

## WSR 24-20-037

## PROPOSED RULES

## COLUMBIA BASIN COLLEGE

[Filed September 24, 2024, 10:01 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-16-072.

Title of Rule and Other Identifying Information: Chapter 132S-100 WAC, Student code of conduct.

Hearing Location(s): On November 14, 2024, at 2:30 - 3:30 p.m., at the Human Resources Conference Room, A Building, Columbia Basin College, 2600 North 20th Avenue, Pasco, WA 99301; or join Zoom meeting <https://columbiabasin.zoom.us/j/82908599342>, Meeting ID 829 0859 9342.

Date of Intended Adoption: November 14, 2024.

Submit Written Comments to: Lindsey Carpenter, 2600 North 20th Avenue, Pasco, WA 99301, email [LCarpenter@columbiabasin.edu](mailto:LCarpenter@columbiabasin.edu), fax 509-544-2029, beginning October 14, 2024, by November 14, 2024.

Assistance for Persons with Disabilities: Contact Lindsey Carpenter, 2600 North 20th Avenue, Pasco, WA 99301, fax 509-544-2026, email [LCarpenter@columbiabasin.edu](mailto:LCarpenter@columbiabasin.edu), by November 14, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To bring Columbia Basin College's (college) student code of conduct (code) into compliance with a new final rule governing sex discrimination grievance procedures recently adopted by the United States Department of Education and to update the code to ensure its prohibited conduct and procedures adequately protect the interests of the college community and the constitutional and procedural rights of individual students.

Reasons Supporting Proposal: 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 address [no information supplied by agency]. 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.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Statute Being Implemented: 20 U.S.C. § 1681.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Columbia Basin College, public.

Name of Agency Personnel Responsible for Drafting: Lindsey Carpenter, 2600 North 20th Avenue, Pasco, WA 99301, 509-542-4740; Implementation and Enforcement: Corey Osborn, 2600 North 20th Avenue, Pasco, WA 99301, 509-542-4740.

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

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(b), the proposed rule changes are exempt from the cost-benefit analysis requirement. The updates to the Title IX regulations are mandated by federal law and do not impose significant

costs on state agencies or other entities. Therefore, a cost-benefit analysis is not necessary for this rule-making process

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

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: 34 C.F.R. 106, Education, specifically, Title IX.

Scope of exemption for rule proposal:

Is fully exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This change is not anticipated to impose any additional cost on business.

October 2, 2024

Corey Osborn, Vice President  
Human Resources and Legal Affairs

### OTS-5661.3

AMENDATORY SECTION (Amending WSR 20-23-031, filed 11/10/20, effective 12/11/20)

**WAC 132S-100-030 Definitions.** Advisor - A person of the complainant's or respondent's choosing who can accompany the complainant or respondent to any conduct related meeting or proceeding. (~~This person cannot be a college employee or witness involved in the case.~~)

Assembly - Any overt activity engaged in by one or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons or group of persons.

Board of trustees - The board of trustees of Community College District No. 19, state of Washington.

Bullying - Physical or verbal abuse, repeated over time, and involving a power imbalance between the aggressor and victim.

Business day - A weekday, excluding weekends and college holidays.

College - Columbia Basin College, established within Community College District No. 19, state of Washington.

College facilities - Any and all real property controlled or operated by the college, including all buildings and appurtenances affixed thereon or attached thereto.

College premises - All land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the college, including adjacent streets and sidewalks.

Complainant - A person who reports that a violation of CBC policy including this student code of conduct has occurred towards themselves, another person, a group of people, or college property. Complainant shall mean the same as claimant or other such term(s) meeting this definition as used in other college policies and procedures.

Complaint - A description of facts that allege a violation of student code of conduct or other college policy.

Conduct review officer - Also referred to as the "CRO." A college administrator designated by the president who is responsible for reviewing or referring appeals of student disciplinary actions as specified in this code.

Consent - Knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon activity, including sexual activity. A person cannot consent to sexual activity if they are not of legal age, unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual activity.

Cyberstalking, cyberbullying, and online harassment - The prohibited behavior of stalking, bullying, and/or harassment through the use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites, which harms, threatens, or is reasonably perceived as threatening the health or safety of another person.

Dating violence - Violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

~~Disciplinary action - ((The sanctioning of any student pursuant to WAC 132S-100-440 for the violation of any designated rule or regulation of the college.))~~ The process by which the student conduct officer imposes discipline against a student for a violation of the student code of conduct. A written or verbal warning is not disciplinary action.

Disciplinary appeal - 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 the conduct review officer through brief adjudicative proceedings.

Discrimination - Unfavorable treatment of a person based on that person's membership or perceived membership in a protected class.

Domestic violence - Asserted violent misdemeanor and felony offenses or conduct committed by a current or former spouse, current or former cohabitant, a person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

Filing - 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.

Force - Use of physical violence and/or threats, intimidation or coercion to overcome resistance or gain access or produce consent. Sexual activity that is forced is by definition nonconsensual. However, nonconsensual sexual activity is not by definition forced.

Harassment - Language or conduct by any means that is unwelcome, severe, persistent, or pervasive, and is of such a nature that it could reasonably be expected to create an intimidating, hostile or offensive environment, or has the purpose or effect of unreasonably causing a reasonable person substantial emotional distress or undermines their ability to work, study, or participate in their regular life activities or participate in the activities of the college.

Hazing - Acts likely to cause physical or psychological harm or social ostracism to any person within the college community, when related to admission, initiation, joining, or any other group-affiliation activity.

Hostile environment - Any situation in which there is harassing conduct that could be based on protected class status and is sufficiently severe or pervasive, and is so objectively offensive that it has the effect of substantially limiting the person's ability to participate in or benefit from the college's educational and/or social programs.

Hostile environment sexual harassment - Occurs when sex- or gender-based conduct is sufficiently severe and/or pervasive and so objectively offensive that it has the effect of substantially limiting the ability of the person to participate in or benefit from the college's educational and/or social programs.

Instructional day - Any regularly scheduled instructional day designated in the academic year calendar, including summer quarter, as a day when classes are held or during final examination week. Saturdays and Sundays, and any full-day campus closures due to holidays or other circumstances are not regularly scheduled instructional days.

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

Nonconsensual sexual intercourse - 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.

Policy - The written regulations of the college as found in, but not limited to, the student code of conduct and any other official regulation written or in electronic form.

Preponderance of the evidence - The standard of proof used with all student disciplinary matters at CBC that are within the jurisdiction of student code of conduct, which means that the amount of evidence must be at ~~((fifty-one))~~ 51 percent or "more likely than not" before a student is found responsible for a violation.

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.

~~President - ((The chief executive officer appointed by the board of trustees or, in such president's absence, the acting president or other appointed designee. The president is authorized to delegate any~~

of their responsibilities)) 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.

Program or programs and activities - All operations of the college.

