

Chapter 106-125 WAC

STUDENT CONDUCT CODE

WAC

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WAC 106-125-005 Authority—Jurisdiction. (1) This student conduct code is adopted by the governing board of Central Washington University as authorized under RCW 28B.35.120. Authority is hereby delegated to the university president and administrative officers to administer and enforce the provisions of this code.

(2) The student conduct code shall apply to student conduct that occurs on university premises and to conduct that occurs at or in connection with university sponsored events, programs, or activities. This code may also apply to other student conduct occurring off campus (or in nonuniversity electronic environments) when the university deems such conduct to threaten safety or security or otherwise adversely impact the university community. Students shall be responsible for their conduct from the time of acceptance for admission or registration through the actual awarding of a degree or other certificate of completion. The university shall have authority to revoke a degree or other certificate of completion based on prohibited student conduct that is found to have occurred before the award of such degree or certificate. Student organizations affiliated with the university may also be sanctioned under this code for the conduct of their student members.

(3) The university shall not be required to stay disciplinary action under this student code pending any criminal or civil proceeding arising from the same conduct that would constitute a violation of this code. Nor shall the disposition of any such criminal or civil proceeding control the outcome of any student disciplinary proceeding.

(4) Nothing in this student code shall be construed as authorizing the university to prohibit or to discipline protected speech or other conduct that is protected by law or constitutional right.

[Statutory Authority: RCW 28B.35.120 and chapter 34.05 RCW. WSR 15-24-054, § 106-125-005, filed 11/23/15, effective 12/24/15.]

WAC 106-125-010 Definitions. The following definitions shall apply for purposes of this student conduct code:

(1) **Complainant.** A "complainant" for purposes of this student code means any person who is the alleged victim of

prohibited student conduct, whether or not such person has made an actual complaint.

(2) **Conduct officer.** The "conduct officer" or "student conduct officer" is the university official designated by the university to be responsible for initiating disciplinary action for alleged violations of this code.

(3) **Conduct review officer.** The "conduct review officer" is the university official designated by the university to hear appeals of disciplinary action conducted as brief adjudicative proceedings and to enter final decisions in proceedings heard by the student conduct council.

(4) **Day.** The term "day," unless otherwise qualified, means "calendar day." The qualified term "instructional day" means any day within an academic term that the university is open for business, excluding weekends and holidays.

(5) **Dean of student success.** The term "dean" or "dean of student success" means the chief student affairs officer of the university and includes any acting or interim dean designated by the president to perform the functions and duties of the dean under this student code.

(6) **Disciplinary action.** The term "disciplinary action" means the decision of the designated university official regarding alleged violations of the student code and includes any disciplinary sanction imposed for such violations. Disciplinary action does not include a summary suspension.

(7) **Filing and service.**

(a) **Filing.** The term "filing" means the delivery to the designated university official of any document that is required to be filed under this code. A document is filed by hand delivering it or by mailing it to the university official (or the official's assistant) at the official's office address. Filing is complete upon actual receipt during office hours at the office of the designated official.

(b) **Service.** The term "service" means the delivery to a party of any document that is required to be served under this code. A document is served by hand delivering it to the party or by mailing it to the party's address of record. Service is complete when the document is hand delivered or actually deposited in the mail.

(c) **Electronic filing and service.** Unless otherwise provided, filing or service may be accomplished by electronic mail.

(8) **Party.** A "party" to a disciplinary proceeding under this code includes the student conduct officer and the student respondent, as well as any complainant in a proceeding involving allegations of sexual misconduct.

(9) **Preponderance of evidence.** The term "preponderance of the evidence" is a standard of proof requiring that facts alleged as constituting a violation of this code must be proved on a more likely than not basis.

(10) **Respondent.** A "respondent" is a student against whom disciplinary action is initiated.

(11) **Service.** See "Filing and service."

(12) **Student.** The term "student" includes all persons taking courses at or through the university, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. The term includes prospective students who have been accepted for admission or registration, currently enrolled students who withdraw before the end of a term, and students, including former students, who engage in prohibited conduct between terms of actual enrollment or before the awarding of a degree or other certificate of completion.

(13) **University premises.** "University premises" shall include all campuses and electronic presences of the university, wherever located, and includes all land, buildings, facilities, vehicles, equipment, computer systems, web sites, and other property owned, used, or controlled by the university.

