

# **RULES OF STUDENT CONDUCT**

Last Update: 10/17/25



## Chapter 132J-126 WAC

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WAC

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<https://app.leg.wa.gov/WAC/default.aspx?cite=132J-126&full=true>

# RULES OF STUDENT CONDUCT<sup>i</sup>

## WAC 132J-126-010 Purpose.

- (1) Green River College, an agency of the state of Washington, provides a variety of educational opportunities for students; namely the opportunities to examine the academic, vocational, technical, cultural, social, and recreational aspects of society. Green River College as an institution of society must maintain conditions conducive to the effective performance of its functions. Consequently, Green River College has special expectations regarding the conduct of students. Student conduct that detracts from, or interferes with, the accomplishment of college purposes is not acceptable.
- (2) The student is a member of the community at large, and as such has the rights and responsibilities of any citizen. In addition, admission to Green River College carries with it the presumption that students will conduct themselves as responsible members of the college community. This includes an expectation that students will obey the law, will comply with rules and regulations of the college, will maintain a high standard of integrity and honesty, and will respect the rights, privileges, and property of other members of the college community.
- (3) The following rules regarding the conduct of students are adopted in order to provide students a full understanding of the rules that will enable the college to maintain conditions conducive to the effective performance of the college's functions. Sanctions for violations of the rules of student conduct will be administered by the college in the manner provided by said rules. When violation(s) of laws of the state of Washington and/or the United States are also involved, the college may refer such matters to the appropriate authorities. In cases of minors, this conduct may also be referred to parents or legal guardians.
- (4) The office of judicial affairs, under the leadership of the vice president of student affairs, maintains and administers the student conduct code for Green River College. The office of judicial affairs and Green River College strive to engage our students to become civic minded citizens who positively contribute to society and achieve their educational goals. The office of judicial affairs seeks to educate students as to their rights, responsibilities, and expectations as members of Green River College while providing a fair and educational process through which alleged violations of the conduct code are adjudicated.

## WAC 132J-126-020 Statement of jurisdiction.

- (1) The student conduct code shall apply to conduct by students or student groups that occurs:
  - (a) On college premises;
  - (b) At or in connection with college programs or activities; or
  - (c) Off-campus premises if in the judgment of the college, the conduct has an adverse impact on the college community, the pursuit of its objectives, or the ability of a student or staff to participate in the college's programs and activities.
- (2) Jurisdiction extends to locations in which students are engaged in college programs or activities including, but not limited to, college-sponsored housing, foreign or domestic travel, activities funded by the students, student government, student clubs or organizations, athletic events, training internships, cooperative and distance education, online education, practicums, supervised work experiences, or any other college-sanctioned social or club activities.
- (3) The college has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct by students or student groups that occurs off-campus.
- (4) Students are responsible for their conduct from the time of application for admission through the last day of enrollment or award of any degree or certificate, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment.
- (5) These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending. Inappropriate conduct by students who have completed classes and are awaiting graduation ceremony are covered by this student conduct code.
- (6) In addition to initiating disciplinary proceedings for violation of the student conduct code, the college may refer any violations of federal, state, or local laws to civil and criminal authorities for disposition. The college shall proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

## WAC 132J-126-030 Definitions.

The following definitions shall apply for the purpose of this student conduct code:

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

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

"College" means Green River College.

"College facilities" includes all buildings, structures, grounds, office space, and parking lots.

"College groups" shall mean individuals or groups who are currently enrolled students or current employees of the college, or guests of the college who are sponsored by a recognized student organization, employee organization, or the administration of the college.

"College official" includes any person employed by the college, performing assigned administrative or professional responsibilities.

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

"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.

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

"Disciplinary action" is the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code.

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

"Expressive activity" includes, but is not necessarily limited to, informational picketing, petition circulation, the distribution of informational leaflets or pamphlets, speech making, demonstrations, rallies, appearances of speakers in outdoor areas, protests, meetings to display group feelings or sentiments and/or other types of assemblies to share information, perspectives or viewpoints.

"Fabrication" is defined as intentional misrepresentation of an activity done by a student for an academic project or practicum. Fabrication includes, but is not limited to:

- (a) Counterfeiting data, research results, information, or procedures with inadequate foundation in fact;
- (b) Counterfeiting a record of internship or practicum experiences;
- (c) Submitting a false excuse for absence or tardiness;
- (d) Unauthorized multiple submission of the same work; sabotage of others' work; or
- (e) Creating or using falsified records with any administrative office.

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

- (a) Hand delivery of the document to the specified college official or college official's assistant; or
- (b) By sending the document by email and first class mail to the specified college official's office and college email address.

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

"Instructional day" refers to the period during which students are actively engaged in learning activities under the guidance of a teacher.

"May" is used in the permissive sense.

"Member of the college community" includes any person who is a student, faculty member, college official or any other person employed by the college. A person's status in a particular situation shall be determined by the vice president of student affairs or designee.

"Noncollege groups" shall mean individuals, or combinations of individuals, who are not currently enrolled students or current employees of the college and who are not officially affiliated or associated with, or invited guests of a recognized student organization, recognized employee group, or the administration of the college.

"Organization" means number of persons who have complied with the formal requirements for college recognition/registration.

"Plagiarism" is defined as using others' original ideas or artificial intelligence (AI) in your written, spoken, visual, or auditory work without giving proper credit.

- (a) Ideas include, but are not limited to:
  - (i) Facts;
  - (ii) Opinions;
  - (iii) Images;
  - (iv) Statistics;

- (v) Equations;
- (vi) Hypotheses;
- (vii) Theories.

