

WSR 24-16-068

EMERGENCY RULES

TACOMA COMMUNITY COLLEGE

[Filed July 31, 2024, 10:50 a.m., effective July 31, 2024, 10:50 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To bring Tacoma Community College's (college) student conduct code into compliance with new Title IX federal regulations, recently adopted by the United States Department of Education under 34 C.F.R. § 106 and the anti-hazing provisions of SHB 1751 and RCW 28B.10.900 - [28B.10].902, and to bring adjudicative procedures into compliance with the Administrative Procedure Act (APA), chapter 34.05 RCW. The college board of trustees adopted these emergency rules in an open public meeting on [no date provided by agency], and approved the emergency rules becoming effective upon filing.

Citation of Rules Affected by this Order: New WAC 132V-121-090, 132V-121-100, 132V-121-110, 132V-121-120, 132V-121-130, 132V-121-140, 132V-121-150, 132V-121-160, 132V-121-170 and 132V-121-180; and amending WAC 132V-121-020, 132V-121-040, 132V-121-050, 132V-121-060, 132V-121-070, and 132V-121-080.

Statutory Authority for Adoption: RCW 28B.50.140.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: On April 19, 2024, the United States Department of Education released its final rule under Title IX. This rule requires institutions of higher education to adopt student disciplinary procedures addressing sex discrimination, including sex-based harassment. The deadline for implementing this new rule is August 1, 2024.

In addition to complying with the new final rule, the college is updating its student conduct code to bring it into compliance with the anti-hazing provision of SBH [SHB] 1751 and RCW 28B.10.900 - [28B.10].902 and to align procedures with the APA under chapter 34.05 RCW. These new definitions of prohibited behavior and updated procedures are necessary to address conduct that may pose a threat to the general welfare of the college community and/or college operations and to protect the constitutional and procedural rights of individual students.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 5, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, 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 17, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 11, Amended 0, Repealed 0.

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

Date Adopted: July 29, 2024.

Natalie Boes  
Rules Coordinator

**OTS-5638.1**

AMENDATORY SECTION (Amending WSR 11-24-031, filed 12/1/11, effective 1/1/12)

**WAC 132V-121-020 ((Title-)) Authority.** ((This chapter will be known as the code of student conduct of Tacoma Community College.)) The Tacoma Community College board of trustees, acting pursuant to RCW 28B.50.140(14), delegates to the president of the college the authority to administer student disciplinary action. The president is authorized to delegate or reassign any and all duties and responsibilities as set forth in this chapter as may be reasonably necessary. Administration of the disciplinary procedures is the responsibility of the vice president of student affairs or their designee. Except in cases involving allegations of sex discrimination, including sex-based harassment, the student conduct officer, or delegate, shall serve as the principal investigator and administrator for alleged violations of this code.

AMENDATORY SECTION (Amending WSR 11-24-031, filed 12/1/11, effective 1/1/12)

**WAC 132V-121-030 ((Definitions-)) Statement of jurisdiction.** ((The definitions and phrases in this section apply throughout this chapter.

**Academic misconduct** is the violation of college policies (e.g., tampering with grades, taking part in obtaining or distributing any part of an exam prior to the scheduled testing time).

**Calendar day** means all days of the month, not just instructional days. In cases where a specified due date falls on a weekend or holiday, the working day closest to the date due will be used (i.e., if the seventh day deadline falls on Saturday the document will be due on Friday).

**Cheating** includes, but is not limited to, when a student misrepresents that he or she mastered information on an academic exercise.

**College** means Tacoma Community College main campus and any other campus or college facility which may be created by the board of trustees.

**College employee** includes any person employed by the college performing assigned administrative or professional responsibilities.

**College premises** includes all land, buildings, facilities and other property in the possession of or owned, used, controlled, or leased/rented by the college, and agencies or institutions that have educational agreements with the college, extending to associated electronic communication including websites and distance learning classroom environments.

~~**Complainant** means any person who alleges that a student violated the code of student conduct.~~

~~**Conduct hold** means a block prohibiting the student from registering for classes until he or she receives clearance from the student conduct administrator.~~

~~**Fabrication** is the use of invented information or the falsification of research or other findings with the intent to deceive or mislead.~~

~~**Faculty** means any person hired by the college to conduct classroom or teaching activities or who is otherwise considered by the college to be a member of its faculty.~~

~~**Instructional day** means any regularly scheduled instructional day designated in the instructional calendar, including summer quarter, as a day when classes are held or during final examination week. Saturdays and Sundays are not regularly scheduled instructional days.~~

~~**May** is used in the permissive sense.~~

~~**Member of the college community** includes any person who is a student, faculty member, college employee, or volunteer. A person's status in a particular situation will be determined by the student conduct administrator.~~

~~**Plagiarism** includes, but is not limited to, the inclusion of someone else's words, ideas or data as one's own work.~~

~~**Policy** means the written regulations of the college as found in, but not limited to, the code of student conduct, college website, college catalog, and college administrative manual.~~

~~**Respondent** means any student accused of violating the code of student conduct.~~

~~**Student conduct administrator** means a college employee authorized by the vice president for student services to impose consequences upon any student(s) found to have violated the code of student conduct.~~

~~**Student conduct appeal board** means members of the college community authorized by the vice president for student services to hear an appeal by a student of a student conduct administrator's determination and imposed consequences for an alleged violation of the code of student conduct.~~

~~**Student** means any person who is admitted to or enrolled for classes through the college, including any person in affiliated distance learning courses. Admitted or enrolled students who withdraw after allegedly violating the code are considered students.~~

~~**Will** is used in the imperative sense.)) (1) The student conduct code shall apply to conduct by students or student groups that occurs:~~

~~(a) On college premises;~~

~~(b) At or in connection with college programs or activities; or~~

~~(c) Off college premises, if in the judgment of the college, the conduct has an adverse impact on the college community, the pursuit of its objectives, or the ability of a student or staff to participate in the college's programs and activities.~~

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

~~(3) Students are responsible for their conduct from the time they gain admission to the college through the last day of enrollment or award of any degree or certificate, even though conduct may occur be-~~

fore classes begin or after classes end, as well as during the academic year and during periods between terms of 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 college 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.

(6) In addition to initiating disciplinary 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 reserves the right to pursue student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

AMENDATORY SECTION (Amending WSR 11-24-031, filed 12/1/11, effective 1/1/12)

**WAC 132V-121-040** ~~((Code of student conduct authority.))~~ **State-ment of student rights.** ~~((1) The vice president for student services will develop policies for the administration of the student conduct system and procedural rules for the conduct of student conduct appeal board hearings that are consistent with provisions of the code of student conduct.~~

~~(2) Decisions made by the student conduct appeal board and/or student conduct administrator will be final.))~~ As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the college community.

The following enumerated rights are guaranteed to each student within the limitations of statutory law and college policy, which are deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

(a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and student affairs, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students shall be protected from academic evaluation that is arbitrary, prejudiced, or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

(d) Students have the right to a learning environment that is free from unlawful discrimination, inappropriate and disrespectful conduct, and any and all harassment, including sex discrimination.

(2) Due process.

(a) The rights of students to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures is guaranteed.

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(c) A student accused of violating this code of student conduct is entitled, upon request, to procedural due process as set forth in this chapter.