[Statutory Authority: RCW 28B.35.120 and chapter 34.05 RCW. WSR 15-24-054, § 106-125-010, filed 11/23/15, effective 12/24/15.]

WAC 106-125-020 Prohibited student conduct. Prohibited student conduct includes engaging in, attempting to engage in, or encouraging or assisting another person to engage in, any of the conduct set forth in this section. As applicable, the term "conduct" includes acts performed by electronic means. The term "includes" or "including" as used in this section means "without limitation."

(1) **Academic dishonesty.** The term "academic dishonesty" includes cheating, plagiarism, and fabrication.

(a) **Cheating.** Cheating includes any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment, including collaboration without authority.

(b) **Plagiarism.** Plagiarism includes taking and using as one's own, without proper attribution, the ideas, writings, or work of another person in completing an academic assignment. Prohibited conduct may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) **Fabrication.** Fabrication includes falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to an instructor concerning the completion of an academic assignment.

(2) **Alcohol, drug, and tobacco violations.**

(a) **Alcohol.** An "alcohol violation" includes using, possessing, delivering, selling, or being under the influence of any alcoholic beverage, except as permitted by law and applicable university policies.

(b) **Marijuana.** A "marijuana violation" includes using, possessing, delivering, selling, or being under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits any possession or use of marijuana on university premises or in connection with university activities.

(c) **Drug.** A "drug violation" includes using, possessing, delivering, selling, or being under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner.

The abuse, misuse, or unlawful sale or distribution of prescription or over-the-counter medications may also constitute a drug violation.

(d) **Tobacco.** A "tobacco violation" means smoking or using tobacco products, electronic smoking devices (including e-cigarettes and vape pens), or other smoking devices in any area of university premises where smoking or tobacco use is prohibited in accordance with public law and university policy.

(3) **Disruptive or obstructive conduct.** The term "disruptive" or "obstructive conduct" means conduct, not protected by law, that interferes with, impedes, or otherwise unreasonably hinders the normal teaching, learning, research, administrative, or other functions, procedures, services, programs, or activities of the university. The term includes disorderly conduct, breach of the peace, violation of local or university noise policies, lewd or obscene conduct, obstruction of pedestrian or vehicular traffic, tampering with student election processes, or interfering with the orderly conduct of university investigations or disciplinary proceedings, including interfering with or retaliating against any witness, party, or other participant.

(4) **Ethics violations.** An "ethics violation" includes the breach of any applicable code of ethics or standard of professional practice governing the conduct of a profession for which the student is studying to be licensed or certified. The term also includes the violation of any state law or university policy relating to the ethical use of university resources.

(5) **Failure to comply.** The term "failure to comply" means refusing to obey the lawful directive of a university official or authorized university body, including a failure to identify oneself upon request, refusing to comply with a disciplinary sanction, or violating any no-contact or other protective order.

(6) **False or deceptive conduct.** The term "false" or "deceptive conduct" means dishonest conduct (other than academic dishonesty) that includes forgery, altering or falsifying of university records, furnishing false or misleading information to the university, falsely claiming an academic credential, or falsely accusing any person of misconduct.

(7) **Harassment.** The term "harassment" means unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit the ability of a student to participate in or benefit from the university's educational program, or that creates an intimidating, hostile, or offensive environment for any campus community member(s). Protected status includes a person's actual or perceived race, color, national origin, gender, disability, or other status protected by law. See "Sexual misconduct" for the definition of "sexual harassment."

(8) **Hazing.** "Hazing" includes any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes or is likely to cause the destruction or removal of public or private property or that causes or is likely to cause bodily danger or physical harm, or serious mental or emotional harm, to any student or other person.

(9) **Personal offenses.** The term "personal offense" is an offense against the safety or security of any person and includes physical assault, reckless endangerment, physical or

verbal abuse, threats, intimidation, harassment, bullying, stalking, invasion of privacy, or other similar conduct that harms any person, or that is reasonably perceived as threatening the health or safety of any person, or that has the purpose or effect of unlawfully interfering with any person's rights. The term includes personal offenses committed by electronic means.

