and must be in good standing with the university. Pool members serve a maximum term of four calendar years but may apply to serve another four-year term after a break of two years. Terms of pool members are staggered. CCS is not involved in the selection processes for board members. CCS may assist in the recruitment process for board members.

(2) If a community standards board member fails to meet established expectations, their appointment may be terminated, in writing, by the university president or designee.

AMENDATORY SECTION (Amending WSR 24-10-031, filed 4/23/24, effective 5/24/24)

WAC 504-26-110 Composition of conduct board. A conduct board may consist of one person or multiple persons selected from the pool of (~~approved~~) appointed university community members in accordance with WAC 504-26-105. (~~(The presiding officer is not a member of the conduct board.)~~) No conduct board member may serve on a case if the member previously served on a board in a case involving the same complainant or respondent.

NEW SECTION

WAC 504-26-112 Community standards board chairs. (1) The chair is responsible for ensuring:

(a) A fair and impartial process for all parties named in the hearing; and

(b) A written letter representing the decision of the board is provided to CCS for distribution to the parties.

(2) One member of the community standards board is designated as the chair of the board. The chair is a voting member of the community standards board.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-115 Composition of appeals board. (1) An appeals board (~~(must)~~) may consist of:

(a) The director of CCS or designee;

(b) The director of CCR or designee; or

(c) A panel of at least three members. (~~(A quorum of three is needed to review a matter.)~~)

(d) The appeals board is the university's reviewing officer as that term is defined under RCW 34.05.464(4).

(2) Where a panel is utilized, a minimum of one appeals board member hearing a matter must be a student. The remaining members may be students, ((or full-time or part-time)) faculty, or staff ((of any rank or classification)). No appeals board member may serve on a case if the member previously served on a board in a case involving the same complainant or respondent. ((One member of the appeals board serves as the chair of the board. The chair is responsible for ensuring a fair and impartial process and is a voting member of the appeals board.))

NEW SECTION

WAC 504-26-117 Composition of academic integrity hearing board.

The academic integrity hearing board must consist of a minimum of one member. Where a panel is utilized, a minimum of one academic integrity board member hearing a matter must be a faculty member. The remaining members may be students or faculty. No academic integrity hearing board member may serve on a case if the member previously served on a board in a case involving the same student.

In hearings involving graduate respondents, board memberships are comprised to include graduate students and graduate teaching faculty to the extent possible.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-120 Training. (1) Conduct and appeals board members. Conduct board members and appeals board members must not participate in any student conduct matter until, at a minimum, training in the following areas has been completed:

(a) Diversity, equity, inclusion, and implicit bias;

(b) Student development and student conduct philosophies, including the educational component of the student conduct process;

(c) Fair and equitable decision making, including:

- (i) Due process;
- (ii) Standards of proof;
- (iii) Relevant and admissible evidence;
- (iv) Conflict of interest; and
- (v) Identifying bias;

(d) Sexual assault and gender-based violence;

(e) Alcohol and drug prevention;

(f) Sanctioning principles and guidelines; and

(g) Title IX regulatory definitions, jurisdiction, and grievance processes.

(2) Conduct officers. Conduct officers must not participate in any student conduct matter until, at a minimum, training in the following areas has been completed:

(a) Alternative dispute resolution;

(b) Restorative justice; and

(c) All training required of board members (see subsection (1) of this section).

(3) Presiding and reviewing officers. Presiding and reviewing officers must not participate in any student conduct matter until, at a minimum, training in the following areas has been completed:

(a) Diversity, equity, inclusion, and implicit bias;

(b) Student development and student conduct philosophies, including the educational component of the student conduct process;

(c) Title IX regulatory definitions, jurisdiction, and grievance processes.

(4) Academic integrity hearing board members. Academic integrity hearing board members must not participate in any student conduct matter until, at a minimum, training in the following areas has been completed:

(a) Diversity, equity, inclusion, and implicit bias;

(b) Student development and student conduct philosophies, including the educational component of the student conduct process;

(c) Fair and equitable decision making, including:

(i) Due process;

(ii) Standards of proof;

(iii) Relevant and admissible evidence;

(iv) Conflict of interest; and

(v) Identifying bias.

(5) Renewal of training. Training must be renewed on a biennial basis, except for decision makers who hear EP15 matters, who are required to take Title IX regulatory training annually.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-125 Recusal. (1) Notification of names of conduct officers and board members. All parties must be notified of the names of conduct officers (~~(, conduct board members,)~~) and/or (~~(appeals)~~) community standards board members assigned to their case no later than seven calendar days prior to the hearing (~~(or appeals board meeting)~~) date.

(2) Requesting recusal of conduct officers and board members. A party requesting recusal of a conduct officer or ~~((conduct/appeals))~~ community standards board member must demonstrate good cause including, but not limited to, conflict of interest or bias. For ~~((conduct board members, the presiding officer is responsible for granting or denying requests. For conduct officers and appeals board members))~~ brief adjudicative proceedings, the dean of students or designee is responsible for granting or denying requests.

(3) Presiding officer. Requests for recusal of the presiding officer are governed by the model rules of procedure, WAC 10-08-050(2).

(4) Reviewing officer. A party requesting recusal of a reviewing officer must demonstrate good cause including, but not limited to, conflict of interest or bias. The dean of students or designee is responsible for granting or denying requests.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-201 Misconduct—Rules and regulations. Any student or ~~((recognized or))~~ registered student organization found to have committed, assisted, conspired, or attempted to commit the following misconduct (WAC 504-26-202 through 504-26-230) is subject to the disciplinary sanctions outlined in WAC 504-26-425.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-202 Acts of dishonesty. Acts of dishonesty are defined as:

(1) Academic integrity violations.

(a) Use of unauthorized materials in taking quizzes, tests, or examinations, or giving or receiving unauthorized assistance by any means, including talking, copying information from another student, using electronic devices, or taking an examination for another student.

(b) Use of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments.

(c) Acquisition or possession of tests or other academic material belonging to a member of the university faculty or staff when acquired without the permission of the university faculty or staff member.

(d) Fabrication, which is the intentional invention or counterfeiting of information in the course of an academic activity. Fabrication includes, but is not limited to:

(i) Counterfeiting data, research results, information, or procedures with inadequate foundation in fact. The office of research must be consulted in matters involving alleged research misconduct as that term is defined in the university's executive policy 33.

(ii) Counterfeiting a record of internship or practicum experiences.

(iii) Submitting a false excuse for absence or tardiness or a false explanation for failing to complete a class requirement or scheduled examination at the appointed date and time.

(e) Engaging in any behavior for the purpose of gaining an unfair advantage specifically prohibited by a faculty member in the course syllabus or class discussion.

(f) Research misconduct. Falsification, fabrication, plagiarism, or other forms of dishonesty in scientific and scholarly research are prohibited. Complaints and inquiries involving cases of research misconduct are managed according to the university's policy for responding to allegations of research misconduct, executive policy 33. A finding of research misconduct is subject to sanctions by CCS.

(g) Unauthorized collaboration on assignments.

(h) Intentionally obtaining unauthorized knowledge of examination materials.

