



BOARD OF TRUSTEES MEETING
July 30, 2024
3:00 P.M. – Zoom/WTI 2322A
Zoom Link: <https://wvc.zoom.us/j/88546251658>

AGENDA

CALL TO ORDER	Page
PUBLIC COMMENT	
ACTION	
1. Local Capital Expenditure Authority, Resolution No. 2024-04: Brett Riley, VP of Administrative Services.....	1
2. Student Code of Conduct Revision: Dr. Diana Garza, Vice President of Student Affairs	14

ADJOURNMENT

NOTE: An Executive Session may be called for any reason allowed under the Open Public Meetings Act (RCW 42.30)

ACTION

Local Capital Expenditure Authority Resolution 2024-04: Brett Riley, Vice President of Administrative Services

Over the last year and a half, we have shared with the Board of Trustees an evolving conversation related to State funding and the baseball and softball complex. As we progress towards resolution and ultimately significant improvements of the two facilities, we want to take the opportunity to revisit the timeline and process that has led to the resolution request presented to you today.

In early spring of 2023, we were notified that we would be awarded funding from the Washington State Department of Commerce through the Public Facility Improvement Fund. As a reminder, this funding was not solicited by the college. That being said, WVC was awarded an initial award of **\$700,000** for improvement to Paul Thomas Sr. Field. At this time, we notified the Applesox, Department of Commerce, and SBCTC that we would be unable to accept the award due to Title IX considerations. In response, SBCTC staff began a dialogue with our legislative Department of Commerce representatives on our behalf to explore additional funding opportunities to address the existing inequity in funding. In the following legislative session WVC was awarded **\$462,000** to support the softball field. The request for the softball complex was based on the comparative square footage of the fields and anticipated work needed to be completed while ensuring Title IX compliance is upheld throughout the project. As part of accepting Commerce funding, WVC must commit local dollars to the project. As a reminder, State money may not be used for athletics, therefore we have asked our community partner to contribute the local portion of the funding from the project. As part of their new lease agreement, the Wenatchee Applesox will contribute an additional **\$58,100** to the project to represent the local contribution to the overall project. In total, the project is expected to be **\$1,220,100** as outlined on the resolution document.

Bill language provide below:

13 **FOR THE DEPARTMENT OF COMMERCE**
14 Public Facility Improvement Fund (92001367)
15 The appropriations in this section are subject to the following
16 conditions and limitations:
17 (1) \$24,000,000 of the youth athletic facility account—state
18 appropriation in this section (~~is~~) and \$1,162,000 of the state
19 building construction account—state appropriation in this section are
20 provided solely for the following list of projects:
21 Bellingham: Joe Martin Stadium. \$700,000
22 City of Everett ((School District: Everett
23 Memorial)); New Stadium. \$7,400,000
24 Lower Columbia College: David Story Field. \$1,300,000
25 Lower Columbia College: Softball Facilities. \$700,000
26 Pasco: Gesa Stadium. \$3,000,000
27 Port Angeles: Civic Field. \$600,000
28 Ridgefield: Ridgefield Outdoor Recreational Complex. . . \$450,000
29 Spokane County: Avista Stadium. \$5,800,000
30 Tacoma: Cheney Stadium. \$3,000,000
31 Walla Walla: Borleske Stadium. \$525,000
32 Wenatchee Valley College: Paul Thomas Sr. Field. \$700,000
33 Wenatchee Valley College: Softball Facilities. \$462,000
34 Yakima County: Yakima County Stadium. \$525,000
35 (2) The funding appropriated under this section must be combined
36 with local funds.

Project Site:



RECOMMENDATION: Approval of Resolution No. 2024-04, Local Capital Expenditure Authority for the improvement of the baseball and softball facilities.

Local Capital Expenditure Authority
RESOLUTION No. 2024-04

WHEREAS, **Wenatchee Valley College** has secured funding from the **Washington State Department of Commerce** and our local community partner, the **Wenatchee Baseball Club LLC**.

NOW, THEREFORE, BE IT RESOLVED, that **Wenatchee Valley College** is seeking Board approval for local capital expenditure authority not to exceed **\$1,220,100** related to the upgrades to Paul Thomas Sr. Baseball Stadium and North Rotary Fastpitch Field.

BE IT FURTHER RESOLVED, that **Wenatchee Valley College** has legal authority, and that **Brett T Riley, Vice President of Administrative Services**, is/are hereby authorized, for and on behalf of **Wenatchee Valley College** to do and perform any and all acts and things which may be necessary to carry out the foregoing resolution including the preparing, making and filing of plans, applications, reports and other documents; the execution, acceptance, delivery and recordation of agreements, and other instruments pertaining to the construction and remodel of Paul Thomas Sr. Baseball Stadium and North Rotary Fastpitch Field.

I, **Paula Arno Martinez**, hereby certify that I am the **Board Vice Chair, of the Wenatchee Valley Board of Trustees**, and that the foregoing resolution is a true and correct copy of the resolution adopted by the vote of a majority of the members of Wenatchee Valley College **Board of Trustees** present at a meeting of said Board on the ____ day of _____, 2024, at which a quorum was present.

Paula Arno Martinez, Vice Chair
WVC Board of Trustees

ATHLETIC FACILITIES LEASE AGREEMENT

THIS AGREEMENT is made by and between LITTLE GREEN APPLES BASEBALL CLUB, LLC, a Washington limited liability company (the "Team"), a member of the West Coast League (the "League") and COMMUNITY COLLEGE DISTRICT NO. 15 - WENATCHEE VALLEY COLLEGE (the "College") in consideration of the mutual promises and covenants hereinafter set forth.

WITNESSETH:

1. **Description of Premises.** College leases to the Team the following portions of the College's campus located in Wenatchee, Chelan County, Washington, more particularly described as follows:

- Paul Thomas, Sr., Baseball Stadium, which consists of a field, grandstand, concession stand, public restrooms, locker room and press box (the "Stadium");
- Batting cages immediately adjacent to Paul Thomas Field.
- Parking areas; and
- Areas of ingress and egress to and from and between the above.

2. **Purpose of the Lease.** The Premises are to be used by the Team for the purpose of operating the Team's summer collegiate baseball team for an anticipated rolling term of ten (10) consecutive seasons in the League, with such uses to include, without limitation, games, practices, clean. up, clinics, maintenance, and all other uses by the Team consistent with the operation of a summer collegiate baseball team.