AMENDATORY SECTION (Amending WSR 11-24-031, filed 12/1/11, effective 1/1/12)

**WAC 132V-121-050** ~~((Jurisdiction of the college code of student conduct.))~~ **Definitions.** ~~((1) The college code of student conduct will apply to conduct that occurs on college premises, at college sponsored activities, and to off-campus conduct that adversely affects the college community and/or the pursuit of its objectives.~~

~~(2) Each student will be responsible for his/her conduct beginning at the time of application for admission and for the duration of their enrollment through the college, even though conduct may occur before classes begin or after classes end. The code of student conduct will apply to a student's conduct even if the student withdraws from school after the alleged misconduct has occurred.~~

~~(3) The vice president for student services will decide whether the code of student conduct will be applied to conduct occurring off-campus, on a case-by-case basis.~~

~~(4) Violation of law and college discipline.~~

~~(a) College disciplinary proceedings are separate and independent of any civil or criminal proceedings.~~

~~(b) The college will cooperate with law enforcement and other agencies in the enforcement of criminal law on campus. Members of the college community, acting in their personal capacities, are free to interact with governmental representatives as they deem appropriate.))~~  
The following definitions shall apply for the purposes of this student conduct code:

(1) "Business day" means a weekday, excluding weekends and college holidays.

(2) "College premises" shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college.

(3) "Complainant" means the following individuals who are alleged to have been subjected to conduct that would constitute sex discrimination:

(a) A student or employee; or

(b) A person other than a student or employee who was participating or attempting to participate in the college's education program or activity at the time of the alleged discrimination.

(4) "Conduct review officer" is a college administrator designated by the president who is responsible for reviewing or referring appeals of student disciplinary actions as specified in this code.

(5) "Disciplinary action" is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code. A written or verbal warning is not disciplinary action.

(6) "Disciplinary appeal" is the process by which an aggrieved party can appeal the discipline imposed or recommended by the student conduct officer. Disciplinary appeals from a suspension in excess of 10 instructional days or a dismissal from the college are heard by the student conduct committee. Appeals of all other disciplinary action shall be reviewed by a conduct review officer through brief adjudicative proceedings.

(7) "Filing" is the process by which a document is officially delivered to a college official responsible for facilitating a disciplinary review. Unless otherwise provided, filing shall be accomplished by:

(a) Hand delivery of the document to the specified college official or college official's assistant; or

(b) By sending the document by email and first class mail to the specified college official's office and college email address. Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official.

(8) "Pregnancy or related conditions" means:

(a) Pregnancy, childbirth, termination of pregnancy, or lactation;

(b) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or

(c) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

(9) "President" is the president of the college. The president is authorized to:

(a) Delegate any of their responsibilities as set forth in this chapter as may be reasonably necessary; and

(b) Reassign any and all duties and responsibilities as set forth in this chapter as may be reasonably necessary.

(10) "Program" or "programs and activities" means all operations of the college.

(11) "Relevant" means related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decision maker in determining whether the alleged sex discrimination occurred.

(12) "Remedies" means measures provided to a complainant or other person whose equal access to the college's educational programs and activities has been limited or denied by sex discrimination. These measures are intended to restore or preserve that person's access to educational programs and activities after a determination that sex discrimination has occurred.

(13) "Respondent" is a student who is alleged to have violated the student conduct code.

(14) "Service" is the process by which a document is officially delivered to a party. Unless otherwise provided, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) By sending the document by email and by certified mail or first class mail to the party's last known address. Service is deemed complete upon hand delivery of the document or upon the date that the document is emailed and deposited in the mail, whichever is first.

(15) "Student" includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw after allegedly violating the code,

who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered a "student" for purposes of this chapter.

(16) "Student conduct officer" is a college administrator designated by the president to be responsible for implementing and enforcing the student conduct code.

(17) "Student employee" means an individual who is both a student and an employee of the college. When a complainant or respondent is a student employee, the college must make a fact-specific inquiry to determine whether the individual's primary relationship with the college is to receive an education and whether any alleged student conduct code violation including, but not limited to, sex-based harassment, occurred while the individual was performing employment-related work.

(18) "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.

(19) "Supportive measures" means reasonably available, individualized and appropriate, nonpunitive and nondisciplinary measures offered by the college to the complainant or respondent without unreasonably burdening either party, and without fee or charge for purposes of:

(a) Restoring or preserving a party's access to the college's educational program or activity, including measures that are designed to protect the safety of the parties or the college's educational environment; or providing support during the college's investigation and disciplinary procedures, or during any informal resolution process; or

(b) Supportive measures may include, but are not limited to: Counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of campus; restriction on contact applied to one or more parties; a leave of absence; change in class, work, housing, or extra-curricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

(20) "Title IX coordinator" is the administrator responsible for processing complaints of sex discrimination, including sex-based harassment, overseeing investigations and informal resolution processes, and coordinating supportive measures, in accordance with college policy.

AMENDATORY SECTION (Amending WSR 11-24-031, filed 12/1/11, effective 1/1/12)

**WAC 132V-121-060 ((Standards for)) Prohibited student conduct.**

~~((Any student found to have committed or to have attempted to commit the following misconduct is subject to the disciplinary consequences outlined in WAC 132V-121-070, Code of student conduct procedures.~~

~~(1) Acts of dishonesty including, but not limited to, the following (see Tacoma Community College Administrative Procedure for Academic Dishonesty):~~

~~(a) Cheating, plagiarism, fabrication, academic misconduct or other forms of academic dishonesty.~~

~~(b) Withholding information or furnishing false information to any college official, faculty member or office.~~

~~(c) Forgery, alteration or misuse of any college document, record, or instrument of identification.~~

~~(2) Disruption or obstruction of teaching, research, administration, disciplinary proceedings, other college activities, including its public service functions on or off campus, or of other authorized noncollege activities when the conduct occurs on college premises.~~

~~(3) Physical abuse, verbal abuse, threats, intimidation, harassment, coercion, or other conduct which threatens or endangers the health or safety of any person, including reckless driving.~~

~~(4) Stalking which is a pattern of unwanted behavior that is directed at a specific person that would cause a reasonable person alarm and/or fear.~~

~~(5) Sexual harassment which is defined as engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when such behavior offends the recipient, causes discomfort or humiliation, or interferes with school-related performance (as stated in chapter 132V-300 WAC, Grievance Procedure Sexual Harassment, Sex Discrimination and Disability Discrimination).~~

~~(6) Attempted or actual theft of and/or damage to property of the college or property of a member of the college community on campus.~~

~~(7) Hazing which means any method of initiation into a student group or any pastime or amusement engaged in with respect to such a group that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending any institution of higher education (as stated in chapter 132V-130 WAC, Hazing policy).~~

~~(8) Failure to comply with directions of college employees acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so.~~

~~(9) Unauthorized possession, duplication or use of keys to any college premises or unauthorized entry to or use of college premises.~~

~~(10) Violation of any college policy.~~

~~(11) Violation of any federal, state or local law.~~

~~(12) Being under the influence, use, possession, manufacturing or distribution of marijuana (including medical marijuana), heroin, narcotics or other controlled substances, or associated paraphernalia (pursuant to RCW 69.50.102).~~

~~(13) Being under the influence, use, possession, manufacturing or distribution of alcoholic beverages (except as expressly permitted by college regulations) at college-sponsored events. Alcoholic beverages may not, in any circumstances, be used by, possessed by or distributed to any person under twenty-one years of age.~~

~~(14) Possession of firearms, explosives, other weapons, or dangerous chemicals on college premises or use of any such item in a manner that harms, threatens or causes fear to others.~~

~~(15) Leading or inciting others to disrupt scheduled and/or normal activities on any college premises.~~

