

70.24.370 and chapter 72.09 RCW by the department of corrections and the department of health.

[97-24-052, § 137-100-001, filed 11/26/97, effective 10/24/97.]

WAC 137-100-010 Definitions. The following definitions shall apply in interpreting this chapter:

(1) Correctional staff member means a department of corrections employee, an individual providing services under contract to the department, and volunteers.

(2) Department means the department of corrections.

[97-24-052, § 137-100-010, filed 11/26/97, effective 10/24/97.]

WAC 137-100-020 Medical records available. The department will make available an offender's sexually transmitted disease status to any correctional staff member who has experienced a substantial exposure by that offender. Should such records be nondiscloseable, the department shall advise the correctional staff member of the process to receive that information. This process shall be facilitated by the health care manager or infection control coordinator.

[97-24-052, § 137-100-020, filed 11/26/97, effective 10/24/97.]

WAC 137-100-030 Request for test results - by correctional staff members. A request for test results shall be made in writing. At a minimum, the request shall include:

- (1) Name of the person requesting the record;
- (2) Nature of the exposure, including date and time;
- (3) Name of the offender; and
- (4) DOC number of the offender, if known.

The request shall be accompanied by a copy of the report of personal injury (form DOC 3-133) and a post-exposure incident report (DOC form 3-184) outlining the circumstances and results of the exposure incident.

[97-24-052, § 137-100-030, filed 11/26/97, effective 10/24/97.]

Title 172 WAC EASTERN WASHINGTON UNIVERSITY

Chapters

172-120 Student conduct code.

Chapter 172-120 WAC STUDENT CONDUCT CODE

WAC

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172-120-150	Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

172-120-150	Academic misconduct. [Statutory Authority: RCW 28B.35.120 and 43.21C.120. 87-20-056 (Order 87-01), § 172-120-150, filed 10/2/87.] Repealed by 97-06-095, filed 3/4/97, effective 4/4/97. Statutory Authority: RCW 28B.35.120.
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WAC 172-120-015 Definitions. For purposes of the student conduct code, chapter 172-120 WAC, the definitions of this section apply throughout the chapter.

(1) "Student" includes all persons taking courses at the university, both full and part time. Nonmatriculated, international students attending language institutes or foreign study programs at the university are also considered students under the terms of this code.

(2) "University" refers to the facilities, property, programs, activities and members of the Eastern Washington University community.

[Statutory Authority: RCW 28B.35.120. 97-06-095, § 172-120-015, filed 3/4/97, effective 4/4/97.]

WAC 172-120-020 Interest of the university relevant to a student code. The university is a special-purpose, as opposed to general-purpose community, and as such must devise procedures and regulations to control disruptive elements which would deter the university from furthering its mission—providing learning experiences for its students, transmitting and advancing knowledge and providing services to the greater community. Special university interests provide a foundation for building a code of conduct.

(1) The university has a primary concern with matters which impinge on academic achievement and integrity.

(2) The university has a concern with conduct which breaches the peace, causes disorder and substantially interferes with the rights of others.

(3) The university has an interest in behavior which threatens or actions which imperil the physical and mental health and safety of members of the university community.

(4) The university has an obligation to protect its property and the property of members of its community from theft, damage, destruction or misuse.

(5) The university has a commitment to meet its contractual agreements.

(6) The university has an obligation to support and be guided by laws of the land.

[Statutory Authority: RCW 28B.35.120. 97-06-095, § 172-120-020, filed 3/4/97, effective 4/4/97; 81-06-023 (Order 1-22-81), § 172-120-020, filed 2/25/81; Order 72-2, § 172-120-020, filed 5/12/72.]

WAC 172-120-030 Relationship between civil and criminal laws and university disciplinary proceedings.

Many offenses actionable under this code are also violations of federal, state or local laws. A student may face criminal and civil prosecution as well as university disciplinary action for violation of these laws. The university reserves the right to initiate action for offenses that have an impact on the educational or administrative functions or the general well-being of the university. Proceedings under this code may be carried out prior to, simultaneously with, or following civil or criminal proceedings in the courts. University proceedings are not subject to challenge or dismissal referencing, as a basis, that criminal charges involving the same incident have been dismissed or reduced.

[Statutory Authority: RCW 28B.35.120. 97-06-095, § 172-120-030, filed 3/4/97, effective 4/4/97. Statutory Authority: RCW 28B.35.120 and 43.21C.120. 87-20-056 (Order 87-01), § 172-120-030, filed 10/2/87; Order 72-2, § 172-120-030, filed 5/12/72.]

WAC 172-120-040 Conduct code. The following are defined as offenses which are subject to disciplinary action by the university. The university has the authority to promulgate additional or more specific rules supplementary to the offenses listed in this section.