Protected class - Persons who are protected under state or federal civil rights laws, including laws that prohibit discrimination on the basis of race, color, national origin, age, perceived or actual physical or mental disability, pregnancy, or genetic information, sex, sexual orientation, gender identity, marital status, creed, religion, honorably discharged veteran or military status, or use of a trained guide dog or service animal.

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

Relevant - 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.

Remedies - 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.

~~Respondent - ((The student who is alleged to have violated CBC policy including this code of conduct or against whom disciplinary action is being taken or initiated. Respondent shall mean the same as responding party or other such term(s) meeting this definition as used in other college policies and procedures.))~~ A student who is alleged to have violated the student code of conduct.

Rules of the student conduct code - The rules contained herein as now exist or which may be hereafter amended.

Service or notification - The process by which a document is officially delivered to a party. ~~((Service or notification is deemed complete and computation of time for deadlines begins upon personal delivery of the document or upon the date the document is electronically mailed and/or deposited into the mail. Documents required to be filed with the college such as requests for appeals, are deemed filed upon actual receipt by the office as designated herein during office hours.))~~ 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.

Sexual exploitation - Occurs when one person takes nonconsensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include,

but are not limited to: Invasion of sexual privacy, engaging in voyeurism, nonconsensual video or audio taping of sexual activity; sexually based stalking and/or bullying.

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

Student - ~~((Any person from the time of application, admitted to CBC, or registered for courses either full time or part time, or participating in any other educational offerings at CBC, excluding students enrolled in the High School Academy.))~~ 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.

Student appeals board - Also referred to as the "SAB" or "appeals board." The SAB is a three member panel which uses the brief adjudicative process to review appeals of disciplinary actions that do not include sanctions of expulsion, suspension for more than ~~((ten))~~ 10 days, withholding or revocation of a degree, or loss of recognition of a student organization.

Student conduct board - Also referred to as the "SCB" is a four person panel which presides over cases that could result in a sanction of expulsion, suspension for more than ~~((ten))~~ 10 days, revocation of a degree, and/or loss of recognition of a student organization using the full adjudicative process pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

Student conduct officer - Also referred to as "conduct officer" and/or "SCO" is the person designated by the college president to be responsible for the administration of the student code of conduct or, in such person's absence, the acting SCO or other appointed designee. The SCO is authorized to delegate any and all of their responsibilities as may be reasonably necessary.

Student conduct meeting - The conduct meeting with the student conduct officer using the brief adjudicative process to determine responsibility for violations of the student code of conduct, which do not include sanctions of expulsion, suspension for more than ~~((ten))~~ 10 days, revocation of a degree, and/or loss of recognition of a student organization pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

Student employee - 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 violation to the student code of conduct including, but not limited to, sex-based harassment, occurred while the individual was performing employment-related work.

Student group - 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.

Student organization - Any number of persons who have complied with the formal requirements for college recognition, such as clubs and associations, and are recognized by the college as such.

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 deadline 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.

Title IX coordinator - 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.

#### NEW SECTION

**WAC 132S-100-050 Statement of student rights.** 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 stands 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 the student code of conduct is entitled, upon request, to procedural due process as set forth in this chapter.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

**WAC 132S-100-100 ((Student code)) Authority.** The CBC board of trustees, acting pursuant to RCW 28B.50.140, ~~((do by written order,))~~ delegates to the president of the college, the authority to ~~((adopt such rules and perform all other acts relating to))~~ administer student ((discipline, including suspension or expulsion of students who are in violation of those rules)) 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 for student services 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 20-03-046, filed 1/9/20, effective 2/9/20)

**WAC 132S-100-107 Statement of jurisdiction ((of the student code of conduct)).** ~~((The CBC student code of conduct will apply to conduct by students and student organizations that occurs on college premises, within the residence halls, at college-sponsored events and activities, foreign or domestic travel associated with any of these events or activities, and to off-campus conduct which is in violation or alleged violation of local, state, or federal law, or this student code of conduct. Allegations or violations which occur off campus can be subject to college disciplinary action if the conduct has an effect on the CBC campus. The student code of conduct applies to conduct from the time of application for admission until the award of a degree and/or certificate, even if the conduct may have occurred before classes begin, after classes end, during the academic year, or during periods between terms of actual enrollment. These standards shall apply to a student's conduct even if the student is suspended or withdraws from the college while a disciplinary matter is pending. If a student withdraws after allegedly violating the student code of conduct, but prior to the college reaching a disciplinary decision in the matter, the college can move forward with the disciplinary process, place the process on hold until the student returns, or choose to place the investigation results in the student's file for consideration should they reapply for admittance, reenroll or register for any educational offerings at the college.))~~



(1) The student code of conduct 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-sponsored 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 before 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 code of conduct 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 code of conduct, the college may refer any violation of federal, state, or local laws to civil and criminal disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

AMENDATORY SECTION (Amending WSR 20-23-031, filed 11/10/20, effective 12/11/20)

**WAC 132S-100-117 Composition of the student conduct board.**

~~((The college will have a SCB composed of one chairperson and three decision-making members who shall be vice presidents and deans or directors as designated by the college and trained to conduct the full adjudicative process. The SCB will serve as a standing committee until a final decision is made regarding the student conduct matter for which it was convened. Any SCB member who has a personal relationship with either party or any personal or other interest which would prevent a fair and impartial review and decision will be recused from the proceedings. The chairperson will preside at the disciplinary hearing and will provide administrative oversight throughout the hearing process but will not participate in the deliberations of the decision-making members. The three decision-making members constitute a quorum of the SCB and may act accordingly. The college may retain an advisor to the SCB, including an assistant attorney general.))~~

(1) The student conduct board shall consist of four members who shall be vice presidents, deans, or directors as designated by the college:

(a) One chairperson; and

(b) Three decision-making members.

(2) The student conduct board will serve as a standing committee until a final decision is made regarding the student conduct matter for which it was convened.

(3) Any student conduct board member who has a personal relationship with either party or any personal or other interest which would prevent a fair and impartial review and decision will be recused from the proceedings.

(4) The student conduct board members will be trained to conduct the full adjudicative process on an annual basis.

(5) The chairperson will preside at the disciplinary hearing and will provide administrative oversight through the hearing process, but will not participate in the deliberations of the decision-making members.

(6) The three decision-making members constitute a quorum of the student conduct board and may act accordingly.

(7) 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 board and/or chairperson.

(8) For cases involving allegations of sex discrimination, including sex-based harassment, members of the student conduct board must review training on serving impartially, avoiding prejudgment of facts at issue, conflicts of interest, and bias. The chairperson 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 relation 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.