~~(16) Obstruction of the free flow of pedestrian or vehicular traffic on college premises or at college sponsored or supervised functions.~~

~~(17) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.~~

~~(18) Conduct that is disorderly, breach of peace, or aiding, abetting or procuring another person to breach the peace on college premises or at functions sponsored by the college or members of the academic community. Disorderly conduct includes, but is not limited to, any unauthorized use of electronic or other devices to make an audio or video record of any person while on college premises without his/her prior knowledge, or with his/her effective consent when such a recording is likely to cause injury or distress. This includes, but is not limited to, taking pictures of another person in a locker room or restroom without their permission.~~

~~(19) Theft or other abuse of computer facilities and resources including, but not limited to:~~

~~(a) Unauthorized entry into a file for any purpose;~~

~~(b) Use of another individual's identification and/or password without his or her permission;~~

~~(c) Use of computing facilities and resources to interfere with the work of another student, faculty member or college official;~~

~~(d) Interfering with normal operation of the college computing system;~~

~~(e) Violation of copyright laws;~~

~~(f) Any violation of the college's acceptable use of information systems and services policy.~~

~~(20) Abuse of the student conduct system including, but not limited to:~~

~~(a) Failure to obey the notice from a student conduct appeal board or college employee to appear for a meeting or hearing as part of the student conduct system;~~

~~(b) Falsification, distortion or misrepresentation of information before a student conduct appeal board;~~

~~(c) Disruption or interference with the orderly conduct of a student conduct appeal board hearing;~~

~~(d) Institution of a code of student conduct proceeding in bad faith;~~

~~(e) Attempting to discourage an individual's participation in, or use of, the student conduct system;~~

~~(f) Attempting to influence the impartiality of a member of a student conduct appeal board prior to and/or during the course of the student conduct appeal board proceeding;~~

~~(g) Harassment (verbal or physical) and/or intimidation of a member of a student conduct appeal board prior to, during and/or after a code of student conduct proceeding;~~

~~(h) Failure to comply with the consequence(s) imposed under the code of student conduct;~~

~~(i) Influencing or attempting to influence another person to violate the code of student conduct system.)) The college may impose disciplinary sanctions against a student or a college-sponsored student organization, athletic team, or living group, who commits, attempts to commit, aids, abets, incites, encourages or assists another person to commit, an act(s) of misconduct which include, but are not limited to the following:~~

~~(1) **Abuse of others.** Assault, physical abuse, verbal abuse, threat(s), intimidation, or other conduct that harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property unless otherwise protected by law.~~

~~(2) **Abuse in later life.**~~

(a) Neglect, abandonment, economic abuse, or willful harm of an adult aged 50 or older by an individual in an ongoing relationship of trust with the victim; or

(b) Domestic violence, dating violence, sexual assault, or stalking of an adult aged 50 or older by any individual; and

(c) Does not include self-neglect.

(3) **Academic dishonesty.** Any act of academic dishonesty, including:

(a) Cheating - Any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) Plagiarism - Taking and using as one's own, without proper attribution, the ideas, writings, work of another person, or artificial intelligence, in completing an academic assignment. Prohibited conduct may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) Fabrication - Falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to an instructor concerning the completion of an assignment.

(d) Deliberate damage - Taking deliberate action to destroy or damage another's academic work or college property in order to gain an advantage for oneself or another.

(4) **Acts of dishonesty.** Acts of dishonesty include, but are not limited to:

(a) Forgery, alteration, and/or submission of falsified documents or misuse of any college document, record, or instrument of identification;

(b) Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a college officer or employee;

(c) Knowingly making a false statement or submitting false information in relation, or in response, to a college academic or disciplinary investigation or process.

(5) **Alcohol.** Use, possession, manufacture, or distribution of alcoholic beverages or paraphernalia (except as expressly permitted by college policies, and federal, state, and local laws), or public intoxication on college premises or at college-sponsored events. Alcoholic beverages may not, in any circumstance, be used by, possessed by, or distributed to any person not of legal age.

(6) **Cannabis, drug, and tobacco violations.**

(a) **Cannabis.** The use, possession, growing, delivery, sale, or being visibly under the influence of cannabis or the psychoactive compounds found in cannabis and intended for human consumption, regardless of form, or the possession of cannabis paraphernalia on college premises or college-sponsored events. While state law permits the recreational use of cannabis, federal law prohibits such use on college premises or in connection with college activities.

(b) **Drugs.** The use, possession, production, delivery, sale, or being observably 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.

(c) **Tobacco, electronic cigarettes, and related products.** The use of tobacco, electronic cigarettes, and related products in any building owned, leased or operated by the college or in any location where such use is prohibited, including 25 feet from entrances, exits, win-

dows that open, and ventilation intakes of any building owned, leased or operated by the college. The use of tobacco, electronic cigarettes, and related products on the college campus is restricted to designated smoking areas. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, vaporizers, and snuff.

(7) **Cyber misconduct.** Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, applications (apps), 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 of sexual activity, and nonconsensual distribution of a recording of sexual activity.

(8) **Disruption or obstruction.** Disruption or obstruction of instruction, research, administration, disciplinary proceeding, or other college activity, including the obstruction of the free flow of pedestrian or vehicular movement on college premises or at a college activity, or any activity that is authorized to occur on college premises, whether or not actually conducted or sponsored by the college.

(9) **Discriminatory harassment.**

(a) 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 protected status and that is sufficiently severe, persistent, or pervasive so as to:

(i) Limit the ability of a student to participate in or benefit from the college's educational and/or social programs and/or student housing;

(ii) Alter the terms of an employee's employment; or

(iii) Create an intimidating, hostile, or offensive environment for other campus community members.

(b) Protected status includes a person's race; color; creed/religion; national origin; presence of any sensory, mental or physical disability; use of a trained service animal; sex, including pregnancy; marital status; age; genetic information; sexual orientation; gender identity or expression; veteran or military status; HIV/AIDS and hepatitis C status; or membership in any other group protected by federal, state, or local law.

(c) Discriminatory harassment may be physical, verbal, or nonverbal conduct and may include written, social media, and electronic communications not otherwise protected by law.

(10) **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.

(11) **Failure to comply with directive.** Failure to comply with the direction of a college officer or employee who is acting in the legitimate performance of their duties, including failure to properly identify oneself to such a person when requested to do so.

(12) **Harassment or bullying.** Conduct unrelated to a protected class that is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidat-

ing, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance, or a person's ability to participate in or benefit from the college's programs, services, opportunities, or activities.

(a) Harassing conduct may include, but is not limited to, physical, verbal, or nonverbal conduct, including written, social media, and electronic communications not otherwise protected by law.

(b) For purposes of this code, "bullying" is defined as repeated or aggressive unwanted behavior not otherwise protected by law when a reasonable person would feel humiliated, harmed, or intimidated.

(c) For purposes of this code, "intimidation" is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though an explicit threat or display of physical force has not been made. Intimidation is evaluated based on the intensity, frequency, context, and duration of the comments or actions.

(13) **Hazing.** Hazing is any act committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a college-sponsored 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, 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. Consent is not a valid defense against hazing. Examples of hazing include, but are not limited to:

(a) 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;

(b) Humiliation by ritual act;

(c) Striking another person with an object or body part;

(d) Causing someone to experience excessive fatigue, or physical and/or psychological shock; or

(e) Causing someone to engage in degrading or humiliating games or activities that create a risk of serious psychological, emotional, and/or physical harm.