(1) Dishonesty and misrepresentation. All forms of academic dishonesty (including but not limited to cheating and plagiarism), knowingly furnishing false information to the university, forgery, alteration or misuse of university documents, records or instruments of identification.

(2) Disruptive conduct. Conduct which intentionally disrupts or obstructs teaching, research, administration, disciplinary proceedings, freedom of movement or other lawful activities on the university campus.

(3) Physical abuse and threat of physical abuse. Detention, physical abuse, threats, intimidation or coercion of any person, or conduct which is intended to threaten imminent bodily harm or endanger the health or safety of any person on any property owned or controlled by the university, or at any university-sponsored or supervised functions.

(4) Sexual misconduct. Sexual misconduct includes, but is not limited to:

(a) Unwanted verbal (including telephone), written (including electronic media), pictorial or physical conduct of a sexual nature which a reasonable person would consider to be harassing, intimidating, hostile, offensive and/or which adversely affects the learning or living environment of the campus;

(b) Unwanted, forceful, sexual contact. The use of force may include, but is not limited to use of body weight, pushing or hitting, coercion or threats;

(c) The use of force (body weight, hitting or pushing, use of a weapon, threats to kidnap or kill, for example) to overcome earnest resistance to engaging in sexual intercourse. Earnest resistance may be verbal, physical or both;

(d) Sexual intercourse, when the victim is incapable of consent by reason of mental incapacity, drug/alcohol intoxication or physical helplessness, and force is or is not used.

(5) Harassment. Harassment of any sort is prohibited. Any malicious act which causes harm to any person's physical or mental well-being is prohibited. Harassment is defined as conduct which has the purpose or effect or unreasonably interfering with an individual's work or

educational performance or creating an intimidating, hostile or offensive environment.

(6) Property violations. Theft from, or malicious damage to, or malicious misuse of university property or the property of any person, when such property is located on the university campus.

(7) Failure to comply with a proper order.

(a) Failure to comply with lawful and/or reasonable directions of university officials or law enforcement officers acting in performance of their duties on campus or affecting conduct on campus.

(b) Failure to identify oneself to university officials in their course of duty, refusal or failure to appear before university officials or disciplinary bodies when directed to do so or the violation of sanctions imposed after such proceedings.

(8) Alcohol and substance violations.

(a) Use, possession, distribution, or sale of alcoholic beverages except as permitted by university policy and state law on university premises or in university-controlled facilities.

(b) Use, possession, distribution, or sale of any controlled substance or illegal drug on university premises or in university-controlled facilities.

(9) Possession of weapons. No individual shall have on his/her person, in his/her vehicle or otherwise in his/her possession any gun, pistol, or firearm or explosives, dangerous chemicals or other dangerous weapons or instruments on the university campus or other university property except as follows:

(a) Authorized law enforcement officers are permitted to carry arms while on duty and engaged in their regular duties.

(b) Activities requiring use of the prohibited items may be conducted on approval of the activity by the board of trustees.

(c) Persons are permitted to have firearms in their possession directly en route to or from campus firearm storage facilities where such possession is incidental to approved on or off campus possession or use of such firearms.

(10) Violation of local, county, state or federal law. Violation of a local, county, state, or federal law, whether it be on-campus or off-campus, only when a definite university interest is involved and where the student misconduct distinctly and adversely affects the university's pursuit of its educational mission.

(11) Incitement. Intentionally inciting others to engage in any of the conduct prohibited in this code, which incitement leads directly to such conduct.

(12) Assisting conduct violations. Being an accessory to any person on the university campus who is or who is not a member of the associated students of Eastern Washington University who violates this code. The unauthorized entry into or onto, or the unauthorized remaining in, or upon, any public or university facilities.

(13) Attempted violations. All attempts to perform acts of misconduct prohibited by this section are also subject to disciplinary action.

(14) Trespass. The unauthorized entry into or onto, or the unauthorized remaining in or on any public or university facilities.

(15) Disorderly conduct. Disorderly or obscene conduct on university property or at university-sponsored events.

(16) Violation of university policies. Violation of the university general conduct code, chapter 172-122 WAC.

(17) Abuse of computing facilities. Theft or other abuse of computer facilities, access or time as defined in university computing guidelines and policies.

(18) Unauthorized representation. The unauthorized use of the name of the university or the names of members or organizations in the university community.

(19) Obstruction. Obstruction of the free flow of pedestrian or vehicular traffic on university premises or at university-sponsored or university-supervised events.

(20) Demonstration. Participation in a campus demonstration which violates the university regulations governing campus assembly and peaceful demonstration.

