

## WSR 23-07-012

## PROPOSED RULES

## SEATTLE COLLEGES

[Filed March 2, 2023, 3:09 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-10-006.

Title of Rule and Other Identifying Information: Student services hazing prevention.

Hearing Location(s): On April 25, 2023, at 10:00 - 11:00 a.m., Zoom.

Date of Intended Adoption: May 4, 2023.

Submit Written Comments to: Bella Garrison, 1500 Harvard Avenue, Seattle, WA 98122, email Wacinput@seattlecolleges.edu, by April 1, 2023.

Assistance for Persons with Disabilities: Contact Bella Garrison, phone 206-934-3873, email Bella.Garrison@seattlecolleges.edu, by April 1, 2023.

Reasons Supporting Proposal: Amend WAC to follow the RCW for hazing prevention policy and expanded definitions used, as well as the new state Sam's Law requirements amended in RCW 28B.10.900 from HB [2SHB] 1751. The amended WAC will include providing hazing awareness and prevention education.

Statutory Authority for Adoption: RCW 28B.50.140, 28B.50.090(3).

Statute Being Implemented: WAC 132F-121-010 and 132F-121-110, Student activities, rights and discipline.

Rule is not necessitated by federal law, federal or state court decision. HB [2SHB] 1751 Sam's Law.

Name of Proponent: Seattle Colleges, public.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kurt Buttlemann, Siegal Center, 206-934-4111.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Scope of exemption for rule proposal:

Is fully exempt.

February 28, 2023  
Teresa (Bella) Garrison  
Director of Compliance

**OTS-4409.1**

AMENDATORY SECTION (Amending WSR 21-10-027, filed 4/26/21, effective 5/27/21)

**WAC 132F-121-010 Definitions and general provisions.** For purposes of this chapter, except for the Title IX supplemental procedures, the following definitions apply. The definition of "consent," however, will apply to the whole chapter.

~~((1)(a) **Bullying.** Bullying is defined as the repeated use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at another student or staff that:~~

- ~~(i) Intentionally causes physical or emotional imminent harm to the student or damage to the student's property;~~
- ~~(ii) Places the student in reasonable fear of harm to themselves or of damage to the student's property;~~
- ~~(iii) Creates an unlawful hostile environment at school for the student;~~
- ~~(iv) Infringes on the rights of the student at school; or~~
- ~~(v) Is conduct that is sufficiently severe or pervasive to cause material disruption to the ability of a student to participate or benefit in the education program.~~

~~(b) **Cyber misconduct.** Cyberstalking, cyberbullying or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites, to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's email identity, nonconsensual recording, including images or videos of a sexual nature, and nonconsensual distribution of such material.~~

~~(c) **Stalking.** Stalking is intentional and repeated following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that that person is frightened, intimidated or harassed, even if the perpetrator lacks such an intent.~~

~~(2) **Sexual misconduct.** The term "sexual misconduct" includes sexual harassment, sexual intimidation, sexual violence, and domestic 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, and that does deny or limit, based on sex, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members.~~

~~(b) Sexual intimidation. The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording.~~

~~(c) Sexual violence. Sexual violence is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.~~

~~(i) Nonconsensual sexual intercourse is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue,~~

~~finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.~~

~~(ii) Nonconsensual sexual contact is any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.~~

~~(iii) Domestic violence as defined in (d) of this subsection.~~

~~(iv) Dating violence means violence by a person who has been in a romantic or intimate relationship with the victim, and includes conduct that causes emotional, psychological, physical, and sexual trauma. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.~~

~~(v) Stalking as defined in subsection (1)(c) of this section.~~

~~(vi) Consent: Knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.~~

~~A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.~~

~~Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.~~

~~(d) Domestic violence. Domestic violence includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law, and, includes conduct that causes emotional, psychological, physical, and sexual trauma.~~

~~(3)) (1) The terms "college" and "campus" are used interchangeably, and each refers to any of the district's three colleges, North Seattle College, Seattle Central College, and South Seattle College. ((The Seattle Vocational Institute is considered to be part of Seattle Central College.~~

~~(4)) (2) "Day" means calendar day, unless specified otherwise, and deadlines shall be computed in accordance with WAC 10-08-080.~~

~~((5)) (3) "District" means the sixth state college district, the district administrative offices (Siegal Center), North Seattle College, Seattle Central College, South Seattle College, and/or every other District VI educational facility, each separately and all together.~~

~~((6)) (4) "District community" includes, but is not limited to, the district itself and all enrolled students, employees, officers, and invitees of the district.~~

~~((7)) (5) "District property" includes all real property, buildings, and other facilities that are owned, leased, or controlled by the district or by the state for district purposes.~~

~~((8)) (6) "Vice president for student services" means the person whom a college president has appointed to that position or has~~

otherwise designated to perform the functions ascribed to that position in this chapter.

