

# Title 132U WAC

## COMMUNITY COLLEGES— WHATCOM COMMUNITY COLLEGE

Educational Services Office  
Whatcom Community College  
237 West Kellogg Road  
Bellingham, WA 98226

[Statutory Authority: RCW 28B.50.130, 28B.50.140, 07-15-033, § 132U-03-030, filed 7/12/07, effective 8/12/07. Statutory Authority: RCW 28B.50.140, chapters 34.05 and 69.41 RCW, 90-05-043, § 132U-03-030, filed 2/15/90, effective 3/18/90.]

### Chapters

132U-03	<b>Organization.</b>
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132U-120	<b>Student rights and responsibilities.</b>
132U-280	<b>Family Educational Rights and Privacy Act.</b>
132U-300	<b>Complaints—Discrimination.</b>

### Chapter 132U-03 WAC

#### ORGANIZATION

#### WAC

132U-03-020	Organization—Operation—Information.
132U-03-030	Rules coordinator.

**WAC 132U-03-020 Organization—Operation—Information.** (1) Organization. Whatcom Community College is established in Title 28B RCW as a public institution of higher education. The institution is governed by a five-member board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer of the institution. The president establishes the structure of the administration.

(2) Operation. The administrative office of Whatcom Community College is at the following address:

237 West Kellogg Road  
Bellingham, Washington 98226

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.[:]

(3) Information. Additional and detailed information concerning the educational offerings may be obtained from the college website <http://www.whatcom.ctc.edu> or catalog, copies of which are available at the following address:

Entry and Advising Center  
Whatcom Community College  
237 West Kellogg Road  
Bellingham, Washington 98226

[Statutory Authority: RCW 28B.50.130, 28B.50.140, 07-15-033, § 132U-03-020, filed 7/12/07, effective 8/12/07. Statutory Authority: RCW 28B.50.140, chapters 34.05 and 69.41 RCW, 90-05-043, § 132U-03-020, filed 2/15/90, effective 3/18/90.]

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 132U-03-030 Rules coordinator.** The rules coordinator for this institution shall have an office located at the office of the vice-president for educational services, with the following mailing address:

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### Chapter 132U-104 WAC

#### BOARD OF TRUSTEES—BYLAWS—MEETINGS

#### WAC

132U-104-030	Meetings of the board of trustees.
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**WAC 132U-104-030 Meetings of the board of trustees.** The board customarily holds monthly meetings on the second Wednesday of each month at such place as it may designate. Notices of the time and place of all regular and special meetings shall be governed by the requirements of chapter 42.30 RCW Open Public Meetings Act.

[Statutory Authority: RCW 28B.50.130, 28B.50.140, 07-15-033, § 132U-104-030, filed 7/12/07, effective 8/12/07; 88-15-005 (Order 88-03), § 132U-104-030, filed 7/8/88.]

### Chapter 132U-120 WAC

#### STUDENT RIGHTS AND RESPONSIBILITIES

#### WAC

132U-120-020	Definitions.
132U-120-110	Structure of the student rights and responsibilities committee.
132U-120-270	Complaints excluded.
132U-120-285	Time limits.

**WAC 132U-120-020 Definitions.** As used in this chapter, the following words and phrases shall be defined as follows:

"Academic dishonesty" shall mean plagiarism, cheating on examinations, fraudulent representation of student work product or other similar acts of dishonesty.

"Alcoholic beverages" shall mean the definition of liquor as contained within RCW 66.04.010(15) as now law or hereafter amended.

"Assembly" shall mean any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any person, persons or group of persons.

"Associated students" shall mean the student body and such authorized groups organized under the provisions of the constitution and bylaws of the associated students of the college.

"ASWCC" shall mean the associated students of Whatcom Community College as defined in the constitution of that body.

"Board" shall mean the board of trustees of Community College District No. 21, state of Washington.

"Code of conduct" refers to the Whatcom Community College code of student rights and responsibilities.

"College" shall mean Whatcom Community College, and any other community college centers or facilities established within Community College District No. 21.

"College community" shall mean trustees, students, employees, and guests on college-owned or controlled facilities, including distance learning environments.

"College facilities" shall mean and include any and all personal property and real property that the college owns, uses, or controls including all buildings and appurtenances affixed thereon or attached thereto district-wide. College facilities extend to affiliated websites, distance learning classroom environments, and agencies or institutions that have educational agreements with Whatcom Community College.

"College official" shall mean any person who is employed by the college or authorized to act as an agent of the college in performing assigned administrative or professional responsibilities.

"Controlled substance" shall mean and include any drug or substance as defined in chapter 69.50 RCW as now law or hereafter amended.

"Dean of students" shall mean the chief student affairs officer who is the administrator responsible for student services or designee.

"Dean of instruction" shall mean the chief officer who is the administrator responsible for instruction or designee.

"Demonstrations" shall mean any overt activity engaged in by one or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons, or group of persons.

"Director of student programs" shall mean the administrator responsible for student programs and activities or designee.

"Disciplinary sanctions" shall mean and include a warning, reprimand, probation, suspension, or dismissal of any student by a dean, or designee, or the president issued pursuant to this chapter where that student has violated any designated rule or regulation of the rules of conduct for which a student is subject to disciplinary action.