(i) Plagiarism. Presenting the information, ideas, or phrasing of another person as the student's own work without proper acknowledgment of the source. This includes submitting a commercially prepared paper or research project or submitting for academic credit any work done by someone else. The term "plagiarism" includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

(j) Unauthorized multiple submission of the same work.

(k) Sabotage of others' work.

(l) Tampering with or falsifying records.

(m) Violating any other academic rule or standards specified in published course policies.

(n) Unauthorized use of artificial intelligence to complete course requirements including, but not limited to, papers, homework assignments, and tests.

(2) Knowingly furnishing false information, knowingly omitting relevant information, or knowingly misrepresenting information to any person, including university officials, faculty members, or administrators. It is not a violation of this section to refuse to give self-incriminating evidence to a university official, faculty member, or administrator. (See WAC 504-26-045.)

(3) Forgery, alteration, or misuse of any university document or record, or instrument of identification whether issued by the university or other state or federal agency.

(4) Fraud.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-204 Physical harm or ((direct)) threat. (1) Physical harm (, direct threats, and/or other conduct that undermines the safety of the university community or any person.) includes, but is not limited to, any injury, damage, or impairment to the body caused to another person.

(2) Threat includes, but is not limited to, a statement of an intention to inflict pain, injury, damage, or other hostile action to another person. Threat can come in the form of actions or words.

Threat does not include speech that is protected under the first amendment.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-206 Hazing. (1) Hazing includes any act committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a (~~recognized or~~) registered student organization, athletic team, or living group, or any pastime or amusement engaged in with respect to such an organization, athletic team, or living group that causes, or is likely to cause, bodily danger or physical harm, or psychological or emotional harm, regardless of the person's willingness to participate.

(2) Hazing activities may include, but are not limited to:

- (a) Use of alcohol during activities targeted towards new members;
- (b) Striking another person whether by use of any object or one's body;
- (c) Creation of excessive fatigue;
- (d) Physical and/or psychological shock;
- (e) Morally degrading or humiliating games or activities;
- (f) Causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance regardless of the person's willingness to participate;
- (g) Unreasonable or unnatural physical activity.

(3) Hazing does not include practice, training, conditioning and eligibility requirements for customary athletic events such as intramural or club sports and NCAA athletics, or other similar contests or competitions.

(4) Hazing is prohibited both on and off campus.

AMENDATORY SECTION (Amending WSR 08-05-001, filed 2/6/08, effective 3/8/08)

WAC 504-26-207 Failure to comply with university officials or law enforcement officers. Failure to:

- (1) Comply with lawful directions of university officials and/or law enforcement officers acting in performance of their duties; and/or (~~failure to~~)
- (2) Identify oneself to these persons when requested to do so; and/or
- (3) Comply with an informal resolution facilitated under EP15.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-209 Violation of university policy, rule, or regulation. Violation of any university policy, rule, or regulation published electronically on the university website or in hard copy in-

cluding, but not limited to, the university's alcohol and drug policy, (~~(executive policy 15)~~) EP15, and housing and residence life policy.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-213 (~~(Firearms and dangerous)~~) Weapons. (1) No student may possess or use any firearm (~~((including airsoft guns))~~), explosive (including fireworks), dangerous chemicals (excluding pepper spray), or other dangerous weapons or instrumentalities (including tasers and airsoft guns) on university premises.

(2) This prohibition does not apply to possession of such items for authorized university purposes; possession of such items by authorized law enforcement officers; or individuals who have obtained prior written approval from the university chief of police, president, or designee.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-219 Abuse of the student conduct system. Abuse of the student conduct system is defined as:

(1) Filing fraudulent charges or initiating a university conduct proceeding in bad faith.

(2) Attempting to discourage an individual's proper participation in, or use of, the student conduct system.

(3) Attempting to influence the impartiality of a member of the university conduct system prior to, and/or during the course of, any (~~(university)~~) conduct (~~(board)~~) proceeding.

(4) Harassment (verbal, written, or physical) and/or intimidation of a member of a (~~(university conduct)~~) community standards board, any individual involved in the conduct process, any CCR investigator or CCR informal resolution facilitator during a CCR investigation, or any conduct officer before, during, and/or after any university conduct proceeding.

~~((5) Failure to comply with or failure to complete any sanction(s) assigned under the standards of conduct.~~

~~(6) Violation of probation or any probationary conditions.))~~

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-220 Discriminatory harassment. (1) Unwelcome, intentional conduct on the basis of race; (~~((sex and/or gender; sexual orientation; gender identity or expression;))~~) religion; age; color; creed; national or ethnic origin; marital status; genetic information; status as an honorably discharged veteran, protected veteran, or member of the military; physical, mental, or sensory disability (including disability requiring the use of a trained service animal); or immigration or citizenship status, except as authorized by federal or state law, regulation, or government (~~(practice)~~) contract, which is

so severe or pervasive, and objectively offensive, that it substantially and unreasonably:

- (a) Interferes with, or has the potential to interfere with, an individual's ability to participate in university employment, education, programs, or activities;
- (b) Adversely alters the condition of an individual's university employment, education, or participation status;
- (c) Creates an objectively abusive employment, program, or educational environment; or
- (d) Results in a material or substantial disruption of the university's operations or the rights of students, staff, faculty, visitors, or program participants.

(2) In determining if conduct is harassing, the totality of the circumstances are assessed including, but not limited to, the following factors:

- (a) Severity;
- (b) Frequency of the discrimination;
- (c) Status of the ~~((reporting and responding))~~ complainant and respondent parties and their relationship to each other;
- (d) Physicality, threats, or endangerment; and
- (e) Whether or not the conduct could be reasonably considered protected speech or serving some other lawful purpose.

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-221 Sexual ~~((misconduct))~~ assault. (1) Sexual ~~((misconduct))~~ assault is an egregious form of ~~((sex discrimination/sexual))~~ sex-based harassment. Sexual ~~((misconduct))~~ assault is defined as ~~((+))~~ follows. (Note: The following sexual assault definitions are updated in the National Incident-Based Reporting System (NIBRS) User Manual which is available online on the Federal Bureau of Investigation (FBI) UCR Technical Specifications website at <https://le.fbi.gov/informational-tools/ucr/>. Where the definitions are updated in the NIBRS User Manual, the updated definitions apply.)

(a) Sex offense. Any sexual act directed against another person, without the consent of the ~~((victim))~~ complainant, including instances where the ~~((victim))~~ complainant is incapable of giving consent.

(b) Rape (except statutory rape). ~~((The carnal knowledge of a person))~~ Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or by a sex-related object, without the consent of the ((victim)) complainant, including instances where the ((victim)) complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

(c) ~~((Sodomy. Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.~~

~~((d) Sexual assault with an object. To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.~~

~~(e))~~ Fondling. The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the ~~((victim))~~ complainant, including instances where the ~~((victim))~~ complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

~~((f))~~ (d) Incest. Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

~~((g))~~ ~~Sexual exploitation, which occurs when a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses explained above. Examples of sexual exploitation may include, but are not limited to:~~

~~(i) Causing or attempting to cause the incapacitation of another person to gain sexual advantage over such other person.~~

~~(ii) Invading another person's sexual privacy.~~

~~(iii) Prostituting another person.~~

~~(iv) Engaging in voyeurism. A person commits voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, 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 they have a reasonable expectation of privacy.~~

~~(v) Knowingly or recklessly exposing another person to a significant risk of sexually transmitted disease or infection.~~

~~(vi) Exposing one's intimate parts in nonconsensual circumstances.~~

~~(h))~~ (e) Statutory rape. Nonforcible sexual intercourse with a person who is under the statutory age of consent.

