

WAC 172-121-140 Interim measures and restrictions. (1) Interim measures. During the complaint review, the director of SRR, Title IX coordinator, or designee will evaluate the circumstances and recommend to the dean of students if any interim measures to assist or protect the parties during the conduct code process are needed. Interim measures may include, but are not limited to, safety planning with the EWU police department, no contact directives, academic or workplace modifications, providing counseling for the complainant and/or respondent, campus housing modifications, and/or an interim restriction for the respondent. The purpose of an interim measure is to provide an equitable process for both students that minimizes the possibility of a hostile environment on campus.

(2) Interim restrictions. In situations where there is cause to believe that a student or a student organization poses an immediate danger to the health, safety, or welfare of themselves, the university community, or property of the university community, the dean of students may take immediate action(s) against the student or student organization without prior notice or hearing.

Simultaneous with such action(s), the dean of students will refer the allegations to the conduct review officer, who will process such allegations in accordance with the provisions of this student conduct code.

Interim restriction is subject to the following:

(a) Interim restriction actions may only be imposed in the following situations:

(i) When a student or student organization poses an immediate threat to:

(A) The health, safety or welfare of any part of the university community or public at large;

(B) The student's own physical safety and well-being; or

(C) Any property of the university community; or

(ii) When it is believed that the student's or student organization's continued attendance or presence may cause disorder, substantially interfere with or impede the lawful activities of others, or imperil the physical or mental health and safety of members of the university community.

(b) During the interim restriction period, a student may be restricted by any or all of the following means:

(i) Denial of access including, but not limited to: Assignment to alternate university housing or removal from university housing, limitation of access to university facilities, or restriction of communication with specific individuals or groups;

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

(iii) Mandatory medical/psychological assessment of the student's capability to remain in the university.

(3) The dean of students will determine what restriction(s) will be placed on a student.

(4) The dean of students will prepare a brief memorandum for record containing the reasons for the interim restriction. The dean of students will serve the memorandum on the restricted student and notify all other persons or offices bound by it. At a minimum, the memorandum will state:

(a) The alleged act(s) or behavior(s) of the student or student organization which prompted the interim restriction;

(b) How those alleged act(s) or behavior(s) could constitute a violation of the student conduct code;

(c) How the circumstances of the case necessitated the interim restriction action(s); and

(d) An explanation of the process for emergency appeal reviews.

(5) In cases alleging sexual misconduct, the complainant will be provided with notice of any interim restrictions that relate directly to the complainant. If the respondent appeals such interim restrictions, the complainant will be given notice of the respondent's appeal and an opportunity to submit a statement as to why the interim restriction should or should not be modified.

(6) Emergency appeal review.

(a) If a student has been suspended on an interim basis, the student will automatically receive an emergency appeal review with the vice president for student affairs, or designee. If the interim restriction is something less than a suspension, the student or student organization subject to the interim restriction must file a written appeal with the vice president for student affairs within five business days after service of the interim restriction. In all cases, the student must submit any information the student wishes the vice president to consider submitted within ten business days after service of the interim restriction. The appealing party should outline the desired modification(s) to the interim restriction as well as the specific challenge(s) to the interim restriction decision. Challenges to interim restriction decisions are limited to the criteria identified in WAC 172-121-140(1) upon which the interim restriction was imposed (threat to health or safety of the university community, potential for creating campus disorder, impeding the lawful activity of others, etc.). Appealing parties are limited to submitting their own written statements. Any other evidence should be submitted to the investigator or provided to the CRO under the regular hearing process.

(b) The vice president for student affairs, or designee, will conduct an emergency appeal review. Emergency appeal reviews will address only the interim restriction decision of the dean of students and the basis on which the restriction modification or termination is requested by the appealing party. The emergency appeal review does not replace the regular hearing process. In the emergency appeal review, the vice president will only review materials available to and information considered by the dean of students at the time the interim restriction was imposed, written statements by the two parties, and information that becomes available as a part of the university's investigation that the vice president deems relevant.

(c) In cases alleging sexual misconduct, if a complainant believes the interim restriction does not adequately protect their health and safety, the complainant may appeal the interim restriction using the process outlined in this subsection. If the complainant files an appeal, all parties shall be given notice of the appeal and shall be provided the opportunity to submit a written statement to the vice president.

(d) During the emergency appeal review, the vice president for student affairs will review available materials and statements. The vice president for student affairs will issue a written decision upholding, modifying, or terminating the interim restriction action. The written decision shall include a rationale for the basis of the decision and be issued within fifteen business days of the date of service of an interim restriction.

(e) The interim restriction does not replace the regular hearing process, which will proceed as quickly as feasible consistent with this chapter.

(f) Duration. An interim restriction will remain in effect until terminated, in writing, by the student disciplinary council, CRO, or the vice president for student affairs.

[Statutory Authority: RCW 28B.35.120(12). WSR 20-01-032, § 172-121-140, filed 12/6/19, effective 1/6/20. Statutory Authority: RCW 28B.35.120(12) and 42.56.070. WSR 19-01-047, § 172-121-140, filed 12/13/18, effective 1/13/19. Statutory Authority: RCW 28B.35.120(12). WSR 17-17-031, § 172-121-140, filed 8/9/17, effective 9/9/17; WSR 15-24-050, § 172-121-140, filed 11/23/15, effective 12/24/15; WSR 13-24-123, § 172-121-140, filed 12/4/13, effective 1/4/14; WSR 09-12-001, § 172-121-140, filed 5/20/09, effective 6/20/09.]