(14) **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.

(15) **Misuse of electronic resources.** Theft or other misuse of computer time or other electronic information resources of the college. 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 college'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 college's electronic information resources without authorization; or

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

(16) **Property violation.** Damage to, misappropriation of, unauthorized use or possession of, vandalism, or other nonaccidental damaging or destruction of college property or the property of another person. Property for purposes of this subsection includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

(17) **Retaliation.** Harming, threatening, intimidating, coercing, or other adverse action taken against any individual for reporting, providing information, exercising one's rights or responsibilities, participating, or refusing to participate, in the process of responding to, investigating, or addressing allegations or violations of federal, state, or local law, or college policies.

(18) **Safety violations.** Nonaccidental, reckless, or unsafe 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.

(19) **Sex discrimination.** The term "sex discrimination" includes sex-based harassment, and may occur when a respondent causes more than de minimis harm to an individual by treating them different from a similarly situated individual on the basis of: Sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Conduct that prevents an individual from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis (insignificant) harm on the basis of sex.

(a) **Sex-based harassment.** "Sex-based harassment" is a form of sex discrimination and means sexual harassment or other harassment on the basis of sex, including the following conduct:

(i) **Quid pro quo harassment.** A student, employee, agent, or other person authorized by the college to provide an aid, benefit, or service under the college's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

(ii) **Hostile environment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

(A) The degree to which the conduct affected the complainant's ability to access the college's education program or activity;

(B) The type, frequency, and duration of the conduct;

(C) The parties' ages, roles within the college's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

(D) The location of the conduct and the context in which the conduct occurred; and

(E) Other sex-based harassment in the college's education program or activity.

(iii) **Sexual violence.** "Sexual violence" includes nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, incest, statutory rape, domestic violence, dating violence, and stalking.

(A) **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.

(B) **Nonconsensual sexual contact (fondling)** is 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** is 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 18.

(D) **Statutory rape (rape of a child)** is nonforcible sexual intercourse with a person who is under the statutory age of consent.

(E) **Domestic violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, coercive control, damage or destruction of personal property, stalking or any other conduct prohibited under RCW 10.99.020, 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.

(F) **Dating violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and 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.

(G) **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or to suffer substantial emotional distress.

(b) **Consent.** For purposes of this code, "consent" means knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity.

(i) Each party has the responsibility to make certain that the other has consented before engaging in the activity.

(ii) 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.

(iii) A person cannot consent if they are unable to understand what is happening or are 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.

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

(c) **Title IX retaliation** means intimidation, threats, coercion, or discrimination against any person by a student, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in a sex discrimination investigation, proceeding, or hearing, including during an informal resolution process, during a Title IX investigation, or during any disciplinary proceeding involving allegations of sex discrimination.

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

(21) **Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation, or other college rules or policies, including college housing, traffic, and parking rules.

(22) **Weapons.** Possession, holding, wearing, transporting, storage or presence 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 and during college programming and activities, subject to the following exceptions:

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

(b) Students with legally issued weapons permits may store their weapons in their vehicle parked on campus in accordance with RCW 9.41.050 (2) or (3), provided the vehicle is locked and the weapon is concealed from view.

(c) The president may grant permission to bring a weapon on campus upon a determination 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 in the written permission.

(d) Possession and/or use of disabling chemical sprays for purposes of self-defense is not prohibited.

AMENDATORY SECTION (Amending WSR 11-24-031, filed 12/1/11, effective 1/1/12)

**WAC 132V-121-070 ((Code of student conduct procedures-)) **Corrective action, disciplinary sanctions, terms and conditions.** ((-1) Purpose. The code of student conduct procedures are designed to afford complainants and respondents a fair and accessible process that edu-**

~~educates students about their rights and responsibilities, holds students accountable for their actions, and provides due process.~~

~~(2) Complaints and student conduct appeal board hearings.~~

~~(a) Any member of the college community may submit a complaint against a student for violation of the code of student conduct. Any complaint must be submitted in writing to the student conduct administrator within ten instructional days of the date the person became aware or reasonably can be expected to have become aware of the alleged violation of the code of student conduct.~~

~~(b) All complaints will be presented to the respondent by the college in written form (i.e., by U.S. mail to the student's address of record, to the student's TCC email address, or delivered in person).~~

~~(c) The student conduct administrator will schedule an initial meeting with the respondent to discuss the complaint.~~

~~(i) During the initial meeting, the student conduct administrator will explain the process, the respondent's rights and responsibilities, and review the complaint and alleged violation(s) of the code of student conduct. The student conduct administrator will seek information from the respondent regarding the allegations and may seek additional information from other involved parties or observers.~~

~~(ii) If there is more than one respondent involved in the complaint, the student conduct administrator at sole discretion may permit the conferences concerning each respondent to be conducted either separately or jointly.~~

~~(3) The student conduct administrator will investigate to determine if the complaint has merit and will take one of the following actions:~~

~~(a) If the student conduct administrator determines that the case has no merit, the case will be dismissed;~~

~~(b) If the respondent and the student conduct administrator mutually agree to the resolution of the complaint, it will be put in writing and there will be no subsequent proceedings;~~

~~(c) If the respondent disagrees with the student conduct administrator's resolution of the complaint, the respondent may appeal the decision of the student conduct administrator to the student conduct appeal board, provided:~~

~~(i) The respondent must submit his or her appeal in writing to the student conduct administrator within seven calendar days of the date the decision is communicated to the student, either verbally or in writing, by the student conduct administrator;~~

~~(ii) A time will be set for a student conduct board appeal board hearing no later than the fifteenth instructional day after the respondent's written appeal has been received by the student conduct administrator;~~

~~(d) Such other action as the student conduct administrator deems appropriate.~~

~~(4) At any time during this process, failure to meet with the student conduct administrator at the appointed time may subject the respondent to a conduct hold. If the respondent fails to meet with the student conduct administrator in a timely fashion the complaint will be determined in the respondent's absence.~~

~~(5) Student conduct appeal board hearings will be conducted according to the following guidelines:~~

~~(a) Formal rules of process, procedure, and/or rules of evidence, such as are applied in criminal or civil court, are not used in student conduct proceedings;~~

~~(b) The respondent will be notified in written form (i.e., by U.S. mail to the student's address of record, to the student's TCC email address, or delivered in person) at least seven calendar days in advance of the hearing. Such notification will include the time, date and location of the hearing; and the specific complaints against the respondent. Upon request, any documents or other physical evidence that will be presented by any party at the hearing will be provided no less than three instructional days before the hearing to all other parties. Upon request, a list of persons who may appear at the hearing or provide written testimony for any party will be provided no less than three instructional days before the hearing to all other parties;~~

~~(c) Student conduct appeal board hearings normally will be conducted in private;~~

~~(d) The student conduct appeal board will be composed of five members. The membership will consist of one member of the exempt staff, chosen by the vice president for student services; two faculty members chosen by the faculty union president; and two students chosen by the president of the associated student body;~~

~~(i) Chairperson. The student conduct appeal board will elect its own chairperson for each complaint brought before it.~~

~~(ii) Quorum. A quorum will consist of no less than three members, provided, that one exempt staff, one faculty and one student are present.~~

~~(iii) Substitutes:~~

~~(A) Any member of the student conduct appeal board who has direct knowledge or involvement in a complaint under consideration may be excused from participation in the hearing or appeal.~~

