

## WSR 24-04-099

## PROPOSED RULES

## WASHINGTON STATE UNIVERSITY

[Filed February 7, 2024, 10:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-01-137.

Title of Rule and Other Identifying Information: Chapter 504-26 WAC, Standards of conduct for students.

Hearing Location(s): On March 19, 2024, at 4:00 p.m. Join Zoom meeting from PC, Mac, Linux, iOS, or Android <https://wsu.zoom.us/j/99639701507?pwd=eDVwM2pEMlhLaklKMnlzUkN5L1RuQT09>, Meeting ID 996 3970 1507, Passcode 207189; or join by telephone +1-253-215-8782, +1-669-900-9128, or +1-646-558-8656; or One-tap mobile +12532158782,,99639701507# or +16699009128,,99639701507# (enter meeting ID and passcode when prompted). No in-person hearing locations are being scheduled for this hearing.

Date of Intended Adoption: April 19, 2024.

Submit Written Comments to: Deborah Bartlett, Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, email [prf.forms@wsu.edu](mailto:prf.forms@wsu.edu), by March 19, 2024.

Assistance for Persons with Disabilities: Contact Joy Faerber, phone 509-335-2005, email [prf.forms@wsu.edu](mailto:prf.forms@wsu.edu), by March 15, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington State University (WSU) is updating the rules regarding standards of conduct for students, chapter 504-26 WAC.

Reasons Supporting Proposal: WSU is modifying, clarifying, and updating WSU's standards of conduct for students regarding composition of conduct boards and academic integrity hearings to improve WSU's ability to process conduct and academic integrity violation cases in a timely manner.

Statutory Authority for Adoption: RCW 28B.30.150.

Rule is necessary because of federal law, Education Amendments Act of 1972, 20 U.S.C. §§ 1681 - 1688 (2018).

Name of Proponent: Public.

Name of Agency Personnel Responsible for Drafting: Karen Metzner, Director, Center for Community Standards, French Administration 122, Pullman, WA 99164-1013, 509-335-4532; Implementation and Enforcement: Jenna Hyatt, Dean of Students and Interim WSU Pullman Vice Chancellor of Student Affairs, French Administration 122, Pullman, WA 99164-1013, 509-335-5757.

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. WSU does not consider these rules to be significant legislative rules.

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

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: Title IX (Education Amendments Act of 1972, 2018).

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules adopt, amend, or

repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: This rule change adjusts how many individuals are required to sit on university conduct boards and academic integrity hearing boards. The rule relates to agency hearings which are not subject to violation by a nongovernment party. Title IX rules require WSU to hold timely hearings. The rule is intended to make it easier for WSU to hold conduct hearings and ensure that all hearings are held in a timely manner.

Scope of exemption for rule proposal:

Is fully exempt.

February 7, 2024  
Deborah L. Bartlett, Director  
Procedures, Records, and Forms  
and University Rules Coordinator

## OTS-5170.2

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

**WAC 504-26-010 Definitions.** Words and phrases used in the standards of conduct regardless of their associated gender identity include all genders. Words and phrases used in the standards of conduct in the singular or plural encompass both the singular and the plural, unless the context clearly indicates otherwise. For purposes of the standards of conduct, the following definitions apply:

(1) Academic integrity hearing board. Teaching faculty and student representatives who (~~, collectively,~~) are authorized by the university to review an instructor's determination that a student violated university academic integrity policies and whether or not the outcome proposed by the instructor is in keeping with the instructor's published policies.

(2) Academic integrity violation. A violation of the university's academic integrity expectations, which is defined as:

(a) Use of unauthorized materials in taking quizzes, tests, or examinations, or giving or receiving unauthorized assistance by any means, including talking, copying information from another student, using electronic devices, or taking an examination for another student.

(b) Use of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments.

(c) Acquisition or possession of tests or other academic material belonging to a member of the university faculty or staff when acquired without the permission of the university faculty or staff member.

(d) Fabrication, which is the intentional invention or counterfeiting of information in the course of an academic activity. Fabrication includes, but is not limited to:

(i) Counterfeiting data, research results, information, or procedures with inadequate foundation in fact. The office of research must be consulted in matters involving alleged research misconduct as that term is defined in the university's executive policy 33.

(ii) Counterfeiting a record of internship or practicum experiences.

(iii) Submitting a false excuse for absence or tardiness or a false explanation for failing to complete a class requirement or scheduled examination at the appointed date and time.