(10) **Property violations.** The term "property violation" includes the theft, misappropriation, unauthorized use or possession, vandalism, or other nonaccidental damaging or destruction of university property or the property of another person. Property for purposes of this subsection includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and university trademarks.

(11) **Retaliation.** The term "retaliation" means harming, threatening, intimidating, coercing, or taking adverse action of any kind against a person because such person reported an alleged violation of this code or other university policy, provided information about an alleged violation, or participated as a witness or in any other capacity in a university investigation or disciplinary proceeding.

(12) **Safety violations.** The term "safety violation" includes any nonaccidental conduct that interferes with or otherwise compromises any university policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

(13) **Sexual misconduct.** The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence.

(a) **Sexual harassment.** The term "sexual harassment" means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature that is sufficiently serious as to deny or limit, based on sex, the ability of a student to participate in or benefit from the university's educational program, or that creates an intimidating, hostile, or offensive environment for any campus community member(s).

(b) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex, including stalking (or cyberstalking), voyeurism, indecent exposure, or the nonconsensual recording of sexual activity or distribution of such recording. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for such person's safety or the safety of others, or to suffer substantial emotional distress.

(c) **Sexual violence.** The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated against a person's will or where the person is incapable of giving consent, including rape, sexual assault, sexual battery, and sexual coercion. The term further includes acts of dating or domestic violence. A person may be incapable of giving consent by reason of age, threat or intimidation, lack of opportunity to object, disability, drug or alcohol consumption, unconsciousness, or other cause.

(14) **Unauthorized access.** The term "unauthorized access" means gaining entry without permission to any restricted area or property of the university or the property of another person, including any facility, computer system, e-mail account, or electronic or paper files. Unauthorized access includes computer hacking and the unauthorized possession or sharing of any restricted means of gaining access, including keys, keycards, passwords, or access codes.

(15) **University policy violations.** The term "policy violation" means the violation of any applicable law or university policy governing the conduct of students as members of the university community, including university policies governing nondiscrimination, alcohol and drugs, computer use, copyright, and parking and traffic.

(16) **Weapons violations.** A "weapons violation" includes the possession, display, or use of any firearm, explosive, dangerous chemical, knife, or other instrument capable of inflicting serious bodily harm in circumstances that are reasonably perceived as causing alarm for the safety of any person. The term "weapons violation" includes any threat to use a weapon to harm any person and the use of any fake weapon or replica to cause the apprehension of harm. The term further includes the possession on university premises of any firearm or other dangerous weapon in violation of public law or university policy, but does not include the lawful possession of any personal protection spray device authorized under RCW 9.91.160.

[Statutory Authority: RCW 28B.35.120 and chapter 34.05 RCW. WSR 15-24-054, § 106-125-020, filed 11/23/15, effective 12/24/15.]

WAC 106-125-030 Disciplinary sanctions. The university may impose any of the following disciplinary sanctions for violations of this student code. Violations must be proved by a preponderance of the evidence.

(1) **Conduct reprimand.** A "conduct reprimand" is a written notice formally censuring a student for a student code violation and providing notice that a repeated violation will subject the student to more severe disciplinary action.

(2) **Conduct probation.**

(a) The term "conduct probation" means a specified period of time during which a student's continued enrollment will be conditioned on the student's compliance with specified requirements or restrictions. The probation may be for a limited term or may extend for the duration of the student's attendance at the university, depending on the nature and seriousness of the code violation(s). The sanction of conduct probation may be imposed in the form of a deferred suspension.

(b) Conditions placed on a student's continued enrollment may include, without limitation, any one or more of the following requirements or restrictions:

(i) Compliance with applicable standards of conduct under the student code and university policies;

(ii) Restitution, defined as payment of compensation for damage or loss caused to the university or any person as a result of the student's misconduct, or the assessment of such fines as may be authorized under specific university policies for violations of those policies;

(iii) Restrictions on the student's contact with specified individuals or groups, which may include an order that the

student refrain from having any communication with the specified persons;

(iv) Restrictions on the student's access to specified university premises and/or limitations on the student's participation in university activities, which may include removal from or reassignment of student housing;

(v) A requirement that the student receive education or participate in training relating to the student's misconduct, which may include other educational sanctions assigned for the purpose of facilitating student development and learning as deemed appropriate to the offense;

(vi) A requirement that the student be professionally evaluated by a qualified health care provider who is approved by the university and who is authorized by the student to discuss the evaluation with designated university officials, together with a requirement that the student comply with treatment recommendations relating to the student's ability to maintain appropriate standards of conduct.