~~((i) Sexually based stalking and/or bullying.)~~

(2) Consent. Consent to any sexual activity must be clear, knowing, and voluntary. Anything less is equivalent to a "no." Clear, knowing, and voluntary consent to sexual activity requires that, at the time of the act, and throughout the sexual contact, all parties actively express words or conduct that a reasonable person would conclude demonstrates clear permission regarding willingness to engage in sexual activity and the conditions of such activity. Consent is active; silence or passivity is not consent. Even if words or conduct alone seem to imply consent, sexual activity is nonconsensual when:

(a) Force or coercion is threatened or used to procure compliance with the sexual activity.

(i) Force is the use of physical violence, physical force, threat, or intimidation to overcome resistance or gain consent to sexual activity.

(ii) Coercion is unreasonable pressure for sexual activity. When an individual makes it clear through words or actions that the individual does not want to engage in sexual contact, wants to stop, or does not want to go past a certain point of sexual interaction, continued pressure beyond that point may be coercive. Other examples of coercion may include using blackmail or extortion to overcome resistance or gain consent to sexual activity.

(b) The person is asleep, unconscious, or physically unable to communicate their unwillingness to engage in sexual activity; or

(c) A reasonable person would or should know that the other person lacks the mental capacity at the time of the sexual activity to be able to understand the nature or consequences of the act, whether that

incapacity is produced by illness, defect, the influence of alcohol or another substance, or some other cause. When alcohol or drugs are involved, a person is considered incapacitated or unable to give valid consent if the individual cannot fully understand the details of the sexual interaction (i.e., who, what, when, where, why, and how), and/or the individual lacks the capacity to reasonably understand the situation and to make rational, reasonable decisions.

(3) Use of alcohol or other drugs is not a valid defense to a violation of this policy.

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-222 Harassment (other than ((sexual)) sex-based harassment or discriminatory harassment). Harassment is conduct by any means that is severe, persistent, or pervasive, and is of such a nature that it would cause a reasonable person in the ((victim's)) complainant's position substantial emotional distress and undermine their ability to work, study, or participate in their regular life activities or participate in the activities of the university, and/or actually does cause the ((victim)) complainant substantial emotional distress and undermines the ((victim's)) complainant's ability to work, study, or participate in the ((victim's)) complainant's regular life activities or participate in the activities of the university.

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-223 Stalking. (1) Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (a) Fear for their safety or the safety of others; or
- (b) Suffer substantial emotional distress.

(2) Course of conduct means two or more acts including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

(3) Reasonable person means a reasonable person under similar circumstances and with similar identities to the ((victim)) complainant.

(4) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

(5) The use of alcohol or other drugs is not a valid defense to a violation of this policy.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-224 Reckless endangerment. Engaging in conduct that creates an unreasonable risk of harm to another person or property and/or other conduct that undermines the safety of the university community or any person. Reckless endangerment may include((s)), but is not limited to(~~(r)~~):

- (1) Operating a ((motor)) vehicle while intoxicated;
- (2) Operating a vehicle with blatant disregard for the safety of other people and/or property;
- (3) Placing hazards in a public right of way;
- (4) Throwing objects at moving vehicles or out of buildings;
- (5) Tampering with or removing safety equipment and/or signage.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-227 ((Sexual)) Hostile environment sex-based harassment. Unwelcome, ~~((intentional))~~ sex-based conduct ~~((, on the basis of sex and/or gender, which))~~ (including conduct based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity/expression) that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive((, and objectively offensive,)) that ~~((it substantially and unreasonably))~~:

- ~~(1) ((Interferes with, or has the potential to interfere with, an individual's ability to participate in university employment, education, programs, or activities;~~
- ~~(2) Adversely alters the condition of an individual's university employment, education, or participation status;~~
- ~~(3) Creates an objectively abusive employment, program, or educational environment; or~~
- ~~(4) Results in a material or substantial disruption of the university's operations or the rights of students, staff, faculty, visitors, or program participants))~~ It limits or denies a person's ability to participate in or benefit from WSU's education programs or activities (i.e., creates a hostile environment); or
- (2) Enduring the offensive conduct becomes a condition of continued employment.

AMENDATORY SECTION (Amending WSR 21-07-057, filed 3/15/21, effective 4/15/21)

WAC 504-26-231 Intimate partner violence. Intimate partner violence is defined as:

- (1) Dating violence, which is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the ~~((victim))~~ complainant. The existence of such a relationship is determined based on the:
 - (a) Length of the relationship;
 - (b) Type of relationship; and

(c) Frequency of interaction between the persons involved in the relationship.

(2) Domestic violence, which is defined as a felony or misdemeanor crime of violence committed by:

(a) A current or former spouse or intimate partner of the ~~((victim))~~ complainant or a person similarly situated to a spouse of the complainant;

(b) A person with whom the ~~((victim))~~ complainant shares a child in common;

(c) A person who is cohabitating with, or has cohabitated with, the ~~((victim))~~ complainant as a spouse or intimate partner;

(d) A person similarly situated to a spouse of the ~~((victim))~~ complainant under the domestic or family violence laws of Washington; or

(e) Any other person against an adult or youth ~~((victim))~~ complainant who is protected from that person's act under the domestic or family violence laws of Washington.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-401 Initiating conduct proceedings. (1) Complaints. Any member of the university community may submit a complaint that a student or ~~((recognized or))~~ registered student organization violated the standards of conduct. In matters that would constitute a violation of ~~((executive policy 15))~~ EP15, the complaint must be ~~((initiated through))~~ submitted to CCR or initiated by CCR pursuant to EP15. In addition, CCS may initiate conduct proceedings when it receives any direct or indirect report of conduct that may violate the standards of conduct.

(2) Decision not to ~~((initiate the community standards process))~~ refer the matter to a hearing. Except as provided below, ~~((after reviewing the initial information, if the conduct officer determines that additional action from CCS is not warranted, the conduct officer dismisses the matter.))~~ if the conduct officer decides not to ((initiate a conduct proceeding)) refer the matter to a hearing, the conduct officer must notify the reporting party in writing of the decision, the reasons for the decision, and how to seek review of the decision. Conduct matters maybe reopened if new relevant information becomes known. A conduct officer cannot dismiss a matter received from CCR where CCR completed ~~((a formal))~~ an investigation implicating ~~((Title IX sexual harassment within the university's Title IX jurisdiction, as defined by university executive policy 15, regardless of the investigation's outcome))~~ EP15. In such cases, the ~~((conduct officer must refer the))~~ matter must be referred to a conduct ~~((board))~~ hearing, which must be held within 60 days of the date the CCR ~~((formal))~~ investigation ~~((report was received))~~ is completed, unless good cause exists to extend the date of the hearing or the matter is resolved through agreement or alternative dispute resolution.