(b) Plagiarism can occur in two ways: Intentional and unintentional.

(c) Ways that intentional plagiarism occur include, but are not limited to:

- (i) Turning in someone else's work as your own;
- (ii) Copying words or ideas from someone else without giving credit;
- (iii) Failing to put a quotation in quotation marks;
- (iv) Giving incorrect information about the source of a quotation;
- (v) Changing words but copying the sentence structure of a source without giving credit;
- (vi) Copying so many words or ideas from a source that it makes up the majority of your work, whether you give credit or not.

(d) Unintentional plagiarism may occur when a student has tried in good faith to document their academic work but fails to do so accurately and/or thoroughly. Unintentional plagiarism may also occur when a student has not had course work covering plagiarism and documentation and is therefore unprepared for college academic writing or speaking.

"Policy" means the written regulations of the college as found in, but not limited to, the student conduct code, the college web page and computer use policy, and catalogs.

"Preponderance of the evidence" is the standard of proof used for decisions in the disciplinary and appeal processes.

"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.

"Process advisor" is a person selected by a respondent or a complainant to provide support and guidance during disciplinary proceedings under this student conduct code. A process advisor must consent to participating in this role.

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

"Relevant" means related to the allegations of Title IX sexual harassment under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sexual harassment occurred, and evidence is relevant when it may aid a decision maker in determining whether the alleged sexual harassment occurred.

"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. These measures are intended to restore or preserve that person's access to educational programs and activities after a determination that a violation of conduct has occurred.

"Respondent" is the student who is alleged to have violated the student conduct code.

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

- (a) Hand delivery of the document to the party; or
- (b) By sending the document by email and by certified mail or first class mail to the party's last known address.

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

"Shall" is used in the imperative sense.

"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.

"Student conduct officer" is a college administrator designated by the president or vice president of student affairs to be responsible for implementing and enforcing the student conduct code. The president or vice president of student affairs is authorized to reassign any and all of the student conduct officer's duties or responsibilities as set forth in this chapter as may be reasonably necessary.

"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, sexual harassment, occurred while the individual was performing employment-related work.

"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, members of a class or student cohort, student performance groups, and student living groups.

"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 extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sexual harassment.

"Title IX coordinator" is the administrator responsible for processing complaints of sexual harassment, overseeing investigations and informal resolution processes, and coordinating supportive measures, in accordance with college policy.

## **WAC 132J-126-035 Service of notices, filings, orders, and time limits.**

- (1) Service of all college notices under this code will be sent by electronic mail (email) addressed to the party's college-issued email address. An alternative email address may be provided to the presiding officer(s) and reviewing officer(s) in writing. Service is complete at the moment the email is sent to the email address. If there is no email on record, service may also be accomplished by personal service or by posting it in the United States mail, properly addressed, and postage prepaid. Service by mail is complete upon deposit in the United States mail.
- (2) The parties are permitted to file documents with the presiding officer or reviewing officer(s) via email or other electronic means as determined by the presiding officer or reviewing officer(s). Receipt of such documents will be determined by the date of the email. For documents that must be shared with other parties, the college will be responsible for service of such documents, as above.
- (3) In computing any period of time under this conduct code, the day of service of any order, notice, or other document is not counted. The last day of the applicable period of time is counted. If the last day of the applicable period of time falls on a Saturday, Sunday, or official state holiday (which includes the day after Thanksgiving), the period ends on the

next business day. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation.

- (4) The time limit for seeking administrative review of an initial order is based upon the date of service of the initial order.

## **WAC 132J-126-040 Student conduct code authority.**

- (1) The Green River College board of trustees, acting pursuant to RCW 28B.50.140(14), delegates to the president of the college the authority to administer student disciplinary action. The president is authorized to delegate or reassign any and all duties and responsibilities as set forth in this chapter as may be reasonably necessary. Administration of the disciplinary procedures is the responsibility of the vice president of student affairs or their designee.
- (2) Except in cases involving allegations of Title IX sexual harassment, the student conduct officer, or delegate, shall serve as the principal investigator and administrator for alleged violations of this code.
- (3) The vice president of student affairs or designee shall develop policies for the administration of the student conduct system and procedural rules for the conduct of student conduct hearings that are not inconsistent with provisions of the student conduct code.
- (4) The vice president of student affairs or designee shall determine the composition of the student conduct committee in accordance with WAC 132J-126-180.
- (5) Decisions made by a student conduct officer shall be final, pending the normal appeal process.

## **WAC 132J-126-050 Statement of student rights.**

As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the college community.

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

- (1) Academic freedom.

- (a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.
- (b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW 28B.50.090 (3)(b).
- (c) Students shall be protected from academic evaluation which 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 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 searches and seizures is guaranteed.
- (b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.
- (c) A student accused of violating this student conduct code is entitled, upon request, to procedural due process as set forth in this chapter.

## WAC 132J-126-070 Denial of access to Green River College.

- (1) The vice president of student affairs may deny admission to a prospective student, or continued attendance to an enrolled student, if it reasonably appears that the student would not be competent to profit from the curriculum offerings of the college, or would, by the student's presence or conduct, create a disruptive atmosphere within the college or a substantial risk of actual harm to self or other members of the campus community.
- (2) Denial of access decisions may be appealed, as or like disciplinary actions, to the student conduct committee.
- (3) Notice. Any prospective student or enrolled student who has been denied admission shall be served with oral or written notice of the denied admission. If oral notice is given, a written notification shall be served to the denied prospective student or enrolled student within five business days of the oral notice.
- (4) The written notification shall be entitled "Notice of Admission Denial" and shall include:
  - (a) The reason(s) for denying admission; and
  - (b) Appeal rights with an explanation of the consequences of failing to file a timely appeal.