"Distance learning" shall mean various methods of instructional delivery that include, but are not limited to, online courses, telecourses, and interactive video courses.

"Faculty" or "instructor" shall mean any full-time or part-time academic employee of the college or an affiliated institution whose assignment is one of a combination of instruction, counseling or library services.

"Free speech area" shall be designated by the college president and can be reserved by student groups and organizations through the office of student programs and activities.

"Instructional day" shall mean any regularly scheduled day of instruction designated in the academic year calendar, including summer quarter, as a day when classes are held. Saturdays and Sundays are not regularly scheduled instructional days.

"President" shall mean the president of Whatcom Community College and president of Community College District No. 21, state of Washington.

"Rules of conduct" shall mean those rules contained within this chapter as now exist or which may be hereafter amended, the violation of which subjects a student to disciplinary action.

"Student," unless otherwise qualified, shall mean and include any person who is enrolled for classes at the college, including any person enrolled in distance learning courses.

"Student rights and responsibilities committee" shall mean the judicial body provided in this chapter.

"Trespass" shall mean the definition of trespass as contained within chapter 9A.52 RCW, as now law or hereafter amended.

[Statutory Authority: RCW 28B.50.130, [28B.50.]140, and chapter 49.60 RCW, 07-19-038, § 132U-120-020, filed 9/13/07, effective 10/14/07. Statutory Authority: RCW 28B.50.130 and 28B.50.140, 03-01-072, § 132U-120-020, filed 12/12/02, effective 1/12/03; 88-15-005 (Order 88-03), § 132U-120-020, filed 7/8/88.]

#### **WAC 132U-120-110 Structure of the student rights and responsibilities committee.**

(1) The student rights and responsibilities committee shall be composed of a chairperson and four members. For the appeal of disciplinary sanctions, the chairperson shall be the dean of instruction, or designee, and the members shall be chosen as follows:

(a) Two students in good academic standing appointed by the ASWCC president; and

(b) One faculty member appointed by the president of the college; and

(c) One administrator appointed by the president.

(d) Members of the student rights and responsibilities committee shall be selected as needed when a written appeal has met the required conditions.

(2) If any member of the student rights and responsibilities committee is unable to consider a particular disciplinary proceeding for any reason (including but not limited to conflict of interest, matters of conscience or related reasons), such members shall abstain from considering the issues. If the chairperson abstains for any of the above reasons, the president shall appoint a temporary chairperson who will preside over the committee.

(3) A quorum for all proceedings of the student rights and responsibilities committee shall consist of a chairperson and at least three members; provided, that one student, one faculty member and one administrator are present.

[Statutory Authority: RCW 28B.50.130, [28B.50.]140, and chapter 49.60 RCW, 07-19-038, § 132U-120-110, filed 9/13/07, effective 10/14/07. Statutory Authority: RCW 28B.50.130 and 28B.50.140, 03-01-072, § 132U-120-110, filed 12/12/02, effective 1/12/03; 88-15-005 (Order 88-03), § 132U-120-110, filed 7/8/88.]

**WAC 132U-120-270 Complaints excluded.** (1) Students may not use this procedure for filing a complaint based on the outcome of summary suspension or other disciplinary proceedings.

(2) Federal and state laws, rules, and regulations, in addition to policies, regulations and procedures adopted by the college or the board of trustees, and/or the state board for community and technical colleges are not grievable matters.

(3) Different procedures are required for complaints regarding sexual harassment or illegal discrimination. These procedures are available from the dean for educational services and the personnel director.

(4) Dismissal from a selective entry program as a result of academic evaluations. This entails an alternative procedure. This procedure is available from the office of instruction.

[Statutory Authority: RCW 28B.50.130, [28B.50.]140, and chapter 49.60 RCW. 07-19-038, § 132U-120-270, filed 9/13/07, effective 10/14/07. Statutory Authority: RCW 28B.50.130 and 28B.50.140. 03-01-072, § 132U-120-270, filed 12/12/02, effective 1/12/03; 88-15-005 (Order 88-03), § 132U-120-270, filed 7/8/88.]

**WAC 132U-120-285 Time limits.** (1) The student must file a complaint within **one academic quarter** after the action that gives rise to the complaint. For this purpose, fall quarter is considered to be the academic quarter following both spring and summer quarters. The appropriate dean may modify the time limit due to exceptional circumstances such as extended illness.

(2) Every effort will be made by the appropriate dean to investigate and resolve the complaint as soon as possible. When the instructor or staff member concerned is unavailable during a quarter break, sabbatical leave, or other extenuating circumstances, the dean will outline for the student a timeline for the process.

(3) When the instructor or staff member concerned is no longer employed by the college and does not expect to return, the appropriate dean shall confer with appropriate parties and make a decision.

**(a) Step 1 informal resolution.**

(i) Students who believe a college faculty or staff member has unfairly treated them shall first discuss their concerns directly with that person. If the complaint involves a grade, the student should first discuss the grade, including the reason the student believes the grade has been awarded improperly or in an arbitrary or capricious manner, with the course instructor. The purpose of this discussion should be to clarify the perceived problem and request specific action. **Most misunderstandings related to grades can be resolved at this level.**

(ii) If the complaint is not resolved or if the student is apprehensive about talking directly with the staff or faculty member involved, the student may request an appointment with the department chair or appropriate associate dean/dean. The department chair, supervisor, or associate dean/dean may act as a mediator to resolve the complaint in a prompt and fair manner.