(e) Engaging in any behavior for the purpose of gaining an unfair advantage specifically prohibited by a faculty member in the course syllabus or class discussion.

(f) Scientific misconduct. Falsification, fabrication, plagiarism, or other forms of dishonesty in scientific and scholarly research are prohibited. Complaints and inquiries involving cases of scientific misconduct are managed according to the university's policy for responding to allegations of scientific misconduct. A finding of scientific misconduct is subject to sanctions by CCS. The policy for responding to allegations of scientific misconduct (executive policy 33) may be reviewed by contacting the office of research.

(g) Unauthorized collaboration on assignments.

(h) Intentionally obtaining unauthorized knowledge of examination materials.

(i) Plagiarism. Presenting the information, ideas, or phrasing of another person as the student's own work without proper acknowledgment of the source. This includes submitting a commercially prepared paper or research project or submitting for academic credit any work done by someone else. The term "plagiarism" includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

(j) Unauthorized multiple submission of the same work.

(k) Sabotage of others' work.

(l) Tampering with or falsifying records.

(m) Violating any other academic rule or standards specified in published course policies.

(3) Appeals board. The group of students, faculty, and staff, collectively, authorized in accordance with WAC 504-26-115 to consider appeals from a university conduct board's or conduct officer's determination as to whether a student has violated the standards of conduct and any sanctions assigned.

(4) Brief adjudication. The process by which a conduct officer may adjudicate student conduct matters that are not resolving allegations that would constitute Title IX sexual harassment within the university's Title IX jurisdiction, and where possible sanctions do not include suspension for more than 10 instructional days, expulsion, loss of recognition, or revocation of degree. Also referred to as a "conduct officer hearing" or "brief adjudicative proceeding."

(5) CCR. The university's office of compliance and civil rights.

(6) CCS. The university's center for community standards.

(7) Complainant. Any person who is the alleged victim of prohibited student conduct, whether or not such person has made an actual complaint.

(8) Conduct board. The group (~~of students, faculty, and staff, collectively~~) or individual authorized in accordance with WAC 504-26-110 to adjudicate certain student conduct matters.

(9) Conduct officer. A university official authorized by the dean of students or their designee to initiate, manage, and/or adjudicate certain student conduct matters in accordance with WAC 504-26-401 and 504-26-402.

(10) Faculty member. For purposes of this chapter, any person hired by the university to conduct classroom or teaching activities or who is otherwise considered by the university to be a member of its faculty.

(11) Full adjudication. The process by which a conduct board adjudicates matters involving possible suspension of greater than 10 instructional days, expulsion, loss of recognition, revocation of degree, or other matters as determined by the university. Also referred to as "formal adjudication," "formal (or full) adjudicative proceeding," or "conduct board hearing."

(12) Gender identity. Having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to the person at birth.

(13) Member of the university community. Includes any person who is a student, faculty member, university official, any person employed by the university, or any person with a relationship with the university, including guests of and visitors to the university. A person's status in a particular situation is determined by the dean of students or designee.

(14) Parties. The parties to a student conduct proceeding must include the university and the respondent. The parties in a student conduct matter where the allegations, if true, would constitute Title IX sexual harassment within the university's Title IX jurisdiction must also include the complainant(s). The university may designate other complainants as parties to conduct proceedings including, but not limited to, harmed parties. The dean of students or their designee determines party status for complainants.

(15) Recognized or registered student organization. A group of students, collectively, that has complied with the formal requirements for university recognition or registration.

(16) Respondent. A student or recognized or registered student organization alleged to have violated these standards of conduct.

(17) Standards of conduct. The standards of conduct for students outlined in this chapter.

(18) Student. For the purposes of this chapter, any person who:

(a) Is enrolled in at least one undergraduate, graduate, or professional studies course at the university;

(b) Has been notified of their acceptance for admission but has not yet registered for their course(s);

(c) Is eligible to reenroll in classes without reapplying.

(19) Title IX. Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 and its implementing 34 C.F.R. Part 106.

(20) University. Washington State University.

(21) University official. Any person employed by the university, performing assigned administrative or professional responsibilities.

