

WAC 495C-121-010 Definitions. The following definitions shall apply for the purposes of this student conduct code (~~(, chapter 495C-121 WAC)~~):

(1) (~~("College" means Clover Park Technical College, College District 29.)~~) **"Business day"** means a weekday, excluding weekends and college holidays.

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

(3) (~~("Committee" and "student conduct committee" means the committee which is formed under WAC 495C-121-140 and which hears the matters specified in WAC 495C-121-110.)~~) **"Complainant"** is a student, employee, or another member of the college community who was participating or attempting to participate in college programs and activities at the time of the alleged violation, and who is directly affected by a claimed violation of this student conduct code. The complainant may be the reporting party, but not necessarily; witnesses or other third parties may file complaints alleging a violation of the student conduct code. In any case involving a report of sex discrimination, a complainant is afforded certain rights as specified in this student conduct code including, but not limited to:

(a) The right to be informed of all orders issued in the disciplinary case in which this person is a complainant;

(b) The right to appeal a disciplinary decision or dismissal of their sex discrimination complaint; and

(c) The right to be accompanied by an advisor, who may be an attorney retained at complainant's cost.

(4) **"Conduct review officer"** is (~~(the vice president of student services or other college administrator designated by the president to be responsible for receiving and then either reviewing or referring an appeal of student disciplinary action in accordance with WAC 495C-121-110 and following sections of this chapter. The president may reassign any and all of the conduct review officer's responsibilities as set forth in this chapter as he/she deems appropriate)~~) a college administrator designated by the president and is responsible for reviewing or referring appeals of student disciplinary actions as specified in this code.

(5) (~~("Day" means a calendar day, except that when a "business day" is specified, business day means a weekday, excluding weekends and college holidays.~~

~~(6))~~ **"Disciplinary action"** is the process by which the student conduct officer (~~(, or the committee upon a referral,~~) imposes discipline against a student for a violation of (~~(WAC 495C-121-050. Disciplinary action does not include instructional decisions and actions which are under the authority of faculty members and instructional administrators, such as determinations of academic credit and grading; any such determinations, and any review or appeal of these, are outside the scope of this chapter)~~) the student conduct code. A written or verbal warning is not disciplinary action.

~~((7))~~ (6) **"Disciplinary appeal"** is the process by which an aggrieved (~~student~~) party can appeal the discipline (~~(, as provided in~~

~~WAC 495C-121-110 through 495C-121-180)) imposed or recommended by the student conduct officer. Disciplinary appeals from a suspension in excess of 10 instructional days or a dismissal from the college are heard by the student conduct committee. Appeals of all other disciplinary action shall be reviewed by a conduct review officer through brief adjudicative proceedings.~~

~~((8) "Family Educational Rights and Privacy Act" and "FERPA" mean the law and regulations known by those names (20 U.S.C. §1232g; 34 C.F.R. Part 99).~~

~~(9) "Filing" is delivery of a document to the college official who is designated under this chapter to receive it for the purpose of review of a disciplinary action. Unless otherwise provided, filing shall be accomplished by:~~

~~(a) Hand delivery of the document to that official or the official's assistant during regular office hours; or~~

~~(b) Sending the document both by first class mail postage prepaid to the official's office and by email to his/her college email address.~~

~~(10) "Hazing" as used in RCW 28B.10.901 and 28B.10.902, includes any act committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a student organization, athletic team, or living group or any pastime or amusement engaged in with respect to such an organization, athletic team, or living group that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student or other person attending a public or private institution of higher education or other postsecondary educational institution in this state, including causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm, regardless of the person's willingness to participate. "Hazing" does not include customary athletic events or other similar contests or competitions.~~

~~(11) "Includes" and "including" means contained as part of a larger described whole or grouping, but these terms are not a limitation and mean "but not limited to."~~

~~(12) "President" is the president of the college. The president may delegate any of his or her responsibilities under this chapter as he/she deems appropriate.~~

~~(13) "Respondent" is the student against whom disciplinary action is initiated.~~

~~(14) "Service" is the delivery of a document or copy of a document to a party. Unless otherwise provided, service upon a party shall be accomplished by:~~

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

~~(b) Sending the document both by first class and/or certified mail postage prepaid to the party's last known address and by email to the email address shown in the college's records.~~

~~Service is deemed complete either upon hand delivery or when the document has been both deposited in the mail and emailed.) (7) "**Filing**" is the process by which a document is officially delivered to a college official responsible for facilitating a disciplinary review. Unless otherwise provided, filing shall be accomplished by:~~

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

~~(b) Sending the document by email and first class mail to the specified college official's office and college email address.~~

Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official.

(8) "**Pregnancy or related conditions**" means:

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

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

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

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

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

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

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

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

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

(13) "**Respondent**" is a student who is alleged to have violated the student conduct code. All respondents are afforded certain rights including, but not limited to:

(a) The right to be presumed not responsible for the reported misconduct unless or until a determination of responsibility is reached after completion of the disciplinary process; and

(b) The right to be accompanied by an advisor, who may be an attorney retained at respondent's cost.

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

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

(b) Sending the document by email and by certified mail or first class mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date that the document is emailed and deposited in the mail, whichever is first.

(15) "**Student**" includes all persons taking courses at or through the college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses, online courses, or otherwise. Persons who withdraw after allegedly violating the code, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered ("~~students.~~") a "student" for purposes of this chapter.