AMENDATORY SECTION (Amending WSR 20-23-031, filed 11/10/20, effective 12/11/20)

**WAC 132S-100-202 Prohibited student conduct (~~Rules and regulations~~)).** The attendance of a student at CBC is a voluntary entrance into the academic community. By such entrance, the student assumes obligations of performance and behavior reasonably imposed by the college relevant to its lawful missions, processes, and functions. It is the college's expectation that students will:

(1) Conduct themselves in a responsible manner;

(2) Comply with rules and regulations of the college and its departments;

(3) Respect the rights, privileges, and property of other members of the academic community;

(4) Maintain a high standard of integrity and honesty; and

(5) Not interfere with legitimate college business appropriate to the pursuit of educational goals.

(~~Any student or student organization that, either as a principal or participator or by aiding or abetting, commits or attempts to commit to violate any of the proscribed conduct, rules and regulations, or college policy will be subject to disciplinary action.~~) 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, aid, abets, incites, encourages, or as-

sists another person to commit, an act(s) of misconduct, which include, but are not limited to the policies outlined in this chapter.

Amnesty. To support each student's contribution to a safe and effective campus community, the college will not discipline reporting parties or witnesses for code of conduct violations that occur in connection with reported alleged violation unless the college determines the violation was egregious. Egregious violations include conduct that risked someone's health or safety, or involved plagiarism, cheating, or academic dishonesty. Students may be reluctant to report proscribed conduct when alcohol, drugs, or other intoxicants were involved. To encourage reporting, this amnesty provision applies to alcohol- and drug-related student violations.

#### NEW SECTION

**WAC 132S-100-204 Abuse later in life.** (1) 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

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

(3) Does not include self-neglect.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

**WAC 132S-100-205 Abusive ((conduct)) of others.** Assault, physical ((and/or)) abuse, verbal abuse, threats, intimidation, ((harassment, online harassment, coercion, bullying, cyberbullying, retaliation, stalking, cyberstalking, and/or other conduct which threatens or endangers the health or safety of any person or which has the purpose or effect of creating a hostile or intimidating environment)) 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.

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

**WAC 132S-100-213 ((Discrimination-)) Discriminatory harassment.** ((Engaging in any unfavorable treatment of a person based on that person's membership or perceived membership in a protected class. Harassment is a form of discrimination.))

(1) 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:

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

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

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

(2) 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.

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

AMENDATORY SECTION (Amending WSR 16-12-039, filed 5/25/16, effective 6/25/16)

**WAC 132S-100-220 Disruption or obstruction.** (~~(Includes, but is not limited to, the following:~~

~~(1) Participating in an on- or off-campus demonstration, riot, or any activity that disrupts the normal operations of the college and/or infringes on the rights of other members of the college community.~~

~~(2) Intentionally and/or recklessly inciting others to engage in any prohibited conduct as defined herein, when incitement may lead to such conduct.~~

~~(3) Obstruction of the free flow of pedestrian or vehicular traffic on college premises or at college-sponsored or supervised functions.)~~ Disruption or obstruction of instruction, research, administration, disciplinary proceedings, 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.

NEW SECTION

**WAC 132S-100-224 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.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

**WAC 132S-100-227 ((~~Drugs, controlled substances, and marijuana.~~) Cannabis, drug, and tobacco violations.** (~~((1) Legend drugs, narcotic drugs, controlled substances: Being observably under the influence of any legend drug, narcotic drug, or controlled substance as defined in chapters 69.41 and 69.50 RCW, or otherwise using, possessing, delivering, manufacturing, or seeking any such drug or substance, except in accordance with a lawful prescription for that student by a~~

~~licensed health care professional or as otherwise expressly permitted by federal, state, or local law, is prohibited. Use, possession and distribution of drug paraphernalia for the drugs and substances identified in this section is prohibited.~~

~~(2) Marijuana: While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities. Being observably under the influence of marijuana or the psychoactive compounds found in marijuana, or otherwise using, possessing, selling or delivering any product containing marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form, is prohibited.)~~

(1) 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 laws prohibits such use on college premises or in connection with college activities.

(2) 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.

(3) 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, windows 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.

NEW SECTION

**WAC 132S-100-232 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 intimidating, 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.

(1) 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.

(2) 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.

(3) 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.

AMENDATORY SECTION (Amending WSR 22-20-013, filed 9/22/22, effective 10/23/22)

**WAC 132S-100-235 Hazing.** (1) Any act, described in Washington statute, RCW 28B.10.900 committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a student organization, athletic team, or living group, or any pastime or amusement engaged in with respect to such an organization, athletic team, or living group that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student or other person attending the college, 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.

(2) A person who witnesses hazing or has reasonable cause to believe hazing has occurred or will occur and makes a report in good faith may not be sanctioned or punished for violation of hazing unless the person is directly engaged in the planning, directing, or act of hazing reported.

NEW SECTION

**WAC 132S-100-237 Independent 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.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

**WAC 132S-100-245 Alcohol.** (~~((1) Consuming, possessing, furnishing, or selling of alcoholic beverages and/or being under the influence of any alcoholic beverage is prohibited on college premises or at college-sponsored or supervised events except as a participant of legal age in a student program, banquet, or educational program which has the special written authorization of the college president or their designee to permit the service of alcoholic beverages.~~

~~(2) Alcoholic beverages may not, in any circumstance, be used by, possessed by, or distributed to any person under the state alcohol legal drinking age.))~~

(1) Use, possession, manufacture, or distribution of alcoholic beverages or paraphernalia except as a participant of legal age in a student program, banquet, or educational program which has the special

written authorization of the college president or their designee to permit the service of alcoholic beverages.

(2) Public intoxication on college premises or at college-sponsored events.

(3) Alcoholic beverages may not, in any circumstance, be used by, possessed by, or distributed to any person under the state alcohol legal drinking age.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

**WAC 132S-100-250 Misuse of ((equipment and technology)) electronic resources.** ~~Misuse of ((the college's computer, telecommunications, or electronic technology, facilities, network, software, or equipment which))~~ computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

~~(1) Unauthorized ((entry into a file to use, read, or change the contents, or for any other purpose.~~

~~(2) Unauthorized transfer of a file.~~

~~(3) Use of another individual's credentials or password or allowing someone else to use your own credentials and password.~~

~~(4) Violation of law including copyright laws.~~

~~(5) Interference with the normal operations of the college or the work of another student, faculty member, or college official.~~

~~(6) Sending obscene or abusive messages.~~

~~(7) Obtaining personal profit, advertisement, or illegal purposes.~~

~~(8) Use for purposes other than those necessary to fulfill an assignment or task as part of the student's program of instruction.~~

~~(9) Engaging in any actions and behaviors prohibited by college policy.)~~ use of such resources or opening a file, message, or other item;

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

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

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

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

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

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

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

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

NEW SECTION

**WAC 132S-100-252 Property violation.** Damage to, misappropriation of, unauthorized use or possession of, vandalism, or other nonac-

cidental 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.