## **WAC 132J-126-080 Rights of ownership of works.**

It shall be the policy of Green River College that employees of the college shall not use students' published or unpublished works for personal gain without written consent of the student.

## **WAC 132J-126-090 Conduct—Student responsibilities and prohibited student conduct.**

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

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

(2) Abuse in later life.

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

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

(c) Does not include self-neglect.

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

(a) Cheating - Any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment, coursework, assessment, test, or examination. This includes, but is not limited to, the selling or giving of your own completed work to others who intend to turn it in as their own, purchasing or accepting the work of others with the intent of turning it in as your own, acquiring instructor editions of textbooks without permission of the specific instructor in order to complete your assignments, referring to devices or materials not authorized by the instructor, taking an examination for another person, or obtaining or attempting to obtain another person to take one's own examination.

(b) Plagiarism - Taking and using as one's own, without proper attribution, the ideas, writings, spoken, visual, auditory, or work of another person, or artificial intelligence, in completing an academic assignment. Prohibited conduct may also include the

unauthorized submission for credit of academic work that has been submitted for credit in another course.

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

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

(e) Multiple submissions - Submitting the same work in separate courses without the express permission of the instructor(s).

Nothing in this code prohibits instructors and/or academic divisions or departments from imposing academic consequences, up to and including a failing grade in an academic course or dismissal from an academic program, in response to academic dishonesty. Policies and procedures governing the imposition of academic consequences for academic dishonesty can be found in the course syllabus and any applicable program handbook.

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

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

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

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

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

(6) Cannabis, drug, and tobacco violations.

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

(b) Drugs. The use, possession, production, delivery, sale, or being observably under the influence of any legend drug or possession of drug paraphernalia, 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 are not allowed on college campus. In addition to the main campus, this also includes any building and premises owned, leased, or operated by the college outside of the main campus. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.

(7) Classroom conduct. Any student who significantly disrupts any college class and makes it unreasonably difficult to conduct the class in an orderly manner shall be subject to disciplinary action. An instructor/faculty member may impose any of the following actions for classroom conduct:

(a) Warning: An oral or written notice to a student that college and/or classroom expectations about conduct have not been met.

(b) Reprimand: A written notice which censures a student for improper conduct and includes a warning that continuation or repetition of improper conduct shall result in further disciplinary action.

(c) Summary suspension for a maximum of two instructional days as defined in WAC 132J-126-230.

At any time, severe misconduct or continued misconduct shall be just cause for the matter to be forwarded immediately to the vice president of student affairs or designee for further action.

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

(9) Discriminatory harassment.

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

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

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

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

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

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

(10) Disorderly conduct. Conduct that is disorderly, lewd, indecent, or obscene; breach of peace; or aiding, abetting, or procuring another person to breach the peace on college premises or at functions sponsored by, or participated in by, the college or members of the college community. Disorderly conduct includes, but is not limited to, any unauthorized use of electronic or other devices to make an audio or video record of any person while on college premises without their prior knowledge, or without their effective consent when such a recording is in a place or situation where they have a reasonable expectation of privacy. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom.

(11) Disruption of conduct process. Abuse of the student conduct system including, but not limited to:

(a) Fabrication, distortion, or misrepresentation of information before a student conduct officer, campus safety, faculty, or staff.

(b) Disruption or interference with the orderly conduct of a student conduct hearing proceeding.

(c) Engaging in student conduct code proceeding in bad faith.

- (d) Attempting to discourage an individual's proper participation in, or use of, the student conduct system.
- (e) Attempting to influence the impartiality of a member of a student conduct officer prior to, and/or during the course of, the student conduct hearing proceeding.
- (f) Harassment (verbal or physical) and/or intimidation of a member of a student conduct officer prior to, during, and/or after a student conduct hearing proceeding.
- (g) Influencing or attempting to influence another person to commit an abuse of the student conduct code system.

(12) 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. Disruption or obstruction may also include obstruction or disruption at other college activities, including its public service functions on or off campus, or of other authorized noncollege activities when the conduct occurs on college premises.

(13) 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.

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

(15) False complaint. Filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.

(16) 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, context, and duration of the comments or actions.

(17) 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 are 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 other similar contests or competitions.

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

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

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

- (a) Unauthorized use of such resources or opening of a file, message, or other item;
- (b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;
- (c) Unauthorized use or distribution of someone else's identification or password;
- (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) Any violation of the Student Affairs Policy SA-24 - Student Acceptable Computer Use.

(20) Property violation.

- (a) 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. Violations include attempts and successful completion of the items listed above.
- (b) Any student who in this or any other manner is guilty of malicious mischief in violation of RCW 9A.48.070 through 9A.48.100.

(21) 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.

(22) Safety violations. Nonaccidental, reckless, or unsafe conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and

security of the campus community including, but not limited to, tampering with fire safety equipment, failing to evacuate during a fire alarm, or triggering false alarms or other emergency response systems.