(21) Hazing. Any action required of or imposed on current or potential members of an organization or group which, regardless of location of the incident or consent of the participant(s):

(a) Produces or is reasonably likely to produce bodily harm or danger, mental or physical discomfort, embarrassment, harassment, fright, humiliation or ridicule; or

(b) Compels an individual to participate in any activity which is illegal, perverse or publicly indecent or contrary to university rules, regulations or policies, or which is known by the compelling person(s) to be contrary to the individual's moral or religious beliefs.

(22) Group offenses. Clubs, organizations, societies or similarly organized groups in or recognized by the university and/or ASEWU are subject to the same standards as are individuals in the university community. The commission of any of the offenses in subsections (1) through (22) of this section by such groups or the knowing failure of any organized group to exercise preventive measures relative to violations of the code by their members shall constitute a group offense.

[Statutory Authority: RCW 28B.35.120. 97-06-095, § 172-120-040, filed 3/4/97, effective 4/4/97. Statutory Authority: RCW 28B.35.120 and 43.21C.120. 87-20-056 (Order 87-01), § 172-120-040, filed 10/2/87. Statutory Authority: RCW 28B.35.120. 81-06-023 (Order 1-22-81), § 172-120-040, filed 2/25/81; Order 72-2, § 172-120-040, filed 5/12/72.]

WAC 172-120-050 Sanctions. If any student or student organization is found to have violated any of the offenses enumerated at WAC 172-120-040, one or more of the following sanctions may be imposed against the student or student organization. Failure to comply with any imposed sanctions may result in additional sanctions.

(1) Minor disciplinary sanction:

(a) Admonition: An oral statement to a student that he/she is violating university rules and regulations.

(b) Warning: Notice, orally or in writing, that continuation or repetition of conduct found wrongful, within a specified period of time stated in the warning, may cause more severe disciplinary action.

(c) Censure: A written reprimand for violation of specified regulations, including notice of the possibility of more severe disciplinary sanctions in the event of the finding of a violation of any regulation within a stated period of time.

(d) Disciplinary probation: Formal action placing condition on the student's continued attendance for violation of specified regulations. The disciplinary probation shall specify, in writing, the period of probation and the conditions which may include conditions such as limiting the student's participation in university-related privileges or extra-curricular activities or enforcing a "no contact" order which would prohibit direct or indirect physical and/or verbal contact with specific individuals or groups. Disciplinary probation further shall give the student notice that any further misconduct will automatically raise the question of suspension from the university. Disciplinary probation shall be for a specified period of time.

(e) Restitution: Reimbursement for damage or destruction to the property of the university or others for loss of property as a result of theft or negligence, or for medical expenses from violations of this code. This may take the form of appropriate service or other compensation. Failure to make arrangements to pay will result in cancellation of the student's registration and will prevent the student from future registration until the conditions of sanction are satisfied.

(f) Fines: The disciplinary officer and the university disciplinary committee may assess monetary fines up to a maximum of two hundred dollars against individual students for violation of university rules or regulations or for failure to meet the university's standards of conduct. Failure to pay promptly such fines will prevent the student from future registration. Failure to pay may result in additional sanctions. Appeal through chapter 172-124 WAC is solely to dispute the existence of the alleged debt and not to rehear the matter which resulted in the sanction of the fine itself.

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

(h) Discretionary sanctions: Work assignments, service to the university community or other related discretionary assignments for a specified period of time as directed to the disciplinary officer or judicial body.

(i) Loss of financial aid: In accordance with RCW 28B.30.125, a person who participates in the hazing of another forfeits entitlement to state-funded grants, scholarships or awards for a specified period of time.

(j) Assessment: Referral for drug/alcohol or psychological assessment may be required. Results of the assessment may lead to the determination that conditions of treatment and further assessment apply to either continued attendance or return after a period of suspension.

(2) Major disciplinary sanction:

(a) Suspension: Exclusion from classes and other privileges or activities as set forth in a written notice for a specified period of time. Conditions of readmission shall be stated in the order of suspension.

(b) Dismissal: Permanent separation of the student from the university with no promise (implied or otherwise) that the student may return at any future time. The student will also be barred from university premises.

(3) Loss of institutional, financial aid funds. Formal withholding of all or a part of institutional funds currently being received by the student or promised for future disbursement to the student for a specified period of time.

(4) Group sanctions:

(a) Probation: Formal action placing conditions on the group's continued recognition by or permission to function at the university. The probationary conditions will apply for a specified period of time. Violation of the conditions of probation or additional violations while under probation may result in more severe sanctions.

(b) Social probation: Prohibition of the group from sponsoring any organized social activity, party or function, or from obtaining a permission for the use of alcoholic beverages at social functions for a specified period of time.

(c) Charter restriction: The temporary withdrawal of university or ASEWU recognition for a group, club, society or other organization. It may be recommended by the appropriate judicial body, but may only be imposed by the president of the university or the president's designee.