(c) A student's failure to comply with the conditions of the conduct probation may result in further disciplinary action including, but not limited to, disciplinary suspension or permanent dismissal.

(3) **Conduct suspension.** A "conduct suspension" means a temporary dismissal from the university and the suspension of student status for a specified period of time with no refund of tuition or fees. Reenrollment following a disciplinary suspension may be conditioned on any of the requirements or restrictions that may apply to a conduct probation.

(4) **Conduct dismissal.** The term "conduct dismissal" means permanent expulsion from the university with no refund of tuition or fees and may include an order trespassing the student from university premises. A sanction of conduct dismissal shall be recorded on the student's academic transcript.

(5) **Other sanctions.** The following additional sanctions for student code violations may be imposed as required or permitted by law or university policy.

(a) **Athletics eligibility.** A student athlete found in violation of WAC 106-125-020 (2)(c), relating to drug violations, shall be ineligible to participate in university athletics pursuant to RCW 69.41.340.

(b) **Parental notification.** The university reserves the right to inform a student's parent(s) or legal guardian(s) of the student's misconduct to the extent permitted by applicable law.

[Statutory Authority: RCW 28B.35.120 and chapter 34.05 RCW. WSR 15-24-054, § 106-125-030, filed 11/23/15, effective 12/24/15.]

WAC 106-125-040 Disciplinary action—Initiation.

(1) The student conduct officer will initiate disciplinary action by serving the student respondent with written notice of an initial disciplinary meeting. The notice shall briefly describe the factual allegations or the issues involved, the specific conduct code provision(s) the respondent is alleged to have violated, and the range of possible sanctions for such violations(s).

(2) At the disciplinary meeting, the student conduct officer will review the allegations with the respondent and will afford the respondent an opportunity to respond. If the respondent fails to attend or participate in the meeting, the

conduct officer may take disciplinary action based on the available information.

(3) In a proceeding involving allegations of sexual misconduct, the student conduct officer prior to taking disciplinary action will afford the complainant an opportunity to discuss the results of any investigation and the possible sanctions and/or conditions that could be imposed for the complainant's protection if the sexual misconduct allegations are found to be substantiated.

(4) The student conduct officer may take any of the following disciplinary actions:

(a) The conduct officer may dismiss the proceeding upon finding the allegations to be unsubstantiated and after providing any appropriate counseling or warnings. Such action shall be final and not subject to appeal or further review, except as provided in proceedings involving allegations of sexual misconduct.

(b) If the allegations are found to be substantiated, the conduct officer may impose any of the disciplinary sanctions authorized under WAC 106-125-030. Such sanction(s) shall be subject to review on appeal as provided in this student code.

(c) The conduct officer may refer the matter for disciplinary action by the student conduct council. Such referral shall be in writing, to the attention of the dean of student success, with a copy served on the respondent (and any complainant in a proceeding involving allegations of sexual misconduct). The decision to refer shall not be subject to appeal or further review.

(5) Within ten days of the initial disciplinary meeting, the conduct officer will serve the respondent (and any complainant in a proceeding involving sexual misconduct allegations) with a written decision either dismissing or referring the matter or imposing disciplinary sanctions. If sanctions are imposed, the decision will specify the conduct code provision(s) found to have been violated, will describe the facts and conclusions supporting the sanction(s), and will provide notice of any appeal rights.

(6) In a proceeding involving sexual misconduct allegations, the decision will state whether such allegations were substantiated and will describe any sanctions or conditions imposed for the complainant's protection. The copy of the decision provided to a complainant will be redacted as needed to exclude any confidential student information not relating to the sexual misconduct allegations.

[Statutory Authority: RCW 28B.35.120 and chapter 34.05 RCW. WSR 15-24-054, § 106-125-040, filed 11/23/15, effective 12/24/15.]

WAC 106-125-045 Appeal and review procedures—

General. The following general rules apply to appeals or requests for further administrative review of disciplinary action at any stage of a student disciplinary proceeding.