(23) Sexual exploitation. Taking nonconsensual or abusive sexual advantage of another for the respondent's own advantage or benefit, or to benefit or take advantage of anyone other than the one being exploited, when the behavior does not otherwise constitute one of the other sexual misconduct offenses described herein. Examples of sexual exploitation may include, but are not limited to:

- (a) Invading another person's sexual privacy;
- (b) Prostituting another person;
- (c) Nonconsensual photography and digital or video recording of nudity or sexual activity, or nonconsensual audio recording of sexual activity;
- (d) Unauthorized sharing or distribution of photographs or digital or video recording of nudity or sexual activity, or audio recording of sexual activity, unless otherwise protected by law;
- (e) Engaging in voyeurism. A person commits voyeurism if they knowingly view, photograph, record, or film another person, without that person's knowledge and consent, while the person being viewed, photographed, recorded, or filmed is in a place where the person has a reasonable expectation of privacy;
- (f) Knowingly or recklessly exposing another person to a significant risk of sexually transmitted disease or infection; or
- (g) Causing the nonconsensual indecent exposure of another person, as defined by subsection (18) of this section.

(24) Sexual harassment. Unwelcome sexual- or gender-based conduct, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual- or gender-based nature that is sufficiently severe, persistent, or pervasive as to:

- (a) Deny or limit the ability of a student to participate in or benefit from the college's educational program;
- (b) Alter the terms or conditions of employment; or
- (c) Create an intimidating, hostile, or offensive environment for other campus community members.

For sexual harassment prohibited under Title IX, refer to WAC 132J-126-410.

(25) Sexual misconduct. Sexual misconduct is any sexual activity with another that is unwanted and nonconsensual. Sexual misconduct includes physical contact as well as voyeurism.

(a) Consent to sexual activity requires that, at the time of the act, there are actual words or conduct demonstrating freely given agreement to sexual activity. Silence or passivity is not consent. Even if words or conduct alone seem to imply consent, sexual activity is nonconsensual when:

- (i) Force or blackmail is threatened or used to procure compliance with the sexual activity; or
- (ii) The person is unconscious or physically unable to communicate their unwillingness to engage in sexual activity; or
- (iii) The person lacks the mental capacity at the time of the sexual activity to be able to understand the nature or consequences of the act, whether that incapacity is produced by illness, defect, the influence of alcohol or another substance, or some other cause.

(b) A person commits voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, they knowingly view, photograph, or film another person, without that person's knowledge and consent, while the person being viewed, photographed, or filmed is in a place where they have a reasonable expectation of privacy.

(c) 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 the distribution of such recording.

(26) Stalking. Stalking is defined as a course of conduct or pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear for their safety or the safety of their property, or the safety of others or their property, or suffer substantial emotional distress. 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.

(a) Repeated, unwanted, intrusive, and frightening communications from the perpetrator by phone.

(b) Following or lying in wait for the victim at places such as home, school, work, or recreation place.

(c) Making direct or indirect threats to harm the victim, the victim's children, relatives, friends, or pets.

(d) Damaging or threatening to damage the victim's property.

(e) Harassing the victim through the internet.

(f) Posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth.

(g) Obtaining personal information about the victim by accessing public records, using internet search services, hiring private investigators, going through the victim's garbage, following the victim, contacting the victim's friends, family, work, or neighbors, etc.

(27) 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. Providing keys, keycards, or other means, to an unauthorized person or providing access to an unauthorized person is also prohibited.

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

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

(a) Commissioned law enforcement personnel or legally authorized military personnel, or bank-related security personnel required by their office to carry such weapons or devices 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.

## **WAC 132J-126-100 Violation of law and college discipline.**

(1) College disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and this student conduct code (that is, if both possible violations result from the same factual situation) without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under this student conduct code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the vice president of student affairs or designee. Determinations made or sanctions imposed under this student conduct code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of college rules were dismissed, reduced, or resolved in favor of, or against the criminal law defendant.

(2) When a student is charged by federal, state, or local authorities with a violation of law, the college will not request or agree to special consideration for that individual because of his or her status as a student. If the alleged offense is also being processed under the student conduct code, the college may advise off-campus authorities of the existence of the student conduct code and of how such matters are typically handled within the college community. The college will attempt to cooperate with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators (provided that the conditions do not conflict with campus rules or sanctions). Individual students and other members of the college community, acting in their personal capacities, remain free to interact with governmental representatives as they deem appropriate.

## **WAC 132J-126-110 Amnesty.**

(1) Green River College values the health, safety, and wellness of those in our college community. Students are encouraged to report crimes, share concerns, and seek medical attention for themselves or others in need.

(2) A student conduct officer may elect to not initiate disciplinary action against a student who, while in the course of helping another person seek medical or other emergency assistance, admits to a possible policy violation under this student conduct code, provided that any such violations did not and do not place the health or safety of any other person at risk.

(3) A student conduct officer may elect to not initiate disciplinary action against a student who, while in the course of reporting violence, sexual harassment, or a crime in progress, admits to personal consumption of alcohol or drugs at or near the time of the incident, provided that any such use did not place the health or safety of any other person at risk.

(4) While policy violations cannot be overlooked, the college may elect to offer educational options or referrals, rather than initiating disciplinary action against students who report crimes, serve as witnesses, or seek medical attention as described in this section.

(5) This amnesty policy may not apply to students who repeatedly violate college policies in regard to alcohol, drugs, or other prohibited conduct.

## **WAC 132J-126-115 Interim measures.**

(1) After receiving a report of sexual harassment or other serious student misconduct, a student conduct officer or designee may implement interim measures which may include, but are not limited to:

- (a) A no-contact order prohibiting direct or indirect contact, by any means, with a complainant, a respondent, a reporting party, other specified persons, and/or a specific student group or organization;
- (b) Reassignment of on-campus housing;
- (c) Reassignment of arranged off-campus housing;
- (d) Changes to class schedules, assignments, or test schedules;
- (e) Modified on-campus employment schedule or location;
- (f) Restrictions on access to portions of campus including, but not limited to, on-campus housing; or
- (g) Alternative safety arrangements such as campus safety escorts.