(d) Charter revocation: The permanent withdrawal of university or ASEWU recognition for a group, club, society or other organization. It may be recommended by the appropriate judicial body, but can only be imposed by the president of the university or the president's designee.

(e) Additional sanctions: In addition to or separately from the above, any one or a combination of the following may be concurrently imposed on the group:

- (i) Exclusion from intramural competition as a group;
- (ii) Denial of use of university facilities for meetings, events, etc.;
- (iii) Restitution; and/or
- (iv) Fines.

[Statutory Authority: RCW 28B.35.120. 97-06-095, § 172-120-050, filed 3/4/97, effective 4/4/97. Statutory Authority: RCW 28B.35.120 and 43.21C.120. 87-20-056 (Order 87-01), § 172-120-050, filed 10/2/87. Statutory Authority: RCW 28B.35.120. 81-06-023 (Order 1-22-81), § 172-120-050, filed 2/25/81; Order 72-2, § 172-120-050, filed 5/12/72.]

WAC 172-120-060 Discipline functionaries. (1) University disciplinary officer:

The university president shall designate a person to be the university disciplinary officer who shall review and decide questions of university interest. The university disciplinary officer may investigate and make decisions in some instances of code violation.

(2) University disciplinary committee:

A university disciplinary committee composed equally of student and faculty representatives will provide a hearing and will make decisions on all disciplinary cases referred or appealed to it. The members of the committee and their terms of office shall be:

(a) Six members of the faculty and/or administration appointed by the president of the university for three-year terms.

(b) Six students who shall be appointed by the president of the associated students of Eastern Washington University, with the advice and consent of the associated students legislature, as provided for in the constitution of the associated students of Eastern Washington University for one-year terms. No student shall be eligible for appointment who holds any position with any of the associated student courts, serves as an attorney general or assistant attorney general in any of the student courts, or is in any way affiliated with any judicial, quasi-judicial, or advocacy position with the courts of the associated students of Eastern Washington University.

(c) A nonvoting chair shall be elected for a one year term by the committee from outside the committee. Reelection of the chair is permissible.

(d) Six voting members constitute a quorum.

(e) In the event the chair is not in attendance, the quorum shall select a voting member to preside at the hearing.

(f) Members of the disciplinary committee shall not participate in any case in which they are a defendant, complainant or witness, in which they have a direct or personal interest or bias, or in which they have acted previously in an advisory or adjudicatory capacity. A committee member's eligibility to participate in a case may be challenged by parties to the case or by other committee members, but decisions in this regard shall be made by the committee as a whole.

(g) In the event members of the disciplinary committee are disqualified or disqualify themselves from hearing a case, a temporary (for that case only) replacement shall be appointed. If the member is a student, the temporary appointment will be made by the associated students of Eastern Washington University president. If the member is a faculty member or administrator, the temporary appointment will be made by the university president.

(3) Student courts:

Student courts, the associated students superior court and those established by the associated students legislature as lesser courts to the associated students superior court, may act on such internal disciplinary problems as they feel competent to deal with effectively. If the student court is inoperative, or if it decides to do so, the student court may refer cases involving alleged violations of rules on which that court may extend jurisdiction to the university disciplinary officer or the university disciplinary committee.

[Statutory Authority: RCW 28B.35.120. 97-06-095, § 172-120-060, filed 3/4/97, effective 4/4/97. Statutory Authority: RCW 28B.35.120 and 43.21C.120. 87-20-056 (Order 87-01), § 172-120-060, filed 10/2/87. Statutory Authority: RCW 28B.35.120. 81-06-023 (Order 1-22-81), § 172-120-060, filed 2/25/81; Order 72-2, § 172-120-060, filed 5/12/72.]

WAC 172-120-070 Initiation of disciplinary procedures. The object of this code is to provide fair and reasonable procedures with which to deal with problems of student conduct.

(1) Any student, faculty member, staff member or the university may file a complaint against a student or student organization for any violation of the student conduct code.

(2) A person wishing to charge a student with a violation of the conduct code may:

(a) File a written charge with a student court when that system has jurisdiction; or

(b) File a written charge with the office of the dean of students or other designated officer.

(3) In instances of alleged violations of local, county, state or federal law, nothing in this conduct code will prohibit or limit the right of persons to go directly to the civil and/or criminal authorities and file charges.

(4) University disciplinary proceedings may be instituted against a student charged with the violation of a local, county, state, or federal law which is also a violation of this conduct code; for example, if both violations result from the same, factual situation, without regard to the possibility of

civil litigation or criminal prosecution. Proceedings under this conduct code may be carried out prior to, simultaneously with or following criminal proceedings off campus.

