

WAC 132R-04-131 Student disciplinary committee hearing—Presentation of evidence.

(1) Upon the failure of any party to attend or participate in a hearing, the committee may either (a) proceed with the hearing and issuance of its order or (b) serve an order of default in accordance with RCW 34.05.440. If an accused student, with notice, does not appear before a student conduct administrative panel hearing, the information in support of the complaint is presented and considered in the absence of the accused student.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record or in writing that some or all of the proceedings should be open, the committee chair shall determine any extent to which the hearing will be open. For hearings involving sexual misconduct allegations, complainant, accused student, and their respective attorney representatives may attend portions of the hearing where argument, testimony, and/or evidence are presented to the student disciplinary committee. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The committee chair shall cause the hearing to be recorded by a method that the committee chair selects, in accordance with RCW 34.05.449. Panel deliberations are not recorded. The recording, or a copy, is property of the college, but will be made available to the respondent upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by the respondent. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The committee chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee, and make rulings on the admissibility of evidence, motions, objections, and on challenges to the impartiality of board members, unless a hearing examiner is appointed as provided below. These rulings shall be made on the record. The Washington rules of evidence shall serve as guidelines for those rulings on the admissibility of evidence, in conjunction with the Administrative Procedure Act, chapter 34.05 RCW. Questions related to the order of the proceedings are also determined by the committee chair.

(5) The student conduct officer (unless represented by an assistant attorney general) shall present the case for disciplinary action. The facts justifying any such action must be established by a preponderance of the evidence.

(6) All testimony shall be given under oath or affirmation. The panel chair determines which records, exhibits, and written statements may be accepted as information for consideration by the panel. These rulings shall be made on the record. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(7) The president of the college or designee, the chair of the student disciplinary committee, the administrators assigned to the student disciplinary committee, deans, and/or the student conduct officer have the authority to issue subpoenas.

(8) The accused student and the student conduct officer may arrange for witnesses to present pertinent information to the student disciplinary committee. Each party is responsible for informing their witnesses of the time and place of the hearing.

(9) The committee chair may accommodate concerns for the personal safety, well-being or fears of confrontation during the hearing by providing separate facilities, or by permitting participation by tele-

phone, audio tape, written statement, or other means. In making such accommodations, the rights of the other parties must not be prejudiced and must have the opportunity to participate effectively in, to hear, and, if technically economically feasible, to see the entire proceeding while it is taking place.

(10) In cases involving allegations of sexual misconduct, neither party shall directly question or cross examine one another. Attorneys for the parties are also prohibited from questioning the opposing party absent express permission from the committee chair. Subject to this exception, all cross-examination questions shall be submitted in writing to the committee chair, who in his or her discretion shall pose the questions on the party's behalf.

(11) At the conclusion of the hearing, the committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee may also permit each party to propose findings, conclusions, and/or an order for its consideration.

[Statutory Authority: RCW 28B.50.140. WSR 17-22-054, § 132R-04-131, filed 10/25/17, effective 11/25/17.]