NEW SECTION

**WAC 132S-100-254 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.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

**WAC 132S-100-255 Safety ((misconduct)) violations.** ((Intentionally initiating or causing to be initiated any false report, warning, or threat of fire, explosion, or other emergency on college premises or at any college-sponsored activity, or 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, or driving a vehicle recklessly or over the speed limit on campus property.)) 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.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

**WAC 132S-100-260 ((Sexual misconduct.)) Sex discrimination.** ((Engaging in nonconsensual sexual intercourse or nonconsensual sexual contact, requests for sexual favors or other conduct of a sexual nature where such behavior offends a reasonable, orderly, prudent person under the circumstances. This includes, but is not limited to:

- (1) Sexual activity or contact for which clear and voluntary consent has not been given in advance.
- (2) Sexual activity with someone who is incapable of giving valid consent including, but not limited to, someone who is under duress, is underage, sleeping or otherwise incapacitated due to alcohol, drugs, or any other reason.
- (3) Sexual harassment, which includes unwelcome, gender-based verbal, written, electronic, and/or physical conduct. Sexual harassment also includes offensive remarks about a person's gender, gender identity, and/or sexual orientation. Sexual harassment encompasses:
  - (a) Hostile environment sexual harassment; and
  - (b) Quid pro quo sexual harassment.



~~(4) Sexual violence which includes, but is not limited to, sexual assault, domestic violence, intimate violence, and sexual or gender-based stalking.~~

~~(5) Nonphysical conduct such as sexual or gender-based cyberstalking, sexual or gender-based online harassment, sexual or gender-based cyberbullying, nonconsensual recording of a sexual activity, and nonconsensual distribution of a recording of a sexual activity, and other forms of sexual exploitation.~~

~~(6) Any and all conduct which violates college policy pertaining to sexual misconduct, sexual harassment or discrimination based on sex, gender identity or sexual orientation.))~~

The term "sex discrimination" includes sex-based harassment, and may occur when a respondent causes more than de minimus harm to an individual by treating them differently 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.

(1) 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:

(a) 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.

(b) 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:

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

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

(iii) 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;

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

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

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

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

(ii) Nonconsensual sexual contact (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.

(iii) 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.

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

(v) 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.

(vi) 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:

(A) The length of the relationship;

(B) The type of relationship; and

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

(vii) 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.

(2) 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.

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

(b) 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.

(c) 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.

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

(3) 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.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

**WAC 132S-100-273 ~~Unauthorized ((keys, entry, or use)) access.~~**

Unauthorized (~~((keys, entry or use))~~) access includes, but is not limited to:

- (1) Unauthorized possession, duplication, or other use of keys (including conventional keys, key cards, or passcodes) to any college premises;
- (2) Unauthorized entry upon or use of college premises or property; or
- (3) Providing keys to an unauthorized person or providing access to an unauthorized person.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

**WAC 132S-100-275 ~~Weapons.~~** (~~(Unauthorized possession of weapons (e.g., firearms, daggers, swords, knives, other cutting or stabbing instruments, or clubs) or substances (e.g., explosives) apparently capable of producing bodily harm and/or damage to real or personal property is prohibited on or in college-owned or operated facilities and premises and/or during college-sponsored events.~~

~~(1) Carrying of firearms on or in college-owned or operated facilities and/or during college-sponsored events is prohibited except and unless the permit is registered with the campus security department for a specified period of time.~~

~~(2) The aforementioned regulations within this section shall not apply to equipment or materials owned, used or maintained by the college; nor will they apply to law enforcement officers or campus security officers acting in the legitimate performance of their lawful duties.)~~

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:

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

(2) 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.

(3) 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.

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

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

**WAC 132S-100-280 Academic dishonesty.** ((Academic dishonesty minimizes the learning process and threatens the learning environment for all students. As members of the CBC learning community, students are not to engage in any form of academic dishonesty. Academic dishonesty includes, but is not limited to, cheating, plagiarism, and fabrication or falsification of information, research, or other findings for the purpose of fulfilling any assignment or task as part of the student's program of instruction. Any student who commits or aids and abets the accomplishment of an act of academic dishonesty will be subject to disciplinary action.))

Any act of academic dishonesty, including:

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

(2) Plagiarism - Taking and using as one's own, without proper attribution, the ideas, writing, 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.

(3) 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.

(4) 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.

NEW SECTION

**WAC 132S-100-293 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, stalk, 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 distribution of a recording of sexual activity.

AMENDATORY SECTION (Amending WSR 20-23-031, filed 11/10/20, effective 12/11/20)

**WAC 132S-100-400 Student conduct process.** (1) As an agency of the state of Washington, the college's SCO, SCB, SAB, or president may be advised or represented by an assistant attorney general in any student code of conduct proceeding.

~~((1) Initiation of the student conduct process. A request to initiate the student conduct process for alleged violation(s) of the student code of conduct must be made to the SCO as soon as possible following the violation. Conduct proceedings may be initiated when the SCO receives any direct or indirect report of conduct that may violate this code, which includes, but is not limited to, a police report, an incident report, a witness statement, other documentation, or a verbal or written report from a complainant, witness, or other third party. The college may initiate the student conduct process regardless of whether or not the incident in question is the subject of criminal or civil proceedings. Any member of the college's administration, faculty, staff, or any student or nonstudent may make a request for disciplinary action through the student conduct process and it must be a good faith claim. Formal rules of evidence, such as are applied in criminal or civil court, are not used in conduct proceedings. Relevant evidence, including hearsay, is admissible if it is the type of evidence that reasonable persons would rely upon in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded. If the complaint indicates that the matter involves sexual misconduct, the SCO will forward the complaint to the Title IX office for review in accordance with the college's Title IX grievance policy and procedure or nondiscrimination and harassment policy and grievance procedure, as applicable. Any determinations of relevant evidence or facts made under the Title IX grievance policy and procedure or the nondiscrimination and harassment policy and grievance procedure shall be relied upon in the student conduct process. The SCO or designee will conduct an initial investigation of a complaint to determine whether it alleges conduct that may be prohibited by the student code of conduct. If it is determined through the initial investigation that the report has merit, the SCO will conduct an investigation to determine responsibility. Except in cases of sexual assault or sexual violence, the parties may elect to mediate the dispute, which shall be facilitated by the SCO. If the SCO's investigation indicates that the alleged violation is so severe that a finding of responsibility is likely to merit expulsion, suspension of more than ten days, revocation of a degree, or loss of recognition of a student organization, the SCO will forward the findings of the investigation to the SCB for review, decision and disciplinary action using the full adjudicative process. If the SCO has a conflict of interest or is the subject of a complaint by the student, the vice president for student services shall, upon request and at their discretion, designate another person to fulfill any such disciplinary responsibilities relative to the request for the student conduct process.~~

~~(2) Notification requirements.~~

~~(a) If it is determined through the initial investigation that an alleged violation of the student code of conduct might have occurred and which is not eligible for referral to the Title IX officer or the SCB, the SCO will provide the following written notification:~~