[Statutory Authority: RCW 28B.35.120. 97-06-095, § 172-120-070, filed 3/4/97, effective 4/4/97; 81-06-023 (Order 1-22-81), § 172-120-070, filed 2/25/81; Order 76-9-1, § 172-120-070, filed 9/23/76; Order 72-2, § 172-120-070, filed 5/12/72.]

WAC 172-120-080 Authority of university disciplinary officer. When the university disciplinary officer receives a complaint against a student or student organization for a violation of the code, the disciplinary officer will review the complaint to determine if there is sufficient evidence to hear the matter and explain to the complainant his/her rights under the student conduct code and possible avenues of action which the complainant has against the student or student organization, including reference to remedies under civil law as well as possible remedies under the student code. If the university disciplinary officer decides to initiate a disciplinary proceeding against the accused student or student organization, the disciplinary officer will then notify the accused student or student organization for an initial conference. This notification includes a written list of charges. During the initial conference, the university disciplinary officer will review with the accused student the written list of charges, provide the student with a copy of the student conduct code and any other relevant university policies and explain the student's rights under the student code and what possible ramifications may occur under civil law, if any. The disciplinary officer will further explain the disciplinary procedures, the individual's or organization's rights and responsibilities in the disciplinary process, and possible penalties under the student code and advise that the student must, within twenty-four hours after receipt of this explanation, decide to have the case heard by the university disciplinary officer, or by the university disciplinary committee, and sign a statement declaring the same. The committee must receive at least seventy-two hours notice as to the time and place of the hearing. The student may, at this time, waive his/her right to prior notice about a disciplinary hearing and request that the case be heard immediately following the initial conference.

(1) If the student accused of violating the student conduct code chooses a hearing before the university disciplinary officer, that officer, after considering the evidence against a student so charged, may take any of the following actions:

- (a) Terminate the complaint, exonerating the student.
- (b) Dismiss the charge after whatever counseling and advice is deemed appropriate.
- (c) Refer the student to the mental health review board when it is reasonably determined from the available evidence that such referral is appropriate.
- (d) Impose any number of sanctions from WAC 172-120-050(1) (minor disciplinary sanction).
- (e) Refer the case to the university disciplinary committee in the event the university disciplinary officer deems major disciplinary sanction may be warranted or if the student requests that his/her case be heard by the committee.

(2) If the student requests that the case be heard by the university disciplinary committee rather than the university disciplinary officer, the committee may take any of the sanctions listed in subsections (1), (2), (3) and (4) of this section, except that the committee may impose a major disciplinary sanction as defined in WAC 172-120-050(2).

(3) If a student accused of violating the conduct code has withdrawn or withdraws from the university after the filing of any charge against him/her, either:

(a) A registration hold will be placed on the student's academic record and the student will be notified that disciplinary action may be initiated on the student's reentry or application for readmission; or

(b) The university may proceed with the disciplinary action or disciplinary committee hearing.

(4) The disciplinary officer has the right to place a hold on a student's transcript or registration pending the student's satisfaction of a disciplinary sanction imposed for violation of this code.

[Statutory Authority: RCW 28B.35.120. 97-06-095, § 172-120-080, filed 3/4/97, effective 4/4/97. Statutory Authority: RCW 28B.35.120 and 43.21C.120. 87-20-056 (Order 87-01), § 172-120-080, filed 10/2/87. Statutory Authority: RCW 28B.35.120. 81-06-023 (Order 1-22-81), § 172-120-080, filed 2/25/81; Order 72-2, § 172-120-080, filed 5/12/72.]

WAC 172-120-090 Consolidation of cases permissible. In the event that one or more students are charged with the same misconduct arising from the same occurrence, the disciplinary committee or university disciplinary officer shall be authorized to consolidate the hearings as practical, as long as consolidation does not prejudice the rights of any students.

[Statutory Authority: RCW 28B.35.120. 97-06-095, § 172-120-090, filed 3/4/97, effective 4/4/97. Statutory Authority: RCW 28B.35.120 and 43.21C.120. 87-20-056 (Order 87-01), § 172-120-090, filed 10/2/87. Statutory Authority: RCW 28B.35.120. 81-06-023 (Order 1-22-81), § 172-120-090, filed 2/25/81; Order 72-2, § 172-120-090, filed 5/12/72.]

WAC 172-120-100 Hearings procedure. Hearings shall be conducted in a manner which is informal and, at the same time, assures fundamental fairness of procedure.

(1) Hearings before the university disciplinary officer or the university disciplinary committee shall be closed hearings. Admission of any person to the hearing shall be at the discretion of the judicial body or officer. In hearings involving more than one accused student, the chairperson of the judicial body or the disciplinary officer, at his/her discretion may permit the hearings concerning each student to be conducted separately.