(2) If an interim measure is put in place pending or during a conduct proceeding, the student will be notified of the interim measure and be advised how to raise an objection about the interim measure or request that it be made less restrictive. A student conduct officer or designee may adjust or modify interim measures as students' situations and schedules change and evolve over time. Interim measures will remain in place until the student receives notice the interim measures have been lifted or modified from the student conduct officer or designee.

(3) Implementation of any interim measure does not assume any determination of, or create any presumption regarding responsibility for, a violation under this student conduct code. A respondent who fails to comply with any interim protective measures may, however, be charged with a "failure to comply" pursuant to WAC 132J-126-090(14).

## **WAC 132J-126-120 Purpose of disciplinary action.**

The college may apply sanctions or take other appropriate action for violations of the student conduct code. Disciplinary proceedings shall determine whether and under what conditions the respondent may continue as a student of the college.

## **WAC 132J-126-125 Hazing prohibited—Sanctions.**

- (1) Any student group that knowingly permits hazing is strictly liable for harm caused to persons or property resulting from hazing. If the organization, association, or student living group is a corporation, whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.
- (2) Any person who participates in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for a period of time determined by the college.
- (3) Any student group that knowingly permits hazing to be conducted by its members or by others subject to its direction or control shall be deprived of any official recognition or approval granted by the college.
- (4) Any student group found responsible for violating the student conduct code, college anti-hazing 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.

## **WAC 132J-126-130 Corrective action, disciplinary sanctions, terms and conditions.**

(1) The following corrective actions or disciplinary sanctions may be imposed upon students or upon college-sponsored student organizations, athletic teams, or living groups found responsible for violating the student conduct code:

- (a) Warning. A verbal or written statement to a student that there is a violation and that continued violation may be cause for disciplinary action. Warnings are corrective actions, not disciplinary, and may not be appealed.
- (b) Written reprimand. Notice in writing that the student has violated one or more terms of the student conduct code and that continuation of the same or similar behavior may result in more severe disciplinary action.

(c) Disciplinary probation. Formal action placing specific conditions and restrictions upon the student's continued attendance, depending upon the seriousness of the violation and which may include a deferred disciplinary sanction.

(i) Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.

(ii) 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.

(d) Disciplinary suspension. Separation from the college and from student status for a stated period of time.

(i) There will be no refund of tuition or fees for the quarter in which the suspension is imposed.

(ii) Conditions of suspension may be imposed and will be specified. Except as otherwise specified in the final order, all conditions must be fulfilled before the end of the suspension period. Failure to fulfill all conditions of suspension in a timely manner will extend the suspension period and any conditions, and may result in additional disciplinary sanctions.

(iii) The college may put an enrollment hold in place during the suspension period, which includes enrollment privileges being blocked pending the completion of specified sanctions/conditions. Holds may be placed and removed only at the direction of the vice president of student affairs or designee.

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

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

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

- (b) Loss of privileges. Denial of specified privileges for a designated period of time.
- (c) Revocation of club status and loss of college recognition. Applies to clubs and organizations.
- (d) Not in good standing. A student found to be "not in good standing" with the college may 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.
- (e) No contact directive. An order directing a student to have no direct or indirect physical, verbal, electronic, and/or written contact with another specified student, college employee, a particular college facility, or group.
- (f) Professional evaluation. Referral for drug, alcohol, psychological, or medical evaluation by an appropriately certified or licensed professional may be required.
  - (i) The student may choose the professional within the scope of practice and with the professional credentials as defined by the college.
  - (ii) The student will sign all necessary releases to allow the college access to any such evaluation.
  - (iii) 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.
- (g) Housing suspension. Separation of the student from college-owned or operated housing or host family status for a definite period of time, after which the student may be eligible to return. Conditions for reacceptance may be specified.
- (h) Housing dismissal. Permanent separation of the student from college-owned or operated housing or host family status.
- (i) 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, material replacement, appropriate service, or other compensation.

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

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

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

## **WAC 132J-126-135 Conduct hold on student records.**

(1) A student conduct officer or other designated college official may place a conduct hold on the student's record if the student is the respondent in a pending complaint of prohibited conduct, a pending conduct proceeding under this code, or in conjunction with a disciplinary sanction or condition under this code.

(2) A conduct hold may restrict the student from registering for classes, or receiving a degree from the college until the hold has been removed.

(3) If the conduct hold is placed pending or during a conduct proceeding, the student will be notified of the hold and be advised how to raise an objection about the hold or request that it be made less restrictive. The hold will remain in place until lifted by the student conduct officer or other designated college official, or until the conduct process has concluded.

(4) Implementation of any conduct hold prior to disciplinary action does not assume any determination of, or create any expectation of, responsibility for prohibited conduct under this conduct code.

## **WAC 132J-126-140 Initiation of disciplinary action.**

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

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

(a) Sexual harassment prohibited under Title IX. The college's Title IX coordinator or designee shall review, process complaints or other reports of sexual harassment, and if applicable, assign an investigator. Allegations of sexual 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 according to college procedures 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 harassment complaints without written permission from both the complainant and the respondent.

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

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

(6) Both the respondent and the complainant in cases involving allegations of sexual harassment prohibited conduct under Title IX 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 vice president of student affairs or designee 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 them 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 business days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer shall serve the respondent with a written decision setting forth the facts and conclusions supporting their decision, the specific student conduct code provisions found to have been violated, the discipline imposed (if any), and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal. This period may be extended at the sole discretion of the student conduct officer if additional information is necessary to reach a determination. The student conduct officer will notify the parties of any extension period and the reason therefore.

