

WSR 24-20-065

PROPOSED RULES

EASTERN WASHINGTON UNIVERSITY

[Filed September 26, 2024, 12:31 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-16-030.

Title of Rule and Other Identifying Information: Chapter 172-108 WAC, Adjudicative proceedings.

Hearing Location(s): On November 22, 2024, at 12:00 p.m., at 215A Tawanka Commons, Eastern Washington University (EWU), Cheney, WA 99004.

Date of Intended Adoption: December 13, 2024.

Submit Written Comments to: Annika Scharosch, 211 Tawanka, Cheney, WA 99004, email ascharosch@ewu.edu, website https://inside.ewu.edu/policies, beginning October 1, 2024, at 8:00 a.m., by 5:00 p.m. on November 22, 2024.

Assistance for Persons with Disabilities: Contact Annika Scharosch, phone 509-359-6724, email ascharosch@ewu.edu, by November 18, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updating rules to reflect changes to the student conduct code, chapter 172-121 WAC, and a new code, Discrimination and Title IX violations by students, chapter 172-125 WAC, as well as changes to Title IX procedures. As identified in chapter 172-108 WAC, EWU declines to adopt the model rules of procedure issued by the office of administrative hearings. Instead, these rules are designed to emphasize the educational nature of the university community and to provide a prompt and equitable process for resolving concerns consistent with the requirements of Title VI and Title IX.

Reasons Supporting Proposal: These changes are being made to comply with regulations issued by the United States Department of Education.

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

Rule is necessary because of federal law, 34 C.F.R. Part 106.

Name of Proponent: EWU, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Annika Scharosch, 211 Tawanka Commons, Cheney, WA 99004, 509-359-6724; Enforcement: Dr. Shari McMahan, 214 Showalter Hall, Cheney, WA 99004, 509-359-6200.

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. Not subject to RCW 34.05.328(5).

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: These changes impact internal WSU procedures for addressing the conduct of students. They do not affect small businesses.

Scope of exemption for rule proposal:

Is fully exempt.

September 26, 2024

Annika Scharosch  
Associate Vice President for Civil Rights  
Compliance and Business Services

**OTS-5548.1**

AMENDATORY SECTION (Amending WSR 21-01-104, filed 12/11/20, effective 1/11/21)

**WAC 172-108-040 Formal adjudicative proceedings.** (1) Eastern Washington University utilizes a formal adjudicative proceeding for certain student conduct proceedings as identified in chapters 172-121 and 172-125 WAC, and certain academic integrity code proceedings as identified in chapter 172-90 WAC. The procedural rules for these formal adjudicative proceedings are contained in the student conduct code, chapter 172-121 WAC, discrimination and Title IX violations by students code, chapter 172-125 WAC, and the academic integrity code, chapter 172-90 WAC. In all other cases, Eastern Washington University only utilizes formal adjudicative proceedings when required by RCW 34.05.413 through 34.05.476 (~~or for the adjudication of formal Title IX complaints against employees as set forth in university policy~~).

(2) An application for a formal adjudicative proceeding shall be in writing. Application forms are available from: University Policy Administration; Eastern Washington University; Tawanka 211, Cheney, WA 99004-2496. Written application for a formal adjudicative proceeding in response to the institution's action must be submitted to the above address within (~~twenty-one~~) 21 calendar days of the action, unless otherwise provided by statute or rule.

AMENDATORY SECTION (Amending WSR 21-12-034, filed 5/25/21, effective 6/25/21)

**WAC 172-108-050 Brief adjudicative proceedings.** In accordance with RCW 34.05.410 (1)(a), the procedures identified in RCW 34.05.482 through 34.05.494 apply to all brief adjudicative proceedings at Eastern Washington University. All applications for a brief adjudicative proceeding shall be in writing. Application forms are available from: University Policy Administration; Tawanka 211; Eastern Washington University; Cheney, WA 99004-2496. Written application for a brief adjudicative proceeding in response to the institution's action must be submitted to the university within (~~twenty-one~~) 21 calendar days of the action, unless a different time frame is specified in the regulations identified below that apply to the type of decision being challenged. When required by law or constitutional right, brief adjudicative proceedings shall be used in all matters of appeal related to:

(1) Residency determinations made pursuant to RCW 28B.15.013 and chapter 250-18 WAC;

(2) Challenges to contents of education records, review of the denial to inspect such records, or challenges to the disclosure of such records. In addition to the rules identified below, these challenges are governed by chapter 172-191 WAC;

- (3) Student conduct proceedings, if the potential sanction for the alleged misconduct does not include suspension, expulsion, (~~for-  
mal Title IX complaints,~~) or an allegation of felony-level (~~sexual~~) misconduct. In addition to the rules identified below, these proceedings are governed by chapters 172-121 and 172-125 WAC;
- (4) Outstanding debts owed by students or employees, pursuant to chapters 172-124 and 172-144 WAC;
- (5) Traffic and parking violations and revocations of any parking permit pursuant to chapter 172-100 WAC;
- (6) Student academic integrity proceedings, if the potential sanction for the alleged misconduct does not include suspension or expulsion. In addition to the rules identified in this section, these proceedings are governed by chapter 172-90 WAC;
- (7) Library fines and charges;
- (8) Reduction, cancellation, or nonrenewal of institutional financial aid when based in any degree on athletics ability per National Collegiate Athletic Association rules as detailed in WAC 172-108-100;
- (9) Administrative decisions regarding statutorily mandated tuition and/or fee waivers;
- (10) Research integrity violations in accordance with EWU Policy 302-05 when required by federal law;
- (11) Citations issued by university police regarding the use of golf carts and utility vehicles, in accordance with EWU Policy 603-06;
- (12) Fines imposed for impermissible use of tobacco, electronic cigarettes, and related products in accordance with WAC 172-122-310;
- (13) Financial aid appeals as provided for by federal law and in accordance with EWU policies for satisfactory academic progress for undergraduate, post-baccalaureate, and graduate students;
- (14) Denial of work study or termination from a work study position when required by federal law;
- (15) Notice against trespass issued per WAC 172-122-200;
- (16) Denial of request to waive undergraduate housing requirement under chapter 172-130 WAC;
- (17) Fines assessed under a university housing agreement; and
- (18) Penalties imposed for violations of pet control regulations in accordance with chapter 172-115 WAC.