(16) "**Student conduct officer**" is a college administrator designated by the president (~~or vice president of student services~~) to be responsible for (~~investigating allegations of student misconduct and~~

taking disciplinary action as provided in WAC 495C-121-100. The president or vice president of student services may reassign any of the student conduct officer's responsibilities under this chapter as he/she deems appropriate)) implementing and enforcing the student conduct code.

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

(18) **"Student group"** ((for purposes of this code,)) is a student organization, athletic team, or living group including, but not limited to, student clubs and organizations, ((affinity groups,)) members of a class or student cohort, student performance groups, and student living groups within student housing.

((18) "Vice president of student services" is the position which reports directly to the president and which the president assigns overall operational responsibility for this chapter. The president may reassign, or the vice president may delegate, any such responsibility as he/she deems appropriate.)) (19) **"Supportive measures"** means reasonably available, individualized and appropriate, nonpunitive and nondisciplinary measures offered by the college to the complainant or respondent without unreasonably burdening either party, and without fee or charge for purposes of:

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

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

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

AMENDATORY SECTION (Amending WSR 16-06-026, filed 2/22/16, effective 3/24/16)

WAC 495C-121-020 Authority. The Clover Park Technical College board of trustees, acting pursuant to RCW ((28B.10.528 and)) 28B.50.140(14), delegates to the president of the college the authority to administer student disciplinary action((s and appeals)). The president ((may delegate and/or further assign responsibilities related to student discipline to other college officials and positions)) is authorized to delegate or reassign any and all duties and responsi-

bilities 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 success or their designee. Except in cases involving allegations of sex discrimination, including sex-based harassment, the student conduct officer shall serve as the principal investigator and administrator for alleged violations of this code.

AMENDATORY SECTION (Amending WSR 23-07-054, filed 3/9/23, effective 4/9/23)

WAC 495C-121-030 Statement of jurisdiction. (1) The student conduct code (~~(, chapter 495C-121 WAC,)~~) shall apply to ~~((student))~~ conduct by students or student groups that occurs:

- (a) ~~((In or))~~ On college ((facilities)) premises;
- (b) ~~At or in connection with ((college-sponsored))~~ college programs or activities; or
- (c) ~~((Off-campus when))~~ Off college premises, if in the judgment of the college ((it adversely affects)), the conduct has an adverse impact on the college community ((or)), 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 ~~((, but is not limited to,))~~ locations ((where)) in which students ((or student groups)) are engaged in ((official)) college programs or activities ((,)) including, but not limited to, college-sponsored housing, foreign or domestic travel, activities funded ((or sponsored)) by the ((associated)) students, student government, student clubs or organizations, athletic events ((or recreational events)), training internships, cooperative and distance education, online education, practicums, supervised work experiences ((,)) or any other college-sanctioned social or club activities ~~((and college-sanctioned housing)).~~

(3) Students are responsible for their conduct from ~~((notification of))~~ the time they gain admission to the college through the ((actual receipt of a certificate or degree)) 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 ((actual)) enrollment.

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

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

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

AMENDATORY SECTION (Amending WSR 16-06-026, filed 2/22/16, effective 3/24/16)

WAC 495C-121-040 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 ~~((services))~~ student affairs, subject to the limitations of RCW 28B.50.090 (3)(b).

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

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

(2) **Due process.**

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

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

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

AMENDATORY SECTION (Amending WSR 23-07-054, filed 3/9/23, effective 4/9/23)

WAC 495C-121-050 Prohibited student conduct. The college may impose disciplinary sanctions against a student or ~~((student group))~~ college-sponsored student organization, athletic team, or living group, who commits, attempts to commit, ~~((or))~~ aids, abets, incites, encourages, or assists another person to commit any ~~((act))~~ act(s) of misconduct, which includes, but is not limited to, the following:

(1) Abuse of others. Assault, physical abuse, verbal abuse, threat(s), intimidation, or other conduct that harms, threatens, or is

reasonably perceived as threatening the health or safety of another person or another person's property unless otherwise protected by law.

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

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

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

(c) Does not include self-neglect.

(3) **Academic dishonesty.** Any act of academic dishonesty, including (~~cheating, plagiarism, and fabrication.~~):

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

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

(c) Fabrication (~~includes~~) - Falsifying data, information, or citations in completing an academic assignment (~~or requirement, or~~) and also includes providing false or deceptive information to an instructor concerning the completion of an assignment (~~or requirement, including submitting for credit without authorization academic work also submitted for credit in another course.~~

~~(2) **Other dishonesty.** Any other act of dishonesty, including).~~

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

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

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

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

~~(c) Furnishing false information, or failing to furnish correct or complete information, in response to the request or requirement of a college official or employee.~~

~~(3) **Obstruction or disruption.** Conduct which significantly obstructs or disrupts any operation of the college, any college meeting, any college class or other activity, any activity authorized to occur at a college facility, or any college-sponsored activity, including obstructing the free flow of pedestrian or vehicular movement or blocking access to or from any college facility or college-sponsored event.~~

~~(4) **Assault, abuse, intimidation, etc.** Assault, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, stalking, reckless conduct, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property or which unreasonably disrupts the educational environment. For purposes of this subsection:~~

~~(a) Bullying is severe or pervasive physical or verbal abuse involving an apparent power imbalance between the aggressor and victim.~~

~~(b) Stalking is intentional and repeated following of another person, which places that person in reasonable fear that the perpetra-~~

tor 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 an intent.