(2) A written record or a tape recording of the testimony before the university disciplinary committee shall be kept. It may be reviewed by the student at any reasonable time prior to the final disposition of the case. Records from all proceedings will be kept and filed with the university disciplinary officer for a period of seven years. These disciplinary proceedings and records shall be the property of the university and are confidential.

(a) Disciplinary records will be made available to hearing boards and university personnel as needed for valid educational purposes.

(b) Any student may review his/her own disciplinary records by contacting the dean of students' office.

(c) Except as outlined in these procedures, the university will not communicate a student's disciplinary record to any person or agency outside the university without the prior, written consent of the student, except as required by law. If the student is a minor, the student's parents or legal guardians may review these records.

(3) The complainant and the accused have the right to be assisted by any (one) advisor they choose, at their own expense. The advisor may be an attorney. The complainant and/or the accused is responsible for presenting his or her own case and, therefore, advisors are not permitted to speak or to participate directly in any hearing before the university disciplinary officer or the university disciplinary committee. The accused student can, however, speak with his or her advisor during the hearing. If the student utilizes an attorney as an advisor, the student must give to the university disciplinary officer or committee two days' notice of intent to do so. If the student elects to be advised by an attorney, the university disciplinary officer or committee may elect to have the university advised by an assistant attorney general.

(4) The following guidelines apply only to hearings before the university disciplinary committee:

(a) The complainant, the accused and the disciplinary committee shall have the privilege of presenting witnesses, subject to the right of cross-examination by the disciplinary committee. The complainant and the accused may submit questions to be asked of all witnesses to the disciplinary committee;

(b) Any person, including the accused student or any member of the accused organization, who disrupts a hearing may be excluded from the proceedings;

(c) Pertinent records, exhibits and written statements may be accepted as evidence for consideration by the disciplinary committee at the discretion of the chairperson.

(5) The disciplinary officer or presiding chairperson of the disciplinary committee will exercise control over the hearing. All procedural questions are subject to the final decision of the disciplinary officer or the chairperson of the disciplinary committee.

(6) Only those matters presented at the hearing in the presence of the accused student, except where the student fails to attend after receipt of proper notice that a hearing regarding the university's allegation that he/she violated the student code is being held at a certain time and place, will be considered in determining whether the judicial body hearing the case has sufficient cause to believe that the accused student is guilty of violating any of the written list of charges presented him/her pursuant to WAC 172-120-080. However, the complete record of the student's or student organization's prior conduct and academic performance may be taken into account by the disciplinary officer or disciplinary committee in imposing any sanction(s).

(a) In determining whether sufficient cause, as stated in the foregoing paragraph, exists, the university disciplinary officer or in the instance of a hearing, the university disciplinary committee, shall decide whether a preponderance of the evidence indicates that the student charged violated the student code by engaging in the conduct for which he/she was charged pursuant to WAC 172-120-080.

(b) For the purposes of this code, the phrase, "preponderance of the evidence," means that it is more likely that the student charged violated the student code by engaging in

the conduct for which he/she is charged than that he/she did not.

(c) The chair of the university disciplinary committee is not bound by the rules of evidence observed by courts and may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

[Statutory Authority: RCW 28B.35.120. 97-06-095, § 172-120-100, filed 3/4/97, effective 4/4/97. Statutory Authority: RCW 28B.35.120 and 43.21C.120. 87-20-056 (Order 87-01), § 172-120-100, filed 10/2/87. Statutory Authority: RCW 28B.35.120. 81-06-023 (Order 1-22-81), § 172-120-100, filed 2/25/81; Order 72-2, § 172-120-100, filed 5/12/72.]

WAC 172-120-110 Deliberations and sanctions. (1)

After the hearing, the judicial body having heard the matter will meet in closed session and decide by majority vote whether the preponderance of the evidence indicates that the student violated the conduct code. If the decision is that the student engaged in an act of misconduct in violation of the rules with which he/she is charged with having violated, the committee will by majority vote determine what sanction from WAC 172-120-050 shall be imposed. If the university disciplinary committee was the body which heard the matter, it will deliberate in the manner described above, but will determine what sanctions it will recommend that the president impose on the student. This recommendation to the president must be made within five working days of the time when the hearing is terminated.

(2) In the course of determining what sanctions shall be imposed or recommended, the judicial body hearing the matter may consider any evidence of past misconduct that the chair of the committee deems relevant; such evidence may be presented by the university disciplinary officer or his/her designee.

(3) No sanction(s) may be imposed based solely on the failure of the accused student to answer the charges or appear at the hearing. The decision must be based on the evidence presented at the hearing to include the evidence of past misconduct deemed relevant.