~~((9))~~ (7) An action or activity that may be authorized or taken by the district chancellor, a vice chancellor, a campus president, or a campus vice president may also be authorized or taken by any other person whom that officer has specifically designated to perform that function on their behalf, but this officer retains responsibility for the function.

~~((10))~~ (8) After the adoption of these rules, if a statute or rule to which they refer is renumbered or otherwise amended, these rules shall be interpreted to the fullest extent possible to incorporate such amendment while still giving effect to their original purposes.

~~((11))~~ (9) Service of any document, notice, or copy under this chapter shall be made (a) by personal delivery, (b) by mailing to the recipient's last known address, which service shall be regarded as complete upon deposit in the U.S. mail properly stamped and addressed, or (c) as otherwise authorized by law or rule.

~~((12))~~ (10) The term "student" includes all persons taking courses at the district, either full-time or part-time. Persons who withdraw after allegedly violating the student code, who are not officially enrolled for a particular term but who have a continuing relationship with the district, or who have been notified of their acceptance for admission are considered "students" as are persons who are living in district resident halls, although not enrolled at the district.

(11) The term "student group" is a student organization, athletic team, or living group including, but not limited to, student clubs and organizations, members of a class or student cohort, student performance groups, and student living groups within student housing.

[Statutory Authority: RCW 28B.50.140 and 28B.50.090(3). WSR 21-10-027, § 132F-121-010, filed 4/26/21, effective 5/27/21. Statutory Authority: RCW 28B.50.140(13). WSR 16-04-025, § 132F-121-010, filed 1/25/16, effective 2/25/16. Statutory Authority: RCW 28B.50.140(13) and 42.56.040. WSR 15-02-072, § 132F-121-010, filed 1/6/15, effective 2/6/15. Statutory Authority: RCW 28B.50.140(13). WSR 13-11-127, § 132F-121-010, filed 5/21/13, effective 6/21/13. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. WSR 03-16-015, § 132F-121-010, filed 7/28/03, effective 8/28/03.]

#### NEW SECTION

**WAC 132F-121-035 Hazing prohibited—Sanctions.** (1) Hazing by a student or a student group is prohibited pursuant to WAC 132F-121-110(15).

(2) No student may conspire to engage in hazing or participate in hazing of another. State law provides that hazing is a criminal offense, punishable as a misdemeanor.

(3) Washington state law provides that:

(a) Any student group that knowingly permits hazing is strictly liable for harm caused to persons or property resulting from hazing. If the organization, association, or student living group is a corpo-

ration whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

(b) Any person who participates in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for a period of time determined by the college.

(c) Student groups that knowingly permit hazing to be conducted by its members or by others subject to its direction or control shall be deprived of any official recognition or approval granted by the college.

(d) Student groups found responsible for violating the code of student conduct, college antihazing policies, or state or federal laws relating to hazing or offenses related to alcohol, drugs, sexual assault, or physical assault will be disclosed in a public report issued by the college setting forth the name of the student group, the date the investigation began, the date the investigation ended, a finding of responsibility, a description of the incident(s) giving rise to the finding, and the details of the sanction(s) imposed.

[ ]

AMENDATORY SECTION (Amending WSR 21-10-027, filed 4/26/21, effective 5/27/21)

**WAC 132F-121-110 Student misconduct.** Misconduct for which the campuses may impose sanctions includes, but is not limited to, any of the following:

(1) Discriminatory conduct. Discriminatory conduct which harms or adversely affects any member of the college community because of their race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status, religion; creed; genetic information; sexual orientation; age; gender identity; gender expression; veteran's status; or any other legally protected classification.