~~(i) That a report has been submitted alleging conduct which violates the student code of conduct and that a conduct investigation has been initiated to determine responsibility;~~

~~(ii) The specific sections of the student code of conduct which are alleged to have been violated;~~

~~(iii) That the student may either accept responsibility for the alleged violations or request a conduct meeting with the SCO to present evidence to refute the report;~~

~~(iv) That the student may provide evidence such as names and contact information of witnesses to aid the conduct investigation;~~

~~(v) The possible sanction outcomes and that the actual sanctions will depend on the determination of responsibility pending the results of the investigation; and~~

~~(vi) That if the student fails to participate in any stage of the conduct proceedings or to request a conduct meeting within fifteen days from the date of the notice, the college may move forward with the conduct proceeding without their participation.~~

~~(b) If the student requests a conduct meeting within fifteen days of the notice, the student will be provided a written notice to appear for a conduct meeting. The notice to appear will be personally delivered, sent electronically to the student's CBC email address, or sent by mail to the most recent address in the student's record on file with the college, not later than fifteen instructional days after the request for a conduct meeting. The notice will not be ineffective if presented later due to the student's absence. Such notice will:~~

~~(i) Set forth the specific provisions of the student code of conduct and the specific acts which are alleged to be violations, as well as the date(s) of the violations, and a description of evidence, if any, of the violation.~~

~~(ii) Notify the student of the SCO's investigation and possible sanctions, if any.~~

~~(iii) Specify the time, date, and location where the student is required to meet with the SCO. The meeting will be scheduled no earlier than three instructional days, but within thirty instructional days of the date on the notice to appear sent to the student. The SCO may modify the time, date, and location of the meeting, either at the student's or college's request, for reasonable cause.~~

~~(iv) Inform the student that failure to attend the conduct meeting will not stop the disciplinary process and may result in a transcript/registration hold being placed onto the student's account, and disciplinary actions.~~

~~(v) Inform the student that they may be accompanied at the meeting by an advisor at their expense. The advisor cannot be a college employee or witness. If the student or their advisor is found to have tampered with witnesses or evidence, or destroyed evidence, the student will be held accountable in the conduct process for their acts and those of their advisor.~~

~~(vi) Inform the student that they may present evidence to support their assertions during the meeting.~~

~~(3) Student conduct meeting - Brief adjudicative process.~~

~~(a) During the student conduct meeting, the student will be informed of the following:~~

~~(i) The specific acts and the provision(s) of college policy that the student is alleged to have violated;~~

~~(ii) The disciplinary process;~~

~~(iii) The range of sanctions which might result from the disciplinary process and that the actual sanctions will depend on the findings of responsibility;~~

~~(iv) The student's right to appeal.~~

~~(b) The student will have the opportunity to review and respond to the allegation(s) and evidence and provide the SCO with relevant information, evidence and/or witnesses to the alleged violation(s), and/or explain the circumstances surrounding the alleged violation(s).~~

~~(c) The advisor may assist the student during the conduct meeting, however the student is responsible for presenting their own information and evidence. The advisor may only communicate with the student they are advising. Any disruptions or failure to follow the conduct process and/or directions of the SCO may result in the advisor being excused from the meeting.~~

~~(4) Decision by the SCO.~~

~~(a) After interviewing the student or students involved and/or other individuals as appropriate, and considering the evidence, the SCO may take any of the following actions:~~

~~(i) Determine that the student is not responsible for a violation of the student code of conduct and thereby terminate the student conduct process;~~

~~(ii) Determine that the student is responsible for a violation of the student code of conduct and impose disciplinary sanctions as provided herein;~~

~~(iii) Determine that further inquiry is necessary and schedule another meeting for reasonable cause; or~~

~~(iv) Refer the case to the SCB for the full adjudicative hearing process if the alleged violation is discovered to be of a severe nature and may result in sanctions that include expulsion, suspension for more than ten days, revocation of a degree, or loss of recognition of a student organization.~~

~~(b) Notification of the decision by the SCO will be issued pursuant to WAC 132S-100-130 within thirty instructional days of the final student conduct meeting. Due to federal privacy law, the college may not disclose to the complainant any sanctions imposed on the responding student unless the complainant was the alleged victim of a violent crime as defined under the Federal Educational Rights and Privacy Act (FERPA) (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99), or the responding student consents to such disclosure. A copy of the decision notification will be filed with the office of the SCO.~~

~~(c) Disciplinary action taken by the SCO is final unless the student exercises the right of appeal as provided herein.))~~

(2) Initiation of disciplinary action.

(a) Any member of the college community may file a complaint against a student or student group for possible violations of the student code of conduct.

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

(i) 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 code of conduct. Allegations involving employees or third parties associated with the college will be handled in accordance with college policies.

(ii) 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.

(c) 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.

(d) If a student conduct officer determines that a complaint appears to state a violation of the student code of conduct, 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.

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

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

(e) 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.

(f) 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.

(g) All disciplinary actions will be initiated by the student conduct officer. If that student conduct 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.

(h) 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 student code of conduct 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.

(i) At the meeting, the student conduct officer will present the allegation 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.

(j) 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 code of conduct provisions found to have been violated, the discipline imposed (if any), and a notice of any appeal rights with an explana-



tion of the consequences of failing to file a timely appeal. This period 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.

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

(i) Exonerate the respondent and terminate the proceedings;

(ii) Impose a disciplinary sanction(s), with or without conditions, as describe in WAC 132S-100-XXX; or

(iii) Refer the matter directly to the student conduct board for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chairperson of the student conduct board, with a copy served on the respondent.

(l) 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 the preponderance of the evidence, there was a violation of the student code of conduct; 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.

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

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

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

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

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

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

(B) Respondent is not participating in the College's educational programs or activities;

(C) 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;

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

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

(vi) 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.

(vii) 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.

(viii) 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.

(ix) 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 the complainant has equal access to the college's programs and activities.