~~(B) Substitutes may be appointed to form a quorum.~~

~~(e) The complainant and respondent and their advisors, if any, will be allowed to attend the entire portion of the student conduct appeal board hearing at which information is received (excluding deliberations). Admission of any other person to the student conduct appeal board hearing and level of involvement will be at the sole discretion of the student conduct appeal board and/or the student conduct administrator;~~

~~(f) In student conduct appeal board hearings involving more than one respondent, the student conduct administrator, in his or her sole discretion, may permit the student conduct appeal board hearings concerning each student to be conducted either separately or jointly;~~

~~(g) The complainant and the respondent may be assisted by an advisor of their choice. The advisor must be a member of the college community and may not be an attorney. The complainant and/or the respondent is responsible for presenting his or her own information. Therefore, advisors are not permitted to speak or to participate directly in any hearing before a student conduct appeal board. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the student conduct appeal board hearing because delays will not normally be allowed due to the scheduling conflicts of an advisor;~~

~~(h) The complainant, the respondent and the student conduct appeal board may arrange for witnesses to present pertinent information to the student conduct appeal board. The college will try to arrange the attendance of possible witnesses who are members of the college community, if reasonably possible, and who are identified by the complainant and/or respondent at least two weekdays prior to the student conduct appeal board hearing. Witnesses will provide information to and answer questions from the student conduct appeal board. Questions~~

may be suggested by the respondent and/or complainant to be answered by each other or by other witnesses. This will be conducted by the student conduct appeal board with such questions directed to the chairperson, rather than to the witness directly. This method is used to preserve the educational tone of the hearing and to avoid creation of an adversarial environment. The chairperson of the student conduct appeal board will determine relevancy of the questions;

(i) Pertinent records, exhibits and written statements may be accepted as information for consideration by the student conduct appeal board at the sole discretion of the chairperson;

(j) All procedural questions are subject to the final decision of the chairperson of the student conduct appeal board;

(k) After the portion of the student conduct appeal board hearing concludes in which all pertinent information has been received, the student conduct appeal board will determine which section(s) of the code of student conduct, if any, that the respondent has violated.

(6) The student conduct appeal board's determination will be made on the basis of whether it is more likely than not that the respondent violated the code. Formal rules of process, procedure, and/or rules of evidence, such as are applied in criminal or civil court, are not used in student conduct proceedings. There will be a single verbatim record, such as a tape recording, of all student conduct appeal board hearings before a student conduct appeal board (not including deliberations). Deliberations will not be recorded. The record will be the property of the college.

(7) If a respondent does not appear before a student conduct appeal board hearing, the information in support of the charges will be presented and considered even if the respondent is not present.

(8) The student conduct appeal board may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, respondent, or other witness during the hearing by providing separate facilities, by using a visual screen, or by permitting participation by telephone, videophone, closed circuit television, video conferencing, videotape, audio tape, written statement, or other means, where and as determined by the vice president for student services to be appropriate.

(9) In consultation and agreement with the vice president for student services, the student conduct appeal board will issue a final determination as follows:

(a) The board determines that the case has no merit, and the case is dismissed;

(b) The board upholds the determination of responsibility and consequences imposed by the student conduct administrator;

(c) The board upholds part or all of the determination of responsibility and modifies the consequences.

(10) Consequences.

(a) Any student found to have violated the code of student conduct will be subject to one or more of the following consequences:

(i) Warning. Written notice to a student that the student has been in violation of college policy or has otherwise failed to meet the college's standards of conduct. Such warnings will include the statement that continuation or repetition of the specific conduct involved or other misconduct may result in one of the more serious consequences;

(ii) Reprimand. Written action censuring a student for violation of college policy or otherwise failing to meet the college's standards of conduct. The written reprimand will be filed in the office of the

~~vice president for student services for the duration of the student's attendance at the college. A reprimand will include the statement that continuation or repetition of the specific conduct involved or other misconduct may result in one of the more serious consequences;~~

~~(iii) Probation. Conditions placed upon the student's continued attendance for violation of this chapter. Notice will be made in writing and specify the period of probation and the conditions to be met by the student. Disciplinary probation may be for a specific term or for an indefinite period which may extend to graduation. Violation of the terms of the probation or violation of any college policy during the probation period may be grounds for additional consequences;~~

~~(iv) Loss of privileges. Denial of specified privileges for a designated period of time;~~

~~(v) Restitution. Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement;~~

~~(vi) Withholding admission or degree. Admission to or a degree awarded from the college may be withheld for a specified amount of time;~~

~~(vii) Revocation of admission or degree. Admission to or a degree awarded from the college is revoked and noted on the transcript. In general this action is reserved for conduct that includes, but is not limited to, acts of dishonesty;~~

~~(viii) Discretionary consequences. Work assignments, essays, service to the college, or other related discretionary assignments;~~

~~(ix) No contact. The student may have no contact with other student members of the college community;~~

~~(x) Suspension. Temporary dismissal from the college and termination of the person's student status;~~

~~(xi) Expulsion. Permanent dismissal from the college and termination of the person's student status.~~

~~(b) More than one of the consequences listed in (a) (i) through (xi) of this subsection may be imposed for any single violation.~~

~~(c) Consequences for conduct in class.~~

~~(i) Each faculty member is responsible for conduct in class and is authorized to take such steps as are necessary when behavior of a student interrupts the normal class procedure. When behavior is disruptive, the faculty member may dismiss the student from class for that one class period and make reasonable effort to resolve the situation. This includes electronically removing a disruptive student from online class situations. However, if the matter becomes so serious as to result in removing the student from the class for two consecutive class periods or when a pattern of periodic misconduct occurs, the faculty member will report the incident to the student conduct administrator in order to seek resolution to the situation and allow for due process.~~

~~(ii) Consequences for academic dishonesty or abetting in academic dishonesty may be imposed at the discretion of a faculty member up to and including a failing grade for the course. Students should refer to each of their faculty's course syllabus.~~

~~(d) Disciplinary consequences will be made part of both the complainant's and the respondent's education record. The records may be expunged of disciplinary consequences, other than expulsion, seven years after the quarter in which the incident occurred.~~

~~(11) Emergency suspension.~~

~~(a) In certain circumstances, the vice president for student services, or designee, may impose an emergency suspension. Emergency suspension may be imposed only:~~

~~(i) To ensure the student's own physical or emotional safety and well-being; or~~

~~(ii) To ensure the safety and well-being of members of the college community or preservation of college property; or~~

~~(iii) If the student poses an ongoing threat of disruption or interference with the normal operations of the college.~~

~~(b) During the emergency suspension, a student will be denied access to the campus (including classes) and/or all other college activities or privileges for which the student might otherwise be eligible, as the vice president for student services or the student conduct administrator may determine to be appropriate.~~

~~(c) The student will be notified in writing of this action and the reasons for the emergency suspension. The student will also be informed in writing of the time, date and place of an initial meeting.~~

~~(d) An initial meeting will take place within five instructional days of the emergency suspension. At the initial meeting the student may show cause why his or her continued presence on the campus does not constitute a threat and may contest whether a campus policy was violated.~~

~~(e) At the initial meeting the student conduct administrator, in consultation and agreement with the vice president for student services, will decide to uphold the emergency suspension, dismiss it, or impose other consequences. The student will be informed in writing of this decision.~~

~~(f) The emergency suspension does not replace the code of student conduct procedures, which will proceed on the normal schedule, up to and through a student conduct appeal board hearing, if required.~~

~~(g) Appeals.~~

~~(i) A decision reached or a consequence imposed by the student conduct administrator may be appealed by the respondent within five instructional days of the decision. Such appeals must be in writing and delivered to the student conduct administrator who will convene a student conduct appeal board hearing as outlined in subsection (5) of this section.~~

~~(ii) The decision of the student conduct appeal board will be final.)~~

(1) One or more of the following corrective actions or disciplinary sanctions may be imposed upon a student or upon college-sponsored student organizations, athletic teams, or living groups found responsible for violating the student conduct code.