(2) Sexual misconduct. (~~The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence as defined in WAC 132F-121-010(2).~~) Sexual misconduct includes sexual harassment, sexual intimidation, sexual violence, domestic violence, and dating violence. Sexual misconduct may also include acts of sexual harassment prohibited under Title IX. See WAC 132F-121-280.

(a) Sexual harassment is a form of sexual discrimination consisting of unwelcome, gender-based, verbal, written, electronic and/or physical conduct. Sexual harassment does not need to be sexual in nature and can include offensive remarks about a person's gender. There are two types of sexual harassment:

(i) Hostile environment sexual harassment occurs when the conduct is sufficiently severe and/or pervasive and so objectively offensive that it has the effect of altering the terms or conditions of employment or substantially limiting the ability of a student to participate in or benefit from the college's educational and/or social programs and/or student housing.

(ii) Quid pro quo harassment occurs when an individual, in a position of real or perceived authority, conditions the receipt of a benefit upon granting of sexual favors.

(b) Sexual exploitation. Taking nonconsensual or abusive sexual advantage of another for the respondent's own advantage or benefit, or

to benefit or take advantage of anyone other than the one being exploited, when the behavior does not otherwise constitute one of the other sexual misconduct offenses described herein. Examples of sexual exploitation may include, but are not limited to:

(i) Invading another person's sexual privacy;

(ii) Prostituting another person;

(iii) Nonconsensual photography and digital or video recording of nudity or sexual activity, or nonconsensual audio recording of sexual activity;

(iv) Unauthorized sharing or distribution of photographs or digital or video recording of nudity or sexual activity, or audio recording of sexual activity, unless otherwise protected by law;

(v) Engaging in voyeurism. A person commits voyeurism if they knowingly view, photograph, record, or film another person, without that person's knowledge and consent, while the person being viewed, photographed, recorded, or filmed is in a place where the person has a reasonable expectation of privacy;

(vi) Knowingly or recklessly exposing another person to a significant risk of sexually transmitted disease or infection; or

(vii) Causing the nonconsensual indecent exposure of another person, as defined by subsection (21) of this section.

(c) Sexual violence. Sexual violence is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.

(i) Nonconsensual sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(ii) Nonconsensual sexual contact is any intentional sexual touching, however slight, with any object or body part, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(d) Consent: Knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact. A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(e) Domestic violence includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law, and, includes conduct that causes emotional, psychological, physical, and sexual trauma.

(f) Dating violence means violence by a person who has been in a romantic or intimate relationship with the victim, and includes conduct that causes emotional, psychological, physical, and sexual trauma. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

(g) Stalking is intentional and repeated following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that person is frightened, intimidated, or harassed, even if the perpetrator lacks such an intent.

(3) Harassment. Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct not otherwise protected by law, that is directed at a person because of ~~((such person's))~~ their membership in a protected ((status)) class and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; genetic information; sexual orientation; gender identity; gender expression; veteran's status; or any other legally protected classification, and includes sexual harassment. Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic forms of communication not otherwise protected by law.

(4) Academic dishonesty. Any act of course-related dishonesty ~~((7))~~ including, but not limited to, cheating or plagiarism.

(a) Cheating includes, but is not limited to, using, or attempting to use, any material, assistance, or source which has not been authorized by the instructor to satisfy any expectation or requirement in an instructional course, or obtaining, without authorization, test questions or answers or other academic material that belong to another.

(b) Plagiarism includes, but is not limited to, using another person's ideas, words, or other work in an instructional course without properly crediting that person.

(c) Academic dishonesty also includes, but is not limited to, submitting in an instructional course either information that is known to be false (while concealing that falsity) or work that is substantially the same as that previously submitted in another course (without the current instructor's approval).

(5) Other dishonesty. Any other act of ~~((college-related))~~ dishonesty related to district operations. Such acts include, but are not limited to:

(a) Forgery, alteration, or misuse of any district document, record, or instrument of identification;

(b) Tampering with an election conducted by or for district students; or

(c) Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a district officer or employee.

(6) Obstruction or disruption of (a) any instruction, research, administration, disciplinary proceeding, or other district activity, whether occurring on or off district property, or (b) any other activ-

ity that is authorized to occur on district property, whether or not actually conducted by the district.