**(b) Step 2 formal letter.**

(i) In the unlikely event that an informal resolution is not achieved, the student may initiate a formal complaint by writing a **letter to the faculty or staff member and the appropriate dean** within one academic quarter after the incident that gave rise to the complaint. The formal complaint letter must include a:

[•][□] Description of the situation including dates and times;

[•][□] Summary of the actions taken by the student to resolve the complaint up to that point; and

[•][□] Proposed solution.

In a grade dispute, the student should submit specific information on performance scores, attendance, and any syllabus or written material on course grading criteria that the instructor provided to the student.

(ii) The dean shall attempt to resolve the problem by:

(A) Serving as an intermediary between the student and the faculty or staff member and bringing about a resolution that is satisfactory to all concerned; or

(B) Reviewing the facts of the situation and making a decision. The dean shall investigate the student's written complaint. The investigation may include a written response from the instructor including the course syllabus, the grade reported for the student, the evaluation criteria for the course, and the performance scores and attendance data achieved by the student in that course.

(iii) The dean shall conclude this step with a written decision that is mailed to the student's last known address.

**(c) Step 3 appeal to the student rights and responsibilities committee.**

(i) If the complaint is not satisfactorily resolved in Step 2, the student may request a hearing to be conducted by the student rights and responsibilities committee by submitting a written request to the dean within ten instructional days of the postmark on the written decision of the dean. The written appeal by the student must clearly state errors in fact or matters in extenuation or mitigation that justify the appeal.

(ii) If the student asks a representative to assist during the hearing, the student shall submit in writing along with the hearing request, the name, address, and telephone number of the representative. The instructor or staff member may also have a representative assist during the hearing and must provide contact information to the chairperson.

(iii) All written documents concerning the complaint shall be forwarded to the chairperson of the student rights and responsibilities committee by the dean upon receiving the student's hearing request. Copies of these documents shall be made available to the committee members, the student, and the faculty or staff member to whom the complaint is directed three instructional days prior to the hearing.

(iv) The student rights and responsibilities committee shall be composed of a chairperson and four members. For a student complaint formal appeal, the chairperson shall be the dean who did not handle the initial formal complaint and the members shall be selected as follows:

(A) Two students in good academic standing appointed by the ASWCC president;

(B) One faculty member appointed by the president of the college;

(C) One administrator appointed by the president of the college;

(D) Members of the committee shall be selected as needed when a written appeal has met the required conditions.

(E) An appropriate substitute member shall be appointed if a member of the hearing committee is unable to consider the formal complaint for any reason (including, but not limited to, conflict of interest, matters of conscience, or related reasons);

(F) A quorum shall consist of a chairperson and at least three members; provided, that one student, one faculty member, and one administrator are present.

(v) The hearing before the committee shall be conducted within twenty instructional days of receiving the written appeal. Notice of the hearing date and time shall be given to all parties involved five instructional days prior to the hearing.

(vi) A student-initiated complaint hearing shall be an informal and closed hearing. The administrative assistant to

the chairperson shall electronically record the hearing and take written notes.

(vii) Both the student and the instructor shall be invited to present oral arguments that shall be restricted to issues related to the complaint. Members of the committee may question both the student and instructor.

(viii) At the conclusion of the hearing, the committee shall deliberate and:

[•][] Request additional information to be considered at a future hearing;

[•][] Recommend that the dean's decision be upheld; or

[•][] Find that there are sufficient reasons to modify or overrule the dean's decision and recommend alternatives to the president.

(ix) Within five instructional days after concluding the hearing, the committee shall make a written recommendation to the president.

(x) The president, after reviewing the record of the case prepared by the chairperson of the student rights and responsibilities committee and any appeal statement filed by any party to the grievance, shall issue either a written acceptance of the recommendations of the committee or written directions regarding alternative courses of action. The written findings of the president are final.

(xi) All written statements and testimony considered during the complaint process and a copy of the final decision by the president shall be retained on file by the chairperson of the student rights and responsibilities committee for one year following the complaint.

[Statutory Authority: RCW 28B.50.130, [28B.50.]140, and chapter 49.60 RCW. 07-19-038, § 132U-120-285, filed 9/13/07, effective 10/14/07. Statutory Authority: RCW 28B.50.130 and 28B.50.140. 03-01-072, § 132U-120-285, filed 12/12/02, effective 1/12/03.]

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

## Chapter 132U-280 WAC

### FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

#### WAC

132U-280-010	Purpose.
132U-280-015	Definitions.
132U-280-020	Student's right to inspect and review records.
132U-280-025	Request to amend education records—Appeal procedure.
132U-280-030	Release of education records.
132U-280-035	College compliance.