(1) **Parties.** The parties to an appeal or review proceeding shall be the respondent, any complainant in a proceeding involving sexual misconduct allegations, and the student conduct officer.

(2) Filing of appeals.

(a) **Appeal periods.** An appeal or request for review of disciplinary action must be filed with the designated university official within the applicable time period as further specified in these rules.

(b) **Contents of appeal.** A party's written notice of appeal or request for review must explain why the party disagrees with the disciplinary decision and what relief or remedy the party is requesting. The appeal or request for review must address one or more of the following grounds:

(i) **Insufficient evidence.** The disciplinary action taken was not supported by a preponderance of the evidence.

(ii) **New evidence.** New evidence not available at the time the disciplinary action was taken should result in a different outcome.

(iii) **Procedural or other error.** The disciplinary action was taken in violation of prescribed procedures or was based on an erroneous interpretation or application of the student conduct code.

(iv) **Disproportionate outcome.** The disciplinary action taken was not proportionate to the student conduct violation(s) alleged.

(c) **Failure to appeal.** The failure of a party to file a timely appeal or request for review at any stage of the proceeding waives that party's right to appeal. However, in a proceeding involving sexual misconduct allegations, if any party appeals, the university official receiving the appeal or request for review will notify the other parties and will afford each party the opportunity to participate in the appeal or review proceeding.

(3) **Effect of appeal - Stay.** The implementation of disciplinary action imposing a conduct suspension of any length or imposing a conduct expulsion shall be stayed pending the time for filing an appeal and the conclusion of disciplinary proceedings. Other disciplinary sanctions shall not be stayed.

(4) **Reviewing authority.**

(a) Appeals of disciplinary action taken by the student conduct officer will be heard by the conduct review officer or student conduct council as further provided in these rules.

(b) Appeals of disciplinary action taken by the conduct review officer in a brief adjudicative proceeding will be heard by the dean of student success (or designee) as further provided in these rules.

(c) Disciplinary action recommended by the student conduct council will be heard by the conduct review officer as further provided in these rules.

(5) **Ex parte communications.** Reviewing authorities (the conduct review officer, student conduct council members, and the dean) may not communicate with any of the parties regarding an appeal without providing notice and an opportunity for all parties to participate.

(6) **Disqualification.** Reviewing authorities may not participate in a proceeding in which they:

(a) Are a complainant or witness;

(b) Have a direct or personal interest, prejudice, or bias;

or

(c) Have previously acted in the same proceeding in another capacity.

[Statutory Authority: RCW 28B.35.120 and chapter 34.05 RCW. WSR 15-24-054, § 106-125-045, filed 11/23/15, effective 12/24/15.]

WAC 106-125-050 Disciplinary action—Appeals. (1) Respondent. The student respondent may appeal the disciplinary action of the student conduct officer in accordance with the following rules:

(11/23/15)

(a) The respondent may appeal disciplinary action imposing a conduct reprimand, conduct probation, or conduct suspension not in excess of ten days by filing a written notice of appeal with the conduct review officer within ten days of service of the disciplinary decision.

(b) The respondent may appeal disciplinary action imposing a conduct suspension in excess of ten days or a conduct dismissal by filing a written notice of appeal with the conduct review officer within twenty days of service of the disciplinary decision.

(2) **Complainant.** The complainant in a proceeding involving sexual misconduct allegations may appeal the disciplinary action of the student conduct officer with respect to such allegations in accordance with the following rules:

(a) The complainant may appeal disciplinary action dismissing the proceeding or imposing a conduct reprimand, conduct probation, or conduct suspension not in excess of ten days by filing a written notice of appeal with the conduct review officer within ten days of service of the disciplinary decision.

(b) The complainant may appeal disciplinary action imposing a conduct suspension in excess of ten days or a conduct dismissal by filing a written notice of appeal with the conduct review officer within twenty days of service of the disciplinary decision.

(3) If no appeal is filed within the applicable time period, the disciplinary action of the student conduct officer shall be final.

[Statutory Authority: RCW 28B.35.120 and chapter 34.05 RCW. WSR 15-24-054, § 106-125-050, filed 11/23/15, effective 12/24/15.]