[Statutory Authority: RCW 28B.35.120. 97-06-095, § 172-120-110, filed 3/4/97, effective 4/4/97. Statutory Authority: RCW 28B.35.120 and 43.21C.120. 87-20-056 (Order 87-01), § 172-120-110, filed 10/2/87. Statutory Authority: RCW 28B.35.120. 81-06-023 (Order 1-22-81), § 172-120-110, filed 2/25/81; Order 72-2, § 172-120-110, filed 5/12/72.]

WAC 172-120-120 Appeals. (1) If the accused student or student organization feels aggrieved by the imposition of disciplinary sanctions by the disciplinary officer or by a judicial body other than the university disciplinary committee, that student or student organization shall have a right to appeal the decision to the university disciplinary committee. The appeal must be in writing and received by the committee within five days after imposition of the sanction. Appeals to the university disciplinary committee shall be filed with the dean of students or other designated office. The written notice of appeal shall set forth:

(a) The student's name;

(b) The nature of the disciplinary action imposed; and

(c) The reasons why the student or student organization feels that the imposition of that sanction is unjust and what remedy the student or student organization is seeking. Before making a decision, the university disciplinary

committee may request a written report of the case from the judicial body which heard the case. The committee shall also have the right to request additional written information or explanation from any of the parties to the proceeding before rendering its decision. In making its decision, the committee shall only consider the written record before it, the student's notice of appeal and such other information and explanation it has requested from the parties to the proceeding. The committee may consider the complete record of the student's or student organization's prior conduct and academic performance in imposing any sanctions. The committee is empowered to affirm, reverse, remand, or modify (only to a less severe sanction). The university disciplinary committee's hearing of a matter on appeal is the final level of appeal on the matter.

(2) Appeals to the president:

When the university disciplinary committee is the judicial body to first hear a case, the aggrieved student or student organization has a right of appeal to the president, or the president's designee by following the steps listed in subsection (1) of this section for filing an appeal. The president or the president's designee may request a written report of the case from the university disciplinary committee before making a decision. The president or the president's designee may also request additional information from any of the parties to the proceedings before rendering a decision. In making a decision, the president of the university or the president's designee shall only consider the written record and such other information requested from the parties to the proceeding.

In the instance in which the president has received a finding that the university student code has been violated, the president may, in considering what disciplinary sanction should be imposed, affirm, reverse, remand or modify the recommendation of the university disciplinary committee. In imposing any sanctions, the president may consider the complete record of the student's or student organization's prior conduct and academic performance.

[Statutory Authority: RCW 28B.35.120. 97-06-095, § 172-120-120, filed 3/4/97, effective 4/4/97. Statutory Authority: RCW 28B.35.120 and 43.21C.120. 87-20-056 (Order 87-01), § 172-120-120, filed 10/2/87. Statutory Authority: RCW 28B.35.120. 81-06-023 (Order 1-22-81), § 172-120-120, filed 2/25/81; Order 72-2, § 172-120-120, filed 5/12/72.]

WAC 172-120-130 Interim suspension permitted.

(1) Disciplinary actions of the university will be implemented by the president of the university, except as such implementation may be delegated by the president or the board of trustees. Ordinarily, the disciplinary authority of the university will be invoked only after completion of the procedures established for the review of disciplinary cases and after the student, if he/she so wishes, has availed himself/herself of the appeal procedures. However, in situations where there is cause to believe that the student or the student organization poses an immediate threat to himself or herself, to others or to property, or is incapable of continuing as a student for medical or psychological reasons, or where it is believed that the student's continued attendance or presence may cause disorder or substantially interfere with or impede the lawful activities of others or imperil the physical or mental health and safety of members of the university community, interim actions may be taken

immediately without prior notice or hearing. These actions, taken by the president or the president's designee, may include:

(a) Interim restrictions, including but not limited to assignment to alternate university housing or removal from university housing, limitation of access to university facilities, or restriction of communication with specific individuals or groups;

(b) Interim suspension, including temporary total removal from the university or restriction of access to campus;

(c) Mandatory medical/psychological assessment, including referral to outside, medical professionals and/or to the mental health advisory board for assessment of the student's capability to remain in the university.

(2) In all such cases, the student or student organization is entitled to personally appeal before the dean of students or designee as soon as is reasonably possible but not later than ten days after the action is taken, unless the student requests an extension in order to review the following issues only:

(a) The reliability of the information concerning the student's behavior;

(b) Whether or not the student's continued presence or prior or present behavior warrants interim suspension for the causes listed in subsection (1) of this section.

As a result of the meeting between the dean of students and the student, the dean may recommend to the president or the president's designee either continuation or termination of the interim suspension action and/or initiate disciplinary procedures in accordance with this conduct code.