**WAC 132U-280-010 Purpose.** The college continually receives requests from outside sources for information about students, both past and present. Under the authority of 20 U.S.C. 1232(g), the Family Educational Rights and Privacy Act (FERPA) of 1974, as amended, directs the college to adopt a policy on student education records to insure that information contained in such records is treated in a responsible manner with due regard to the personal nature of the information contained in those records. The college shall annually notify students currently in attendance of their rights under this act.

[Statutory Authority: RCW 28B.50.130, 28B.50.140. 07-15-033, § 132U-280-010, filed 7/12/07, effective 8/12/07; 88-15-005 (Order 88-03), § 132U-280-010, filed 7/8/88.]

**WAC 132U-280-015 Definitions.** (1)(a) The term "education records" shall mean those records that are directly related to a student and maintained by the college.

(b) The term "education records" does not mean:

(i) Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

(ii) Records related to a person who is employed by the college, are made and maintained in the normal course of business, relate exclusively to such person in that person's capacity as an employee, and are not available for any other use.

(iii) Records on a student which are created or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in his or her professional capacity, or assisting in a paraprofessional capacity and which are created, maintained or used only in connection with the treatment of the student, and are not available to anyone other than persons providing such treatment; provided, however, that such records can be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the college.

(iv) Records that only contain information about an individual after he or she is no longer a student.

[(c)] "Student" is defined as any person who is or has been officially registered at Whatcom Community College for whom the college maintains education records or personally identifiable information.

[Statutory Authority: RCW 28B.50.130, 28B.50.140. 07-15-033, § 132U-280-015, filed 7/12/07, effective 8/12/07; 88-15-005 (Order 88-03), § 132U-280-015, filed 7/8/88.]

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 132U-280-020 Student's right to inspect and review records.** (1) A student has the right to inspect and review his or her education records.

(2) If circumstances prevent the student from inspecting and reviewing his or her records, the college shall provide copies of the education records. Charges for the copies shall not exceed the cost normally charged by the college (except in cases where charges have previously been approved by the boards of trustees' action for certain specified services; e.g. official transcripts.

(3) Limitations on right to inspect and review records.

(a) If the education records of a student contain information on more than one student, the student may inspect and review or be informed of only the specific information about that student.

(b) The college does not have to permit a student to inspect and review education records that are:

(i) Financial records, including any information those records contain about a student's parents.

(ii) Confidential letters and confidential statements of recommendation placed in the student's education records, if:

(1) The student has waived his or her right to inspect and review those letters and statements; and

(2) Those letters and statements are related to the student's admission to an education institution, application for employment, or receipt of an honor or honorary recognition.

(c) A waiver under paragraph (b)(ii) of this section is valid only if:

(i) The college does not require the waiver as a condition for admission to or receipt of a service or benefit from the agency or institution; and

(ii) The waiver is made in writing and signed by the student, regardless of age.

(d) If a student has waived his or her rights under paragraph (b)(ii)(2) of this section, the college shall:

(i) Give the student, on request, the names of the individuals who provided the letters and statements of recommendation; and

(ii) Use the letters and statements of recommendation only for the purpose for which they were intended.

(e) A waiver under paragraph (b)(ii)(2) of this section may be revoked, in writing, with respect to any actions occurring after the revocation.

(4) Student education records may be destroyed in accordance with the college's routine retention schedule. However, in no case will any record which exists at the time the request is [made] by a student for review in accordance with this section and WAC 132U-280-025 be removed or destroyed prior to providing the student access.

[Statutory Authority: RCW 28B.50.130, 28B.50.140, 07-15-033, § 132U-280-020, filed 7/12/07, effective 8/12/07; 88-15-005 (Order 88-03), § 132U-280-020, filed 7/8/88.]

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 132U-280-025 Request to amend education records—Appeal procedure.** (1) A request by a student to amend an education record should be made in writing to the college individual who created the record or, if no longer employed by the college, the department having custody of the record.

(2) An individual or department must respond to a request to amend education records within a reasonable period of time, but in no case more than forty-five days after the request has been made. A college individual or department that denies a student's request or is unable to comply with the request within the above-state time period shall inform the student of that fact and the reasons in writing.

(3)(a) A student who feels that his or her request has not been properly answered by a particular individual or department or who feels that the information contained in those records is incorrect should contact the appropriate supervisor responsible for the individual or department for mediation.

(b) In cases where a student remains dissatisfied after consulting with the appropriate supervisor, the student may then request a hearing by the appropriate vice-president or his

or her designee(s). If the vice-president is also the supervisor who handled the matter in (3)(a), it will be referred to another vice-president who does not have a direct interest in the outcome of the hearing. Following the hearing, the hearing officer shall render his or her decision, in writing, within a reasonable period of time. In all cases, the decision of the hearing officer shall be final.

(c) In no case shall any appeal by a student be considered by the college which has not been filed with that body in writing within ninety days from the date of the initial request to the custodian of the record.

(d) The college shall not review any matter regarding the appropriateness of official academic grades or disciplinary records beyond that provided for in WAC 132U-120-100, et seq.

[Statutory Authority: RCW 28B.50.130, 28B.50.140, 07-15-033, § 132U-280-025, filed 7/12/07, effective 8/12/07; 88-15-005 (Order 88-03), § 132U-280-025, filed 7/8/88.]