WAC 106-125-055 Conduct review hearings—Initial decision. (1) Conduct review officer - Authority.

(a) The conduct review officer will hear a respondent's appeal of disciplinary action imposing a conduct reprimand, conduct probation, or conduct suspension not in excess of ten days.

(b) In a proceeding involving sexual misconduct allegations, the conduct review officer will hear a complainant's appeal of disciplinary action dismissing the sexual misconduct allegations or imposing, with respect to such allegations, a conduct reprimand, conduct probation, or conduct suspension not in excess of ten days.

(c) The conduct review officer shall have the same authority as the student conduct officer to dismiss a proceeding, to impose a disciplinary sanction of conduct reprimand, conduct probation, or conduct suspension not in excess of ten days, or to refer the matter for disciplinary action by the student conduct council.

(2) **Appeal hearing.** Appeals heard by the conduct review officer will be conducted as informal administrative hearings consistent with the rules for "brief adjudicative proceedings" under RCW 34.05.482 and WAC 106-08-050. The review officer shall provide each party an opportunity to explain the party's view of the matter.

(3) **Initial decision - Service.**

(a) Within ten days of consideration of the appeal, the conduct review officer will serve an initial decision upon the respondent, the student conduct officer, and any complainant in a proceeding involving sexual misconduct allegations. The initial decision will explain the reasons for the decision and

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will provide notice of any right to request further administrative review.

(b) In a proceeding involving sexual misconduct allegations, the initial decision will explain the reasons for modifying any disciplinary action taken with respect to such allegations. The copy of the decision provided to a complainant will be redacted as needed to exclude any confidential student information not relating to the sexual misconduct allegations.

(c) A decision by the conduct review officer to refer the appeal to the student conduct council is not subject to further administrative review.

(4) **Initial decision - Request for review.** The respondent (or any complainant in a proceeding involving sexual misconduct allegations) may request administrative review of the initial decision by filing a written request for review with the dean of student success within twenty-one days of service of the initial decision. If no request for review is filed, the initial decision of the conduct review officer shall be final.

[Statutory Authority: RCW 28B.35.120 and chapter 34.05 RCW. WSR 15-24-054, § 106-125-055, filed 11/23/15, effective 12/24/15.]

WAC 106-125-060 Conduct review hearings—Review of initial decision. (1) Requests for review of the initial decision of the conduct review officer will be heard by the dean of student success (or designee). The dean shall have the same authority on review as the conduct review officer to take disciplinary action.

(2) The dean will review the hearing record and will afford the parties the opportunity to file written statements explaining their views of the matter. The dean may make any inquiries necessary to ascertain whether the proceeding should be referred to the student conduct council for a formal hearing.

(3) Within twenty days of the date for the parties to submit written statements, the dean will serve a written review decision upon the respondent, the student conduct officer, and any complainant in a proceeding involving sexual misconduct allegations. The review decision will explain the reasons for the decision and will provide a notice that judicial review may be available.

(4) In a proceeding involving sexual misconduct allegations, the review decision will explain the reasons for modifying any disciplinary action taken with respect to such allegations. The copy of the decision provided to a complainant will be redacted as needed to exclude any confidential student information not relating to the sexual misconduct allegations.

(5) The review decision of the dean (or designee) shall be final.

[Statutory Authority: RCW 28B.35.120 and chapter 34.05 RCW. WSR 15-24-054, § 106-125-060, filed 11/23/15, effective 12/24/15.]

WAC 106-125-070 Student conduct council. (1) The student conduct council shall consist of three students and two faculty members selected from a panel of eight full-time students and six faculty members holding the rank of assistant professor or above who are appointed to the panel in accordance with procedures established respectively by student government and the faculty senate. The conduct council

members will be randomly selected by the council advisor subject to availability and qualification in accordance with WAC 106-125-045(6). Additional students and faculty may be selected to serve as alternate council members.

(2) The student conduct council shall elect a chair to preside over the hearing, and the dean of student success shall appoint a nonvoting staff member as council advisor to convene and otherwise advise and assist the council.

(3) The student conduct council will hear appeals of disciplinary action imposing a conduct suspension in excess of ten days or a conduct dismissal. The council will hear such other matters as may be referred to the council by the student conduct officer, conduct review officer, or dean of student success. The council shall have the authority to recommend dismissing a proceeding or to recommend imposing any of the disciplinary sanctions under WAC 106-125-030.