3. **Term.** The initial term of the Lease shall be for the 2024-2033 seasons for the Team (the "Seasons"). Specifically, and subject to the right of the Team to enter the Premises to prepare the Premises and practice for each of the Seasons set out in section 6, a Season begins five (5) days prior to the first game of the Team and terminates five (5) days after the final game of the Team, including hosted playoffs of the League. Provided, however, the Team shall be entitled to enter the Premises to begin preparing the Premises for a Season, including without limitation, the installations of signs, cleaning, painting, and preparation of concession facilities, at any reasonable time provided that the operation of the Premises by the College is not disrupted.

4. **Extension of Term.** The intent of the parties is to provide a Lease that always has a term which includes the following season. To affect such intent the parties agree as follows:

- a. **Extension of Term. with an annual inflationary increase of 3%.** If, after the completion of a Season, the Team desires to add an additional Season to the Lease, the Team shall provide to the

College written notice of its desire on or before September 1 of each year during the Term of this Lease. The then existing Term shall extend one (1) additional Season on the same conditions and terms if the College does not (a) propose new, different or additional terms of this Lease, or (b) object to the extension of the Term on or before the following September 30 of each year during the Term of this Lease.

- b. **Extension of Term. With changes in terms of Lease.** The provisions of this Lease may change upon the parties proposing such terms and negotiating in good faith. If, in the event the Team desires to change any provision of this Lease, the Team shall propose such change(s) with its notice to the College of its desire to extend the Lease, described in section 4(a).

If, in the event the College desires to change the provisions of this Lease, the College shall propose such change(s) to the Team in its response to the Team, described in section 4(a).

- c. **Negotiation of proposed changes to Lease.** The parties agree to negotiate the respective proposals for new, different, or additional terms to the Lease in good faith and agree that time is of the essence in such negotiation. Subject to the obligation to negotiate such proposals for new, different, or additional terms to the Lease in good faith, if the parties cannot reach an agreement on such proposed new, different or additional terms, the Term of this Lease shall not extend to include such additional Season.

5. **Rent.** The Team shall pay to the College Rent for each Season during the Term in the amount of **Twelve Thousand Dollars (\$12,000)** on or before June 1 of each Season Except as expressly provided in this Lease, the Rent is intended to be the full compensation to the College for all use of the Premises according to the terms of this Lease. In addition, this lease will be subject to the financial terms identified in **Appendix A** related to local match of Washington State Department of Commerce funding.

6. **Scope and Time of Use.** The use of the Premises outside the Seasons shall be exclusive to the College, while the use of the Premises by the Team during the Seasons during the term of the Lease shall be exclusive to the Team, except as follows:

- a. **Use by Others upon Application and Approval.** Use of the Premises by one other than the Team during a Season may be proposed to the Team by the College well in advance of the proposed use and shall be subject to the prior approval of the Team, which approval shall not be unreasonably withheld.
- b. **Scheduled College Use.** The College shall have the right to use the Premises for its scheduled classes and educational events, as known on the date the practice times are scheduled, according to subsection (d).

- c. **Recruiting Workouts.** The College shall also have the right to use the field for individual recruiting workouts, provided these workouts are completed no later than four (4) hours prior to any Team game.
- d. **Use of Premises for Practice and Stadium Preparation prior to Seasons.** In addition to the Seasons, the Team shall be entitled to use the Premises prior to the Seasons for practices and the preparation of the Premises for each of the Seasons. The parties shall agree to a schedule for the preparation of the Premises on or before April 1 for each Season and to a schedule for the use of the Premises for practice by the Team on or before May 1 for each Season. The Team shall have the exclusive right to the Premises, except for the parking areas and ingress and egress, during the times scheduled for practices.
- e. **Termination of Games.** Due to consideration of neighbors to the Premises, the Team will exercise its best efforts to schedule its games such that they will be completed on or before 10:30 p.m.
- f. **Lighting after Games.** Subject to the completion of games which require extra innings to complete, one bank of lights at the Stadium may be kept on by the Team after 11:00 p.m. for the purposes of safety and repair, maintenance and cleaning by the Team.

7. **No Indemnification.** Each party to this agreement shall be responsible for all liability, loss, damage, expense, actions and claims to damages of persons or property resulting from actions or omissions on the part of itself, its employees, agents or officers.

8. **Insurance.** As a member of the League, the Team has available certain public liability insurance coverages for the landlord of the stadium which the Team leases. The Team shall keep in full force and effect such policy of public liability insurance and shall cause the coverages under such insurance policy to cover the College with respect to the Premises, or effect equivalent alternative insurance. In addition to any additional insurance required as a result of "firework nights". The Team shall cause such certificate(s) evidencing such insurance coverage be delivered to the College prior to the commencement of each Season. The College represents and warrants it has reviewed the scope and extent of coverage under such insurance coverage and thereby waives any claim for additional insurance coverage.

9. **Damage by Fire and Other Casualty.** In the event of a partial destruction of the Premises, from any cause, where the Premises is unusable by the Team for its intended purpose, the Lease shall terminate at the option of the Team.

10. **Taxes and Assessments.** Team shall not be responsible for any real property and other taxes which are levied or assessed or become owing during the term of

this Lease. The College shall pay all assessments levied against the Premises during the term of this Lease.

11. **Maintenance of and Improvements to the Premises.** The parties intend and desire the Premises be maintained in a first-class condition at all times during the entire Term of this Lease and to work together to develop and implement a plan of improving the Premises. The parties recognize it is in their mutual best interests to jointly administer the maintenance of and improvements to the Premises, and the provisions of this section are material terms of this Lease. For purposes of this Lease, the term "maintenance" shall mean the normal, ordinary day-to-day care of the Premises which maintains and repairs the Premises so the Premises remains in their then present condition; while the term "improvements" shall mean those items which change the Premises in some fashion. Except for the obligation to maintain the Premises during the Concession Periods described in section 17, the Team shall be responsible for the maintenance of the Premises during the Season and the College shall be responsible for maintenance of the Premises at all other times of the year. The Premises at the end of each parties' respective period where they are responsible for maintenance shall be in a first-class condition, without need for further clean-up, maintenance or repair. The Parties shall identify a "grounds liaison" that shall be responsible for ensuring both hand off between periods and ongoing grounds maintenance is upheld during each Parties respective seasons.