**WAC 132U-280-030 Release of education records.**

(1) The college shall not permit access to or release of education records or personally identifiable information contained therein, without the written consent of the student, to any party other than the student.

(2) The college may permit access or release of education records, without student consent, under the following conditions:

(a) College officials, when the information is required for a legitimate educational interest within the performance of their responsibilities to the college, with the understanding that its use will be strictly limited to the performance of those responsibilities. College officials will be defined by college policy and made public through the college's annual Notification of Student Rights under FERPA, which will be published in the college catalog and on the college's public website.

(b) Federal and state officials requiring access to education records in connection with the audit and evaluation or a federally or state-supported education program or in connection with the enforcement of the federal or state legal requirements which relate to such programs. In such cases the information required shall be protected by the federal or state official in a manner which will not permit the personal identification of students and their parents to other than those officials and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation or enforcement of legal requirements.

(c) Agency officials requesting information in connection with a student's application for, or receipt of financial aid, if the information is necessary to determine eligibility, amount or conditions of aid, or to enforce the terms and conditions of aid.

(d) Organizations conducting studies for or on behalf of the college for purposes of developing, validating or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students by persons other than representatives of such organizations, and such information will be destroyed when no longer needed for the purposes for which it was provided.

(e) Accrediting organizations in order to carry out their accrediting functions.

(f) Any person or entity designated by judicial order or lawfully issued subpoena or court order, upon condition that the student is notified of all such subpoenas or court orders in advance of the compliance therewith; except for subpoenas or court orders that specifically direct the college not to disclose the existence or contents of the subpoena or court order. Any college individual(s) or department(s) receiving a subpoena or court order for education records should immediately notify the college registrar who will contact the college's assigned attorney general for assistance.

(g) Certain items of personally identifiable information, commonly referred to as "directory" information, to parties who demonstrate a legitimate educational interest, as determined by the college. Directory information will be defined by college policy and made public through the college's annual Notification of Student Rights under FERPA, which will be published in the college catalog and on the college's public website.

(h) Officials from the U.S. Department of Defense for the purpose of military recruiting, as authorized under 32 CFR Part 216 (Solomon Amendment), which requires the college to provide "student recruitment directory information" regarding students at least seventeen years of age who are registered for at least one credit. Students who have formally requested the college withhold "directory information" are excluded.

(i) Any other officials with legitimate educational interest as authorized under CFR 99.31 and identified via the annual Notification of Student Rights under FERPA, which is published in the college catalog and on the college public website.

(3) In cases where records are made available without student release as permitted by subsection (2)(b), (c), (d), (e), (f), and (i) of this section, the college shall maintain a record kept with the education record released which will indicate the parties which have requested or obtained access to a student's records maintained by the college and which will indicate the legitimate interest of the investigating party. Releases in accordance with subsection (2)(a), (g), and (h) of this section need not be recorded.

(4) Where the consent of a student is obtained for the release of education records, it shall be in writing, signed and dated by the student giving such consent, and shall include:

- (a) A specification of the records to be released;
- (b) The reasons for such release; and
- (c) The names of the parties to whom such records will be released.

(5) Personally identifiable education records released to third parties, with or without student consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released in a personally identifiable form to any other parties without obtaining consent of the student.

(6) Students may direct the college to withhold "directory" information, referred to in (2)(g) and (h), through written notification to the college registrar at any time throughout the student's enrollment at the college.

(7) Information from education records may be released by a college official to appropriate persons in connection with an emergency if the knowledge of such information is

necessary to protect the health or safety of a student or other person(s).

(8) The college registrar is the official custodian of education records and is the only official who can issue an official transcript of the student's academic record.

[Statutory Authority: RCW 28B.50.130, 28B.50.140. 07-15-033, § 132U-280-030, filed 7/12/07, effective 8/12/07; 88-15-005 (Order 88-03), § 132U-280-030, filed 7/8/88.]

**WAC 132U-280-035 College compliance.** The college will develop policies and procedures to implement chapter 132U-280 WAC and all college individuals or offices having custody of education records will comply with those policies and procedures. The college will be responsible for periodic review of all [related] policies and procedures.

The college does not maintain confidential educational records regarding student political or ideological beliefs or associations.

[Statutory Authority: RCW 28B.50.130, 28B.50.140. 07-15-033, § 132U-280-035, filed 7/12/07, effective 8/12/07; 88-15-005 (Order 88-03), § 132U-280-035, filed 7/8/88.]

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## Chapter 132U-300 WAC

### COMPLAINTS—DISCRIMINATION

#### WAC

132U-300-010	Statement of policy: Complaints—Discrimination and/or harassment/intimidation.
132U-300-020	Complaint procedure—Discrimination and/or harassment/intimidation.