(3) Agreement and alternative dispute resolution. A conduct officer may resolve a matter by agreement. Agreements may be reached directly or through alternative dispute resolution including, but not limited to, shuttle diplomacy or mediation. Parties involved in matters implicating EP15 also may participate in an informal resolution process outlined in EP15 and the CCR procedural guidelines at any time

prior to a determination of responsibility. When resolution of a matter is reached by agreement or alternative dispute resolution, the agreement must be in writing and signed by the parties and the conduct officer. In the agreement, the parties must be advised in writing that:

- (a) The disposition is final and they are waiving any right to a hearing on the matter, including any right to appeal; and
 - (b) If any party decides not to sign the agreement, and the matter proceeds to a hearing, neither the agreement nor a party's refusal to sign will be used against either party at the hearing.
- (4) Referral for adjudication. Except as provided in subsection (2) of this section, if CCS determines that a conduct hearing is warranted, and the matter is not resolved through agreement or alternative dispute resolution, the matter is handled through either a ~~((conduct officer hearing (-)))~~ brief adjudication ((-)) ~~in accordance with WAC 504-26-402, or conduct board hearing (full adjudication))~~ in accordance with WAC 504-26-402 or a full adjudicative proceeding in accordance with WAC 504-26-403. In determining which process is appropriate, CCS considers factors including, but not limited to, the nature and severity of the allegations, the respondent's past contacts with CCS, ~~((and))~~ the range of possible sanctions that ((could be assigned)) would be appropriate given the alleged conduct, and whether the alleged conduct constitutes sex discrimination or sex-based harassment. A student may request ~~((that a conduct board hear the case))~~ a full adjudicative proceeding, but the final decision regarding whether to refer the matter to ~~((the conduct board for hearing))~~ a full adjudicative proceeding for resolution is made by CCS and is not subject to appeal.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-402 ((Conduct officer hearings (-)) Brief adjudications ((+)). (1) ~~((The majority of student conduct matters are adjudicated through conduct officer hearings. However, conduct officer hearings are not used to adjudicate matters in which the respondent faces possible sanctions of suspension for more than 10 instructional days, expulsion, or revocation of degree or when a recognized or registered student organization faces possible loss of recognition. In addition, conduct officer hearings generally are not used to adjudicate matters in which the respondent faces allegations of sexual misconduct, as that term is defined in WAC 504-26-221.~~

~~((2-))~~ Notice of hearing. The ~~((conduct officer must provide the))~~ parties must be provided with written notice no later than seven calendar days prior to ~~((the conduct officer hearing))~~ a brief adjudication. The notice must include:

- (a) A brief description of the factual allegations or issues involved;
- (b) The specific standard of conduct provision(s) the respondent is alleged to have violated;
- (c) The time, date, and place of the hearing or process by which a respondent may schedule the hearing;
- (d) Information regarding what to expect during the student conduct process and student rights including, but not limited to:

(i) A statement that the parties have the right to have an advisor present at the hearing;

(ii) A statement regarding the right not to self-incriminate in accordance with WAC 504-26-045;

(iii) Information regarding the right to request recusal of a conduct officer or community standards board member under WAC 504-26-125;

(e) Available resources, including how to access an information session ~~((and legal resources in the community))~~;

(f) A statement that any request to modify the time or date of the ~~((conduct officer))~~ hearing should be addressed to CCS;

(g) A statement that indicates that respondents are presumed "not responsible" for the pending allegations;

(h) A statement that violations are determined by a preponderance of the evidence, meaning that it is more likely than not that the violation occurred.

~~((3))~~ (2) Hearing and possible outcomes. ~~((Conduct officer hearings are))~~

(a) Brief adjudications are conducted in accordance with RCW 34.05.482 through 34.05.494. The hearing allows ~~((the conduct officer to))~~ for an objective evaluation and review of available information, ~~((hear the parties' view of the matter, render))~~ the rendering of a decision regarding responsibility, and ~~((assign))~~ assigned sanctions, as appropriate. The conduct officer may engage in further questioning of parties and witnesses as needed to evaluate the allegations and assess credibility.

~~((a))~~ (b) Upon conclusion of the hearing, ~~((the conduct officer may take any of))~~ the following actions may be taken:

(i) Find the respondent responsible for any or all of the alleged violations and assign sanctions as provided in WAC 504-26-425 ~~((within the limitations described in subsection (1) of this section))~~;

(ii) Find the respondent not responsible for any or all of the alleged violations;

(iii) Dismiss the matter with no finding regarding responsibility, in which case the matter may be reopened at a later date if relevant new information becomes known ~~((or~~

~~iv) Refer the matter to the conduct board))~~.

~~((4))~~ (3) Notice of decision and right to appeal. The ~~((conduct officer notifies the))~~ parties are notified in writing of the decision within 10 calendar days of the ~~((conduct officer hearing))~~ brief adjudication. This is the initial order of the university and must include:

(a) Description of the allegations that initiated the community standards process;

(b) Description of procedural steps taken from the receipt of the formal complaint up to and including the ~~((university conduct board hearing))~~ outcome of the brief adjudication, as well as a rationale for such determinations;

(c) Appropriately numbered findings of fact and conclusions;

(d) The sanction(s) ~~((and/or remedy(ies)))~~ to be assigned, if any, and the rationale for the sanction(s) ~~((and/or remedy(ies)))~~;

(e) Information regarding the parties' right to appeal according to WAC 504-26-420, including the time frame for seeking review; and

(f) Notice that the initial order becomes final unless an appeal is filed within 20 calendar days of the date the initial order is sent to the parties.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-403 (~~Conduct board hearings~~) Full adjudications (1) (~~Conduct board hearings are used in matters in which the respondent faces possible sanctions of suspension for more than 10 instructional days, expulsion, or revocation of degree and matters in which a recognized or registered student organization faces possible loss of recognition. In addition, conduct board hearings are generally used to adjudicate matters in which the respondent faces allegations of sexual misconduct, as that term is defined in WAC 504-26-221. Other matters may be referred to a conduct board at the discretion of CCS.~~

~~(2))~~ Adoption of model rules of procedure. (~~Conduct board hearings are~~) Full adjudications are governed by the Administrative Procedure Act, RCW 34.05.413 through 34.05.476, and chapter 10-08 WAC, Model rules of procedure, except as otherwise provided in this chapter. In the event of a conflict between the rules in this chapter and the model rules, this chapter governs.

~~((3))~~ (2) Notice of hearing. Notice to the parties of a (~~conduct board hearing~~) full adjudicative proceeding must comply with model rule WAC 10-08-040 and standards of conduct rule WAC 504-26-035. In addition, information regarding the student conduct process and student rights, as required by WAC 504-26-401 must be provided.

~~((4))~~ (3) Time for (~~conduct board~~) hearings. The (~~conduct board hearing~~) full adjudicative proceeding is scheduled (~~not~~) no less than seven calendar days after the parties have been sent notice of the hearing.

In accordance with WAC 10-08-090, requests to extend the time and/or date for hearing must be addressed to the presiding officer. A request for an extension of time is granted only upon a showing of good cause.