(c) ~~Reckless conduct means acts performed with a heightened degree of carelessness or indifference so as to create a significant risk of physical, mental, or emotional harm to another person.~~

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

(6) ~~**Property violation.** Damage to, or theft or misuse of, real or personal property or money of:~~

(a) ~~The college or state, including college facilities;~~

(b) ~~Any college student, official, employee, or organization; or~~

(c) ~~Any other member of the college community or a college organization.~~

Property violation also includes possession of such property or money after it has been stolen.

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

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

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

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

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

(b) **Drugs.** The use, possession, delivery, sale, or being observably under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner.

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

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

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

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

(9) **Discriminatory harassment.**

(a) Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, not otherwise protected by law, that is directed at a person because of such person's protected status and that is sufficiently severe, persistent, or pervasive so as to:

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

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

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

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

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

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

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

~~((8) **Weapons.** Holding, wearing, transporting, storing, or otherwise possessing any firearm, dagger, sword, knife or other cutting or~~

stabbing instrument, club, explosive device, or any other weapon or device which is apparently capable of producing bodily harm, on or in any college facility, subject to the following exceptions:

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

(b) College-owned knives, tools, etc., that are being used for a legitimate educational purpose as part of a college instructional program;

(c) A student with a valid concealed pistol license may store a pistol in his or her vehicle parked on campus in accordance with RCW 9.41.050 (2) or (3), provided the vehicle is locked and the pistol is concealed from view;

(d) The president may grant permission to bring such a weapon or device on or into a college facility when he/she determines that it is reasonably related to a legitimate pedagogical purpose, provided that such permission shall be in writing and shall be subject to all terms and conditions incorporated in that writing; and

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

~~(9) **Hazing.**~~

~~(a) Hazing is any act committed as part of:~~

~~(i) A person's recruitment, initiation, pledging, admission into, or affiliation with a student group;~~

~~(ii) Any pastime or amusement engaged in with respect to such a student group; or~~

~~(iii) That causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm to any student.~~

~~(b) Examples of hazing include, but not limited to:~~

~~(i) 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;~~

~~(ii) Humiliation by ritual act;~~

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

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

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

~~(c) "Hazing" does not include customary athletic events or similar contests or competitions.~~

~~(d) Consent is not a valid defense against hazing.~~

~~(10) **Alcohol, drug, and tobacco violations.**~~

~~(a) **Alcohol.** Use, possession, delivery, sale, or being observably under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.~~

~~(b) **Marijuana.** Use, possession, delivery, sale, or being observably under the influence of marijuana, the psychoactive compounds found in marijuana, or any product containing marijuana or such compounds that is intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits such use on college facilities or in connection with college activities.~~

~~(c) **Drugs.** The use, possession, 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 health care practitioner.

~~(d) **Tobacco, electronic cigarettes, and related products.** Use of tobacco, electronic cigarettes or smoking devices, and/or related products on or in any college facility is prohibited, except that such use in a designated smoking area or in a closed private vehicle is permitted when consistent with applicable law and rules. "Related products" include cigarettes, pipes, bidi, clove cigarettes, water pipes, hookahs, chewing tobacco, and snuff.~~

~~(11) **Lewd conduct.** Conduct which is lewd or obscene.~~

~~(12) **Discriminatory conduct.** Discriminatory conduct which harms or adversely affects any member of the college community because of her/his race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification.~~

~~(13) **Sexual misconduct.** Any act of sexual misconduct, including sexual harassment, sexual intimidation, and sexual violence.~~

~~(a) Sexual harassment means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature, that is sufficiently serious as to deny or limit, and that does deny or limit, based on sex, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for campus community members.~~

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

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

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

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

~~(iii) Domestic violence includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.~~

~~(iv) Dating violence means 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.~~

~~(v) Stalking means 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.~~

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

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

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

~~(14) **Harassment.** Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media, and electronic.~~

~~(15) **Retaliation.** Taking adverse action against any individual for reporting, providing information, or otherwise participating in a process for addressing alleged violations of federal, state, or local law, or college policies, including allegations of discrimination or harassment.~~

~~(16)) (12) **Harassment or bullying.** Conduct unrelated to a protected class that is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an 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.~~

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

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

~~(c) For purposes of this code, "intimidation" is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though an explicit threat or display of~~

physical force has not been made. Intimidation is evaluated based on the intensity, frequency, or duration of the comments or actions.

(13) **Hazing.** Hazing is any act committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a college-sponsored student organization, athletic team, or living group, or any pastime or amusement engaged in with respect to such an organization, athletic team, or living group that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student, including causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm, regardless of the person's willingness to participate. "Hazing" does not include customary athletic events or other similar contests or competitions. Consent is not a valid defense against hazing.

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

(15) **Misuse of electronic resources.** Theft or other misuse of computer time or other electronic information resources of the college (~~, which includes~~). Such misuse includes, but is not limited to:

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

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

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

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

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

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

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

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

(i) Failure to comply with the college's (~~policies or procedures governing the use of such time or resources~~) electronic use policy.