#### **WAC 132U-300-010 Statement of policy: Complaints—Discrimination and/or harassment/intimidation.**

(1) Whatcom Community College is covered by Title IX of the Education Amendments of 1972 prohibiting gender discrimination in education and Section 504 of the Rehabilitation Act of 1973 prohibiting discrimination on the basis of disability. It is the policy of Whatcom Community College to ensure equal opportunity without regard to gender or disability status in all areas of admission, education, application for employment, and employment. Whatcom Community College's policy 4010, affirmative action/fair employment practices, expands the college's obligation to include no discrimination on the basis of race, color, national origin, gender, disability, sexual orientation, religion, age (except when gender or age is a bona fide occupational qualification) or veteran status which includes Vietnam era and/or disabled veterans in its programs, recruitments, hiring, training, retention, promotion and all other personnel actions of qualified persons. The Washington law against discrimination (WLAD) RCW 49.60; chapter 2.60.00 in the SBCTC's (state board for community and technical college) policy manual, ADA, Title VI and VII of the Civil Rights Act of 1964, ESHB 2661 and all law and regulations affecting state employees, shall apply to employees at Whatcom Community College.

(a) It is the policy of Whatcom Community College to provide an environment in which members of the college community can work or study free from harassment or intim-

idation. Harassment/intimidation is a form of discrimination. As such harassment/intimidation is a violation of the 1964 Civil Rights Act and Title IX of the 1972 Education Amendments.

(b) Discrimination and/or harassment/intimidation directed to any individual or group on the basis of race, color, gender, religion, creed, age, marital status, national origin, sexual orientation, disability and veteran status, or any behavior or action, either physical or verbal, which is sexual in nature and unwelcome, unwanted or uninvited, is a violation of the mission and purpose of Whatcom Community College as an institution of higher education and shall not be tolerated, and, pursuant to board policy and this procedure, shall be prohibited.

A complaint procedure is required by Title IX of the Education Amendments of 1972 and section 504 of the Rehabilitation Act of 1973.

**(2) Definitions.**

(a) Prohibited discrimination: Prohibited discrimination is an action taken on the basis of an individual's membership in, association with or presumption of membership or association with the following: Race, color, gender, religion, creed, age, marital status, national origin, sexual orientation, disability and veteran status, such action resulting in a tangible loss in any area of admission, education, programs, hiring, training, retention, promotion and all other personnel actions of qualified persons.

(b) Prohibited harassment and/or intimidation: Prohibited harassment and/or intimidation shall include, but will not be limited to verbal and written comments, slurs, jokes, innuendoes, cartoons, pranks and any and all other physical or nonphysical conduct or activity that can be construed as derogatory, intimidating, hostile or offensive and which is directed at the victim because of his/her membership in, association with or presumption of membership or association with the following: Race, color, gender, religion, creed, age, marital status, national origin, sexual orientation, disability, political affiliation and veteran status; or any behavior or action, either physical or verbal, which is sexual in nature and unwelcome, unwanted or uninvited. Discrimination and/or harassment/intimidation actions are herein defined as unwelcome sexual advances, requests for sexual favors, or other related verbal or physical conduct when:

[(i) Submission to the conduct is either explicitly or implicitly made a term or condition of an individual's academic or career advancement; and/or

(ii) Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting that individual; and/or

(iii) Such conduct has the effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment.]

(c) Board policy: Board policy is based on the principle that all forms of discrimination and/or harassment/intimidation are unacceptable and will be dealt with promptly and effectively. The purpose of the development of a procedure is to establish the methods by which Whatcom Community College will show reasonable care in the prevention of harassment and discrimination. This may include, but will not be limited to the following:

(i) Have in place an effective discrimination and harassment prevention procedure that supports board policy;

(ii) Offer and communicate existence of flexible, accessible, and nonintimidating complaint procedures;

(iii) Protect confidentiality to the extent possible under the law;

Develop an investigative protocol aimed at prompt fact gathering without bias or subjectivity;

(iv) Provide a disciplinary mechanism that is reasonably calculated to end harassing or discriminatory behavior and correct inappropriate behavior;

(v) Provide mandatory training programs on harassment for supervisors and separate training for nonsupervisory employees.

[Statutory Authority: RCW 28B.50.130, [28B.50.]140, and chapter 49.60 RCW. 07-19-038, § 132U-300-010, filed 9/13/07, effective 10/14/07. Statutory Authority: RCW 28B.50.130 and 28B.50.140. 88-15-005 (Order 88-03), § 132U-300-010, filed 7/8/88.]

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 132U-300-020 Complaint procedure—Discrimination and/or harassment/intimidation. (1) Purpose**

(a) Those employees of Whatcom Community College who believe that they have been harassed/intimidated and/or discriminated against in employment or the employment application process, or any applicants for admission or students/members of the public who believe that they have been harassed/intimidated by or discriminated against by an employee or a student of the Whatcom Community College, are encouraged to report that belief to Whatcom Community College under this procedure's complaint process which follows.

**(2) Definitions.**

(a) Designated officer. Designated officer means an individual who is primarily responsible for conducting an initial inquiry, determining whether to proceed with an investigation under this procedure, and investigating or coordinating the investigation of reports and complaints of discrimination/harassment in accordance with this procedure.

(i) The human resources director is the designated officer for all issues except as follows: a) Student-to-student complaints, for which the vice-president for educational services is the designated officer; b) complaints against the human resources director for which the president is the designated officer.

(ii) A report/complaint against the president of the college shall be filed with the chair of the board of trustees. However, complaints against a president shall be processed by the college if the president's role in the alleged incident was limited to a decision on a recommendation made by another administrator, such as tenure, promotion or nonrenewal, and the president had no other substantial involvement in the matter.