12. **Security.** Security over the Premises during the times of the use by the Team shall be the responsibility of the Team. Security shall specifically include, but is not limited to:

- a. **Lock-up.** Upon the termination of use of the Premises each day, all gates to the Premises, restrooms, and doors to the Clubhouse shall be closed and locked.
- b. **Crowd Control.** The Team shall exercise its best efforts to control all persons attending the games of the Team and preventing persons attending the games of the Team from entering facilities of the campus of the College except the Stadium, parking areas and established paths of ingress and egress between the Stadium and the parking areas.
- c. **Plan.** A security, safety and injury plan must be agreed upon by the parties prior to the term of the Lease, with copies on file with the College's athletic director and the office of the Vice President of Administrative Services.

13. **Alcohol Sales.** The Team may sell beer and approved spirits at the Stadium, subject to the following rules, which shall be in addition to any other rule or statute imposed by the City of Wenatchee and the State of Washington:

- a. **Designated Family Section.** In order to provide a controlled environment, the Team will designate and provide appropriate signage for a "family section" or "non-alcohol" section within the

Grandstand. No alcohol shall be permitted within the Designated Family Section.

- b. **Sales.** All sales of beer and approved spirits will be through a concession operated or licensed by the Team that will be separate from the seating area of the Grandstand. No more than two (2) alcoholic beverages may be sold in any single transaction. No alcohol may be sold after the beginning of the eighth inning of a game.
- c. **Licenses.** All licenses required for the sale of beer and approved spirits, as well as all conditions imposed by the appropriate agencies, shall be obtained and complied with by the Team at its own cost and expense.

14. **Signage.** The Team shall have the exclusive right to all concessions and signage on the Premises during each of the Subject Seasons, except for the upper portion of the primary scoreboard of the Premises, where the College shall have the right Co signage. The College and Team Agree to a good-faith effort to seek Co-Sponsor efforts whenever possible. The College being given rights to the equivalent of three (3) second tier signs for branding the College or its programs, including for example, "Paul Thomas Stadium", "Wenatchee Valley College Baseball" and/or "Wenatchee Valley College Booster Club", or combinations thereof. The Team will install and remove such signage at the commencement and termination of each of the Subject Seasons, subject to the request of the College to have such signs installed during the season for the College's baseball team. Further, the College shall have the right to signage on the primary scoreboard of the Premises, except that such signage shall not be in conflict with the signage of the Team.

15. **Fundraising Participation.** The Team shall exercise its best efforts to participate in fundraising programs instituted by the College for the raising of monies to continue the improvement of the Premises.

16. **Donation of Buyout Night.** The Team shall donate one (1) "buyout night each Season to the Wenatchee Valley College Foundation, the proceeds of which will be used to support the College's athletic programs. For purpose of this Lease, a "buyout night" means four hundred (400) general admission tickets and promotional opportunities associated with the Team's promotional policies for the Season at issue. The Team pledge to contribute proceeds from select concessions items to the Foundation to distribute to the College's athletic programs during each buyout night.

17. **Scheduling for College Use during a Season.**

- a. **Creation of Concession Periods.** The Team shall create three (3) periods in their game and practice schedule during each of the Seasons to allow the College to use the Premises for tournaments and/or clinics during a Thursday through Sunday (a "Concession Period") or as arranged.

- b. **Maintenance.** During each Concession Period the College shall be primarily responsible for maintenance of the Premises, and the entire Premises shall be in a first-class condition and repair, needing no additional cleaning, maintenance or repair by 12:00 p.m. of the Monday following each Concession Period.

Use of any equipment or supplies used by the Team shall be approved by the College and remunerated by the Team accordingly.

- c. **Return of Premises to Team.** Provided, however, while the intent is for the College to use the Premises between Thursday through Sunday of a Concession Period, if factors beyond the reasonable anticipation or control of the College results in a cancelled game on Sunday of the Concession Period, the College may utilize the Premises for the playing of such canceled game, so long as it is scheduled to be completed, under normal circumstances, and the Premises in a condition described in section 17(c) by 12:00 p.m. on the Monday after the Concession Period.
- d. **Concessions and Concession Stand.** The Team owns equipment in the concession stand which are part of the Premises (the "Concession Stand") and operates all food and beverage sales through the Team. The College may use the Concession Stand but must utilize the Team's Food and Beverage staff to operate the Concession Stand, whereupon the College will receive twenty percent (20%) of the gross sales. On or before May 1 prior to each of the Seasons, the College shall advise the Team whether the College desires to use the Concession Stand during any of the Concession Periods. Otherwise, the College may conduct its own concession operation(s) outside of the Concession Stand.

18. **Utilities.** The College shall pay all charges for all utilities including, but not limited to, water, sewage, gas, electricity, lights, heat, power, air conditioning, used, rented or supplied upon or in connection with the Premises. Provided, however, in the event the cost of providing water to the Premises for field maintenance exceeds Three Thousand Dollars (\$3,000.00) during the period of August 1 through the following July 31, the cost of providing water to the Premises for field preparation and maintenance will become an item of maintenance for the following such period, and the cost of the water shall be paid by the Team.

19. **Alterations.** The Team will not make or allow to be made any alterations of the Premises, or any part thereof, without the prior written consent of the College. The College agrees that such consent shall not be unreasonably withheld. Any additions to the Premises shall at once become part of the realty and belong to the College, except that trade fixtures shall belong to the Team. Team agrees to repair or pay for the repair of any damage which is done to the building or any structure on the Premises caused by the removal of trade fixtures.

20. **Assignment and Subletting.** The Team may assign this Lease as part of a sale of the Team, subject to prior approval of the college, which approval shall not be unreasonably withheld and shall be based upon verifying the assignee's financial ability to perform this Lease. Any assignment of this Lease shall not extinguish or, diminish the liability of the Team herein. Consent by the College to any sublease or assignment shall not prevent its withholding consent to any subsequent sublease or assignment. Provided, further, the Team may allow the use of the Premises by youth baseball leagues under circumstances deemed appropriate by the Team.

21. **College Right of Entry.** The College or its representatives may enter the Premises at any time. The College or its representatives may enter the Premises at any reasonable time for the purpose of performing any work which the College elects to undertake and which was made necessary by reason of the Team's default under the terms of this Lease.

22. **Agreement to determine matters in the future: Negotiation in good faith.** All references in this Lease to the parties agreeing to terms and details in the future shall require the parties to resolve said matters in good faith, taking into consideration the mutual desire to further the goals of the parties in entering into this Lease, and to resolve said issues expeditiously and inexpensively. The requirement to negotiate and resolve matters in good faith shall not render the obligations of the parties illusory.