~~((17) **Unauthorized access.** Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property.))~~ (16) **Property violation.** Damage to, misappropriation of, unauthorized use or possession of, vandalism, or other nonaccidental damaging or destruction of college property or the property of another person. Property for purposes of this subsection includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

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

(18) **Safety violations.** ~~((Any))~~ Nonaccidental conduct that ((violates,)) interferes with((,)) or otherwise compromises any ((law, rule,)) college policy, equipment, or procedure((, or equipment)) relating to the safety and security of ((college facilities or the college)) the campus community, including tampering with fire safety equipment ((or)) and triggering false alarms or other emergency response systems.

(19) ~~((Motor vehicle operation. Operation of any motor vehicle in an unsafe manner or contrary to posted signs or college procedures.~~

~~(20))~~ **Sex discrimination.** The term "sex discrimination" includes sex-based harassment, and may occur when a respondent causes more than de minimis harm to an individual by treating them different from a similarly situated individual on the basis of: Sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Conduct that prevents an individual from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis harm on the basis of sex.

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

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

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

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

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

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

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

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

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

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

(B) Nonconsensual sexual contact is any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual touching includes any

bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

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

(D) **Dating violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

(I) The length of the relationship;

(II) The type of relationship; and

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

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

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

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

(ii) For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

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

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

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

(21) **Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation((7)) or other college ((rule, policy, or procedure, which regulates the behavior of the college's students, including a parking rule.

~~(21) **Student procedures violations.** Misuse of or failure to follow any of the procedures relating to student complaints or misconduct, including:~~

~~(a) Falsification or misrepresentation of information;~~

~~(b) Failure to obey a subpoena;~~

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

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

~~(e) Attempting to influence the impartiality of, or harassing or intimidating, a student conduct committee member or other disciplinary official; or~~

~~(f) Failure to comply with any disciplinary action, term, or condition imposed under this chapter.~~

~~(22) **Ethical violation.** Ethical violations include, but are not limited to, breach of a generally recognized and published code of ethics or standard of professional practice that governs the conduct of a particular profession, which the student has been specifically informed about and is required to adhere to as a condition of enrolling in a course or participating in an educational program.~~

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

~~(22) **Weapons.** Possession, holding, wearing, transporting, storage or presence of any firearm, dagger, sword, knife, or other cutting or stabbing instrument, club, explosive device, or any other weapon apparently capable of producing bodily harm is prohibited on the college campus, subject to the following exceptions:~~

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

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

~~(c) The president may grant permission to bring a weapon on campus upon a determination that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to such terms or conditions incorporated in the written permission.~~

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

AMENDATORY SECTION (Amending WSR 16-06-026, filed 2/22/16, effective 3/24/16)

WAC 495C-121-060 Disciplinary sanctions, terms, and conditions.

(1) (~~(Disciplinary sanctions.)~~) The following corrective actions or disciplinary sanctions may be imposed upon students or upon college-sponsored student organizations, athletic teams, or living groups found to have violated the student conduct code((+)).

(a) (~~(Disciplinary warning. An oral)~~) **Warning.** A verbal or written statement to a student that there is a violation and that ((any further)) continued violation may be cause for ((further)) disciplinary action. ((Although verbal, the student conduct officer should make a record of the warning. The respondent cannot appeal a disciplinary

warning)) Warnings are corrective actions, not disciplinary, and may not be appealed.

(b) ~~((Written disciplinary reprimand. A written notice informing a student that he/she))~~ **Written reprimand.** Notice in writing that the student has violated one or more terms of ((the)) this code of conduct and that ((future misconduct involving)) continuation of the same or similar behavior may result in ((the imposition of)) a more severe disciplinary ((sanction)) action.

(c) **Disciplinary probation.** ~~((A written notice placing specific term(s) and condition(s) upon the student's continued attendance at the college. Disciplinary probation may be for a limited period of time or for the duration of the student's attendance at the college.))~~ 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.** ~~((Temporary revocation of enrollment and termination of student status, for a stated period of time. The student may be prohibited from coming onto any college facility and may be subject to law enforcement action for criminal trespass for violating that prohibition. There will be no refund of tuition or fees for the quarter in which the action is taken.))~~ 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.** ~~((Revocation of enrollment and of all rights and privileges of membership in the college community, and exclusion from college facilities, without any time limitation. There will be no refund of tuition or fees for the quarter in which the action is taken. The student may be subject to law enforcement action for criminal trespass for violating that exclusion. A dismissal may be rescinded only by a written decision of the president, for documented good cause.))~~ 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 conditions.))~~ Disciplinary terms and conditions that may be imposed alone or in conjunction with the imposition of a disciplinary sanction ((under subsection (1) of this section)) include, but are not limited to, the following:

(a) ~~((Restitution. Reimbursement for (i) damage to, or theft or misuse of, real or personal property or money, or (ii) injury to persons. This reimbursement may take the form of money, appropriate service, or other compensation.~~

~~(b) Professional evaluation. Referral for drug, alcohol, psychological, or medical evaluation, at the student's expense, by an appropriately certified or licensed professional. The student may choose the professional within the scope of practice and with the professional credentials as specified by the college. The student must 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 the evaluation. If the student has been suspended, the student may remain suspended until the most recent evaluation finds that the student is capable of reentering the college and complying with the college's expectations for conduct.

(c) Restrictions on activities. A student may be subjected to the following restrictions:

(i) Ineligible to hold any college office or position or any office in any student organization;

(ii) Ineligible to participate in any college activity(ies); and/or

(iii) Ineligible to represent the college outside the college community, including at any event or in any form of competition.

