

WSR 21-01-104

PERMANENT RULES

EASTERN WASHINGTON UNIVERSITY

[Filed December 11, 2020, 2:33 p.m., effective January 11, 2021]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The modifications are necessary to reflect Eastern Washington University's current practices and procedures due to newly issued federal Title IX regulations.

Citation of Rules Affected by this Order: Amending WAC 172-108-040 and 172-108-050.

Statutory Authority for Adoption: RCW 28B.35.120(12).

Adopted under notice filed as WSR 20-22-052 on October 29, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 2, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 11, 2020.

Annika Scharosch
Associate Vice President
for Civil Rights, Compliance
and Enterprise Risk Management

OTS-2707.1

AMENDATORY SECTION (Amending WSR 17-11-051, filed 5/15/17, effective 6/15/17)

WAC 172-108-040 Formal adjudicative proceedings. (1) Eastern Washington University utilizes a formal adjudicative proceeding for certain student conduct proceedings as identified in chapter 172-121 WAC and certain academic integrity code proceedings as identified in chapter 172-90 WAC. The procedural rules for these formal adjudicative proceedings are contained in the Student conduct code, chapter 172-121 WAC, and the academic integrity code, chapter 172-90 WAC. In all other cases, Eastern Washington University only utilizes formal adjudicative proceedings when required by RCW 34.05.413 through 34.05.476. (~~For such proceedings, excluding the student conduct process, Eastern Washington University adopts the model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, except for those rules which are in conflict with the provisions set forth in this chapter. The model rules are contained in chapter 10-08 WAC. In the case of a conflict between the model rules of procedure and these procedural rules, the procedural~~

rules adopted by Eastern Washington University shall govern)) or for the adjudication of formal Title IX complaints against employees as set forth in university policy.

(2) An application for a formal adjudicative proceeding shall be in writing. Application forms are available from: University Policy Administration; (~~Office of the President;~~) Eastern Washington University; (~~Showalter 214~~) Tawanka 211, Cheney, WA 99004-2496. Written application for a formal adjudicative proceeding in response to the institution's action must be submitted to the above address within twenty-one calendar days of the action, unless otherwise provided by statute or rule.

[Statutory Authority: RCW 28B.35.120(12). WSR 17-11-051, § 172-108-040, filed 5/15/17, effective 6/15/17; WSR 14-24-038, § 172-108-040, filed 11/24/14, effective 12/25/14; WSR 92-09-100, § 172-108-040, filed 4/20/92, effective 5/21/92.]

AMENDATORY SECTION (Amending WSR 17-11-051, filed 5/15/17, effective 6/15/17)

WAC 172-108-050 Brief adjudicative proceedings. In accordance with RCW 34.05.410 (1)(a), the procedures identified in RCW 34.05.482 through 34.05.494 apply to all brief adjudicative proceedings at Eastern Washington University. All applications for a brief adjudicative proceeding shall be in writing. Application forms are available from: University Policy Administration; (~~Office of the President; Showalter 214~~) Tawanka 211; Eastern Washington University; Cheney, WA 99004-2496. Written application for a brief adjudicative proceeding in response to the institution's action must be submitted to the university within twenty-one calendar days of the action, unless a different time frame is specified in the regulations identified below that apply to the type of decision being challenged. When required by law or constitutional right, brief adjudicative proceedings shall be used in all matters of appeal related to:

- (1) Residency determinations made pursuant to RCW 28B.15.013 and chapter 250-18 WAC;
- (2) Challenges to contents of education records, review of the denial to inspect such records, or challenges to the disclosure of such records. In addition to the rules identified below, these challenges are governed by chapter 172-191 WAC;
- (3) Student conduct proceedings, if the potential sanction for the alleged misconduct does not include suspension, expulsion, formal Title IX complaints, or an allegation of felony-level sexual misconduct. In addition to the rules identified below, these proceedings are governed by chapter 172-121 WAC;
- (4) Outstanding debts owed by students or employees, pursuant to chapters 172-124 and 172-144 WAC;
- (5) Traffic and parking violations and revocations of any parking permit pursuant to chapter 172-100 WAC;
- (6) Student academic integrity proceedings, if the potential sanction for the alleged misconduct does not include suspension or expulsion. In addition to the rules identified in this section, these proceedings are governed by chapter 172-90 WAC;
- (7) Library fines and charges;

(8) Reduction, cancellation, or nonrenewal of institutional financial aid when based in any degree on athletics ability per National Collegiate Athletic Association rules;

(9) Administrative decisions regarding (~~mandatory~~) statutorily mandated tuition and/or fee waivers;

(10) (~~Intellectual property ownership determinations in accordance with EWU Policy 302-04;~~

~~(11) Ethics in~~) Research integrity violations in accordance with EWU Policy 302-05 when required by federal law;

(~~(12) Matters subject to review by the academic appeals board in accordance with EWU Policy 303-21;~~

~~(13) Matters subject to review regarding graduate students in accordance with EWU Policy 303-22;~~

~~(14))~~ (11) Citations issued by university police regarding the use of golf carts and utility vehicles, in accordance with EWU Policy 603-06;

(~~(15))~~) (12) Fines imposed for impermissible use of tobacco, electronic cigarettes, and related products in accordance with WAC 172-122-310;

(~~(16))~~) (13) Financial aid appeals as provided for by federal law and in accordance with EWU policies for satisfactory academic progress for undergraduate, post-baccalaureate, and graduate students;

(~~(17))~~) (14) Denial of work study or termination from a work study position when required by federal law;

(~~(18))~~) (15) Notice against trespass issued per WAC 172-122-200;

(~~(19))~~) (16) Denial of request to waive undergraduate housing requirement under chapter 172-130 WAC;

(~~(20))~~) (17) Fines assessed under a university housing agreement; and

(~~(21))~~) (18) Penalties imposed for violations of pet control regulations in accordance with chapter 172-115 WAC.

[Statutory Authority: RCW 28B.35.120(12). WSR 17-11-051, § 172-108-050, filed 5/15/17, effective 6/15/17; WSR 14-24-038, § 172-108-050, filed 11/24/14, effective 12/25/14; WSR 92-09-100, § 172-108-050, filed 4/20/92, effective 5/21/92.]