(a) **Warning.** A verbal or written statement to a student that there is a violation and that continued violation may be cause for disciplinary action. Warnings are corrective actions, not disciplinary, and may not be appealed.

(b) **Written reprimand.** Notice in writing that the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

(c) **Disciplinary probation.** Formal action placing specific conditions and restrictions upon the student's continued attendance depending upon the seriousness of the violation and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction which may include, but is not limited to, a suspension or a dismissal

from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.

(d) **Disciplinary suspension.** Dismissal from the college and from student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the suspension is imposed.

(e) **Dismissal.** The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the dismissal is imposed.

(2) Disciplinary terms and conditions that may be imposed alone or in conjunction with the imposition of a disciplinary sanction include, but are not limited to, the following:

(a) **Education.** Participation in or successful completion of an educational assignment designed to create an awareness of the student's misconduct.

(b) **Loss of privileges.** Denial of specified privileges for a designated period of time.

(c) **Not in good standing.** A student deemed "not in good standing" with the college shall be subject to the following restrictions:

(i) Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.

(ii) Ineligible to represent the college to anyone outside the college community in any way, including representing the college at any official function, or any forms of intercollegiate competition or representation.

(d) **No contact directive.** An order directing a student to have no contact with a specified student, college employee, a member of the college community, or a particular college facility.

(e) **Professional evaluation.** Referral for drug, alcohol, psychological or medical evaluation by an appropriately certified or licensed professional may be required. The student may choose the professional within the scope of practice and with the professional credentials as defined by the college. The student will sign all necessary releases to allow the college access to any such evaluation. The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

(f) **Restitution.** Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(g) **Trespass or restriction.** A student may be restricted from any or all college premises and/or college-sponsored activities based on the violation.

(3) More than one of the disciplinary terms and conditions listed above may be imposed for any single violation.

(4) If a student withdraws from the college or fails to reenroll before completing a disciplinary sanction or condition, the discipli-

nary sanction or condition must be completed either prior to or upon the student's reenrollment, depending on the nature of the sanction, condition, and/or the underlying violation. Completion of disciplinary sanctions and conditions may be considered in petitions for readmission to the college.

AMENDATORY SECTION (Amending WSR 11-24-031, filed 12/1/11, effective 1/1/12)

**WAC 132V-121-080 ((Interpretation and revision.)) Hazing sanctions.** ~~((1) Any question of interpretation or application of the code of student conduct will be referred to the vice president for student services or his or her designee for final determination.~~

~~(2) The code of student conduct will be reviewed every five years under the direction of the student conduct administrator.))~~ (1) 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 corporation, whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

(2) 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.

(3) Any student group that knowingly permits 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.

(4) Any student group 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.

NEW SECTION

**WAC 132V-121-090 Initiation of disciplinary action.** (1) Any member of the college community may file a complaint against a student or student group for possible violations of the student conduct code.

(2) The student conduct officer, or designee, may review and investigate any complaint to determine whether it appears to state a violation of the student conduct code.

(a) **Sex discrimination, including sex-based harassment.** The college's Title IX coordinator or designee shall review, process, and, if applicable, investigate complaints or other reports of sex discrimination, including sex-based harassment. Allegations of sex discrimination, including sex-based harassment, by a student shall be addressed through the student conduct code. Allegations involving employees or third parties associated with the college will be handled in accordance with college policies.

(b) **Hazing by student groups.** A student conduct officer, or designee, may review and investigate any complaint or allegation of hazing by a student group. A student group will be notified through its named officer(s) and address on file with the college. A student group may designate one representative who may speak on behalf of a student group during any investigation and/or disciplinary proceeding. A student group will have the rights of a respondent as set forth below.

(3) Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(4) If a student conduct officer determines that a complaint appears to state a violation of the student conduct code, the student conduct officer will consider whether the matter might be resolved through agreement with the respondent or through alternative dispute resolution proceedings involving the complainant and the reporting party.

(a) Informal dispute resolution shall not be used to resolve sex-based harassment complaints without written permission from both the complainant and the respondent.

(b) If the parties elect to mediate a dispute through informal dispute resolution, either party shall be free to discontinue mediation at any time.

(5) If the student conduct officer has determined that a complaint has merit and if the matter is not resolved through agreement or informal dispute resolution, the student conduct officer may initiate disciplinary action against the respondent.

(6) Both the respondent and the complainant in cases involving allegations of sex discrimination shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the disciplinary process and to appeal any disciplinary decision.

(7) All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complaint.

(8) The student conduct officer shall initiate disciplinary action by serving the respondent with written notice directing him or her to attend a disciplinary meeting. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting.

(9) At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting after proper service of notice, the student conduct officer may take disciplinary action based upon the available information.

(10) Within 10 calendar days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer shall serve the respondent with a written decision setting forth the facts and conclusions supporting their decision, the specific student conduct code provisions found to have been violated, the discipline imposed (if any), and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal. This pe-

riod may be extended at the sole discretion of the student conduct officer, if additional information is necessary to reach a determination. The student conduct officer will notify the parties of any extension period and the reason therefore.

(11) The student conduct officer may take any of the following disciplinary actions:

- (a) Exonerate the respondent and terminate the proceedings;
- (b) Impose a disciplinary sanction(s), with or without conditions, as described in WAC 132V-121-070; or
- (c) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct committee, with a copy served on the respondent.

(12) In cases involving allegations of sex discrimination, the student conduct officer shall review the investigation report provided by the Title IX coordinator, and determine whether, by a preponderance of the evidence, there was a violation of the student conduct code; and if so, what disciplinary sanction(s) and/or remedies will be recommended. The student conduct officer shall, within five business days of receiving the investigation report, serve respondent, complainant, and the Title IX coordinator with a written recommendation, setting forth the facts and conclusions supporting their recommendation. The time for serving a written recommendation may be extended by the student conduct officer for good cause.

(a) The complainant and respondent may either accept the student conduct officer's recommended disciplinary sanction(s) or request a hearing before a student conduct committee.

(b) The complainant and respondent shall have 21 calendar days from the date of the written recommendation to request a hearing before a student conduct committee.

(c) The request for a hearing may be verbal or written, but must be clearly communicated to the student conduct officer.

(d) The student conduct officer shall promptly notify the other party of the request.

(e) In cases involving sex discrimination, the student conduct officer may recommend dismissal of the complaint if:

(i) The college is unable to identify respondent after taking reasonable steps to do so;

(ii) Respondent is not participating in the college's educational programs or activities;

(iii) The complainant has voluntarily withdrawn any or all of the allegations in the complaint, and the Title IX coordinator has declined to initiate their own complaint;

(iv) The college determines that, even if proven, the conduct alleged by the complainant would not constitute sex discrimination; or

(v) The conduct alleged by the complainant falls outside the college's disciplinary jurisdiction.

(f) In cases involving allegations of sex-based harassment, the college must obtain the complainant's voluntary withdrawal in writing before the matter can be dismissed.

(g) If no request for a full hearing is provided to the student conduct officer, the student conduct officer's written recommendation shall be final and implemented immediately following the expiration of 21 calendar days from the date of the written recommendation.