~~((5))~~ (4) Subpoenas. Subpoenas may be issued and enforced in accordance with model rule WAC 10-08-120. In determining whether to issue, quash, or modify a subpoena, the presiding officer must give due consideration to state and federal legal requirements including, but not limited to, Title IX, its implementing regulations, and guidance issued by the federal Office for Civil Rights. The party requesting the subpoena has the burden of showing that a subpoena is necessary for full disclosure of all the relevant facts and issues.

~~((6))~~ (5) Discovery. Depositions (~~(r)~~) and interrogatories (~~(r)~~ and physical or medical examinations of parties) are not permitted in adjudications of student conduct matters. Other forms of discovery may be permitted at the discretion of the presiding officer; however, discovery should be limited to help ensure the prompt completion of the adjudication process.

~~((7))~~ (6) Direct questioning and cross-examination. As required by RCW 34.05.449, direct and cross-examination of witnesses is permitted to the extent necessary for full disclosure of all relevant facts and issues.

(a) For hearings involving allegations where EP15 is implicated, parties and/or their advisors or representatives may submit direct and cross-examination (~~is conducted orally through the party's advisor or representative. If a party does not have an advisor or representative, an advisor is provided by the university free of charge to conduct cross-examination on that party's behalf. Advisors and representatives are required to engage in cross-examination questioning in a respectful manner. In no circumstance may the complainant or respondent be~~

~~permitted to cross-examine each other directly. Before any witness or party may answer a) questions to the presiding officer who asks relevant, permissible, clear, and nonharassing questions. Prior to asking any direct and cross-examination question, the presiding officer must first determine whether the question is relevant, permissible, clear, and nonharassing. If a presiding officer excludes a question, the presiding officer must explain the rationale for exclusion and provide the party and/or advisor an opportunity to clarify or revise their question.~~

~~(b) For hearings involving allegations where EP15 is not implicated, cross-examination is conducted orally through the party's advisor or representative. If a party does not have an advisor or representative, an advisor is provided by the university free of charge to conduct cross-examination on that party's behalf. Advisors and representatives are required to engage in cross-examination questioning in a respectful manner. In no circumstance may the complainant or respondent be permitted to cross-examine each other directly. Before any witness or party may answer a cross-examination question, the presiding officer must first determine whether the question is relevant. The presiding officer must instruct parties or witnesses not to answer cross-examination questions that are irrelevant, immaterial, or unduly repetitious.~~

~~((8)) (7) Decision requirements. Decisions regarding responsibility and sanctions are made by ((a majority of the conduct board hearing the matter)) the presiding officer.~~

~~((9)) (8) Notice of decision and right to appeal. Within 10 calendar days of the completion of the hearing, the ((conduct board)) presiding officer must issue ((a decision)) the initial order simultaneously to all parties, ((which is the)) unless the presiding officer notifies the parties in writing that additional time (up to 30 calendar days) is needed. The initial order of the university ((and)) must contain the following:~~

(a) Description of the allegations that initiated the community standards process;

(b) Description of procedural steps taken from the receipt of the formal complaint up to and including the ((university conduct board hearing)) outcome of the full adjudicative proceeding;

(c) Appropriately numbered findings of fact and conclusions;

(d) The sanction(s) and/or remedy(ies) to be assigned, if any, and the rationale for the sanction(s) and/or remedy(ies);

(e) Information regarding the parties' right to appeal according to WAC 504-26-420, including the time frame for seeking review; and

(f) Notice that the initial order becomes final unless an appeal is filed within 20 calendar days of the date the initial order is sent to the parties.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-409 Emergency suspension. (1) Definition. An emergency suspension is a temporary exclusion of a student from all or specified portions of university premises, programs, or activities pending an investigation or ((student)) conduct ((proceeding)) hearing relating to alleged standards of conduct violations. An emergency sus-

pension may be assigned at any time prior to the issuance of the university's final order in the matter.

(2) Circumstances warranting emergency suspension. (~~((a) For matters which would not constitute Title IX sexual harassment within the university's Title IX jurisdiction, as defined by university executive policy 15,))~~ Emergency suspension may be assigned only in situations when the dean of students or a vice chancellor for student affairs (in consultation with CCS), or their designee, has (cause to believe that) engaged in an individualized safety and risk analysis, and determines that removal is justified because the student:

~~((i))~~ (a) Allegedly has violated any provision of the standards of conduct; and

~~((ii) Presents an immediate danger))~~ (b) If the allegations in (a) of this subsection are true, the student is an imminent and serious threat to the health((,)) or safety((, or welfare)) of any ((part of the university community or the public at large)) student, employee, or other individual. Conduct that creates an ongoing disruption of, or interference with, the operations of the university and that prevents other students, employees, or invitees from completing their duties or accessing their education or the educational environment, is conduct harmful to the welfare of members of the university community.

~~((b) For matters which would constitute Title IX sexual harassment within the university's Title IX jurisdiction, as defined by university executive policy 15, emergency suspension may be assigned only in a situation where the dean of students or a vice chancellor for student affairs (in consultation with CCS), or their designee, has engaged in an individualized safety and risk analysis, and determines that removal is justified because the student:~~

~~(i) Has violated any provision of the standards of conduct; and~~

~~(ii) Is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX sexual harassment.)~~

(3) Procedure. The dean of students or a vice chancellor for student affairs, or their designee, ordering an emergency suspension must send the student a written notice of emergency suspension. The notice must contain the reasons for the decision (both the factual basis and the conclusions as to why those facts constitute a violation of the standards of conduct), the policy reasons for the emergency suspension, and the process to challenge the decision. The emergency suspension does not replace the ~~((regular hearing))~~ community standards process, which must proceed to a conduct ~~((officer hearing or conduct board))~~ hearing, as applicable, as quickly as feasible unless the emergency suspension is lifted earlier by the individual who issued the original emergency suspension or the individual who reviewed the student's challenge to an emergency suspension. If an emergency suspension is lifted prior to the hearing, the conduct officer determines whether to refer the matter to a hearing. Once a final order or agreement is entered, any emergency suspension is lifted and the sanction, if any, set forth in the final order or agreement is assigned.

(4) Challenge of the decision. The student can challenge the emergency suspension decision within 10 calendar days of the date of notice. Challenges are reviewed by the vice president for student affairs or their designee, provided the designee is not the same person who made the original emergency suspension decision. The vice president for student affairs or designee has 10 calendar days to respond to the ~~((review))~~ challenge and can uphold, reverse, or modify the emergency suspension. If the challenge is not reviewed within 10 cal-

endar days, it is automatically deemed upheld. The submission of a challenge does not stay the emergency suspension decision.

AMENDATORY SECTION (Amending WSR 24-10-031, filed 4/23/24, effective 5/24/24)

WAC 504-26-415 Procedure for academic integrity violations. (1) Initial hearing.

(a) When a responsible instructor believes that an academic integrity violation has occurred, the instructor must ~~((assemble the evidence and, upon reasonable notice to the respondent of the date, time, and nature of the allegations,))~~ make reasonable attempts to meet with the ~~((respondent))~~ student suspected of committing an academic integrity violation to allow the student to respond to the allegations.