AMENDATORY SECTION (Amending WSR 20-23-031, filed 11/10/20, effective 12/11/20)

**WAC 132S-100-407 Appeal ((process)) from disciplinary action.**

~~((1)(a) Disciplinary decisions may be appealed by filing a written request with the office of the VPSS within twenty-one days of the notice of the decision. Disciplinary decisions of the SCO may be appealed for review by the SAB using the brief adjudicative process. Disciplinary decisions of the SCB may be appealed for review by the college president using the brief adjudicative process. Disciplinary decisions by the SCO that include sexual misconduct may be applied for review by the SCB using the brief adjudicative process. Failure to file a written appeal within twenty-one days will result in the decision becoming final with no further right of appeal.~~

~~(b) The request for appeal must include a brief statement explaining the grounds for the appeal or why the party is seeking review. Disagreement with the finding and/or with the sanctions does not, by itself, represent grounds for appeals.~~

~~(2) Decisions may be appealed for one or more of the following:~~

~~(a) To determine whether there was a procedural error that substantially affected the outcome of the finding or sanctioning. Deviation from designated procedures is not a basis for sustaining an appeal unless significant prejudice results.~~

~~(b) To determine whether the sanction(s) imposed were appropriate and not excessively lenient or excessively severe for the violation of the student code of conduct for which the student was found responsible.~~

~~(c) To consider new information, sufficient to alter a decision, or other relevant facts not brought during fact finding, because such information and/or facts were not known, and the student bringing the appeal had no duty to discover or could not have reasonably discovered facts giving rise to the issues during investigation or fact finding.~~

~~(3) Refusal to participate during the investigation or student conduct process does not constitute a right to appeal.~~

~~The VPSS or designee will forward appeals based on one or more of the required grounds for appeal to the SAB, SCB, or president as provided herein.~~

~~A party, who timely appeals a disciplinary action, has a right to a prompt, fair, and impartial appeal review as provided in these procedures.~~

~~Interim measures will remain in effect pending an appeal unless they have been removed pursuant to WAC 132S-100-445.~~

~~(4) Appeals of disciplinary action(s) will be taken in the following order:~~

~~(a) Complainants are afforded the same right to appeal as respondents in student conduct matters in which the complainant was the alleged target of violence or sexual misconduct. If both parties appeal the decision, the appeals will be reviewed in the order in which they are filed or reviewed together, if they state the same, similar, or related grounds or substance for appeal.~~

~~(b) The SAB or college president's decision to affirm, reverse or modify the decision and/or sanction will be issued pursuant to WAC 132S-100-130.~~

~~(c) The SAB's, and the college president's decisions are final.))~~

(1) Except as specified for cases involving allegations of sex discrimination, as set forth in WAC 132S-100-400, 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 board, 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 code of conduct shall be stayed pending appeal, unless respondent has been summarily suspended.

(7) A student appeals board (SAB) shall conduct a brief adjudicative proceedings 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 conduct review officer 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 conduct review officer by the student conduct officer or student conduct board.

AMENDATORY SECTION (Amending WSR 20-23-031, filed 11/10/20, effective 12/11/20)

**WAC 132S-100-413 Full adjudicative process.** The ((SCB)) student conduct board will use the following full adjudicative process to determine responsibility for serious violations which include sanctions of suspension for more than ((ten)) 10 days, expulsion, withholding or

revocation of a degree, or loss of recognition of a student organization.

~~((1) The parties will be sent written notification of the SCB adjudication proceedings within ninety days from the date of the filing of the appeal. The notification will contain the following:~~

~~(a) The time, date, and location of the hearing, which shall not be less than seven days from the date of the notice of the hearing;~~

~~(b) The specific acts alleged and the provision(s) of college policy which those acts violated;~~

~~(c) The SCB procedures;~~

~~(d) The name and contact information for the SCB and their advisor, if any, representing the college. The notice will include the official title, work mailing address, and telephone number of each of these individuals;~~

~~(e) Unless otherwise ordered by the SCB chairperson, the name and mailing addresses of all parties to whom notice is being given and, if known, the names and addresses of their advisors;~~

~~(f) A statement that if a party fails to attend or participate in a hearing or other stage of this adjudicative proceeding, they may be held in default in accordance with chapter 34.05 RCW and/or the college may continue the student conduct process, including the hearing, despite the party's absence.~~

~~(2) The respondent and complainant have the right to be assisted by one advisor of their choice and at their own expense. The advisor must not be a witness or someone employed by the college. If the respondent chooses to have an attorney serve as their advisor, the student must provide notice to the SCB no less than five instructional days prior to the hearing. The SCB hearing may not be delayed due to the scheduling conflicts of an advisor and such requests will be subject to the discretion of the SCB chairperson. If the student or their advisor is found to have tampered with witnesses or evidence, or destroyed evidence, the student will be held accountable in the conduct process for their acts and those of their representative/advisor.~~

~~The respondent and/or complainant are responsible for presenting their own information, and therefore, during the hearing, advisors are not permitted to address the SCB, witnesses, the SCO, or any party or advisor invited by the parties to the hearing. An advisor may communicate with their advisee and recesses may be allowed for this purpose at the discretion of the SCB chairperson. The advisor may not disrupt or interfere with any aspect of the proceeding.~~

~~The SCB chairperson shall have the right to impose reasonable conditions upon the participation of the advisor.~~

~~(3) The SCB and the parties will be provided reasonable access to the documentation and evidence which will be reviewed by the SCB, as well as the case file that will be retained by the SCO in accordance with applicable privacy laws.~~

~~(4) Any SCB member who has a personal relationship with either party or any personal or other interest which would prevent a fair and impartial review and decision will be recused from the proceedings.~~

~~A party may make a written request to the SCB chairperson for the recusal of an SCB member no less than five instructional days prior to the hearing. The request must be for good cause, which must be shown by the party making the request. The SCB chairperson will consider the request and notify the student of their decision regarding the recusal prior to the hearing. If the SCB chairperson grants the recusal, a replacement for the recused SCB member will be made without unreasonable delay.~~

~~(5) The parties involved in the hearing will be required to submit their witness list and any evidence to be discussed at the hearing to the SCB chairperson no less than five instructional days prior to the hearing. The parties must submit a witness list which contains a written statement from each witness that includes a brief description of the relevant information the witness will provide during the hearing. Witnesses not listed will not participate in the hearing.~~

~~(6) Discovery in the form of depositions, interrogatories, and medical examinations of parties are not permitted in student conduct adjudications. Other forms of discovery which ensure the prompt and thorough completion of the adjudication process may be permitted at the discretion of the SCB chairperson.~~

~~(7) Hearings will be closed to the public except if consented to by all parties and at the discretion of the SCB chairperson. Witnesses may be allowed in the hearing room only during the time in which they provide their statements to the SCB. The complainant and respondent, depending on their preference and subject to orders of a court of law, such as protection orders, may be present for and observe the entire hearing.~~

~~At the discretion of the SCB chairperson, and where the rights of the parties will not be prejudiced, all or part of the hearing may be conducted by telephone, video conference, or other electronic means. Each party shall have the opportunity to hear and if technically and economically feasible, to see the entire hearing while it is taking place. At all times, however, all parties, their advisors, the witnesses, and the public will be excluded during the deliberations of the SCB.~~

~~(8) The SCB chairperson will exercise control over the hearing to avoid needless consumption of time and to prevent the harassment or intimidation of witnesses. Any person, including the respondent and complainant, who disrupts a hearing or who fails to follow the directions of the SCB chairperson may be excluded from the proceedings and may be subject to disciplinary action.~~