(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 132J-126-130; 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.

## **WAC 132J-126-150 Appeal from disciplinary action.**

(1) Except in cases involving allegations of sexual harassment prohibited under Title IX, as set forth in WAC 132J-126-140 (2)(a), the respondent may appeal a disciplinary action by filing a written notice of appeal with the student conduct officer within 21 calendar days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's decision shall be deemed final.

- (2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.
- (3) The parties to an appeal shall be the respondent, complainant if any, and the student conduct officer.
- (4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.
- (5) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.
- (6) Imposition of disciplinary action for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.
- (7) A conduct review officer shall conduct a brief adjudicative proceeding for appeals of:
  - (a) Suspensions of 10 instructional days or less;
  - (b) Disciplinary probation;
  - (c) Written reprimands; and
  - (d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.
- (8) The student conduct committee shall hear appeals from:
  - (a) Disciplinary suspensions in excess of 10 instructional days; or, for disciplinary suspensions from a student group, suspensions in excess of two academic terms;
  - (b) Dismissals; or, for dismissals from a student group, deprivation of recognition or approval granted by the college;
  - (c) Sexual harassment prohibited under Title IX cases; and
  - (d) Disciplinary cases referred to the committee by the student conduct officer, a conduct review officer, or the president.
- (9) Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary actions are final action and are not subject to appeal.

## **WAC 132J-126-160 Brief adjudicative proceedings (BAP).**

- (1) Authorization. This rule is adopted in accordance with RCW 34.05.482 through 34.05.494. Brief adjudicative proceedings are informal hearings and shall be conducted in a manner which

will bring about a prompt fair resolution of the matter. Brief adjudicative proceedings shall be used, unless provided otherwise by another rule or determined otherwise in a particular case by the president, or a designee, in regard to student conduct appeals involving the following disciplinary actions:

- (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:
  - (i) Dismisses disciplinary proceedings based upon a finding that the allegations of sexual misconduct have no merit; or
  - (ii) Issues a verbal warning to respondent.

(2) Agency record. The agency record for brief adjudicative proceedings shall consist of any documents regarding the matters that were considered or prepared by the presiding officer for the brief adjudicative proceeding or by the reviewing officer for any review. These records shall be maintained as the official record of the proceedings.

(3) Initial hearing.

- (a) Brief adjudicative proceedings shall be conducted by a conduct review officer. The conduct review officer shall not participate in any case in which they are a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.
- (b) The parties to a brief adjudicative proceeding are the respondent and the student conduct officer. Before taking action, the conduct review officer shall conduct an informal hearing and provide each party:
  - (i) An opportunity to be informed of the agency's view of the matter; and
  - (ii) An opportunity to explain the party's view of the matter.
- (c) The conduct review officer shall serve an initial decision upon the respondent and the student conduct officer within 10 business days of consideration of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within 21 calendar days of service of the initial decision, the initial decision shall be deemed the final decision.

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

(4) Review of an initial decision.

(a) An initial decision is subject to review by the president, provided a party files a written request for review with the conduct review officer within 21 calendar days of service of the initial decision.

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

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

(d) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within 21 calendar days of the initial decision or of the request for review, whichever is later. The decision on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the president does not make a disposition of the matter within 21 calendar days after the request is submitted.

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

## WAC 132J-126-180 Student conduct committee— Membership and governance.

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

(a) Two full-time students appointed by the student government;

(b) Two faculty members appointed by the president;

(c) One administrative staff member (other than an administrator serving as a student conduct or conduct review officer) appointed by the president at the beginning of the academic year.

(2) The administrative staff member shall serve as the chair of the committee and may take action on preliminary hearing matters prior to convening the committee. The chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

(3) Hearings may be heard by a quorum of three members of the committee so long as 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 for disqualification of a committee member pursuant to RCW 34.05.425(4).

(5) Green River College may, in its sole discretion, contract with an administrative law judge or other qualified person to act as presiding officer and assign such presiding officer to exercise any or all of the duties in lieu of the student conduct committee and committee chair.

(6) 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 these rules and chapter 10-08 WAC, these rules shall control.

## **WAC 132J-126-190 Student conduct committee—Prehearing.**

(1) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven business 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) The committee chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(3) 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 three business days 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.

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

- (a) The conduct officer's notification of imposition of discipline (or referral to the committee); and
- (b) The notice of appeal (or any response to referral) by the respondent, or in a case involving sexual harassment prohibited under Title IX, the complainant.

If doing so; however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(5) 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.

(6) The committee chair, upon request, shall provide reasonable assistance to the respondent and complainant in obtaining relevant and admissible evidence that is within the college's control.

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

(8) Each party may be accompanied at the hearing by a nonattorney process advisor of their choice, which may be retained at the party's expense.

(9) Each party may elect to be represented by an attorney at their own expense. The respondent and/or complainant will be deemed to have waived the right to be represented by an attorney unless, at least five business days before the hearing, written notice of the attorney's identity and

participation is filed with the committee chair with a copy to the student conduct officer. 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.

(10) The student conduct committee will ordinarily be advised by an assistant attorney general. If the respondent and/or the complainant is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general.

## **WAC 132J-126-200 Student conduct committee— Presentations of evidence.**

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

- (a) Proceed with the hearing and issuance of its decision; or
- (b) Serve a decision of default in accordance with RCW 34.05.440.