(4) Proceedings of the student conduct council shall be governed by the Administrative Procedure Act (chapter 34.05 RCW) and by the model rules of procedure (chapter 10-08 WAC), as supplemented by these rules.

[Statutory Authority: RCW 28B.35.120 and chapter 34.05 RCW. WSR 15-24-054, § 106-125-070, filed 11/23/15, effective 12/24/15.]

WAC 106-125-075 Student conduct council—Pre-hearing procedure. (1) The conduct council chair or advisor shall cause all parties to be served with written notice of the hearing not less than seven days in advance of the hearing date, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The chair or adviser may shorten this notice period if the parties agree, and may continue the hearing to a later time for good cause shown.

(2) The conduct council chair, assisted by the council advisor, is authorized to conduct prehearing conferences and to make prehearing decisions concerning the forms and extent of any discovery, issuance of protective orders, and similar procedural matters.

(3) The council chair or advisor may direct the parties prior to the hearing to exchange lists of potential witnesses and copies of exhibits that the parties reasonably expect to present to the council. Failure to participate in good faith in such an exchange may be cause for excluding from the hearing any witness or exhibit not disclosed.

(4) The council chair or advisor in advance of the hearing may provide council members with copies of (a) any notice of disciplinary action (or referral to the council) and (b) any notice of appeal filed by the respondent (or any complainant). However, such "pleadings" shall not be regarded as evidence of any facts they may allege.

(5) Any party may be accompanied at the hearing by a nonattorney advisor of the party's choice. A respondent (or any complainant) may be represented by an attorney at such party's own cost, but will be deemed to have waived that right unless, at least four instructional days before the hearing, the attorney files and serves a notice of appearance. If the respondent (or complainant) is represented by an attorney, the student conduct officer may be represented by the university's assistant attorney general.

(6) The student conduct council may itself be advised in any proceeding by an independently assigned assistant attorney general who shall have had no other involvement in the

matter and who shall be appropriately screened from any other assistant attorney general appearing in the proceeding.

[Statutory Authority: RCW 28B.35.120 and chapter 34.05 RCW. WSR 15-24-054, § 106-125-075, filed 11/23/15, effective 12/24/15.]

WAC 106-125-080 Student conduct council—Hearing procedure. (1) Upon the failure of any party to attend or participate in a hearing, the student conduct council may either:

- (a) Proceed with the hearing; or
- (b) Serve an order of default in accordance with RCW 34.05.440.

(2) Council hearings shall be closed to the public, unless all parties (including any complainant) agree on the record that all or parts of the proceeding may be open. The council chair shall determine any extent to which the hearing will be open. The chair may exclude from the hearing any person who disrupts the proceeding.

(3) The council advisor shall cause the hearing to be recorded pursuant to RCW 34.05.449 by a method the advisor selects. Other recording shall be permitted in accordance with WAC 10-08-190. The advisor shall maintain the official record of the proceeding that is required by RCW 34.05.476. Such record shall be made available upon request for inspection and copying by any party to the extent permitted by applicable laws.

(4) The council chair shall preside at the hearing and shall decide procedural questions that arise during the hearing, except as overridden by a majority vote of the council.

(5) The student conduct officer (or assistant attorney general) shall present the case for imposing disciplinary sanctions and shall bear the burden of establishing the alleged violations by a preponderance of the evidence.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(7) The respondent and a complainant in any proceeding involving sexual misconduct allegations shall not directly question or cross-examine one another. All questions shall be directed to the council chair, who will act as an intermediary and pose questions on behalf of the parties.

[Statutory Authority: RCW 28B.35.120 and chapter 34.05 RCW. WSR 15-24-054, § 106-125-080, filed 11/23/15, effective 12/24/15.]