(b) ~~((If the respondent admits that they committed an academic integrity violation, the instructor assigns an outcome in keeping with published course policies and notifies CCS in writing, including the allegations, the respondent's admission, and the sanctions assigned.~~

~~((c) If the instructor is unable to meet with the respondent or if the respondent disputes the allegation(s) and/or the outcome proposed by the instructor,))~~ After the meeting or reasonable attempts to meet occur, the instructor must make a ~~((determination))~~ decision as to whether it is more likely than not that the respondent ~~((did or did not commit))~~ is responsible for an academic integrity violation ~~((based on a preponderance of the evidence standard, meaning that it is more likely than not that the violation occurred))~~ as defined in WAC 504-26-202. If the instructor finds that the respondent ~~((was in))~~ is responsible for an academic integrity violation, the instructor must provide the respondent and CCS with a written ~~((determination))~~ decision, the evidence relied upon, and the academic sanctions assigned.

~~((d) The respondent has 21 calendar days from))~~ (c) Decisions made by the instructor become final 21 calendar days after the date ~~((of))~~ the decision ~~((letter to request review of the instructor's determination and/or sanction(s) assigned to the academic integrity hearing board))~~ is sent to the respondent, unless an appeal is submitted.

(2) ~~((Review))~~ Appeal.

(a) The respondent can appeal the instructor's decision by submitting an appeal to CCS within 20 calendar days of the date of decision. Upon timely ~~((request for review by a respondent who has been found by their instructor to have committed an academic integrity violation))~~ submission of appeal, the academic integrity hearing board ~~((must make a separate and independent determination of whether or not the respondent is responsible for committing an academic integrity violation and/or whether the outcome proposed by the instructor is in keeping with the instructor's published course policies))~~ conducts a limited review.

(b) ~~((The academic integrity hearing board must consist of a minimum of one member. No academic integrity hearing board member may serve on a case if the member previously served on a board in a case involving the same student.))~~ Scope of review. Appeal of an instructor's academic integrity decision is limited to a review of the record to determine whether:

(i) The instructor meeting was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures; deviations from designated procedures are not a basis for sustaining an appeal unless procedural error affected the outcome of the matter.

(ii) The decision reached was based on substantial information, i.e., whether there were facts in the case that, if believed by the fact finder, were sufficient to establish that a violation of the standards of conduct occurred;

(iii) The academic sanction assigned by the instructor was in alignment with the published course policies and/or syllabus statement(s).

(c) Actions. After reviewing the record and any information provided by the parties, the academic integrity hearing board may take the following actions:

(i) Affirm, reverse, or modify the initial decision, or any part of the decision;

(ii) Affirm, reverse, or modify the academic sanctions and/or remedies assigned by the decision maker, or any part of the sanctions and/or remedies; or

(iii) Set aside the findings, sanctions, remedies, or any part of the findings, sanctions, or remedies and remand the matter back to the decision maker with instructions for further proceedings.

(d) The academic integrity hearing board is empowered to provide an appropriate remedy for a respondent including arranging a withdrawal from the course, having the respondent's work evaluated, or changing a grade where it finds that:

(i) The respondent is not responsible for violating academic integrity policies; or

(ii) The outcome assigned by the instructor violates the instructor's published policies.

~~((d) Academic integrity hearing board proceedings.~~

~~(i) Any respondent appealing a responsible instructor's finding of an academic integrity violation is provided written notice of an academic integrity hearing board hearing in accordance with WAC 504-26-035. The written notice must include:~~

~~(A) The specific complaint, including the university or instructor academic integrity policy or regulation allegedly violated;~~

~~(B) The approximate time and place of the alleged act that forms the factual basis for the violation;~~

~~(C) The time, date, and place of the hearing;~~

~~(D) A list of the witnesses who may be called to testify, to the extent known; and~~

~~(E) A description of all documentary and real evidence to be used at the hearing, to the extent known, including a statement that the respondent must have the right to inspect the documentation.~~

~~(ii) Time for hearings.~~

~~(A) Academic integrity hearing board hearings are scheduled not less than seven calendar days after the respondent has been sent notice of the hearing.~~

~~(B) Requests to extend the time and/or date for hearing must be addressed to the chair of the academic integrity hearing board, and must be copied to CCS. A request for extension of time is granted only upon a showing of good cause.~~

~~(iii) Academic integrity hearing board hearings are conducted according to the following procedures, except as provided by (d) (iv) of this subsection:~~

~~(A) Academic integrity hearing board hearings are conducted in private.~~

~~(B) The instructor, respondent, and their advisor, if any, are allowed to attend the entire portion of the hearing at which information is received (excluding deliberations). Admission of any other person to the hearing is at the discretion of the academic integrity hearing board chair.~~

~~(C) In academic integrity hearings involving more than one respondent, the academic integrity hearing board chair may permit joint or separate hearings at the chair's discretion.~~

~~(D) In hearings involving graduate respondents, board memberships are comprised to include graduate students and graduate teaching faculty to the extent possible.~~

~~(E) The responsible instructor and the respondent may arrange for witnesses to present relevant information to the academic integrity hearing board. Witnesses must provide written statements to the conduct officer at least two weekdays before the hearing. The respondent is responsible for informing their witnesses of the time and place of the hearing. Witnesses provide information to and answer questions from the academic integrity hearing board, the responsible instructor, and the respondent, as appropriate. The respondent and/or responsible instructor may submit written questions to be answered by each other or by other witnesses. Written questions are submitted to, and asked by, the academic integrity hearing board chair. This method is used to preserve the educational tone of the hearing and to avoid creation of an unduly adversarial environment, and to allow the board chair to determine the relevancy of questions. Questions concerning whether potential information may be received are resolved at the discretion of the academic integrity hearing board chair, who has the discretion to determine admissibility of information.~~

~~(F) Pertinent records, exhibits, and written statements may be accepted as information for consideration by an academic integrity hearing board at the discretion of the chair.~~

~~(G) Questions related to the order of the proceedings are subject to the final decision of the chair of the academic integrity hearing board.~~

~~(H) After the portion of the hearing concludes in which all pertinent information is received, the academic integrity hearing board determines (by majority vote) whether or not the respondent is more likely than not responsible for violating the academic integrity policy and/or whether the outcome proposed by the instructor is in keeping with the instructor's published course policies.~~

~~(I) The respondent is notified of the academic integrity hearing board's decision within 20 calendar days from the date the matter is heard. The respondent must receive written notice of the decision, the reasons for the decision (both the factual basis therefore and the conclusions as to how those facts apply to the academic integrity policies), and the sanction.~~

~~(iv) If a respondent to whom notice of the hearing has been sent (in the manner provided above) does not appear at the hearing, the information in support of the complaint is presented and considered in the respondent's absence, and the board may issue a decision based upon that information.~~

~~(v) The academic integrity hearing board may for convenience, or to accommodate concerns for the personal safety, well-being, and/or fears of confrontation of any person, provide separate facilities, and/or permit participation by telephone, audio tape, written state-~~

ment, or other means, as determined in the sole judgment of the chair of the academic integrity hearing board to be appropriate.