(22) University premises. All land, buildings, facilities, vehicles, websites, and other property in the possession of or owned, used, or controlled by the university (including adjacent streets and

sidewalks), including its study abroad program sites, as well as university-sponsored or hosted online platforms.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

**WAC 504-26-100 Presiding officers.** Full adjudicative proceedings are conducted by the conduct board and are presided over by an individual who is licensed to practice law in the state of Washington and has judicial training. The presiding officer's role is to ensure a fair and impartial process and is limited to making procedural and evidentiary rulings and handling logistical and other matters related to facilitating the proceedings to ensure compliance with legal requirements. The presiding officer must transmit a full and complete record of the proceedings to CCS and the conduct board, including such comments upon demeanor of witnesses as the presiding officer deems relevant, in accordance with RCW 34.05.461. The presiding officer does not vote (~~and is not considered for purposes of creating a quorum of the conduct board~~).

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

**WAC 504-26-105 Recruitment, appointment, and term of conduct and appeals board members.** A committee comprised of students, staff, and/or faculty members and convened by the dean of students selects a pool of members of the university community to serve as conduct board members and appeals board members. Pool members are approved by the university president and must be in good standing with the university. Pool members serve a maximum term of four calendar years but may apply to serve another four-year term after a break of two years. Terms of pool members are staggered. CCS is not involved in the (~~recruitment or application~~) selection processes for board members. CCS may assist in the recruitment process for board members.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

**WAC 504-26-110 Composition of conduct board.** A conduct board (~~must consist of at least three members. A quorum of three is needed to hear a matter~~) may consist of one person or multiple persons selected from the pool of approved university community members in accordance with WAC 504-26-105. The presiding officer is not a member of the conduct board (~~and therefore is not considered for purposes of determining whether there is a quorum. A minimum of one conduct board member hearing a matter must be a student. The remaining members may be students, or full-time or part-time faculty or staff of any rank or classification. When the complainant or respondent is enrolled at a particular campus, at least one member of the conduct board must be from that campus~~). No conduct board member may serve on a case if the

member previously served on a board in a case involving the same complainant or respondent.

AMENDATORY SECTION (Amending WSR 22-23-142, filed 11/21/22, effective 1/1/23)

**WAC 504-26-415 Procedure for academic integrity violations.** (1) Initial hearing.

(a) When a responsible instructor believes that an academic integrity violation has occurred, the instructor must assemble the evidence and, upon reasonable notice to the respondent of the date, time, and nature of the allegations, make reasonable attempts to meet with the respondent suspected of committing an academic integrity violation.

(b) If the respondent admits that they committed an academic integrity violation, the instructor assigns an outcome in keeping with published course policies and notifies CCS in writing, including the allegations, the respondent's admission, and the sanctions assigned.

(c) If the instructor is unable to meet with the respondent or if the respondent disputes the allegation(s) and/or the outcome proposed by the instructor, the instructor must make a determination as to whether the respondent did or did not commit an academic integrity violation based on a preponderance of the evidence standard, meaning that it is more likely than not that the violation occurred. If the instructor finds that the respondent was in violation, the instructor must provide the respondent and CCS with a written determination, the evidence relied upon, and the sanctions assigned.

(d) The respondent has 21 calendar days from the date of the decision letter to request review of the instructor's determination and/or sanction(s) assigned to the academic integrity hearing board.

(2) Review.

(a) Upon timely request for review by a respondent who has been found by their instructor to have committed an academic integrity violation, the academic integrity hearing board must make a separate and independent determination of whether or not the respondent is responsible for committing an academic integrity violation and/or whether the outcome proposed by the instructor is in keeping with the instructor's published course policies.

(b) The academic integrity hearing board must consist of a minimum of ~~((three))~~ one member ~~((s. A quorum of three is needed to review a matter. A minimum of one academic integrity hearing board member must be an enrolled student. The remaining members may be students, or full-time or part-time faculty of any rank or classification))~~. No academic integrity hearing board member may serve on a case if the member previously served on a board in a case involving the same student.

(c) The academic integrity hearing board is empowered to provide an appropriate remedy for a respondent including arranging a withdrawal from the course, having the respondent's work evaluated, or changing a grade where it finds that:

(i) The respondent is not responsible for violating academic integrity policies; or

(ii) The outcome assigned by the instructor violates the instructor's published policies.

(d) Academic integrity hearing board proceedings.