~~(9) Questions posed by any party to be answered by each other or by witnesses must be appropriate and respectful. The SCB chairperson may require any participant of the hearing to provide all questions in writing to the SCB chairperson. The SCB chairperson, if appropriate and at their sole discretion, will read the question to the individual to whom it is directed. Any question which the SCB chairperson has chosen not to read will be documented on record and kept within the case file. The SCB chairperson will decide matters related to the order of the proceedings.~~

~~(10) In order that a complete record of the proceeding can be made to include all evidence presented, hearings will be recorded or transcribed, except for the deliberations of the SCB. The record will be the property of the college.~~

~~(11) After weighing and considering the evidence, the SCB will decide by unanimous vote whether the respondent is responsible or not responsible for a violation of the student code of conduct. If there is a finding of responsibility for a violation, the SCB shall determine sanctions as provided herein.~~

~~(12) The SCB's decision is made on the basis of a "preponderance of the evidence" standard of proof, that is, whether it is more likely than not that the respondent violated the student code of conduct.~~

~~(13) The notice of decision of the SCB will be issued pursuant to WAC 132S-100-130. A copy of the SCB's decision will also be filed with the office of the SCO.~~

~~(14) Disciplinary action taken by the SCB is final unless the student exercises the right of appeal to the college president as provided herein.)~~

(1) Prehearing.

(a) Proceedings of the student conduct board shall be governed by the Administrative Procedure Act, chapter 34.05 RCW.

(b) The student conduct board chairperson shall serve all parties with written notice of the hearing not less than seven calendar days in advance of the hearing date. The chairperson 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:

(i) A copy of the student code of conduct;

(ii) The basis for jurisdiction;

(iii) The alleged violation(s);

(iv) A summary of facts underlying the allegations;

(v) The range of possible sanctions that may be imposed; and

(vi) A statement that retaliation is prohibited.

(c) The chairperson 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.

(d) Upon request filed at least five calendar days before the hearing by any party or at the direction of the chairperson, 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 student conduct board. 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.

(e) The chairperson may provide to the student conduct board members in advance of the hearing copies of:

(i) The student conduct officer's notification of imposition of discipline (or referral to the committee); and

(ii) The notice of appeal (or any response to referral) by the respondent. If doing so, however, the chairperson should remind the members that these "pleadings" are not evidence of any facts they may allege.

(f) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the student conduct board chairperson may provide copies of these admissible exhibits to the student conduct board members before the hearing.

(g) Communications between student conduct board 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 the 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.

(h) In cases heard by the student conduct board, 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.

(i) The student conduct board will ordinarily be advised by an assistant 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.

(j) Attorneys for students must file a notice of appearance with the student conduct board chairperson at least four business days before the hearing. Failure to do so may, at the discretion of the student conduct board chairperson, 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.

(k) 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:

(i) 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.

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

(iii) Extension of time - The chairperson 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 (1)(ii) of this subsection.

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

(v) 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 student conduct board chairperson pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.

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

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

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

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

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

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

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

(ii) Extension of time - The chairperson 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 chairperson in any prehearing conference. The written request must be served simultaneously by email to all parties and the chairperson. 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 chairperson will serve a written decision upon all parties, to include the reasons for granting and denying any request. The chairperson's decision shall be final. In exceptional circumstances, for good cause shown, the chairperson may, in their sole discretion, grant extensions of time that are made less than 48 hours before any deadline.

(iii) 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.

(iv) 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.

(v) 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 chairperson issuing directives pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.

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

(vii) 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.

(2) Presentation of evidence.

(a) Upon the failure of any party to attend or participate in a hearing, the student conduct board may either:

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

(ii) Serve a decision of default in accordance with RCW

34.05.440.

(b) 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 chairperson shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chairperson may exclude that person from the hearing room.

(c) The chairperson 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 chairperson 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 recordings shall also be permitted, in accordance with WAC 10-08-190.

(d) The chairperson shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the student conduct board.

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



(f) 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.

(g) 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 chairperson will determine whether questions will be submitted to the chairperson, 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 chairperson may revise this process if, in the chairperson's determination, the questioning by any party, attorney, or advisor, becomes contentious or harassing.

(i) Prior to any questions being posed to a party or witness, the chairperson 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 chairperson will retain for the record copies of any written questions provided by any party.

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

(iii) The chairperson shall exclude and the student conduct board 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:

(A) Spousal/domestic partner privilege;

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

(C) Clergy privileges;

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

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

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

(iv) The chairperson shall exclude and the student conduct board 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.

(v) The student conduct board 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 student conduct board 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.

(h) Except in cases involving allegations of sex-based harassment, the chairperson 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 chairperson to be asked of the witnesses, or to allow questions to be asked by an attorney or advisor for the respondent.

(3) Initial decision.

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

(b) Within 20 calendar days following the conclusion of the hearing or the student conduct board's receipt of closing arguments, the student conduct board 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 code of conduct were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified and explained.

(c) The student conduct board'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 student conduct board shall identify and impose disciplinary sanction(s) or conditions (if any), as authorized in the student code of conduct. If the matter is an appeal by a party, the student conduct board 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.

(d) The chairperson 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 chairperson shall also promptly transmit a copy of the decision and the record of the student conduct board's proceedings to the president.

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

(4) Review of initial decision.

(a) Any party, including a complainant in sex-based harassment cases, may appeal the student conduct board's decision to the president by filing a written appeal with the president's office within 21 calendar days of service of the student conduct board's decision. Failure to file a timely appeal constitutes a waiver of the right and the decision shall be deemed final.

(b) 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:

(i) Procedural irregularity that would change the outcome;

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

(iii) 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.

(c) 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.

(d) 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 board and will normally be limited to a review of those issues and arguments raised in the appeal.

(e) 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.

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

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

AMENDATORY SECTION (Amending WSR 20-23-031, filed 11/10/20, effective 12/11/20)

**WAC 132S-100-417 Brief adjudicative process.** (~~((1) The brief adjudicative process is conducted in accordance with RCW 34.05.482 through 34.05.494.~~

~~(2) The SCO will use the brief adjudicative process to make decisions of findings of responsibility as provided in this code of conduct.~~

~~(3) The SCB will use the brief adjudicative process to review appeals of disciplinary decisions which include allegations of sexual misconduct but do not include sanctions of expulsion, suspension for more than ten days, revocation of a degree, or loss of recognition of a student organization.~~

~~(4) The president will use the brief adjudicative process to review appeals of all disciplinary decisions made by the SCB.~~

~~(5) The SAB will use the brief adjudicative process to review timely appeals of disciplinary decisions which do not include sexual misconduct, sanctions of expulsion, suspension for more than ten days, revocation of a degree, or loss of recognition of a student organization.~~

~~(6) Within twenty days of filing the appeal, the SAB or president, as applicable, shall review the record of the preceding conduct decision and all relevant information provided by the parties, and based on a preponderance of the evidence by unanimous vote as applicable, shall make a determination to affirm, reverse, or modify the findings and/or sanctions. The SCB, SAB and president shall have the discretion to seek clarification from witnesses as needed.~~

~~(7) Notification of the decision will be issued pursuant to WAC 132S-100-130.)~~

(1) Initial hearing.