23. **Performing Other Party's Obligation upon Default.** Upon default, the no defaulting party shall have all remedies available at law or equity, including, but not limited to, specific performance. Otherwise, if either party is in default in performing any of its obligations under this Lease, the other party may cure such default or perform such obligation on behalf of the other, in which event the defaulting party shall reimburse the no defaulting party for all sums paid to effect such cure or performance, together with interest at the rate of 12% per annum, and together with reasonable attorney fees and costs incurred by the no defaulting party. Before the no defaulting party shall perform or cure obligations of the other under this section, the no defaulting party shall first give notice of its intent to do so, and shall provide a reasonable time for the defaulting party to cure such default.

24. **Termination.** In the event the League or the Team dissolves, this Lease shall terminate. However, if the dissolution occurs during a Season, any responsibilities of the Team and College shall be honored until the scheduled end of the Season.

25. **Compliance With Laws and Regulations.** At its sole expense the Team shall comply with all laws, orders and regulations of the Federal, state and municipal authorities and with any direction of any public officer, pursuant to law, which shall impose any duty upon the College or the Team with respect to the use of the Premises. The Team, at its sole expense, shall obtain all licenses or permits which may be required for the conduct of its business within the terms of this Lease, or for the making of repairs, alterations, and improvements or additions required to be made by the Team, and the College, where

necessary, will join with the Team in applying for all such permits and licenses. The Team will at no time knowingly permit any unlawful activity to be conducted on the Premises.

26. **Surrender Upon Termination of Lease.** At the expiration of the term of the Lease, or the extended term in the event the Lease is extended, the Team shall surrender the Premises, including all buildings, alterations, rebuilding, replacements, changes or additions placed thereon during the term of this Lease, in as good condition as it was in the beginning of the term, or, if installed after the beginning of the term, when the same were made, reasonable wear and tear excepted.

27. **Notices.** Any notices by either party to the other shall be in writing and shall be deemed to be duly given two (2) business days after delivery to the post office only if delivered personally, or mailed by certified mail in a postage paid envelope addressed to the other party at the last known address of the party to whom the notice is given. For purposes of communication, the responsible person for the Team and the College shall be:

Wenatchee Baseball Club, LLC Jose Oglesby	Wenatchee Valley College: Brett Riley
Owner	Vice President of Administrative Services
610 N. Mission, Suite #206 Wenatchee, WA 98801 (509) 665-6900	1300 Fifth Street Wenatchee, WA 98801 (509) 682-6515

28. **Relationship of Parties.** The relationship between the parties shall be that of Landlord and Tenant. The relationship between the parties is not a partnership, joint venture, or agency.

29. **Attorney Fees.** In the event any action is instituted by College or Team against the other party hereto to obtain compliance with any covenant, agreement or provision of this Lease, whether it be for the payment of money or the performance of any act or duty, the prevailing party shall be entitled to recover costs and a reasonable sum as attorney fees.

30. **Successors and Assigns.** All rights, remedies, liabilities herein given to or imposed upon either of the parties hereto, shall inure to the benefit of and be binding upon their respective heirs, executors, administrators, successors in interest, transferees, and assigns.

31. **Liens and Insolvency.** The Team shall keep the Premises and the building and structures free from any liens arising out of any work performed, materials ordered, or obligations incurred by the Team. If the Team becomes insolvent, voluntarily

or involuntarily bankrupt, or if a receiver, assignee, or other liquidating officer is appointed for the business of the Team, then the College may, at its option, cancel this Lease without notice to the Team.

32. **Entire Agreement.** The provisions set forth in this Lease contain all the agreements between the parties as to the scope and extent of the Lease.

33. **Effective Date.** This Lease is effective July 15, 2024.

LITTLE GREEN APPLES BASEBALL CLUB, LLC
A Washington limited liability company

WENATCHEE VALLEY COLLEGE

Name: _____

Name: _____

Signature: _____

Signature: _____

Date: _____

Date: _____

Appendix A: Construction and Renovation

As part signing this lease agreement, the Team commits to a local investment of a minimum of 5% of the Washington State Department of Commerce funds once awarded. Documentation and remittance of this investment shall be held by the Wenatchee Valley College Foundation. All proceeds shall be received by the WVC Foundation on or before the date of Certification of Occupancy or project closeout date, whichever comes first.

- 1) Wenatchee Valley College: Paul Thomas Sr. Fieldno less than \$35,000
- 2) Wenatchee Valley College: Softball Facilities.....no less than \$23,100

Total: ...\$58,100

Student Code of Conduct Revision: Dr. Diana Garza, Vice President of Student Affairs

On behalf of Wenatchee Valley College, I respectfully request your approval of the attached document. There have been federal changes to the Title IX laws with an implementation date of August 1, 2024. The changes presented for approval incorporate updates and revisions necessary to ensure compliance with current policies and to address the evolving needs of our college community.

Student Conduct Code- Authority (132W-115-WAC):

1. The student conduct code shall apply to student conduct that occurs:
 - a. On college premises.
 - b. At or in connection with college sponsored activities.
 - c. Off college premises, if in the judgment of the college, the conduct has an adverse impact on the college community, the pursuit of its objectives, or the ability of a student or staff to participate in the college's programs and activities.
2. Jurisdiction extends to locations in which students are engaged in college programs or activities including, but not limited to:
 - a. College-sponsored housing;
 - b. Activities funded by the students;
 - c. Student government;
 - d. Student clubs or organizations;
 - e. Athletic events.
3. Students are responsible for their conduct from the time of application for admission through the actual receipt of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment.
4. These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending.
5. The college has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct by students or student groups that occurs off-campus.
6. In addition to initiating disciplinary proceedings for violation of the student conduct code, the college may refer any violations of federal, state or local laws to civil and criminal authorities for disposition. The college reserves the right to pursue student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution

These updates are crucial to comply with the federal implementation deadline. Your support and approval will maintain the integrity and effectiveness of Wenatchee Valley College, ensuring that our practices align with best practices and legal requirements. We believe these revisions will enhance our ability to serve our students and community effectively.

Please feel free to contact me if you have any questions or need further information.

RECOMMENDATION: That the board of trustees approve the revised Student Code of Conduct under the emergency rulemaking process.