(b) Decision maker. Decision maker means a high level administrator who reviews the investigative reports, to make findings whether board policy (132U-300-10.2.3. [WAC 132U-300-010]) has been violated based upon the investiga-

tion, and to determine the appropriate action for the institution to take based upon the findings.

(i) The appropriate vice-president with whom the complainant jurisdiction is the decision maker.

(ii) The president is the decision maker when the accused is an administrator.

(iii) The chair of board of trustees is the decision maker if the accused is the president.

**(3) Complaint process.**

(a) Incident notification form: Whatcom Community College has developed an *Incident Notification Form* on which any person may report complaints of discrimination and or harassment/intimidation, regardless of the complaint's basis. The form which includes directions on how to complete and route it properly is widely available and can be readily obtained from the human resources director. The form also identifies the limits of confidentiality and the Whatcom Community College's nonretaliation policy. Any supervisor or administrator is authorized to accept and forward the form, or it may be submitted directly to the human resources director for all issues except student-to-student complaints, which shall be forwarded to the vice-president for educational services.

(b) Filing a complaint/officers designated to receive complaints: Any employee/student or member of the public who believes he/she has been subject to harassment/intimidation and/or discrimination has the right to file a complaint. This complaint should be filed in a timely manner, but no later than one hundred eighty calendar days from the most recent incident of the alleged behavior or action. Any supervisor or administrator is authorized to accept or take a complaint. If the complainant does not feel comfortable with filing a written complaint, the complaint may be verbally made, and the supervisor/administrator the supervisor/administrator will then document the verbal complaint on the *Incident Notification Form* which the complainant shall sign. If the employee or student believes he/she is being harassed or discriminated against by a supervisor, administrator or employee, he/she should notify the human resources director directly. All complaints, regardless of the perceived merit or basis, are to be forwarded for review and processing, without exception, directly to the human resources director for all issues except student-to-student complaints, which shall be forwarded to the vice-president for educational services. In the event that the human resources director's conduct is the subject of the complaint, the president or his/her designee shall be the designated officer to receive such complaint.

(c) Complaint consideration: Although isolated incidents of harassment/intimidation and/or discrimination may not violate federal or state law, such incidents may nevertheless create a knowing and willful course of conduct which seriously alarms, annoys, harasses or is detrimental to that person or the work environment, serves no legitimate or lawful purpose, or is in direct violation of board values or the college's *Affirmation of Inclusion* (WCC Policy 1023) regarding mutual respect. Such complaints will be taken seriously and considered under this procedure.

(d) Addressing complaints: The administration of the college has an affirmative duty to take timely and appropriate action to stop behavior, conduct investigations and take appropriate action to prevent recurring misconduct. The

human resources director, as the designated officer, is authorized to consider complaints of harassment and discrimination and to assess and/or investigate them for all of Whatcom Community College, with the exception of student-to-student complaints, which are under the jurisdiction of the vice-president for educational services, or his/her designee. All complaints, regardless of the perceived merit or basis, are to be forwarded to the appropriate office for review and processing, without exception. The designated officer shall determine whether the report/complaint is one which should be mediated or processed through another designated officer; if appropriate, the designated officer shall direct the complainant to that area as soon as possible.

(e) Assessment: The designated officer will, within thirty working days of receipt of the *Incident Notification Form*, (a) assess the written complaint; (b) determine the appropriate process necessary to ensure all relevant evidence is obtained and all critical elements are addressed; and (c) notify the appropriate vice-president with whom the complainant jurisdiction resides when the accused is a faculty or classified staff; the president when the accused is an administrator; and the chair of board of trustees if the accused is the president.

(i) This normally begins with an initial interview with the complainant. The goal is to obtain sufficient information to determine the next steps, which may include, but is not limited to obtaining clarification, providing mediation and/or consultation services, making referrals for mediation and/or consultation services, and/or initiating a formal fact-finding investigation.

(ii) If a formal investigation is undertaken, the complainant and the accused will be alerted to the existence of a formal complaint and that an investigation of the complaint is underway.

(iii) This formal investigation may take up to sixty calendar days after the receipt of the *Incident Notification Form*, unless extended by mutual agreement in writing between the complainant and the designated officer.

(iv) Under appropriate circumstances, the administration may, in consultation with system legal counsel and labor relations committee, reassign or place an employee on administrative leave at any point in time during the report/complaint/investigation process. In determining whether to place an employee on administrative leave or reassignment, consideration shall be given to the nature of the alleged behavior, the relationships between the parties, the context in which the alleged incidents occurred and other relevant factors. Any action taken must be consistent with the applicable collective bargaining agreements.

(v) Employees, as a condition of employment, are required to be truthful and to fully cooperate in the investigation process.

(f) Other complaints: Conduct covered by this policy and procedure are those discriminatory and/or harassment/intimidation actions that occur as delineated in WAC 132U-300-010, 2.3 [ WAC 132U-300-010]. Complaints alleging conduct not covered by this policy and procedure will be remanded to the appropriate vice-president/administrative officer for consideration and investigation as a performance-based issue.