(h) Upon receipt of the student conduct officer's written recommendation, the Title IX coordinator or their designee shall review all supportive measures and, within five business days, provide written

direction to the complainant and respondent as to any supportive measures that will be implemented, continued, modified, or terminated. If either party is dissatisfied with the supportive measures, the party may seek review in accordance with the college's Title IX investigation procedure.

(i) If the respondent is found responsible for engaging in sex discrimination, the Title IX coordinator shall also take prompt steps to coordinate and implement any necessary remedies to ensure that sex discrimination does not recur and that complainant has equal access to the college's programs and activities.

#### NEW SECTION

**WAC 132V-121-100 Appeal from disciplinary action.** (1) Except as specified for cases involving allegations of sex discrimination, as set forth in WAC 132V-121-090(12) (Initiation of disciplinary action), the respondent may appeal a disciplinary action by filing a written notice of appeal with the student conduct officer within 21 calendar days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's decision shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent, complainant, if any, and the student conduct officer.

(4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.

(6) Imposition of disciplinary action for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.

(7) A conduct review officer shall conduct a brief adjudicative proceeding for appeals of:

(a) Suspensions of 10 instructional days or less;

(b) Disciplinary probation;

(c) Written reprimands; and

(d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(8) The student conduct committee shall hear appeals from:

(a) Disciplinary suspensions in excess of 10 instructional days;

(b) Dismissals;

(c) Sex discrimination, including sex-based harassment cases; and

(d) Disciplinary cases referred to the committee by the student conduct officer, a conduct review officer, or the president.

NEW SECTION

**WAC 132V-121-110 Brief adjudicative proceedings—Initial hearing.** (1) Brief adjudicative proceedings shall be conducted by a conduct review officer. The conduct review officer shall not participate in any case in which they are a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) The parties to a brief adjudicative proceeding are the respondent and the student conduct officer. Before taking action, the conduct review officer shall conduct an informal hearing and provide each party:

(a) An opportunity to be informed of the agency's view of the matter; and

(b) An opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon the respondent and the student conduct officer within 10 calendar days of consideration of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within 21 calendar days of service of the initial decision, the initial decision shall be deemed the final decision.

(4) If the conduct review officer upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension in excess of 10 instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

NEW SECTION

**WAC 132V-121-120 Brief adjudicative proceedings—Review of an initial decision.** (1) An initial decision is subject to review by the president, provided a party files a written request for review with the conduct review officer within 21 calendar days of service of the initial decision.

(2) The president shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president shall give all parties an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to ascertain whether the sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within 20 calendar days of the initial decision or of the request for review, whichever is later. The decision on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the president does not make a disposition of the matter within 20 calendar days after the request is submitted.

(5) If the president upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than 10 instructional days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

NEW SECTION

- WAC 132V-121-130 Student conduct committee.** (1) The student conduct committee shall consist of five members:
- (a) Two full-time students appointed by the student government;
  - (b) Two faculty members appointed by the president;
  - (c) One faculty member or administrator (other than an administrator serving as a student conduct or conduct review officer) appointed by the president at the beginning of the academic year.
- (2) The faculty member or administrator appointed on a yearly basis shall serve as the chair of the committee and may take action on preliminary hearing matters prior to convening the committee.
- (3) Hearings may be heard by a quorum of three members of the committee so long as the chair, one faculty member, and one student are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.
- (4) Members of the student conduct committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition the committee for disqualification of a committee member.
- (5) For cases involving allegations of sex discrimination, including sex-based harassment, members of the student conduct committee must receive training on serving impartially, avoiding prejudgment of facts at issue, conflicts of interest, and bias. The chair must also receive training on the student conduct process for sex discrimination cases, as well as the meaning and application of the term "relevant" in relations to questions and evidence, and the types of evidence that are impermissible, regardless of relevance in accordance with 34 C.F.R. §§ 106.45 and 106.46.
- (6) The college may, in its sole discretion, contract with an administrative law judge or other qualified person to act as the presiding officer, authorized to exercise any or all duties of the student conduct committee and/or committee chair.
- (7) In sex discrimination cases, the college may, in its sole and exclusive discretion, contract with an administrative law judge or other qualified person to act as the presiding officer, authorized to exercise any or all duties of the student conduct committee and/or committee chair.

NEW SECTION

- WAC 132V-121-140 Student conduct committee—Prehearing.** (1) Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW.
- (2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven calendar days

in advance of the hearing date. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown. The notice must include:

- (a) A copy of the student conduct code;
- (b) The basis for jurisdiction;
- (c) The alleged violation(s);
- (d) A summary of facts underlying the allegations;
- (e) The range of possible sanctions that may be imposed; and
- (f) A statement that retaliation is prohibited.

(3) The chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(4) Upon request filed at least five calendar days before the hearing by any party or at the direction of the chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(5) The chair may provide to the committee members in advance of the hearing copies of:

- (a) The student conduct officer's notification of imposition of discipline (or referral to the committee); and
- (b) The notice of appeal (or any response to referral) by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(6) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(7) The student conduct officer shall provide reasonable assistance to the respondent and complainant in procuring the presence of college students, employees, staff, and volunteers to appear at a hearing, provided the respondent and complainant provide a witness list to the student conduct officer no less than three business days in advance of the hearing. The student conduct officer shall notify the respondent and complainant no later than 24 hours in advance of the hearing if they have been unable to contact any prospective witnesses to procure their appearance at the hearing. The committee chair will determine how to handle the absence of a witness and shall describe on the record their rationale for any decision.

(8) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(9) In cases heard by the committee, each party may be accompanied at the hearing by an advisor of their choice, which may be an attorney retained at the party's expense.

(10) For any matters involving a disciplinary sanction of suspension of more than one quarter, dismissal, or sex-based harassment, the college shall provide an advisor to the respondent and any complainant, if they have not otherwise identified an advisor to assist them during the hearing. The committee will ordinarily be advised by an as-

sistant attorney general or their designee. If the respondent and/or the complainant is represented by an attorney, the student conduct officer may be represented by an assistant attorney general.

(11) Attorneys for students must file a notice of appearance with the committee chair at least four business days before the hearing. Failure to do so may, at the discretion of the committee chair, result in a waiver of the attorney's ability to represent the student at the hearing, although an attorney may still serve as an advisor to the student.

(12) In cases involving allegations of sex discrimination, the complainant has a right to participate equally in any part of the disciplinary process, including appeals. Respondent and complainant both have the following rights:

(a) **Notice.** The college must provide a notice that includes all information required in subsection (2) of this section, and a statement that the parties are entitled to an equal opportunity to access relevant and permissible evidence, or a description of the evidence upon request.

(b) **Advisors.** The complainant and respondent are both entitled to have an advisor present, who may be an attorney retained at the party's expense.

(c) **Extensions of time.** The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date, in accordance with the procedures set forth in subsection (13)(b) of this section.

(d) **Evidence.** In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.

(e) **Confidentiality.** The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process, which may include, but are not limited to, directives by the student conduct officer or chair pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.

(13) In cases involving allegations of sex-based harassment, the following additional procedures apply:

(a) **Notice.** In addition to all information required in subsection (2) of this section, the notice must also inform the parties that:

(i) The respondent is presumed not responsible for the alleged sex-based harassment;

(ii) The parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decision maker;

(iii) They may have an advisor of their choice, who may be an attorney, to assist them during the hearing;

(iv) They are entitled to an equal opportunity to access relevant and not otherwise impermissible evidence in advance of the hearing; and

(v) The student conduct code prohibits knowingly making false statements or knowingly submitting false information during a student conduct proceeding.