(7) Assault, physical abuse, verbal abuse, threat(s), intimidation, harassment, (~~bullying, cyberbullying, stalking~~) or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property.

(8) Bullying is unwelcome conduct, whether verbal, physical or otherwise, including "cyber" bullying that is objectively offensive and sufficiently severe, or persistent, and/or pervasive, that it has the effect of substantially limiting the ability of an individual to participate in or benefit from the colleges' educational and/or social programs, and/or student housing. Bullying behavior is conduct that is not otherwise protected by law. Bullying may be top-down, perpetuated by someone with greater positional power towards another with lesser positional power; bottom-up, perpetuated by someone with lesser positional power towards someone with greater positional power; or peer-to-peer. Petty slights, annoyances, offensive utterances, and isolated incidents (unless extremely serious) typically do not qualify as bullying.

(9) Cyber misconduct. Cyberstalking, cyberbullying, or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites, to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's email identity, nonconsensual recording, including images or videos of a sexual nature, and nonconsensual distribution of such material.

(10) Stalking. Stalking is intentional and repeated following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that person is frightened, intimidated, or harassed, even if the perpetrator lacks such an intent.

(11) Attempted or actual damage to, or theft or misuse of, real or personal property or money of (a) the district or state, (b) any student or district officer, employee, or organization, or (c) any other person or organization lawfully present on district property, or possession of such property or money after it has been stolen.

~~((9))~~ (12) Failure to comply with the direction of a district officer or employee who is acting in the legitimate performance of their duties, or failure to properly identify oneself to such a person when requested to do so.

~~((10))~~ (13) Participation in any activity which unreasonably disrupts the operations of the district or infringes on the rights of another member of the district community, or leads or incites another person to engage in such an activity.

~~((11))~~ (14) Weapons. Carrying, holding, wearing, exhibiting, displaying or drawing of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device, or any other weapon apparently capable of producing bodily harm is prohibited on the college campus, subject to the following exceptions:



(a) Commissioned law enforcement personnel or legally authorized military personnel while in performance of their duties;

(b) A student with a valid concealed weapons permit may store a firearm in their vehicle parked on campus in accordance with RCW 9.41.050, provided the vehicle is locked and the weapon is concealed from view; or

(c) The president or the president's designee may authorize possession of a weapon on campus upon a showing that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to such terms or conditions incorporated therein.

(d) This ~~((policy))~~ prohibition does not apply to the possession and/or use of disabling chemical sprays when possessed and/or used for self-defense.

~~((12))~~ (15) Hazing. Hazing includes any act committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a student organization, athletic team, or living group, or any pastime or amusement engaged in with respect to such an organization, athletic team, or living group that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student or other person attending a public or private institution of higher education or other postsecondary educational institution in this state, including causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm, regardless of the person's willingness to participate. "Hazing" does not include customary athletic events or other similar contests or competitions. Hazing includes, but is not limited to, 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, bodily danger or physical harm, or serious mental or emotional harm, to any student.

~~((13))~~ (16) Alcohol. The use, possession, delivery, or sale of any alcoholic beverage, except as permitted by law, applicable college policies, or authorized by chancellor or a college president, or being observably under the influence of alcohol.

~~((14))~~ (17) Drugs.

(a) Marijuana. The use, possession, delivery, or sale 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 such use on college premises or in connection with college activities.

(b) Other drugs. The use, possession, delivery, sale 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.

~~((15))~~ (18) Obstruction of the free flow of pedestrian or vehicular movement on district property or at a district activity.

~~((16))~~ (19) Conduct which is disorderly, lewd, or obscene.

~~((17))~~ (20) Breach of the peace, or aiding, abetting, or procuring a breach of the peace.

~~((18))~~ (21) Indecent exposure. The intentional or knowing exposure of a person's genitals or other private body parts when done in a place or manner in which such exposure is likely to cause affront or alarm. Breastfeeding or expressing breast milk is not indecent exposure.

~~(22)~~ (22) The use of tobacco, electronic cigarettes, and related products is prohibited in any building owned, leased or operated by the college, including ~~((twenty-five))~~ 25 feet from entrances, exits, windows that open, and ventilation intakes of such buildings, and where otherwise prohibited. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, water pipes, hookahs, chewing tobacco, and snuff.