1400.110 CODE OF STUDENT CONDUCT PROCEDURE

A. AUTHORITY

The board, acting pursuant to [RCW 28B.50.140 \(14\)](#), delegates to the president of the college the authority to administer 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 chief student services officer or designee. Except in cases involving allegations of sex discrimination, including sex-based harassment, the student conduct officer, , or delegate, shall serve as the principal investigator and administrator for alleged violations of this code.

B. DEFINITIONS

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

1. **Assembly:** means any overt activity engaged in by one or more persons, the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any person, persons or group of persons.
2. **Board:** means the board of trustees of Wenatchee Valley College.
3. **Calendar day:** means days will be counted by excluding the first day and including the last day of timelines. When the last day falls on a Saturday, Sunday or holiday, the last day will be the next day which is not a Saturday, Sunday or holiday. When the period of time prescribed or allowed is less than seven days, Saturdays, Sundays and holidays are not included in the count.
4. **College:** Wenatchee Valley College and all of its areas, elements, programs and college related activities.
5. **College community:** means students, employees, trustees and volunteers.
6. **College facilities and college facility:** mean and include any and all real and personal property owned, rented, leased, or operated by the board of Wenatchee Valley College, and shall include all buildings and appurtenances attached thereto and all parking lots and other grounds. College facilities extend to distance education classroom environments, and agencies or institutions that have educational agreement with the college.
7. **College official:** includes any person employed by the college performing assigned duties.
8. **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.
9. **Complainant:** means the following individuals who are alleged to have been subjected to conduct that would constitute sex discrimination
 - (a) a student or employee
 - (b) a person other than a student or employee who was participating or attempting to participate in the College's education program or activity at the time of the alleged discrimination.

10. **Conduct review officer:** is a college administrator designated by the president who is responsible for reviewing or referring appeals of student disciplinary actions as specified in this code
11. **Controlled substance:** means and includes any drug or substance as defined in [chapter 69.50 RCW](#) as now law or hereafter amended.
 - a. **Liquor:** means the definition of liquor as contained within [RCW 66.04.010](#).
 - b. **Drugs:** means a narcotic drug as defined in [RCW 69.50.101](#), a controlled substance as defined in [RCW 69.50.201](#) through [RCW 69.50.212](#), or a legend drug as defined in [RCW 69.41.010](#).
12. **Day:** means a weekday, excluding weekends, college holidays, and college closures unless otherwise specified.
13. **Disciplinary action:** is the process by which the student conduct officer imposes discipline against a student for a violation of the code of student conduct. A written or verbal warning is not disciplinary action.
14. **Disciplinary appeal:** is the process by which an aggrieved student party can appeal the discipline imposed or recommended by the student conduct officer. Disciplinary appeals from a suspension in excess of 10 instructional days or a dismissal from the college are heard by the student conduct committee. Appeals of all other disciplinary action shall be reviewed by a conduct review officer through brief adjudicative proceedings. 15.
Faculty member and instructor: are any employee of Wenatchee Valley College who is employed on a full-time or part-time basis as a teacher, instructor, counselor, faculty advisor or librarian.
16. **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 email address and official's office address.

Paper required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official.
17. **Group:** means persons who are associated with each other but who have not complied with college requirements for registration or organization.
18. "Pregnancy or Related Conditions" means: (a) pregnancy, childbirth, termination of pregnancy, or lactation; (b) medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (c) recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
19. **President:** means the chief executive officer of the college appointed by the board of trustees and is authorized to delegate any and all responsibilities as set forth in the chapter as may be reasonably necessary.
20. **"Program" or "Programs and Activities"** means all operations of the College.

- 21 “Relevant”** means related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.
- 22. “Remedies”** means measures provided to a complainant or other person whose equal access to the college’s educational programs and activities has been limited or denied by sex discrimination. These measures are intended to restore or preserve that person’s access to educational programs and activities after a determination that sex discrimination has occurred.
19. **RCW:** means Revised Code of Washington which can be accessed at <https://apps.leg.wa.gov/rcw/>.
20. **Respondent:** is the student who is alleged to have violated the student conduct code.
21. **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:
- Hand delivery of the document to the party; or
 - By sending the document by both email and by either 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.
22. **Sexual misconduct:** has the meaning ascribed to this term in APPENDIX A - Supplemental Title IX Student Conduct Procedures.
23. **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.
24. **Student Conduct Committee:** refers to a committee that hears appeals related to sanctions imposed on a student, including a suspension or expulsion, due to inappropriate behavioral conduct or actions. The Academic Regulations Committee hears appeals related to academic/ instructional issues such as plagiarism, cheating or other non-behavioral classroom conduct. The Student Conduct Committee does not typically review these cases unless a sanction of suspension or expulsion is imposed (i.e., repeat academic dishonesty behavior or other egregious cases).
25. **Student conduct officer:** is a college administrator designated by the president or chief student services officer to be responsible for implementing and enforcing the code of student conduct.
26. “Student employee” means an individual who is both a student and an employee of the college. When a complainant or respondent is a student employee, the college must make a fact-specific inquiry to determine whether the individual’s primary relationship with the college is to receive an education; and whether any alleged student conduct code violation, including but not limited to sex-based harassment, occurred while the individual was performing employment-related work.

27. "Student group" is a student organization, athletic team, or living group including, but not limited to, student clubs and organizations, members of a class or student cohort, student performance groups, and student living groups within student housing.
28. "Supportive measures" means measures reasonably available, individualized and appropriate, non-punitive and non-disciplinary 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 sex-based harassment.
29. **Student organization:** means any number of students who have met the college's formal requirements of clubs or organizations.
30. "Title IX Coordinator" is the administrator responsible for processing complaints of sex discrimination, including sex-based harassment, overseeing investigations and informal resolution processes, and coordinating supportive measures, in accordance with college policy.
31. **Visitors:** means guests, applicants, contractors, vendors, advisory board members, foundation board members, and members of the public on college premises.
28. **WAC:** means Washington Administrative Code which can be accessed at <https://apps.leg.wa.gov/wac/>.

C. JURISDICTION

1. The code of student conduct shall apply to student conduct by students or student groups that occurs: that occurs
 - a. on college premises;
 - b. at or in connection with college sponsored activities; or

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

D. STUDENTS ABROAD

Students who participate in any college-sponsored or sanctioned international program shall observe the following:

1. The laws of the host country;
2. The academic and disciplinary regulations of the educational institution or residential housing program where the student is placed;
3. Any other agreements related to the student's program in another country; and
4. Wenatchee Valley College's Code of Student Conduct.