(d) Required activities. Assignment of appropriate tasks or responsibilities, or required attendance at an appropriate program, instructional course, or other educational activity, which may be at the student's expense.

(e) Protective or no contact order. An order directing a student to have limited or no contact with any specified student(s), college employee(s), member(s) of the college community, or college facility.

(f) Loss of state funding. A student found to have committed hazing shall forfeit any entitlement to state-funded grants, scholarships, or awards, pursuant to RCW 28B.10.902.) **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 order.** An order directing a student to have no contact with a specified student, college employee, a member of the college community, or a particular college facility.

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

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

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

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

(4) If a student withdraws from the college or fails to reenroll before completing a disciplinary sanction or condition, the disciplinary sanction or condition must be completed either prior to or upon the student's reenrollment, depending on the nature of the sanction, condition, and/or the underlying violation. Completion of disciplinary sanctions and conditions may be considered in petitions for readmission to the college.

AMENDATORY SECTION (Amending WSR 23-07-054, filed 3/9/23, effective 4/9/23)

WAC 495C-121-065 Hazing ((prohibited)) sanctions. ~~((1) Hazing by a student or student group is prohibited pursuant to WAC 495C-121-050.~~

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

~~(3) Washington state law provides that:~~

~~(a) Any student group that knowingly permits hazing is strictly liable for harm caused to persons or property resulting from hazing. If the organization, association, or student living group is a corporation whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.~~

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

~~(c) Student groups 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.~~

~~(d) Student groups found responsible for violating the code of student conduct, college antihazing policies, or state or federal laws relating to hazing or offenses related to alcohol, drugs, sexual conduct, 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.)~~ (1) Any student group that knowingly permits hazing is strictly liable for harm caused to persons or property resulting from hazing. If the organization, association, or student living group is a corporation whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

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

(3) Student groups that knowingly permit hazing to be conducted by its members or by others subject to its direction or control shall

be deprived of any official recognition or approval granted by the college.

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

AMENDATORY SECTION (Amending WSR 14-11-070, filed 5/19/14, effective 6/19/14)

WAC 495C-121-100 Initiation of disciplinary action. ~~((1) All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint initiated by the respondent, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.~~

~~(2) The student conduct officer shall initiate possible 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 specific apparent misconduct under WAC 495C-121-050, and the range of possible disciplinary sanctions, and specify the time and location of the meeting. At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting after proper service of notice, the student conduct officer may impose disciplinary sanction(s) and conditions based upon the available information.~~

~~(3) Within ten days of the scheduled initial disciplinary meeting, and after considering the information obtained by investigation and any information presented by the respondent, the student conduct officer shall serve the respondent with a written decision setting forth the facts and conclusions supporting his or her decision, the specific student conduct code provisions found to have been violated, the discipline imposed, if any, the consequences if a student fails to satisfy any disciplinary condition(s) which are being imposed, and a notice of the respondent's appeal rights, if any, with an explanation of the consequences of failing to file a timely appeal.~~

~~(4) The student conduct officer may take any of the following actions:~~

~~(a) Terminate the proceeding, with any appropriate exoneration of the respondent or counseling or advice to the respondent. The respondent cannot appeal a termination of the proceedings;~~

~~(b) Specify misconduct under WAC 495C-121-050 which he/she finds to have occurred and impose disciplinary sanction and/or condition(s), as described in WAC 495C-121-060; or~~

~~(c) Refer the matter directly to the student conduct committee for a hearing and imposition of such disciplinary sanction and/or condition(s) as the committee deems appropriate. Such referral shall be to the attention of the chair of the committee with a copy served on~~

~~the respondent.))~~ (1) Any member of the college community may file a complaint against a student or student group for possible violations of the student conduct code.

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

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

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

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

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

(a) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the complainant and the respondent.

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

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

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

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

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

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

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

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

(a) Exonerate the respondent and terminate the proceedings;

(b) Impose a disciplinary sanction(s), with or without conditions, as described in WAC 495C-121-060; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) Upon receipt of the student conduct officer's written recommendation, the Title IX coordinator or their designee shall review all supportive measures and, within five business days, provide written direction to the complainant and respondent as to any supportive measures that will be implemented, continued, modified, or terminated.

(i) The complainant and respondent will have three business days to notify the Title IX coordinator, in writing, of any objection to the continuation, modification, or termination of any supportive measures. Any objection will be reviewed within three business days by a neutral employee, who will review the investigation report, student conduct officer's recommendation, confer with the Title IX coordinator or their designee, complainant and respondent, as appropriate, and determine whether to continue, modify, or terminate the supportive measures.

(j) If it is determined that a violation of the student conduct code occurred, the Title IX coordinator shall also take prompt steps to coordinate and implement any necessary remedies to ensure that sex discrimination does not recur and that complainant has equal access to the college's programs and activities.

