

WAC 495A-300-035 Principles for Title IX grievance procedure.

(1) Respondent shall be presumed not responsible for the alleged conduct unless or until a determination of responsibility is reached after completion of the grievance and disciplinary processes.

(2) Before imposing discipline, the college is responsible for gathering and presenting evidence to a neutral and unbiased decision maker establishing responsibility for a Title IX violation by a preponderance of the evidence.

(3) The college shall treat both the complainant and respondent equitably by providing complainant with remedies against respondent who has been found responsible for sexual harassment through application of the institution's Title IX grievance and applicable Title IX disciplinary procedures and by providing respondent with Title IX procedural safeguards contained in this chapter, Title IX grievance procedures and in the applicable CP5920 - Title IX employee disciplinary hearing, CP5920PR - Title IX employee disciplinary hearing procedure, and chapter 495A-121 WAC, Student rights and responsibilities.

(4) The investigator shall base investigation results on all relevant evidence, including both exculpatory and inculpatory evidence.

(5) Formal and informal resolutions will be pursued within reasonably prompt time frames with allowances for temporary delays and extensions for good cause shown. Grounds for temporary delay include, but are not limited to, quarter breaks or medical leave. Good cause supporting a request for an extension includes, but is not limited to, a party, a party's advisor, or a witness being unavailable, concurrent law enforcement activity, and the need for language assistance or accommodation of disabilities. Both parties will receive written notice of any temporary delay or extension for good cause with an explanation of why the action was necessary.

(6) A respondent found responsible for engaging in sexual harassment may receive discipline up to and including dismissal from the college. A description of other possible disciplinary sanctions and conditions that may be imposed against students can be found in WAC 495A-121-044.

An employee found responsible for sexual harassment may receive discipline up to and including dismissal from employment. A description of possible disciplinary sanctions and conditions that may be imposed against employees can be found in the respective collective bargaining agreements and for the exempt employees under CP5920PR - Title IX employee disciplinary hearing procedure.

(7) In proceedings against a student respondent, the parties may appeal the student/faculty disciplinary committee's ruling to the president pursuant to WAC 495A-121-063 and Title IX student conduct procedures, WAC 495A-115-090.

In proceedings against an employee respondent, the parties may appeal the employee disciplinary decision to the president or designee pursuant to CP5920 - Title IX employee disciplinary hearing and CP5920PR - Title IX employee disciplinary hearing procedures.

(8) Title IX administrators may not require, allow, rely upon, or otherwise use questions or evidence that seeks disclosure of privileged communications, unless the privilege has been effectively waived by the holder. This provision applies, but is not limited to, information subject to the following:

- (a) Spousal or domestic partner privilege;
- (b) Attorney-client and attorney work product privileges;
- (c) Privileges applicable to members of the clergy and priests;

- (d) Privileges applicable to medical providers, mental health therapists, and counselors;
- (e) Privileges applicable to sexual assault and domestic violence advocates; and
- (f) Other legal privileges identified in RCW 5.60.060.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); and 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 21-01-196, § 495A-300-035, filed 12/22/20, effective 1/22/21.]