E. 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 code of student conduct is entitled, upon request, to procedural due process as set forth in this procedure.
- d. Any student undergoing a conduct hearing process is entitled to receive a written summary of the results and findings of the hearing.

F. PROHIBITED STUDENT CONDUCT

The college may impose disciplinary sanctions against a student 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. **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, and fabrication.
 - a. Cheating includes using or any attempt to use, give or obtain unauthorized assistance relating to the completion of an academic assignment.
 - b. Plagiarism includes taking and using as one's own, without proper attribution, the ideas, writings, or work of another person, or artificial intelligence, in completing an academic assignment. Plagiarism may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.
 - c. Fabrication includes falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to an instructor concerning the completion of an assignment.
 - d. No student shall be allowed to withdraw from a course or from the college to avoid the consequences of academic dishonesty.
 - e. The decision to bring a student conduct proceeding under this code for academic dishonesty is at the sole discretion of the student conduct officer. Nothing in this code prohibits instructors and/or academic divisions or departments from imposing academic sanctions, 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 sanctions for academic

dishonesty can be found in the college's Academic Regulations Committee Procedures, the course syllabus, and any applicable program handbook.

2. **Other dishonesty.** Any other acts of dishonesty, such acts include, but are not limited to:
 - a. Forgery, alteration, submission of falsified documents, or misuse of any college document, record, or instrument of identification;
 - b. Tampering with an election conducted by or for college students; or
 - c. Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a college officer or employee.
3. **Obstruction or disruption.** Obstruction or disruption of:
 - a. Any instruction, research, administration, disciplinary proceeding, or other college activity, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity; or
 - b. Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.
 - c. Any activity which inhibits or interferes with the orderly operation of the college or the ability of students and/or college personnel to perform their functions in an orderly environment or assisting or encouraging another person to engage in such conduct.
4. **Assault, intimidation, harassment.** Unwanted touching, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, stalking, or other conduct, which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. See college policy 500.450 violence in the workplace.
5. **Bullying is severe or pervasive physical or verbal (written or oral) abuse.** For purposes of this code, bullying is defined as repeated or aggressive unwanted behavior, not otherwise protected by law that intentionally humiliates, harms or intimidates the victim.
6. **Cyber misconduct.** Cyberstalking, cyberbullying, or online harassment. Use of electronic communications including, but not limited to, email, instant messaging, online bulletin boards, applications (apps), and social media sites to harass, abuse, bully, or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's email identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.
7. **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.
8. **Discriminatory harassment.**

- a. Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, not otherwise protected by law, that is directed at a person because of such person's protected status and that is sufficiently severe, persistent, or pervasive so as to:
 - i. Limit the ability of a student to participate in or benefit from the college's educational and/or social programs and/or student housing;
 - ii. Alter the terms of an employee's employment; or
 - iii. Create an intimidating, hostile, or offensive environment for other campus community members.
 - b. Protected status includes a person's race; color; creed/religion; national origin; presence of any sensory, mental or physical disability; use of a trained service animal; sex, including pregnancy; marital status; age; genetic information; sexual orientation; gender identity or expression; honorably discharged veteran or military status; HIV/AIDS and hepatitis C status; or membership in any other group protected by federal, state, or local law.
 - c. Discriminatory harassment may be physical, verbal, or nonverbal conduct and may include written, social media, and electronic communications not otherwise protected by law.
- 9. 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.
- 10 Property violation.** Damage to, or theft or misuse of, real or personal property or money of:
- a. The college or state;
 - b. Any student or college officer, employee or organization;
 - c. Any other member of the college community, visitors, or organization; or
 - d. Possession of such property or money after it has been stolen.
 - e. Property, which includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.
- 11. Failure to comply with directive.** Failure to comply with the direction of a college officer or employee who is acting in the legitimate performance of duties, including failure to properly identify oneself to such a person when requested to do so.
- 12. Weapons.** The possession, carrying or discharge of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device or any other weapon capable of producing bodily harm is prohibited on the college campus and during college programming and activities, (including but not limited to shot guns, pistols, air guns, pellet guns, and paint-ball guns), whether loaded or unloaded, is prohibited on Wenatchee Valley College owned or controlled property, unless otherwise authorized in this provision and subject to the following exceptions (see college 000.270 weapons on campus policy and 1000.270 weapons on campus procedure):

- a. A simulated firearm, or weapon may be authorized and permitted for educational purposes in connection with Wenatchee Valley College related research, teaching or theatrical production, (e.g., stage play or film production, or rehearsals). Any person seeking to bring a firearm or other weapon onto campus for purposes directly related to a class or other educational activity must obtain prior written authorization from the president or designee. The president or designee shall review any such request and may establish conditions to the authorization. Any permission shall be in writing and subject to such terms or conditions incorporated into the written permission. Any person may possess a personal protection spray device, as authorized by [RCW 9.91.160](#), while on property owned or controlled by Wenatchee Valley College.

13. 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 not otherwise protected by law.
- b. For purposes of this code, "bullying" is defined as repeated or aggressive unwanted behavior not otherwise protected by law when a reasonable person would feel humiliated, harmed, or intimidated.
- c. For purposes of this code, "intimidation" is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though an explicit threat or display of physical force has not been made. Intimidation is evaluated based on the intensity, frequency, context, and or duration of the comments or actions.

14. Hazing. Hazing is any act committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a college sponsored student organization, athletic team, or living group, or any pastime or amusement engaged in with respect to such an organization, athletic team, or living group that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student, including causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm, regardless of the person's willingness to participate. "Hazing" does not include customary athletic events or other similar contests or competitions. Consent is not a valid defense against hazing. Hazing includes, but is not limited to, any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group, that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm to any student or other person attending Wenatchee Valley College. Consent is no defense to hazing. The term does not include customary athletic events or other similar contests or competitions. Hazing is also a misdemeanor, punishable under state law.