~~((19))~~ (23) Theft or other misuse of computer time or other electronic information resources of the district. Such misuse includes but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

(e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of such time or resources to interfere with normal operation of the district's computing system or other electronic information resources;

(g) Use of such time or resources in violation of applicable copyright or other law;

(h) Adding to or otherwise altering the infrastructure of the district's electronic information resources without authorization; or

(i) Failure to comply with the district's electronic use policy.

~~((20))~~ (24) Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to district property, or unauthorized entry onto or into district property.

~~((21))~~ (25) Abuse or misuse of any of the procedures relating to student complaints or misconduct including, but not limited to:

(a) Failure to obey a subpoena;

(b) Falsification or misrepresentation of information;

(c) Disruption, or interference with the orderly conduct, of a proceeding;

(d) Interfering with someone else's proper participation in a proceeding;

(e) Destroying or altering potential evidence, or attempting to intimidate or otherwise improperly pressure a witness or potential witness;

(f) Attempting to influence the impartiality of, or harassing or intimidating, a student conduct committee member; or

(g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code.

~~((22))~~ (26) Safety violations. The operation of any motor vehicle on district property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person. Safety violation includes any nonaccidental conduct that interferes with or otherwise compromises any college 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.

~~((23))~~ (27) Violation of any other district rule, requirement, or procedure including, but not limited to, any that is posted in

electronic form, the district's traffic and parking rules, or the requirements for carpool parking.

~~((24))~~ (28) Violation of any federal, state, or local law, rule, or regulation, including any hate crime.

~~((25))~~ (29) Ethical violation. The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

In addition to initiating discipline proceeding for violation of the student conduct code, the college may refer any violations of federal, state or local laws to civil and criminal authorities for disposition. The college shall proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

~~((26))~~ (30) Attempting to commit any of the foregoing acts of misconduct or aiding, abetting, inciting, encouraging, or assisting another person to commit any of the foregoing acts of misconduct.

~~((27))~~ (31) Retaliation. Retaliation against any individual for reporting, providing information, exercising one's rights or responsibilities, or otherwise being involved in the process of responding to, investigating, or addressing allegations or violations of federal, state or local law, or college policies including, but not limited to, student conduct code provisions prohibiting discrimination and harassment.

[Statutory Authority: RCW 28B.50.140 and 28B.50.090(3). WSR 21-10-027, § 132F-121-110, filed 4/26/21, effective 5/27/21. Statutory Authority: RCW 28B.50.140(13). WSR 16-04-025, § 132F-121-110, filed 1/25/16, effective 2/25/16; WSR 13-11-127, § 132F-121-110, filed 5/21/13, effective 6/21/13. Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. WSR 03-16-015, § 132F-121-110, filed 7/28/03, effective 8/28/03.]

AMENDATORY SECTION (Amending WSR 03-16-015, filed 7/28/03, effective 8/28/03)

**WAC 132F-121-130 Disciplinary jurisdiction.** ~~((1) Disciplinary action may be instituted against a student for any misconduct that is a violation of this student code, regardless of whether there is a related civil or criminal court proceeding. Proceedings under these rules may precede, accompany, or follow any such court proceeding.~~

~~(2) Except as provided in subsection (3), a student is subject to disciplinary action under these rules for any act of misconduct which (a) occurs on or damages district property or (b) occurs during any event or activity that the district conducts, participates in, or sponsors, regardless of where it occurs.~~

~~(3) The district reserves jurisdiction and authority to take disciplinary action for student misconduct beyond that described in subsection (2) when the misconduct demonstrates such flagrant disregard for the safety or well-being of others that it endangers the district community.)~~ In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state, or local laws to civil and criminal authorities for disposition. The college shall proceed with student discipli-

nary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

(1) The student conduct code shall apply to conduct by students and student groups that occurs:

(a) on college premises; or

(b) At or in connection with college-sponsored activities; or

(c) To off-campus conduct that in the judgment of the college adversely affects the college community or the pursuit of its objectives.

(2) Jurisdiction extends to, but is not limited to, locations in which students or student groups are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the associated students, athletic events, training internships, cooperative and distance education, online education, practicums, supervised work experiences or any other college-sanctioned social or club activities and college-sanctioned housing.

(3) Students are responsible for their conduct from notification of admission to the college through the actual receipt of a certificate or degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment.