(i) Harassment/intimidation and/or discrimination allegations based upon union activities are not included in this procedure, but covered by the various collective bargaining agreements between the board of trustees and its recognized faculty and employee representatives.

(g) Records: Copies of all complaints of harassment/intimidation and/or discrimination, and records related to a subsequent formal investigation conducted pursuant to that complaint, if any, shall be maintained confidentially to the extent allowed by law for an indeterminate period of time in the human resources office.

(h) Confidentiality and nonretaliation.

(i) Confidentiality: To the extent possible, proceedings will be conducted in a discreet and sensitive manner. Anonymity and complete confidentiality cannot be guaranteed once a complaint is made or unlawful behavior is alleged. Files pertaining to the complaints will be maintained in confidence to the fullest extent of the law. Whatcom Community College cannot guarantee complete confidentiality.

(ii) Nonretaliation: Retaliation by, for or against any participant (accused, accuser or witness) is expressly prohibited. Retaliatory action of any kind taken against individuals as a result of seeking redress under the applicable procedures or serving as a witness in a subsequent investigation dealing with harassment/intimidation and/or discrimination is prohibited. Any person who thinks he/she has been the victim of retaliation should contact the human resources director immediately.

(i) Rights of accused—Notice of complaint: If a formal investigation is undertaken, the accused will be alerted to the existence of a formal complaint and that an investigation of the complaint is underway. During the investigative process, the accused will be informed of his/her right to representation during any investigatory meeting.

(j) Findings report: Within sixty calendar days of the commencement of a formal investigation, to the extent appropriate, a findings report will be submitted to the appropriate vice-president with whom the complainant jurisdiction resides and the president. This findings report will include the complaint and a synopsis of the investigation. The reporter is not precluded from providing specific recommendations in the findings report as to disciplinary actions or other actions to be done (i.e. training for everyone in a department where sexual jokes have gotten out of hand, etc.). The complainant and the accused will be informed of the results of the investigation in summary form.

(k) Corrective action: The decision maker (the appropriate vice-president with whom the complainant jurisdiction resides when the accused is a faculty or classified staff, the president when the accused is an administrator, or the chair of board of trustees if the accused is the president), will take appropriate corrective and/or disciplinary action in situations where it is proven or is reasonable to believe that harassment/intimidation and/or discrimination took place. Any action taken will follow the due process provisions of applicable contracts or state law and regulations and will be reasonably calculated to end harassing/intimidation and/or discriminatory behavior and correct inappropriate behavior.

#### (4) Appeal process.

(a) Any corrective and/or disciplinary action in situations where it is proven or is reasonable to believe that

harassment/intimidation and/or discrimination took place on any level, except decisions by the board of trustees, may be appealed in writing to the president within fifteen working days of the corrective and/or disciplinary action by either the complainant or the accused. The appeal must state specific reasons why the complainant or accused believes the decision was improper. Within fifteen working days of the appeal, the president shall:

(i) Take actions recommended by the decision maker (vice-president);

(ii) Reject the recommendations;

(iii) Modify the recommendations; or

(iv) Remand the recommendations to the decision maker (vice-president) for further consideration; and

(v) Report in writing to the complainant, accused and vice-president

(b) The decision of the chair of the board of trustees as to any complaint against the president may be reviewed by filing a complaint with the appropriate tribunal listed in section (5) noncollege options, provided all time periods applicable to the tribunal are met.

(c) The actions of the president or, if applicable, the chair of the board of trustees, shall constitute final Whatcom Community College disposition of the matter. Upon action of the president, the complainant and accused shall have exhausted their administrative remedies within the college.

(d) However, in the event disciplinary action is undertaken against faculty member, the appeal process will be conducted in accordance with the standing faculty negotiated agreement.

#### (5) Noncollege options.

(a) At any point during these proceedings, the complainant may choose to file with the Washington state human rights commission, the Equal Opportunity Commission, and/or the U.S. Department of Education, Title IX.

(i) For anyone (employees, students, public): The Washington State Human Rights Commission, 711 S. Capitol Way, Suite 402, P.O. Box 42490, Olympia, WA 98504-2409; (360) 753-6770 or 1-800-233-3247; TTY 1-800-300-7525; website: [www.hum.wa.gov](http://www.hum.wa.gov)

(ii) For employees: The United States Equal Opportunity Commission, Federal Office Building, 909 First Avenue, Suite 400, Seattle, WA 98104-1061; (206) 220-6883 or 1-800-669-4000; TTY 1-800-669-6820; website: [www.eeoc.gov/seattle](http://www.eeoc.gov/seattle)

(iii) For students: Office for Civil Rights, U.S. Department of Education, 915 2nd Avenue, Room 3310, Seattle, Washington 98174-1000; (206) 220-7900; TTY (206) 220-7907; website: [www.edu.gov](http://www.edu.gov)

[Statutory Authority: RCW 28B.50.130, [28B.50.]140, and chapter 49.60 RCW. 07-19-038, § 132U-300-020, filed 9/13/07, effective 10/14/07. Statutory Authority: RCW 28B.50.130 and 28B.50.140. 88-15-005 (Order 88-03), § 132U-300-020, filed 7/8/88.]

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