15. Alcohol, drug, and tobacco violations.

- a. **Alcohol.** The use, possession, delivery, sale, or being observably under the influence of any alcoholic beverage, except as permitted by law and applicable college policies or procedures.
 - b. **Marijuana.** The use, possession, delivery, sale, or being observably under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.
 - c. **Drugs.** The use, possession, production, delivery, sale, or being observably under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in [chapter 69.41 RCW](#), or any other controlled substance under [chapter 69.50 RCW](#), except as prescribed for a student's use by a licensed practitioner.
 - d. **Tobacco.** The use of tobacco, electronic cigarettes, and related products in any building owned, leased or operated by the college or in any location where such use is prohibited, including twenty-five feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased or operated by the college. The use of tobacco, electronic cigarettes, and related products on the college campus is restricted to designated smoking areas. "Related products" include, but are not limited to cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, vaporizers, and snuff. The college community and visitors will abide by all Washington state laws and college policy as it relates to the use of tobacco, electronic cigarettes, and related products. See college policy 000.240 Tobacco Free Campus Policy.
16. **Lewd conduct.** Conduct which is lewd, obscene, or indecent.
17. **Discriminatory conduct.** Discriminatory conduct which harms or adversely affects any member of the college community and/or visitors because of race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See college policy 000.330 discrimination & discriminatory harassment.
18. **Sexual misconduct.** The term sexual misconduct includes sexual harassment, sexual intimidation, and sexual violence. Sexual harassment prohibited by Title IX is defined in the Supplemental Procedures to this Code. See APPENDIX A - Supplemental Title IX Student Conduct Procedures.
- a. **Sexual harassment.** The term sexual harassment means unwelcome sexual or gender-based conduct, including unwelcome sexual advances, requests for sexual favors, quid pro quo harassment, and other verbal, nonverbal, or physical conduct of a sexual or a gendered nature that is sufficiently severe, persistent, or pervasive as to:
 - i. Deny or limit the ability of a student to participate in or benefit from the college's educational program;
 - ii. Alter the terms or conditions of employment for a college employee(s); and/or
 - iii. Create an intimidating, hostile, or offensive environment for other campus community members.
 - b. **Sexual intimidation.** The term sexual intimidation incorporates the definition of sexual harassment and means threatening or emotionally distressing conduct based

- on sex, including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording.
- c. **Sexual violence.** Sexual violence is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.
- i. **Nonconsensual sexual intercourse.** 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.
 - ii. **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.
 - iii. **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.
 - iv. **Statutory rape.** Consensual intercourse between a person who is 18 years of age or older, and a person who is under the age of 16.
 - v. **Domestic violence.** Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of 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 26.50.010](#).
 - vi. **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:
 - (a). The length of the relationship;
 - (b). The type of relationship; and
 - (c). The frequency of interaction between the persons involved in the relationship.
 - vii. **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for their safety or the safety of others; or (b) suffer substantial emotional distress.
- d. For purposes of this code, **consent** means knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact. A person cannot consent if

they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

19. 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 not otherwise protected by law.
- b. For purposes of this code, "bullying" is defined as repeated or aggressive unwanted behavior not otherwise protected by law when a reasonable person would feel humiliated, harmed, or intimidated.
- c. For purposes of this code, "intimidation" is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though an explicit threat or display of physical force has not been made. Intimidation is evaluated based on the intensity, frequency, context, and/or duration of the comments or actions.

20. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See "sexual misconduct" for the definition of "sexual harassment". See also college's discrimination and discriminatory harassment policy 000.330 and sexual harassment/Title IX policy 000.340.

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.

Any intentional, adverse action taken by an accused individual or allied third party, absent legitimate nondiscriminatory purposes, as reprisal against any individual for reporting, providing information, exercising one's rights or responsibilities, or otherwise being involved in the process of responding to, investigating, or addressing allegations or violations of federal, state or local law, or college policies including, but not limited to, code of student conduct provisions prohibiting discrimination and harassment. Retaliatory actions include, but are not limited to, threats or actual violence against the person or their property, adverse educational or employment consequences, ridicule, intimidation, bullying or ostracism.

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

- a. **Sex-Based Harassment.** “Sex-based harassment” is a form of sex discrimination and means sexual harassment or other harassment on the basis of sex, including the following conduct:
 - i. **Quid pro quo harassment.** A student, employee, agent, or other person authorized by the college to provide an aid, benefit, or service under the college’s education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct.
 - ii. **Hostile environment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - a. The degree to which the conduct affected the complainant’s ability to access the college’s education program or activity;
 - b. The type, frequency, and duration of the conduct;
 - c. The parties’ ages, roles within the college’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - d. The location of the conduct and the context in which the conduct occurred; and
 - e. Other sex-based harassment in the college’s education program or activity.
 - iii. **Sexual Violence.** “Sexual violence” includes nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, incest, statutory rape, domestic violence, dating violence, and stalking.
 - a. **Nonconsensual sexual intercourse** is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.
 - b. **Nonconsensual sexual contact (Fondling)** is any actual or attempted intentional sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

- c. **Incest** is sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren, and adopted children under the age of eighteen (18).
 - d. **Statutory Rape (Rape of a Child)** is non-forcible sexual intercourse with a person who is under the statutory age of consent.
 - e. **Domestic violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, coercive control, damage or destruction of personal property, or 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 State of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Washington.
 - f. **Dating violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship;
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship.
 - g. **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or to suffer substantial emotional distress.
- 23. Title IX Retaliation**, means intimidation, threats, coercion, or discrimination against any person by a student, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in a sex discrimination investigation, proceeding, or hearing under this part, including during an informal resolution process, during a Title IX investigation, or during any disciplinary proceeding involving allegations of sex discrimination.
- 24. Theft or misuse of electronic resources.** Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:
- a. Unauthorized use of such resources or opening of a file, message or other item;
 - b. Unauthorized duplication, transfer, or distribution of a computer program, file, message or other item;
 - c. Unauthorized use or distribution of someone else's password or other identification;

- d. Use of such time or resources to interfere with someone else's work;
 - e. Use of such time or resources to send, display, or print an obscene or abusive message, text or image;
 - f. Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;
 - g. Use of such time or resources in violation of applicable copyright or other law;
 - h. Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or
 - i. Failure to comply with the college's technology acceptable use policy (700.150 acceptable use, authorized user policy).
25. **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.
26. **Safety violations.** Safety violations include any non-accidental conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the college community and/or visitors, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.
21. **Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation, or other college rules or policies, including college traffic and parking rules.
22. **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. These ethics codes must be distributed to students as part of an educational program, course or sequence of courses and the student must be informed that a violation of such ethics codes may subject the student to disciplinary action by the college.
- In addition to initiating discipline proceedings for violation of the code of student conduct, 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.