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

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

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

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

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

(7) The chair may decide that the respondent and complainant shall not directly question or cross-examine one another. Subject to this exception, all cross-examination questions by the respondent and complainant shall be directed to the committee chair, who in their discretion shall pose the questions on the party's behalf. All cross-examination questions submitted to the

chair in this manner shall be memorialized in writing and maintained as part of the hearing record.

(8) In cases involving allegations of sexual harassment prohibited under Title IX, the complainant and respondent may not directly question one another or other witnesses. In such circumstances, the chair will determine whether questions will be submitted to the chair, who will then ask questions of the parties and witnesses, or allow questions to be asked directly of any party or 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) Prior to any question being posed to a party or witness, the chair must determine whether the question is relevant and not otherwise impermissible; and must explain any decision to exclude a question that is deemed not relevant, or is otherwise impermissible. The chair will retain for the record copies of any written questions provided by any party.

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

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

- (i) Spousal/domestic partner privilege;
- (ii) Attorney-client communications and attorney work product privilege;
- (iii) Clergy privileges;
- (iv) Medical or mental health providers and counselor privileges;
- (v) Sexual assault and domestic violence advocate privileges; and
- (vi) Other legal privileges set forth in RCW 5.60.060 or federal law.

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

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

(9) 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.

## **WAC 132J-126-210 Student conduct committee—Initial decision.**

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

(2) Within 21 calendar 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 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 initial order shall also include a determination on appropriate discipline, 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 the initial decision to be served on the parties and their legal counsel of record. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.

## **WAC 132J-126-220 Appeal from student conduct committee initial decision.**

(1) Any party, including a complainant in sex-based harassment cases, may appeal the committee's decision to the president by filing a written appeal with the president's office within

21 calendar days of service of the committee's decision. Failure to file a timely appeal constitutes a waiver of the right and the initial 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 notice of appeal.

(5) The president shall serve a written decision to all parties and their attorneys, if any, within 21 calendar days after receipt of the appeal. The president's decision shall be final and shall be subject to judicial review pursuant to chapter 34.05 RCW, Part V.

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

## **WAC 132J-126-230 Summary suspension.**

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

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

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

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

(c) Poses an ongoing threat of 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 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 the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included that warns the student 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 the respondent enters 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. The hearing will be conducted as a brief adjudicative proceeding (BAP).

(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) Nothing herein shall prevent faculty members from taking summary action as may be reasonably necessary to maintain order in the classroom and/or prevent substantial disruption to the educational process. Such summary action in the form of removal from the classroom may not exceed two instructional days per episode. Any such summary action may be appealed to the vice president for student affairs, or designee, for a brief adjudicative proceeding.

## **WAC 132J-126-300 Recordkeeping.**

(1) The vice president of student affairs, or designee, shall maintain for at least six years the following records of student grievance and disciplinary actions and proceedings:

- (a) Initial and final orders in cases where a student's grievance has been sustained or a disciplinary action against a student has been reversed and the student fully exonerated;
- (b) The complete records in all cases where adjudication has been requested; and
- (c) A list or other summary of all disciplinary actions reported or known to the vice president and not appealed.

(2) Final disciplinary actions shall be entered on student judicial records, provided that the vice president of student affairs or designee shall have discretion to remove some or all of that information from a student's judicial record upon the student's request and showing of good cause.

(3) The disciplinary record is confidential, and is released only as authorized under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).

# SUPPLEMENTAL TITLE IX STUDENT CONDUCT PROCEDURES

## WAC 132J-126-400 Order of precedence.

This supplemental procedure applies to allegations of sexual harassment subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Sec. 106. To the extent these supplemental hearing procedures conflict with the college's standard disciplinary procedures, WAC 132J-126-010 through 132J-126-300, these supplemental procedures shall take precedence. Green River College may, at its discretion, contract with an administrative law judge or other person to act as presiding officer and assign such presiding officer to exercise any or all of the duties in lieu of the student conduct committee and committee chair.

## WAC 132J-126-410 Prohibited conduct under Title IX.

Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the college may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of "sexual harassment."

For purposes of this supplemental procedure, "sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:

- (1) Quid pro quo harassment. A college employee conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.
- (2) Hostile environment. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's educational programs or activities.
- (3) Sexual assault. Sexual assault includes the following conduct:
  - (a) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, 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. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without

consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(c) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of 18.

(d) Statutory rape. Nonforcible sexual intercourse between someone who is 18 years of age or older and someone who is under the age of 16.

(4) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, coercive control, damage or destruction of personal property, stalking, or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.55.010.

(5) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) 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.

(6) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

## WAC 132J-126-420 Title IX jurisdiction.

(1) This supplemental procedure applies only if the alleged misconduct:

- (a) Occurred in the United States;
- (b) Occurred during a college educational program or activity; and
- (c) Meets the definition of sexual harassment as that term is defined in this supplemental procedure.

(2) For purposes of this supplemental procedure, an "educational program or activity" is defined as locations, events, or circumstances over which the college exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred. This definition includes any building owned or controlled by a student organization that is officially recognized by the college.

(3) Proceedings under this supplemental procedure must be dismissed if the decision maker determines that one or all of the requirements of subsection (1)(a) through (c) of this section have not been met. Dismissal under this supplemental procedure does not prohibit the college from pursuing other disciplinary action based on allegations that the respondent violated other provisions of the college's student conduct code, WAC 132J-126-090.

(4) If the student conduct officer determines the facts in the investigation report are not sufficient to support Title IX jurisdiction and/or pursuit of a Title IX violation, the student conduct officer will issue a notice of dismissal in whole or part to both parties explaining why some or all of the Title IX claims have been dismissed.