(a) 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.

(b) 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:

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

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

(c) The conduct review officer shall serve as 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.

(d) 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 board for a disciplinary hearing.

(2) Review of an initial decision.

(a) 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.

(b) 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.

(c) 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 board for a formal adjudicative hearing.

(d) 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.

(e) 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 board for a disciplinary hearing.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

**WAC 132S-100-440 Corrective action, disciplinary sanctions, terms and conditions.** ~~((Students found responsible for violations of the student code of conduct may be subject to the following sanctions:~~

~~(1) Warning. A verbal statement or notice in writing to the respondent that they are violating or have violated college rules or regulations and that continued violations may be the cause for further disciplinary action.~~

~~(2) Reprimand. Notice in writing that the respondent has violated one or more of the policies outlined in the student code of conduct~~

and that continuation of the same or similar behavior may result in more severe disciplinary action.

~~(3) Loss of privileges. Denial of specified privileges for a designated period of time.~~

~~(4) Loss of recognition. A student organization's recognition may be withheld permanently or for a specific period of time. Loss of recognition is defined as withholding college services or administrative approval from a student organization. Services and approval to be withdrawn may include, but are not limited to, intramural sports, information technology services, college facility use and rental, and involvement in organizational activities.~~

~~(5) Restitution. A student may be required to make restitution for damage, loss, or injury. This may take the form of appropriate service and/or monetary or material replacement. Failure to make restitution within thirty instructional days or any period set by the SCO, SCB, SAB, or president will result in an administrative hold being placed on the student's registration, which will prevent future enrollment until the restitution is complete.~~

~~(6) Discretionary sanctions. Work assignments, essays, service to the college, or other related discretionary assignments.~~

~~(7) Disciplinary probation. Formal action placing conditions upon the student's continued attendance for violations of college rules or regulations or other failure to meet the college's expectations within the student code of conduct. Written notice of disciplinary probation will specify the period of probation and any condition(s) upon which their continued enrollment is contingent. Such conditions may include, but not be limited to, adherence to terms of a behavior contract or limiting the student's participation in extra-curricular activities or access to specific areas of the college's facilities. Disciplinary probation may be for a specified term or for a period which may extend to graduation or award of a degree or certificate or other termination of the student's enrollment in the college.~~

~~(8) Restricted access to (trespass from) certain college facilities, property or activities.~~

~~(9) Suspension. Separation of the student from the college for a definite period of time, after which the student is eligible to return. Conditions for readmission may apply. Students who are suspended may be denied access to all or any part of the campus or other facilities for the duration of the period of suspension.~~

~~(10) Expulsion. Permanent separation of the student from the college. Students who are expelled may be permanently denied access to all or any part of the campus or other facilities.~~

~~(11) Revocation of admission and/or degree or certificate. Admission to the college or a degree or certificate awarded from the college may be revoked for fraud, misrepresentation, or other violation of college standards in obtaining admission or the degree or certificate, or for other serious violations committed by a student prior award of a degree or certificate.~~

~~(12) Withholding degree or certificate. The college may withhold awarding a degree or certificate until the completion of the process set forth in the student code of conduct, including the completion of all sanctions imposed, if any.~~

~~(13) 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. Authorization for release of in-~~

formation will be required to allow the college access to the 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 student code of conduct.

(14) ~~Delayed suspension. A probationary amount of time set by the SCO, SCB, SAB, or president in which the student must remain in good standing. If the student is found responsible for violating the student code of conduct while still under the delayed suspension guidelines, then the student will be suspended, as set forth in subsection (7) of this section.~~

(15) ~~No contact order. An order that prohibits direct or indirect physical, verbal, written, and/or any other form of communication or contact with an individual or group. Direct and indirect contact includes, but is not limited to, phone calls, letters, going within sight of places of work or residence, email, social media, etc.~~

~~If the respondent is found responsible for any violation, the student's past disciplinary record may be considered in determining an appropriate sanction.)~~

(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 code of conduct.

(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 the student 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 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 appropriate 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 person, 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.

(h) Residence hall suspension or termination - Removal from a residence hall for a specified period or permanently. Conditions may be imposed before a student is permitted to return to a residence hall.

(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 disciplinary sanction 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 sanction and conditions may be considered in petitions for readmission to the college.

#### NEW SECTION

**WAC 132S-100-442 Hazing sanctions.** (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 non-profit, 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 student code of 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 132S-100-444 Summary suspension.** (1) Summary suspension is a temporary exclusion 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 student 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 code of conduct 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 privileges 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 cam-



pus 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.

AMENDATORY SECTION (Amending WSR 20-03-046, filed 1/9/20, effective 2/9/20)

**WAC 132S-100-445 Interim measures.** (1) Interim measures may be taken pending an investigation or adjudication if there is cause to believe that a student or student organization poses an imminent risk of harm to anyone in the college community, or to property, or if the misconduct is so severe, persistent, or pervasive as to substantially disrupt or materially interfere with the college's operations and/or activities or with an individual's education/work activities. Interim measures may include counseling, extensions of time or other course-related adjustments, modifications of class schedules, campus escort services, restrictions on contact between the parties, increased security and monitoring of certain areas of campus, restrictions on access to college owned or operated property and/or events (notice of trespass), including classes, activities and privileges, or any similar measures while the conduct process is pending.

(2) The student must adhere to the conditions of the interim restriction. If an interim restriction includes campus wide restricted access, the SCO may provide written permission for the student to enter campus for specific purposes such as meeting with the SCO or designee, faculty, staff or witnesses to prepare for an appeal, or to participate in the student conduct process.

(3) Notice of interim measure. The student will be provided written notice of the interim measure(s), stating:

(a) The time, date, place, and nature of the circumstances which created the need for interim measures.

(b) A description of any relevant evidence.

(c) The interim measure.

(d) The possible sanctions that could result from violation of the interim measure including arrest for criminal trespass if the student has been trespassed from campus.

(e) The student's right to either accept the interim measure or submit a written appeal of the interim measure within three instructional days to the office of VPSS ((office)). An appeal is waived if not submitted within the prescribed time. If the student timely appeals, the interim measure shall remain in place during the appeal process. The VPSS will provide written notification to the student of the decision to either maintain or discontinue the interim measure within five instructional days of receipt of the appeal.

(f) If the student has been trespassed from the campus, a notice against trespass shall be included that warns the student that their privilege to enter into or remain on college premises has been withdrawn, that they shall be considered trespassing and subject to arrest for criminal trespass if they enter the college campus other than to meet with the SCO as arranged by an appointment, or to attend a disciplinary hearing. The interim measure shall not replace the regular discipline process, which shall proceed as quickly as feasible in light of the interim restriction.