WAC 106-125-085 Student conduct council—Recommended decision. (1) At the conclusion of the hearing, the student conduct council shall permit the parties to make closing arguments in whatever form the council wishes to receive them. The council may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within twenty days following the later of the conclusion of the hearing or the receipt of closing arguments, the student conduct council shall issue a recommended decision in accordance with RCW 34.05.461 and WAC 10-08-210. The recommended decision shall contain findings on relevant issues of fact, conclusions concerning which, if any, provisions of the student code were found to be violated, and any recommended sanction(s). Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

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(3) The council chair shall cause the recommended decision to be served on the respondent, the student conduct officer, and any complainant in a proceeding involving sexual misconduct allegations. In a proceeding involving sexual misconduct allegations, the decision will state whether the sexual misconduct allegations were substantiated and will describe any sanctions or conditions recommended for the complainant's protection. The copy of the decision provided to a complainant will be redacted as needed to exclude any confidential student information not relating to the sexual misconduct allegations.

(4) The council advisor shall promptly transmit the council's recommended decision and the record of the proceedings for review by the conduct review officer who shall enter a final decision.

[Statutory Authority: RCW 28B.35.120 and chapter 34.05 RCW. WSR 15-24-054, § 106-125-085, filed 11/23/15, effective 12/24/15.]

WAC 106-125-090 Student conduct council—Review of recommended decision. (1) The recommended decision of the student conduct council will be reviewed by the conduct review officer. The conduct review officer shall have the same authority on review as the student conduct officer to take disciplinary action.

(2) The review by the conduct review officer will be limited to the hearing record made before the student conduct council. The conduct review officer will afford all parties the opportunity to file written statements explaining why they agree or disagree with the council's recommended decision. The conduct review officer may notify the parties that the review will be limited to reviewing the specific issues raised by the parties.

(3) The conduct review officer will serve a written decision upon all parties (including the complainant in any proceeding involving sexual misconduct allegations) within twenty days of the date for the parties to submit written statements. The decision will adopt or modify the conduct council's recommended decision and will provide a notice that reconsideration and/or judicial review may be available.

(4) In a proceeding involving sexual misconduct allegations, the review decision will explain the reasons for modifying any recommended disciplinary action with respect to such allegations. The copy of the decision provided to a complainant will be redacted as needed to exclude any confidential student information not relating to the sexual misconduct allegations.

(5) The decision of the conduct review officer shall be final.

[Statutory Authority: RCW 28B.35.120 and chapter 34.05 RCW. WSR 15-24-054, § 106-125-090, filed 11/23/15, effective 12/24/15.]

WAC 106-125-100 Summary suspension. (1) A summary suspension is the temporary exclusion of a student from all or specified portions of university premises, programs, or activities pending an investigation and/or disciplinary proceeding relating to alleged student code violations.

(2) The dean of student success (or designee) may summarily suspend a student when the dean has cause to believe that the student (a) has violated any provision of the student code and (b) presents an immediate danger to the safety or security of the campus community and/or poses an ongoing

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threat of serious disruption or interference with university operations.

(3) Notice of a summary suspension, if given orally, must be followed by service of a written notice within two instructional days of the oral notice. The written notice shall include:

(a) The duration and scope of the suspension, including any conditions under which the student may access university premises or contact members of the campus community;

(b) The reasons for the suspension, including reference to the student code provisions allegedly violated, together with notice of any resulting or pending disciplinary action; and

(c) Notice of a summary suspension hearing to be held within three instructional days before a reviewing officer not otherwise involved in any pending disciplinary proceeding relating to the student.

(4) The reviewing officer will conduct the summary suspension hearing as an emergency proceeding under RCW 34.05.479. The issue before the reviewing officer shall be whether probable cause exists to continue the summary suspension. The student shall be afforded an opportunity at the hearing to explain why the suspension should not be continued or why the suspension should be less restrictive in scope. If the student fails to appear or to participate in the hearing, the reviewing officer may order that the suspension continue pending the conclusion of disciplinary proceedings.

(5) The reviewing officer, within two instructional days of the hearing, shall issue a written decision either terminating the summary suspension or explaining the immediate danger and policy reasons justifying the continuation and/or modification of the summary suspension. The reviewing officer will provide a copy of the decision to all persons who may be bound or protected by it.

(6) The student may request review of the reviewing officer's decision before the student conduct council. Such review will be scheduled promptly and shall be consolidated with any pending disciplinary proceeding arising from the same conduct.

[Statutory Authority: RCW 28B.35.120 and chapter 34.05 RCW. WSR 15-24-054, § 106-125-100, filed 11/23/15, effective 12/24/15.]