~~(vi))~~ (e) Content of decision. The decision includes the outcome, any sanction or remedy, and a brief statement of the reasons for the decision. The letter must advise the parties that judicial review may be available. The written decision of the academic integrity hearing board is the university's final order. There is no additional appeal ~~((from))~~ of the findings of responsibility or ~~((outcomes))~~ academic sanctions assigned by academic integrity hearing board.

(3) ~~((If the reported violation is the respondent's first offense, CCS ordinarily requires the respondent to attend a workshop))~~ After a finding of responsibility, either upon expiration of the appeal period or the academic integrity hearing board decision, the matter is referred to CCS for educational sanctioning separate from, and in addition to, any academic ~~((outcomes))~~ sanctions assigned by the instructor.

(4) ~~((If the reported violation is the respondent's second offense, the respondent is ordinarily referred for a full adjudicative hearing in accordance with WAC 504-26-403, to determine appropriate sanctions, which may include expulsion from the university.~~

~~(5) If the instructor or academic integrity hearing board determines that the act of academic dishonesty for which the respondent is found responsible is particularly egregious in light of all attendant circumstances, the instructor or academic integrity hearing board may direct that the respondent's case be referred to the conduct board with a recommendation for expulsion from the university even if it is the respondent's first offense.~~

~~(6))~~ Because instructors and departments have ~~((a legitimate))~~ an educational ~~((interest in))~~ need to know the outcome ~~((s, reports))~~ of an academic integrity hearing board ~~((and/or conduct board hearings must be reported to))~~ decision, academic integrity hearing board decisions are shared with the responsible instructor and the chair or dean.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-420 Appeals. (1) Time for appeals. ~~((Decisions made by a conduct officer or conduct board))~~ Conduct hearing decisions become final on the 21st calendar day after the date the decision is sent to the parties, unless an appeal is submitted within 20 calendar days of the date the decision is sent to the parties.

(2) Effect of appeal - Stay. Except in extraordinary circumstances, which must be explained in writing in the ~~((conduct officer's or conduct board's))~~ decision maker's initial order, the implementation of an initial order assigning sanctions must be stayed pending the time for filing an appeal and the issuance of the university's final order.

(3) Appeals ~~((of conduct officer decisions))~~. Upon receipt of a timely appeal, CCS provides the other parties, if applicable, with a copy of the appeal and an opportunity to respond within 10 calendar days. ~~((The appeals board then conducts a limited review as described below.))~~

(a) Brief adjudication scope of review. Except as required to explain the basis of new information, appeal of a ~~((conduct officer))~~

brief adjudication decision is limited to a review of the record for one or more of the following purposes:

(i) To determine whether the conduct hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures; deviations from designated procedures are not a basis for sustaining an appeal unless procedural error affected the outcome of the matter;

(ii) To determine whether the decision reached was based on substantial information, ~~((that is))~~ i.e., whether there were facts in the case that, if believed by the fact finder, were sufficient to establish that a violation of the standards of conduct occurred;

(iii) To determine whether the sanction(s) assigned were appropriate for the violation of the standards of conduct that the respondent was found to have committed;

(iv) To consider new information, sufficient to alter a decision, or other relevant facts not brought out in the original ~~((conduct officer hearing))~~ brief adjudication, because such information and/or facts were not known to the person appealing at the time of the original ~~((conduct officer hearing))~~ brief adjudication;

(v) To consider whether or not the university had jurisdiction per WAC 504-26-015 to address the situation through the community standards process ~~((. In cases implicating the university's executive policy 15, the appeals board must consult with the university's Title IX coordinator))~~; or

(vi) To consider whether the ~~((Title IX coordinator,))~~ investigator(s) ~~((r))~~ or decision maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

(b) ~~((Conversion to conduct board hearing. The appeals board makes any inquiries necessary to ascertain whether the proceeding must be converted to a conduct board hearing in accordance with WAC 504-26-403.~~

~~(4) Appeals of conduct board decisions. Upon receipt of a timely appeal, CCS provides the other parties, if applicable, with a copy of the appeal and an opportunity to respond within 10 calendar days.)~~
Full adjudicative proceeding scope of review. In addition to the criteria listed in (a) of this subsection, the appeals board members for full adjudicative proceeding appeals must make a separate and independent decision in the matter and personally consider the whole record.

The appeals board must have and exercise all the decision-making power that the ~~((conduct board))~~ decision maker had, except that the appeals board must give due regard to the ~~((conduct board's))~~ decision maker's opportunity to observe the witnesses, if applicable. ~~((The appeals board members must personally consider the whole record or such portions of it as may be cited by the parties.~~

~~(5))~~

(4) University's right to initiate appeal. The university president or designee, at their own initiative, may request that the appeals board review any initial order. ~~((Prior to taking action, the appeals board must notify the parties and allow them an opportunity to explain the matter.~~

~~(6))~~

(5) Appeals board decisions.

(a) Actions. After reviewing the record and any information provided by the parties, the appeals board may take the following actions:

(i) Affirm, reverse, or modify the ~~((conduct board's or conduct officer's))~~ initial decision, or any part of the decision;

(ii) Affirm, reverse, or modify the sanctions and/or remedies assigned by the ~~((conduct board or conduct officer))~~ decision maker, or any part of the sanctions and/or remedies; or

(iii) Set aside the findings ~~((or))~~, sanctions, remedies, or any part of the findings ~~((or))~~, sanctions, remedies and remand the matter back to the ~~((conduct board or conduct officer))~~ decision maker with instructions for further proceedings.

(b) Content of decision. The decision includes the outcome, any sanction and/or remedy, and a brief statement of the reasons for the decision. The letter must advise the parties that judicial review may be available. For appeals of ~~((conduct board hearings))~~ full adjudicative proceedings, the decision includes, or incorporates by reference to the ~~((conduct board's))~~ presiding officer's decision, all matters as set forth in WAC 504-26-403(8).

(c) Service and effective date of decision. For appeals of ~~((conduct officer decisions))~~ brief adjudicative proceedings, the appeals board's decision must be sent simultaneously to the parties within 20 calendar days of receipt of the appeal. For appeals of ~~((conduct board decisions))~~ full adjudicative proceedings, the appeals board's decision must be sent simultaneously to the parties within 30 calendar days of receipt of the appeal, unless the appeals board notifies the parties in writing that additional time (up to 90 calendar days) is needed. The appeals board's decision is the final order of the university, except in the case of remand, and is effective when sent.

~~((7))~~ (6) Reconsideration of final orders. Within 10 calendar days of service of a final order, any party may submit a request for reconsideration. The request must be in writing, directed to the appeals board, and must state the reasons for the request. The request for reconsideration does not stay the effective date of the final order. However, the time for filing a petition for judicial review does not commence until the date the appeals board responds to the request for reconsideration or 21 calendar days after the request has been submitted, whichever is sooner. If the appeals board does not respond to the request for reconsideration within 21 calendar days, the request is deemed to have been denied.