AMENDATORY SECTION (Amending WSR 14-11-070, filed 5/19/14, effective 6/19/14)

WAC 495C-121-110 ((~~Appeals and referrals Routing.~~) Appeal from disciplinary action. ~~((1) The respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within twenty-one days of service of the student conduct officer's decision. Failure to file a timely 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) Except as provided in WAC 495C-121-230 or elsewhere in these rules, the parties to an appeal shall be the respondent and the student conduct officer.~~

~~(4) On appeal, the student conduct officer bears the burden of establishing the factual elements of the alleged misconduct by a preponderance of the evidence, i.e., that it is more likely than not that the respondent engaged in the alleged misconduct.~~

~~(5) Imposition of a disciplinary sanction and conditions shall be stayed during an appeal, except for a summary suspension that has been imposed under WAC 495C-121-190.~~

~~(6) The student conduct committee shall hear:~~

~~(a) Appeals from disciplinary suspensions in excess of ten instructional days, and any related disciplinary condition(s);~~

~~(b) Appeals from dismissals, and any related disciplinary condition(s); and~~

~~(c) Cases referred by the student conduct officer, the conduct review officer, or the president.~~

~~(7) Appeals from the following disciplinary sanctions and related disciplinary conditions shall be reviewed through a brief adjudicative proceeding:~~

~~(a) Written disciplinary reprimands, and any related disciplinary condition(s);~~

~~(b) Disciplinary probation, and any related disciplinary condition(s); and~~

~~(c) Disciplinary suspensions of ten instructional days or less, and any related disciplinary condition(s).~~

~~(8) Except as provided elsewhere in these rules, disciplinary warnings and terminations of proceedings are final actions and are not subject to appeal.)~~ (1) Except as specified for cases involving allegations of sex-based harassment, as set forth in WAC 495C-121-140(5), 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 and the student conduct officer.

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

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

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

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

(a) Suspensions of 10 instructional days or less;

(b) Disciplinary probation;

(c) Written reprimands; and

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

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

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

(b) Dismissals;

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

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

AMENDATORY SECTION (Amending WSR 14-11-070, filed 5/19/14, effective 6/19/14)

WAC 495C-121-120 Brief adjudicative proceedings—Initial hearing ~~((and decision))~~. (1) Brief adjudicative proceedings shall be conducted by a conduct review officer. The conduct review officer shall not participate in any case in which ~~((he/she is))~~ they are a complainant or witness, ~~((has))~~ or in which they have a direct or personal interest, prejudice, or bias, or ~~((has previously provided significant advice or direction to the student conduct officer))~~ in which they have acted previously in an advisory capacity.

(2) The parties to a brief adjudicative proceeding are the respondent and the student conduct officer. Before ~~((making a decision))~~ taking action, the conduct review officer shall ~~((schedule))~~ conduct an informal hearing ~~((to))~~ and provide each party ~~((an opportunity))~~ (a) an opportunity to be informed of the agency's view of the matter~~((r))~~ and (b) an opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon the ~~((parties within ten days of the scheduled hearing))~~ respondent and the student conduct officer within 10 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 ~~((review under WAC 495C-121-130))~~ administrative review of the initial decision. If no request for review is filed within 10 days of service of the initial decision, the initial decision shall be deemed the final decision.

(4) If the conduct review officer~~((r))~~ upon review~~((r))~~ determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ~~((ten))~~ 10 instructional days or ~~((a dismissal, he/she shall refer))~~ expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

AMENDATORY SECTION (Amending WSR 14-11-070, filed 5/19/14, effective 6/19/14)

WAC 495C-121-130 Brief adjudicative proceedings—Review of an initial decision. (1) ~~((A party may obtain review of an initial decision by the president, by filing a written request for review with the conduct review officer within twenty-one days of service of the initial decision. That officer shall promptly forward the request to the president. If no timely request for review is filed, the initial decision shall become the final decision.))~~ 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 10 days of service of the initial decision.

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

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

(4) ~~((The president shall serve a written decision on review on all parties within twenty days of the later of the filing of the request for review or any deadline for parties' explanatory statements. A request for review may be deemed to have been denied if the president does not serve a decision within those twenty days. The decision shall include a brief statement of its reasoning. The president's decision shall be the final college action in the matter, and shall include notice of any right to request reconsideration and of the right to seek judicial review under chapter 34.05 RCW.))~~ 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 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 days after the request is submitted.

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

AMENDATORY SECTION (Amending WSR 14-11-070, filed 5/19/14, effective 6/19/14)

WAC 495C-121-140 Student conduct committee ~~((Formation))~~. (1)

~~((Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW, and by the Model Rules of Procedure, chapter 10-08 WAC. To the extent there is a conflict between this chapter and chapter 10-08 WAC, this chapter shall control.~~

~~(2))~~ The student conduct committee shall consist of five members:

(a) Two full-time students appointed by the student government ~~((to terms of up to one academic year));~~

(b) Two faculty members appointed by the president ~~((to terms of up to two academic years, beginning in alternating years));~~

(c) One faculty member or administrator ~~((τ))~~ (other than an administrator serving as a student conduct or conduct review officer ~~((τ))~~) appointed ~~((as chair))~~ by the president ~~((for a term of up to two academic years))~~ at the beginning of the academic year.

~~((Members may be reappointed for subsequent terms. Any member may be replaced by the appointing authority for the remainder of the term for good cause shown.~~

~~(3) The faculty member or administrator appointed as chair may take action on preliminary hearing matters prior to convening the com-~~

mittee. The chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

~~(4) A member of the student conduct committee shall not participate in any case in which he/she is a party, complainant, or witness, has direct or personal interest, prejudice, or bias, or has previously provided significant advice or direction. Any party may petition for disqualification of a committee member pursuant to RCW 34.05.425(4).~~

~~(5))~~ (2) The faculty member or administrator appointed on a yearly basis shall serve as the chair of the committee and may take action on preliminary hearing matters prior to convening the committee.