(4) These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending.

(5) The student conduct officer has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct by students or student groups that occurs off-campus.

[Statutory Authority: RCW 28B.50.100, [28B.50].130, and/or [28B.50].140. WSR 03-16-015, § 132F-121-130, filed 7/28/03, effective 8/28/03.]

AMENDATORY SECTION (Amending WSR 21-10-027, filed 4/26/21, effective 5/27/21)

**WAC 132F-121-280 Prohibited conduct under Title IX.** Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the Seattle Colleges may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of "sexual harassment."

For purposes of this supplemental procedure, "sexual harassment" encompasses the following conduct:

(1) Title IX quid pro quo harassment. (~~(A Seattle Colleges' student conditioning)~~) Quid pro quo harassment occurs when a student in their capacity as an employee of the Seattle Colleges conditions the provision of an aid, benefit, or service of the Seattle Colleges on an individual's participation in unwelcome sexual conduct.

(2) Title IX hostile environment. Unwelcome sexual or gender-based conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Seattle Colleges' educational programs or activities, or employment.

(3) Sexual assault. Sexual assault includes the following conduct:

(a) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(b) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(c) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of (~~eighteen~~) 18.

(d) Statutory rape. Consensual sexual intercourse between someone who is (~~eighteen~~) 18 years of age or older and someone who is under the age of (~~sixteen~~) 16.

(4) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(5) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

(6) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

[Statutory Authority: RCW 28B.50.140 and 28B.50.090(3). WSR 21-10-027, § 132F-121-280, filed 4/26/21, effective 5/27/21.]

AMENDATORY SECTION (Amending WSR 21-10-027, filed 4/26/21, effective 5/27/21)

**WAC 132F-121-330 Evidence.** The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(1) Relevance: The committee chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(2) Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

~~(4) ((Cross-examination required: If a party or witness does not submit to cross-examination during the live hearing, the committee must not rely on any statement by that party or witness in reaching a determination of responsibility.~~

~~(5))~~ No negative inference: The committee may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.

~~((6))~~ (5) Privileged evidence: The committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/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: RCW 28B.50.140 and 28B.50.090(3). WSR 21-10-027, § 132F-121-330, filed 4/26/21, effective 5/27/21.]

AMENDATORY SECTION (Amending WSR 21-10-027, filed 4/26/21, effective 5/27/21)

**WAC 132F-121-350 Appeals.** (1) ~~((The parties shall))~~ All parties, including the student conduct officer in their capacity as a representative of the college, have the right to appeal from the ((initial order's)) determination of responsibility and/or from a dismissal ((of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and time frames set forth in WAC 132F-121-170)), in whole or part, of a formal complaint during the investigative or hearing process. Appeals must be in writing and filed with the president's office within 21 days of service of the initial order or notice of dismissal. Appeals must

identify the specific findings of fact and/or conclusions of law in the initial order or dismissal that the appealing party is challenging and must contain argument as to why the appeal should be granted. Failure to file a timely appeal constitutes a waiver of the right to appeal and the initial order or dismissal shall be deemed final.

(2) Upon receiving a timely appeal, the president's office will serve a copy of the appeal on all parties, who will have 10 days from the date of service to submit written responses to the president's office addressing issues raised in the appeal. Failure to file a timely response constitutes a waiver of the right to participate in the appeal. Upon receipt of written responses, the president's office shall serve copies of the responses to the other parties.

(3) Parties receiving a copy of the responses shall have five days in which to submit a written reply addressing issues raised in the responses to the president's office.

(4) The president or their delegate, based on their review of parties' submissions and the hearing or investigative record, will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether a dismissal if affirmed or denied, or if the disciplinary sanctions and ~~((condition(s)))~~ conditions imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth ~~((any))~~ the new disciplinary sanctions and ~~((or condition(s)))~~ conditions.

~~((3))~~ (5) The president's office shall serve the final decision on the parties simultaneously.

(6) All administrative decisions reached through this process may be judicially appealed pursuant to applicable provisions of chapter 34.05 RCW including, but not limited to, the timelines set forth in RCW 34.05.542.

[Statutory Authority: RCW 28B.50.140 and 28B.50.090(3). WSR 21-10-027, § 132F-121-350, filed 4/26/21, effective 5/27/21.]