~~((8))~~ (7) Stay. A party may request that the university delay the date that the final order becomes effective by requesting a stay in writing to the appeals board within 10 calendar days of the date the order was served.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-425 Sanctions. (1) Publication of guidelines for sanctioning. Sanctioning guidelines and other information regarding sanctioning must be published on the university website. Guidelines must explain in plain language the types of sanctions that a respondent may face for a particular violation and the factors that are used to determine the sanction(s) assigned for a particular violation.

(2) Factors for sanctioning must include, but not be limited to, the following:

(a) Conduct record. Any record of past violations of the standards of conduct, and the nature and severity of such past violations;

(b) Malicious intent. If a respondent is found to have intentionally selected a ~~((victim))~~ complainant based upon the respondent's perception of the ~~((victim's))~~ complainant's race, color, religion, national or ethnic origin, age, sex/gender, marital status, status as an honorably discharged veteran or member of the military, sexual orientation, genetic information, gender identity/expression, or mental, physical, or sensory disability (including disability requiring the use of a trained service animal), such finding is considered an aggravating factor in determining a sanction for such conduct;

(c) Impact on ~~((victim))~~ complainant and/or university community;

(d) Applicable local, state, or federal laws that define sanctioning.

(3) Effective date of sanctions. Except as provided in WAC 504-26-420(2), sanctions are implemented when a final order becomes effective. If no appeal is filed, an initial order becomes a final order on the day after the period for requesting review has expired. (See WAC 504-26-420.)

(4) Types of sanctions. The following sanctions may be assigned to any respondent found to have violated the standards of conduct. More than one of the sanctions listed below may be assigned for any single violation:

(a) Warning. A notice in writing to the respondent that the respondent is violating or has violated the standards of conduct.

(b) Probation. Formal action placing conditions upon the respondent's continued attendance, recognition, or registration at the university. Probation is for a designated period of time and warns the respondent that suspension, expulsion, loss of recognition, or any other sanction outlined in this section may be assigned if the respondent is found to have violated the standards of conduct or any institutional regulation(s) or fails to complete any conditions of probation during the probationary period. A respondent on probation is not eligible to run for or hold an office in any ~~((recognized or))~~ registered student group or organization; they are not eligible for certain jobs on campus including, but not limited to, resident advisor or orientation counselor; and they are not eligible to serve on the university conduct or appeals board.

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

(d) Restitution. Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

(e) Education. Requirement to successfully complete an educational project designed to create an awareness of the respondent's misconduct.

(f) Community service. Assignment of service hours (not to exceed 80 hours per respondent or per member of a ~~((recognized or))~~ registered student organization).

(g) University housing suspension. Separation of the respondent from a residence hall or halls for a definite period of time, after which the respondent may be eligible to return. Conditions for readmission may be specified.

(h) University housing expulsion. Permanent separation of the respondent from a residence hall or halls.

(i) University suspension. Separation of the respondent from the university for a definite period of time. The respondent may be required to request readmission after completing a suspension per other university policy.

(j) University expulsion. Permanent separation of the respondent from the university. Also referred to as university dismissal. The terms are used interchangeably throughout this chapter.

(k) Revocation of admission and/or degree. Admission to or a degree awarded from the university may be revoked for fraud, misrepresentation, or other violation of law or standard of conduct in obtaining the degree or admission, or for other serious violations committed by a respondent before awarding of the degree.

(l) Withholding degree. The university may withhold awarding a degree otherwise earned until the completion of the process set forth in these standards of conduct, including the completion of all sanctions assigned, if any.

(m) Trespass. A respondent may be restricted from any or all university premises based on their misconduct.

(n) Loss of recognition. A (~~recognized or~~) registered student organization's recognition (or ability to register) may be withheld permanently or for a specific period of time. Loss of recognition is defined as withholding university services, privileges, or administrative approval from a (~~recognized or~~) registered student organization. Services, privileges, and approval to be withdrawn may include, but are not limited to, intramural sports (although individual members may participate), information technology services, university facility use and rental, student (~~involvement~~) engagement office organizational activities, and their liaison relationship with the center for fraternity and sorority life.

(o) Hold on transcript and/or registration. A hold restricts release of a respondent's transcript or access to registration until satisfactory completion of conditions or sanctions assigned by a conduct officer or university conduct board. Upon proof of satisfactory completion of the conditions or sanctions, the hold is released.

(p) No contact directive. A prohibition of direct or indirect physical, verbal, and/or written contact with another individual or group.

(q) Fines. Previously established and published fines may be assigned. Fines are established each year prior to the beginning of the academic year and are approved by the vice president for student affairs.

(r) Additional sanctions for hazing. In addition to other sanctions, a respondent who is found responsible for hazing forfeits any entitlement to state-funded grants, scholarships, or awards for a specified period of time, in accordance with RCW 28B.10.902. Any (~~recognized or~~) registered student organization that is found responsible for hazing must lose recognition for a specified period of time.

(s) Remedies. Sanctions designed to restore or preserve a complainant's equal access to the university's educational programs or activities.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-504 Interpretation—Policies, procedures, and guidelines. (1) The dean of students or designee has authority to interpret these rules and develops policies, procedures, and guidelines for

the administration of the university's student conduct system that are consistent with the provisions in this chapter. These must be published, at a minimum, on the university website. A link to the website must be provided to parties during their initial contact from CCS.

(2) Definitions from these standards are incorporated into (~~the university's executive policy 15~~) EP15.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-510 Good Samaritan policy. CCS may elect not to initiate a conduct proceeding regarding alcohol or other drug violations against a student or (~~recognized or~~) registered student organization who, while in the course of helping another person seek medical assistance, admits to the unlawful possession or use of alcohol or drugs, provided that the possession was for personal consumption and the use did not place the health or safety of any other person at risk. In addition, CCS may elect not to initiate a conduct proceeding against a complainant who admits to the possession or use of alcohol or drugs in connection with a report under this policy.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

WAC 504-26-530 Recordkeeping and confidentiality. (1) Removal of conduct record. A student may request removal of a single disciplinary violation from their record. Granting such a request is discretionary, and the student must make such a request in accordance with university policies and procedures.

(2) Conduct records are maintained in accordance with the university's records retention schedule.

(3) The conduct record is confidential and is released only as authorized under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99) and chapter 504-21 WAC, University policy on student education records. Situations where CCS may release records include, but are not limited to, releases:

(a) To another educational institution, upon request, where the student seeks or intends to enroll;

(b) To a parent or legal guardian, if a student under the age of 21 is found responsible for a drug or alcohol violation;

(c) To comply with legally served search warrants and subpoenas;

(d) To other university employees, if there is an educational need for the employee to know the information;

(e) To inform the complainant of the outcome of any conduct proceeding involving a crime of violence as defined by FERPA;

(f) To inform the complainant of the outcome of any conduct proceeding alleging dating violence, domestic violence, sexual assault, or stalking as defined by the Clery Act (34 C.F.R. 668.46

(k) (2) (v) (A)).

(4) A student may request a copy of their own conduct record at their own reasonable expense by making a written request to CCS.

(5) Personally identifiable student information is redacted to protect other students' privacy, except as otherwise required by law or permitted by policy.

(6) A student may authorize release of their own conduct record to a third party in compliance with FERPA by making a written request to CCS.