(3) Hearings may be heard by a quorum of three members of the committee ~~((r))~~ so long as the chair, one faculty member, and one student are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(4) Members of the student conduct committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition the committee for disqualification of a committee member.

(5) For cases involving allegations of sex discrimination, including sex-based harassment, members of the student conduct committee must receive training on serving impartially, avoiding prejudgment of facts at issue, conflicts of interest, bias. The chair must also receive training on the student conduct process for sex discrimination cases, as well as the meaning and application of the term, "relevant," in relations to questions and evidence, and the types of evidence that are impermissible, regardless of relevance in accordance with 34 C.F.R. §§ 106.45 and 106.46.

AMENDATORY SECTION (Amending WSR 14-11-070, filed 5/19/14, effective 6/19/14)

WAC 495C-121-150 Student conduct committee—Prehearing ((proceedings)). (1) Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW.

(2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven days in advance of the hearing date ~~((, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045))~~. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown. The notice must include:

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

~~((2))~~ (3) The chair ((may)) is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the ~~((simplification of issues, the))~~ extent and form of any discovery, issu-

ance of protective (~~orders~~) decisions, and similar procedural matters.

~~((3) Discovery will be available as determined by the chair and in accordance with RCW 34.05.446. Upon request, the chair shall provide reasonable assistance to a party in obtaining relevant and admissible evidence that is within the college's control.))~~

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

(5) The chair may provide to the committee members in advance of the hearing copies of (a) the student conduct officer's notification of imposition of discipline (or referral to the committee(~~(7)~~)) and (b) the notice of appeal (or any response to referral) by the respondent. If doing so, however, the chair should remind the members that these (~~documents~~) "pleadings" are not evidence of any facts they may allege.

~~((5) Upon request filed at least five business days before the hearing by any party, or at the direction of the committee chair, the parties shall exchange, no later than the third business day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.))~~

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

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

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

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

(10) For any matters involving a disciplinary sanction of suspension of more than one quarter, dismissal, or sex-based harassment, the

college shall provide an advisor to the respondent and any complainant, if they have not otherwise identified an advisor to assist them during the hearing. The committee will ordinarily be advised by an 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.

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

(12) In cases involving allegations of sex discrimination, the complainant has a right to participate equally in any part of the disciplinary process, including appeals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AMENDATORY SECTION (Amending WSR 14-11-070, filed 5/19/14, effective 6/19/14)

~~WAC 495C-121-160 Student conduct committee—((Hearings)) **Presentation of evidence.** (1) ((Upon the failure of any party to attend or participate in a hearing, the chair may either:~~

~~(a) Proceed with the hearing; or~~

~~(b) Serve a default order in accordance with RCW 34.05.440.~~

~~(2) The committee will ordinarily be advised by an assistant attorney general.~~

~~(3) Each party may be accompanied at the hearing by a nonattorney assistant of his/her choice. A party other than the student conduct officer may elect to be represented by an attorney at his or her own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the chair, with a copy~~

~~to the student conduct officer. If such a party is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened, assistant attorney general.) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either (a) proceed with the hearing and issuance of its decision or (b) serve a decision of default in accordance with RCW 34.05.440.~~

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

~~(3) The chair shall cause the hearing to be recorded by a method that they select, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to any party upon request. The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.~~

~~(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee. ((Evidence shall be admitted or excluded in accordance with RCW 34.05.452. All testimony shall be given under oath or affirmation.))~~

~~(5) ((The hearing will ordinarily be closed to the public, in light of the Family Educational Rights and Privacy Act. However, if all parties agree on the record to open some or all of the proceedings, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.~~

~~(6) The chair shall afford opportunity to all parties to present their cases, and shall cause the hearing to be recorded by a method that he/she selects, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to any party upon request. Other recording shall also be permitted, in accordance with WAC 10-08-190.~~

~~(7) The chair shall assure maintenance of the record of the proceeding which is required by RCW 34.05.476. This record shall be available upon request by any party for inspection and copying, except as limited by FERPA.) The student conduct officer (unless represented by an assistant attorney general) shall present the college's case.~~

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

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

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

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

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

(i) Spousal/domestic partner privilege;

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

(iii) Clergy privileges;

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

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

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

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

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

(8) The chair has the discretion in all cases to determine whether a respondent may directly question any witnesses; and if not, to determine whether questions must be submitted to the chair to be asked of witnesses, or to allow questions to be asked by an attorney or advisor for the respondent.

AMENDATORY SECTION (Amending WSR 14-11-070, filed 5/19/14, effective 6/19/14)

WAC 495C-121-170 Student conduct committee—Initial decision.