(b) **Extensions of time.** The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the

hearing date. The party requesting an extension must do so no later than 48 hours before any date specified in the notice of hearing or by the chair in any prehearing conference. The written request must be served simultaneously by email to all parties and the chair. Any party may respond and object to the request for an extension of time no later than 24 hours after service of the request for an extension. The chair will serve a written decision upon all parties, to include the reasons for granting or denying any request. The chair's decision shall be final. In exceptional circumstances, for good cause shown, the chair may, in their sole discretion, grant extensions of time that are made less than 48 hours before any deadline.

(c) **Advisors.** The college shall provide an advisor to the respondent and any complainant, if the respondent or complainant have not otherwise identified an advisor to assist during the hearing.

(d) **Evidence.** In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.

(e) **Confidentiality.** The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process, which may include, but are not limited to, directives by the student conduct officer or chair issuing directives pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.

(f) **Separate locations.** The chair may, or upon the request of any party, must conduct the hearing with the parties physically present in separate locations, with technology enabling the committee and parties to simultaneously see and hear the party or the witness while that person is speaking.

(g) **Withdrawal of complaint.** If a complainant wants to voluntarily withdraw a complaint, they must provide notice to the college in writing before a case can be dismissed.

#### NEW SECTION

**WAC 132V-121-150 Student conduct committee—Presentation of evidence.** (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

(a) Proceed with the hearing and issuance of its decision; or

(b) Serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that they select, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to any party upon request. The chair shall ensure 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 any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The student conduct officer (unless represented by an assistant attorney general) shall present the college's case.

(6) All testimony shall be given under oath or affirmation. Except as otherwise provided in this section, evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(7) In cases involving allegations of sex-based harassment, the complainant and respondent may not directly question one another or other witnesses. In such circumstances, the chair will determine whether questions will be submitted to the chair, who will then ask questions of the parties and witnesses, or allow questions to be asked directly of any party or witnesses by a party's attorney or advisor. The committee chair may revise this process if, in the chair's determination, the questioning by any party, attorney, or advisor, becomes contentious or harassing.

(a) Prior to any question being posed to a party or witness, the chair must determine whether the question is relevant and not otherwise impermissible; and must explain any decision to exclude a question that is deemed not relevant, or is otherwise impermissible. The chair will retain for the record copies of any written questions provided by any party.

(b) The chair must not permit questions that are unclear or harassing; but shall give the party an opportunity to clarify or revise such a question.

(c) The chair shall exclude and the committee shall not consider legally privileged information unless the individual holding the privilege has waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(i) Spousal/domestic partner privilege;

(ii) Attorney-client communications and attorney work product privilege;

(iii) Clergy privileges;

(iv) Medical or mental health providers and counselor privileges;

(v) Sexual assault and domestic violence advocate privileges; and

(vi) Other legal privileges set forth in RCW 5.60.060 or federal law.

(d) The chair shall exclude and the committee shall not consider questions or evidence that relate to the complainant's sexual interests or prior sexual conduct, unless such question or evidence is offered to prove someone other than the respondent committed the alleged conduct, or is evidence of specific instances of prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

(e) The committee may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The committee must not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

(8) Except in cases involving allegations of sex-based harassment, the chair has the discretion to determine whether a respondent may directly question any witnesses; and if not, to determine whether questions must be submitted to the chair to be asked of witnesses, or

to allow questions to be asked by an attorney or advisor for the respondent.

NEW SECTION

**WAC 132V-121-160 Student conduct committee—Initial decision.**

(1) At the conclusion of the hearing, the committee chair shall permit the parties to make closing arguments in whatever form, written or verbal, the committee wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within 20 calendar days following the later of the conclusion of the hearing or the committee's receipt of closing arguments, the committee shall issue a decision in accordance with RCW 34.05.461 and WAC 10-08-210. The decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified and explained.

(3) The committee's decision shall also include a determination of appropriate sanctions, if any. If the matter was referred to the committee by the student conduct officer, the committee shall identify and impose disciplinary sanction(s) or conditions (if any) as authorized in the student code. If the matter is an appeal by a party, the committee may affirm, reverse, or modify the disciplinary sanction and/or conditions imposed by the student conduct officer and/or impose additional disciplinary sanction(s) or conditions as authorized herein.

(4) The committee chair shall cause copies of its decision to be served on the parties and their attorney, if any. The notice will inform all parties of their appeal rights. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.

(5) In cases involving sex-based harassment, the initial decision shall be served on all parties simultaneously, as well as the Title IX coordinator.

NEW SECTION

**WAC 132V-121-170 Student conduct committee—Review of initial decision.** (1) Any party, including a complainant in sex-based harassment cases, may appeal the committee's decision to the president by filing a written appeal with the president's office within 21 calendar days of service of the committee's decision. Failure to file a timely appeal constitutes a waiver of the right and the decision shall be deemed final.

(2) The written appeal must identify the specific findings of fact and/or conclusions of law in the decision that are challenged and must contain argument why the appeal should be granted. Appeals may be based upon, but are not limited to:

(a) Procedural irregularity that would change the outcome;

(b) New evidence that would change the outcome and that was not reasonably available when the initial decision was made; and

(c) The investigator, decision maker, or Title IX coordinator had a conflict of interest or bias for or against a respondent or complainant individually or respondents or complainants generally.

(3) Upon receiving a timely appeal, the president or a designee will promptly serve a copy of the appeal on all nonappealing parties, who will have 10 business days from the date of service to submit a written response addressing the issues raised in the appeal to the president or a designee, and serve it on all parties. Failure to file a timely response constitutes a waiver of the right to participate in the appeal.

(4) If necessary to aid review, the president may ask for additional briefing from the parties on issues raised on appeal. The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the appeal.

(5) The president shall serve a written decision on all parties and their attorneys, if any, within 20 calendar days after receipt of the appeal. The president's decision shall be final and subject to judicial review pursuant to chapter 34.05 RCW, Part V.

(6) In cases involving allegations of sex-based harassment, the president's decision must be served simultaneously on the complainant, respondent, and Title IX coordinator.

(7) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.

#### NEW SECTION

**WAC 132V-121-180 Summary suspension.** (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer may impose a summary suspension if there is probable cause to believe that the respondent:

(a) Has violated any provision of the code of conduct; and

(b) Presents an immediate danger to the health, safety or welfare of members of the college community; or

(c) Poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two calendar days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension" and shall include:

(a) The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the student conduct code or the law(s) allegedly violated;

(b) The date, time, and location when the respondent must appear before the conduct review officer for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included warning respondent that their privilege to enter into or remain on college premises has been withdrawn, and that the respondent shall be considered trespassing and subject to arrest for criminal trespass if they enter the college campus other than to meet with the student conduct officer or conduct review officer, or to attend a disciplinary hearing.

(5) The conduct review officer shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension.

(a) During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

(b) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

(c) If the respondent fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

(d) As soon as practicable following the hearing, the conduct review officer shall issue a written decision which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.

(e) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices who may be bound or protected by it.

(6) In cases involving allegations of sex discrimination, the complainant shall be notified that a summary suspension has been imposed on the same day that the summary suspension notice is served on the respondent. The college will also provide the complainant with timely notice of any subsequent changes to the summary suspension order.