[Statutory Authority: RCW 28B.35.120. 97-06-095, § 172-120-130, filed 3/4/97, effective 4/4/97. Statutory Authority: RCW 28B.35.120 and 43.21C.120. 87-20-056 (Order 87-01), § 172-120-130, filed 10/2/87. Statutory Authority: RCW 28B.35.120. 81-06-023 (Order 1-22-81), § 172-120-130, filed 2/25/81; Order 72-2, § 172-120-130, filed 5/12/72.]

WAC 172-120-140 Procedural rights of students.

(1) Any student or student organization charged with any violation(s) of the student conduct code has the following rights in disciplinary procedure:

(a) A fair and impartial hearing before the appropriate judicial body composed of members of the campus community;

(b) Notice of the charge(s) against them and the basis for the charge(s);

(c) To remain silent when charged with any act which may be a violation of criminal law, to avoid self incrimination;

(d) Seven calendar days' notice before a disciplinary hearing;

(e) To know who is bringing the accusation(s) against the accused;

(f) The right to speak on his/her own behalf in all judicial proceedings;

(g) To consult an advisor;

(h) One appeal; and

(i) To be subjected to university judicial action only one time for the same offense.

(2) Any student or student organization brought before the university disciplinary committee has these additional rights:

- (a) To call any person(s) as a witness who may have information regarding the case;
- (b) To view the material to be presented against them in advance of the hearing;
- (c) To hear the testimony of all witnesses;
- (d) To present questions to be asked of all witnesses; and
- (e) To have a record made of the hearing.
- (3) The burden of proof rests with the accuser. This burden shall be carried if guilt is indicated by a fair preponderance of the evidence when considered as a whole.

[Statutory Authority: RCW 28B.35.120. 97-06-095, § 172-120-140, filed 3/4/97, effective 4/4/97. Statutory Authority: RCW 28B.35.120 and 43.21C.120. 87-20-056 (Order 87-01), § 172-120-140, filed 10/2/87. Statutory Authority: RCW 28B.35.120. 81-06-023 (Order 1-22-81), § 172-120-140, filed 2/25/81; Order 76-9-1, § 172-120-140, filed 9/23/76.]

WAC 172-120-150 Repealed. See Disposition Table at beginning of this chapter.

Title 173 WAC ECOLOGY, DEPARTMENT OF

Chapters

- 173-22 Adoption of designations of shorelands and wetlands associated with shorelines of the state.**
- 173-32 Allocation of financial aid to counties and cities to assist in comprehensive planning for solid waste management.**
- 173-90 Standards and limitations on the use of clean water funds for pollution abatement.**
- 173-95A Uses and limitations of centennial clean water funds.**
- 173-201A Water quality standards for surface waters of the state of Washington.**
- 173-223 Interim wastewater discharge permit fees.**
- 173-309 Hazardous Waste Cleanup Act—Local toxics control account—Interim financial assistance program.**
- 173-311 Moderate risk waste grants.**
- 173-315 Model Toxics Control Act—Local toxics control account—Interim financial assistance program.**
- 173-318 Phase one—Waste reduction and recycling grants.**
- 173-319 Comprehensive waste reduction/recycling grants program.**
- 173-400 General regulations for air pollution sources.**
- 173-401 Operating permit regulation.**
- 173-430 Agricultural burning.**
- 173-491 Emission standards and controls for sources emitting gasoline vapors.**

Chapter 173-22 WAC

ADOPTION OF DESIGNATIONS OF SHORELANDS AND WETLANDS ASSOCIATED WITH SHORELINES OF THE STATE

WAC

173-22-015	Repealed.
173-22-030	Definitions.
173-22-035	Wetland identification and delineation.
173-22-040	Shoreland area designation criteria.
173-22-070	Lands within federal boundaries.
173-22-080	Wetland delineation manual.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

173-22-015	Relationship to National Coastal Zone Management Act of 1972. [Order DE 73-11, § 173-22-015, filed 7/20/73.] Repealed by 97-04-076 (Order 96-12), filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 90.58.140(3) and [90.58].200.
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WAC 173-22-015 Repealed. See Disposition Table at beginning of this chapter.

WAC 173-22-030 Definitions. As used herein, the following words have the following meanings:

(1) "Associated wetlands" means those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act;

(2) "Atypical situation" as used herein, refers to areas in which one or more parameters (vegetation, soil, and/or hydrology) have been sufficiently altered by recent human activities or natural events to preclude the presence of wetland indicators of the parameter. Recent refers to the period of time since legal jurisdiction of an applicable law or regulation took effect;

(3) "Duration (inundation/soil saturation)" means the length of time during which water stands at or above the soil surface (inundation), or during which the soil is saturated. As used herein, duration refers to a period during the growing season;

(4) "Flood plain" is synonymous with one hundred-year floodplain and means that land area susceptible to being inundated by stream derived waters with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act;

(5) "Floodway" means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state. The limit of the floodway is that which has been established in flood regula-