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

~~(2) Within twenty days following the later of the conclusion of the hearing or the committee's receipt of closing arguments, the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial order shall include:~~

~~(a) Findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of WAC 495C-121-050 were violated. Any findings based substantially on the~~

~~credibility of evidence or the demeanor of witnesses shall be so identified.~~

~~(b) A determination on appropriate disciplinary sanction and/or disciplinary conditions, if any. The committee may affirm, reverse, modify, or supplement any disciplinary sanction and/or disciplinary condition(s) imposed by the student conduct officer.~~

~~(c) A statement that the initial order will become final unless a party seeks review of that decision in accordance with WAC 495C-121-180.)~~

~~(3) The chair shall cause copies of the initial decision to be served on the parties, including any legal counsel of record. The committee chair shall also promptly transmit the record of the committee's proceedings and a copy of its decision to the president.)~~

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

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

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

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

AMENDATORY SECTION (Amending WSR 14-11-070, filed 5/19/14, effective 6/19/14)

WAC 495C-121-180 Student conduct committee—Review of initial decision. ~~((1) A party who is aggrieved by the committee's initial decision may obtain review of that decision by filing a notice of appeal with the president within twenty-one days after it was served on that party. If no timely notice of appeal is filed, the initial decision shall become the final decision.~~

~~(2) The notice of appeal must identify the specific findings of fact and/or conclusions of law in the initial decision that are challenged, and must contain an argument why the appeal should be granted.~~

~~(3) The president may ask for additional argument from the parties on the issues raised in the notice of appeal. The president's re-~~

view will ordinarily be limited to those issues, and shall be restricted to the committee hearing record. The president shall not engage in ex parte communication with any of the parties regarding the appeal.

~~(4) The president shall serve a written decision on review on all parties within forty five days after receipt of the notice of appeal. The decision shall include appropriate findings and conclusions. Unless it remands the case to the committee for further proceedings or gives a right to request reconsideration, the president's decision shall be the final college action in the matter and shall include notice of the right to seek judicial review under chapter 34.05 RCW.)~~

(1) Any party, including a complainant in sex-based harassment cases, may appeal the committee's decision to the president by filing a written appeal with the president's office within 10 business days of service of the committee's decision. Failure to file a timely appeal constitutes a waiver of the right and the decision shall be deemed final.

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

(a) Procedural irregularity that would change the outcome;

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

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

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

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

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

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

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

AMENDATORY SECTION (Amending WSR 14-11-070, filed 5/19/14, effective 6/19/14)

WAC 495C-121-190 Summary suspension. (1) Summary suspension is a temporary exclusion from specified college (~~facilities and~~) premises or denial of access to all activities or privileges for which a

respondent might otherwise be eligible, while an investigation(~~(, and/or~~) and/or formal disciplinary procedures(~~(, and/or an appeal)~~) are pending.

(2) The student conduct officer may impose a summary suspension if there is probable cause to believe(~~(, i.e., there are reasonable grounds for believing,)~~) that the respondent (~~(has committed misconduct under WAC 495C-121-050 and that either)~~):

(a) (~~(The situation involves an immediate danger to the public health, safety, or welfare which requires immediate college action; or~~

~~(b) The student's behavior poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.~~

~~(3) A summary suspension shall be effective when the respondent receives written or oral notice of that suspension. If oral notice is given, a written notification must be served on the respondent within two business days of the oral notice.)~~ Has violated any provision of the code of conduct; and

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

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

(3) Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two business 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 (~~(misconduct and specification of the provisions of WAC 495C-121-050)~~) conduct giving rise to the summary suspension and reference to the provisions of the student conduct code or the law 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 (~~(college facilities)~~) the campus or communicate with members of the (~~(college)~~) campus community. If the respondent (~~(is prohibited from entering college facilities, he/she may be given a notice against trespass which warns that his/her privilege to enter college facilities has been withdrawn, subject to any specified exceptions such as an invitation to meet with the student conduct officer or conduct review officer or to attend a scheduled disciplinary hearing, and that he/she shall be considered to be trespassing and subject to arrest for criminal trespass for any violation.~~

~~(4) The hearing before the conduct review officer shall be scheduled as soon as practicable after service of the notice of summary suspension. If the respondent fails to appear at the scheduled time, the conduct review officer may order that the summary suspension remain in place. During the summary suspension hearing, the issues shall be:~~

~~(a) Whether the requirements under subsection (2) of this section are satisfied; and~~

~~(b) Whether the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or should be less restrictive in scope.~~

~~(5) As soon as practicable following the hearing, the conduct review officer shall issue, and serve on the respondent and student con-~~

duct officer, a written decision which addresses the issues at the hearing. The conduct review officer shall also provide information about the decision, to the extent legally permissible under FERPA, to all persons and offices who may be bound or protected by it.

~~(6) The respondent may request a de novo review of the summary suspension hearing decision by the student conduct committee. The review will be scheduled promptly. Either party may request the review to be consolidated with any other disciplinary proceeding arising from the same matter.)~~ has been trespassed from the campus, a notice against trespass shall be included warning respondent that their privilege to enter into or remain on college premises has been withdrawn, and that the respondent shall be considered trespassing and subject to arrest for criminal trespass if they enter the college campus other than to meet with the student conduct officer or conduct review officer, or to attend a disciplinary hearing.

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

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

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

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

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

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

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

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 495C-121-200	Supplemental definitions.
WAC 495C-121-210	Supplemental sexual misconduct procedures.
WAC 495C-121-215	Title IX jurisdiction.

WAC 495C-121-220 Supplemental complaint process.
WAC 495C-121-225 Initiation of discipline.
WAC 495C-121-235 Prehearing procedure.
WAC 495C-121-240 Rights of parties.
WAC 495C-121-250 Evidence.
WAC 495C-121-260 Initial order.
WAC 495C-121-270 Appeals.