## **WAC 132J-126-430 Initiation of discipline.**

(1) Upon receiving a Title IX investigation report from the Title IX coordinator, the student conduct officer will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX.

(2) If the student conduct officer determines that there are sufficient grounds to proceed under these supplemental procedures, the student conduct officer will initiate a Title IX disciplinary proceeding by filing a written disciplinary notice with the chair of the student conduct committee and serving the notice on the respondent and the complainant, and their respective advisors. The notice must:

- (a) Set forth the basis for Title IX jurisdiction;
- (b) Identify the alleged Title IX violation(s);
- (c) Set forth the facts underlying the allegation(s);

- (d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s);
- (e) Explain that the parties are entitled to be accompanied by their chosen advisors during the hearing and that:
  - (i) The advisors will be responsible for questioning all witnesses on the party's behalf;
  - (ii) An advisor may be an attorney; and
  - (iii) The college will appoint the party an advisor of the college's choosing at no cost to the party, if the party fails to do so; and
- (f) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

## **WAC 132J-126-440 Prehearing procedure.**

(1) Upon receiving the disciplinary notice, the chair of the student conduct committee will send a hearing notice to all parties, in compliance with WAC 132J-126-190. In no event will the hearing date be set less than 10 days after the Title IX coordinator provided the final investigation report to the parties.

(2) A party may choose to have an attorney serve as their advisor at the party's own expense. This right will be waived unless, at least five business days before the hearing, the attorney files a notice of appearance with the committee chair with copies to all parties and the student conduct officer.

(3) In preparation for the hearing, the parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether the college intends to offer the evidence at the hearing.

## **WAC 132J-126-450 Rights of parties.**

(1) The college's student conduct procedures, chapter 132J-126 WAC, and this supplemental procedure shall apply equally to all parties.

(2) The college bears the burden of offering and presenting sufficient testimony and evidence to establish that the respondent is responsible for a Title IX violation by a preponderance of the evidence.

(3) The respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.

(4) During the hearing, each party shall be represented by an advisor. The parties are entitled to an advisor of their own choosing and the advisor may be an attorney. If a party does not choose an advisor, then the Title IX coordinator will appoint an advisor of the college's choosing on the party's behalf at no expense to the party.

## **WAC 132J-126-460 Evidence.**

The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(1) Relevance: The committee chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(2) Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(4) Complainant and respondent may not ask questions directly of one another. Questions may be asked through a party's advisor or by the chair, after the chair determines the question is relevant and not privileged or otherwise impermissible. The chair has discretion to follow this procedure for other witnesses as well.

(5) No negative inference: The committee may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.

(6) Privileged evidence: The committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/domestic partner privilege;

(b) Attorney-client and attorney work product privileges;

(c) Privileges applicable to members of the clergy and priests;

(d) Privileges applicable to medical providers, mental health therapists, and counselors;

- (e) Privileges applicable to sexual assault and domestic violence advocates; and
- (f) Other legal privileges identified in RCW 5.60.060.

## **WAC 132J-126-470 Initial order.**

(1) In addition to complying with WAC 132J-126-210, the student conduct committee will be responsible for conferring and drafting an initial order that:

- (a) Identifies the allegations of sexual harassment;
- (b) Describes the procedural steps taken from receipt of the formal complaint through the determination, including any notifications to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;
- (c) Makes findings of fact supporting the determination;
- (d) Reaches conclusions applying the conduct code to the facts;
- (e) Contains a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- (f) Describes any disciplinary sanctions or conditions imposed against the respondent, if the committee determines the respondent violated the conduct code;
- (g) Determines whether remedies designed to restore or preserve complainant's equal access to the college's education programs or activities will be provided by the college; and
- (h) Describes the process for appealing the initial order to the college president.

(2) The committee chair will serve the initial order on the parties simultaneously.

## **WAC 132J-126-480 Appeals.**

(1) All parties, including the student conduct officer in their capacity as a representative of the college, have the right to appeal from the determination of responsibility and/or from a dismissal, in whole or part, of a formal complaint during the investigative or hearing process. Appeals must be in writing and filed with the president's office within 21 days of service of the initial order or notice of dismissal. Appeals must identify the specific findings of fact and/or conclusions in the initial order or notice of dismissal that the appealing party is challenging and must contain argument as to why the appeal should be granted. Failure to file a timely appeal constitutes a waiver of the right to appeal and the initial order or notice of dismissal shall be deemed final.

(2) Upon receiving a timely appeal, the president's office will serve a copy of the appeal on all parties, who will have 10 business days from the date of service to submit written responses to the president's office addressing issues raised in the appeal. Failure to file a timely response constitutes a waiver of the right to participate in the appeal. Upon receipt of written responses, the president's office shall serve copies of the responses to the other parties.

(3) Parties receiving a copy of the responses shall have five business days in which to submit a written reply addressing issues raised in the responses to the president's office.

(4) The president or their delegate, based on their review of parties' submissions and the hearing or investigative record, will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether a dismissal is affirmed or denied, or if the disciplinary sanctions and conditions imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth the new disciplinary sanctions and conditions.

(5) The president's office shall serve the final decision on the parties simultaneously.

(6) All administrative decisions reached through this process are and may be judicially appealed pursuant to applicable provisions of chapter 34.05 RCW including, but not limited to, the timelines set forth in RCW 34.05.542.

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<sup>i</sup> While every effort is made to ensure the accuracy and consistency of the information provided in this document, in the event of any discrepancies, the information published on this website shall be deemed the official and authoritative source. The official website is <https://app.leg.wa.gov/WAC/default.aspx?cite=132J-126&full=true>