(i) Any respondent appealing a responsible instructor's finding of an academic integrity violation is provided written notice of an academic integrity hearing board hearing in accordance with WAC 504-26-035. The written notice must include:

(A) The specific complaint, including the university or instructor academic integrity policy or regulation allegedly violated;

(B) The approximate time and place of the alleged act that forms the factual basis for the violation;

(C) The time, date, and place of the hearing;

(D) A list of the witnesses who may be called to testify, to the extent known; and

(E) A description of all documentary and real evidence to be used at the hearing, to the extent known, including a statement that the respondent must have the right to inspect the documentation.

(ii) Time for hearings.

(A) Academic integrity hearing board hearings are scheduled not less than seven calendar days after the respondent has been sent notice of the hearing.

(B) Requests to extend the time and/or date for hearing must be addressed to the chair of the academic integrity hearing board, and must be copied to CCS. A request for extension of time is granted only upon a showing of good cause.

(iii) Academic integrity hearing board hearings are conducted according to the following procedures, except as provided by (d) (iv) of this subsection:

(A) Academic integrity hearing board hearings are conducted in private.

(B) The instructor, respondent, and their advisor, if any, are allowed to attend the entire portion of the hearing at which information is received (excluding deliberations). Admission of any other person to the hearing is at the discretion of the academic integrity hearing board chair.

(C) In academic integrity hearings involving more than one respondent, the academic integrity hearing board chair may permit joint or separate hearings at the chair's discretion.

(D) In hearings involving graduate respondents, board memberships are comprised to include graduate students and graduate teaching faculty to the extent possible.

(E) The responsible instructor and the respondent may arrange for witnesses to present relevant information to the academic integrity hearing board. Witnesses must provide written statements to the conduct officer at least two weekdays before the hearing. The respondent is responsible for informing their witnesses of the time and place of the hearing. Witnesses provide information to and answer questions from the academic integrity hearing board, the responsible instructor, and the respondent, as appropriate. The respondent and/or responsible instructor may submit written questions to be answered by each other or by other witnesses. Written questions are submitted to, and asked by, the academic integrity hearing board chair. This method is used to preserve the educational tone of the hearing and to avoid creation of an unduly adversarial environment, and to allow the board chair to determine the relevancy of questions. Questions concerning whether potential information may be received are resolved at the discretion of the academic integrity hearing board chair, who has the discretion to determine admissibility of information.

(F) Pertinent records, exhibits, and written statements may be accepted as information for consideration by an academic integrity hearing board at the discretion of the chair.

(G) Questions related to the order of the proceedings are subject to the final decision of the chair of the academic integrity hearing board.

(H) After the portion of the hearing concludes in which all pertinent information is received, the academic integrity hearing board determines (by majority vote) whether or not the respondent is more likely than not responsible for violating the academic integrity policy and/or whether the outcome proposed by the instructor is in keeping with the instructor's published course policies.

(I) The respondent is notified of the academic integrity hearing board's decision within 20 calendar days from the date the matter is heard. The respondent must receive written notice of the decision, the reasons for the decision (both the factual basis therefore and the conclusions as to how those facts apply to the academic integrity policies), and the sanction.

(iv) If a respondent to whom notice of the hearing has been sent (in the manner provided above) does not appear at the hearing, the information in support of the complaint is presented and considered in the respondent's absence, and the board may issue a decision based upon that information.

(v) The academic integrity hearing board may for convenience, or to accommodate concerns for the personal safety, well-being, and/or fears of confrontation of any person, provide separate facilities, and/or permit participation by telephone, audio tape, written statement, or other means, as determined in the sole judgment of the chair of the academic integrity hearing board to be appropriate.

(vi) The written decision of the academic integrity hearing board is the university's final order. There is no appeal from findings of responsibility or outcomes assigned by academic integrity hearing board.

(3) If the reported violation is the respondent's first offense, CCS ordinarily requires the respondent to attend a workshop separate from, and in addition to, any academic outcomes assigned by the instructor.

(4) If the reported violation is the respondent's second offense, the respondent is ordinarily referred for a full adjudicative hearing in accordance with WAC 504-26-403, to determine appropriate sanctions, which may include expulsion from the university.

(5) If the instructor or academic integrity hearing board determines that the act of academic dishonesty for which the respondent is found responsible is particularly egregious in light of all attendant circumstances, the instructor or academic integrity hearing board may direct that the respondent's case be referred to the conduct board with a recommendation for expulsion from the university even if it is the respondent's first offense.

(6) Because instructors and departments have a legitimate educational interest in the outcomes, reports of academic integrity hearing board and/or conduct board hearings must be reported to the responsible instructor and the chair or dean.