G. CORRECTIVE ACTION, DISCIPLINARY SANCTIONS, TERMS & CONDITIONS

The following disciplinary sanctions may be imposed upon students found to have violated the code of student conduct. Depending upon the misconduct, more than one sanction may be imposed. Other than college dismissal or revocation or withholding of a degree, disciplinary sanctions are not made part of the student's academic record, but are part of the student's disciplinary record. Violation of any term or condition of any disciplinary sanction constitutes a new violation and may subject the student to additional sanctions.

1. **Disciplinary warning.** A verbal statement to a student that there is a violation and that continued violations may be cause for further disciplinary action. Warnings are corrective actions, not disciplinary, and may not be appealed.
2. **Written reprimand.** Notice in writing that the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

3. **Disciplinary probation.** Formal action placing specific conditions and restrictions upon the student's continued attendance depending upon the seriousness of the violation and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction, which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.
4. **Disciplinary suspension.** Dismissal from the college and from the student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the action is taken.
5. **Dismissal.** The revocation of all rights and privileges of membership in the college community and exclusion from all college campuses 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 action is taken.

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:

6. **Educational sanction.** The college may require the student to complete an educational activity or experience directly related to the violation committed, at the student's expense.
7. **Professional evaluation.** Referral for drug, alcohol, psychological, or medical evaluation by an appropriately certified or licensed professional may be required. The student may choose the professional within the scope of practice and with the professional credentials as defined by the college. The student will sign all necessary releases to allow the college access to any such evaluation. The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.
8. **Not in good standing.** A student may be deemed not in good standing with the college. If so, the student shall be subject to the following restrictions:
 - a. Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.
 - b. 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.
9. **Restitution or monetary fine.** Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, monetary fine or other compensation.
10. **Hold on transcript or registration.** This is a temporary measure restricting release of a student's transcript or access to registration. Upon satisfactory completion of the conditions of the sanction, the hold will be released.
11. **Revocation of admission or degree.** Admission to or a degree awarded from the college may be revoked for fraud, misrepresentation, or other violation of standards of

conduct for students in obtaining the degree, or for other serious violations committed by a student prior to graduation.

12. **Withholding degree.** The college may withhold awarding a degree otherwise earned until the completion of the process set forth in this Section, including the completion of all sanctions imposed.
13. **No trespass order.** A student may be restricted from college property and/or college-sponsored activities based on the violation. misconduct. **Residence Hall Suspension or Termination. Removal from a residence hall for a specified period or permanently. Conditions may be imposed before a student is permitted to return to a residence hall.**
14. **No contact directive.** An order directing a student to have no contact with a specified member of the college community, visitor or a particular college facility.

H. HAZING SANCTIONS

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

I. HEARING PROCEDURES - Initiation of disciplinary action

1. All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint initiated by the respondent, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complaint.
2. The student conduct officer, or designee, shall initiate disciplinary action by serving the respondent with written notice directing the student to attend a disciplinary meeting. The notice shall briefly describe the factual allegations, the provision(s) of the code of student conduct the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting. 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.

- (a) **Sex discrimination, including sex-based harassment.** The college's Title IX Coordinator or designee shall review, process, and, if applicable, investigate complaints or other reports of sex discrimination, including sex-based harassment. Allegations of sex discrimination, including sex-based harassment, by a student shall be addressed through the student conduct code. Allegations involving employees or third parties associated with the college will be handled in accordance with college policies.
3. The student conduct officer, prior to taking disciplinary action in a case involving sexual misconduct, will make a reasonable effort to contact the complainant to discuss the results of the investigation and possible disciplinary sanctions and/or conditions, if any, that may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.
 4. Within 10 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 the decision, the specific code of student conduct 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.
 5. 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) as described in Section G, Disciplinary Sanctions.
 - 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.
 6. In cases involving allegations of sexual misconduct, the student conduct officers shall review the investigation report provided by the Title IX Coordinator, and determine whether, by a preponderance of the evidence, there was a violation of the student conduct code; and if so, what disciplinary sanction(s) and/or remedies will be recommended. The student conduct officer shall, within five (5) business days of receiving the investigation report, serve respondent, complainant, and the Title IX Coordinator with a written recommendation, setting forth the facts and conclusions supporting their recommendation. The time for serving a written recommendation may be extended by the student conduct officer for good cause. The complainant and respondent may either accept the student conduct officer's recommended disciplinary sanction(s) or request a hearing before a student conduct committee.
 - b. The complainant and respondent shall have 21 calendar days from the date of the written recommendation to request a hearing before a student conduct committee.
 - c. The request for a hearing may be verbal or written, but must be clearly communicated to the student conduct officer.
 - d. The student conduct officer shall promptly notify the other party of the request.

- e. In cases involving sex discrimination, the student conduct officer may recommend dismissal of the complaint if:
 - i. The college is unable to identify respondent after taking reasonable steps to do so;
 - ii. Respondent is not participating in the college's educational programs or activities;
 - iii. The complainant has voluntarily withdrawn any or all of the allegations in the complaint, and the Title IX Coordinator has declined to initiate their own complaint;
 - iv. The college determines that, even if proven, the conduct alleged by the complainant would not constitute sex discrimination; or
 - v. The conduct alleged by the complainant falls outside the college's disciplinary jurisdiction.
 - f. In cases involving allegations of sex-based harassment, the college must obtain the complainant's voluntary withdrawal in writing before the matter can be dismissed.
 - g. If no request for a full hearing is provided to the student conduct officer, the student conduct officer's written recommendation shall be final and implemented immediately following the expiration of twenty-one (21) calendar days from the date of the written recommendation.
 - h. Upon receipt of the student conduct officer's written recommendation, the Title IX Coordinator or their designee shall review all supportive measures and, within five (5) business days, provide written direction to the complainant and respondent as to any supportive measures that will be implemented, continued, modified, or terminated. If either party is dissatisfied with the supportive measures, the party may seek review in accordance with the college's Title IX investigation procedure.
 - a. The complainant and respondent will have three (3) business days to notify the Title IX Coordinator, in writing, of any objection to the continuation, modification, or termination of any supportive measures. Any objection will be reviewed within three (3) business days by a neutral impartial employee, who will review the investigation report, student conduct officer's recommendation, confer with the Title IX Coordinator or their designee, complainant and respondent, as appropriate, and determine whether to continue, modify, or terminate the supportive measures.
 - i. If the respondent is found responsible for engaging in sex discrimination, it is determined that a violation of the student conduct code occurred, the Title IX Coordinator shall also take prompt steps to coordinate and implement any necessary remedies to ensure that sex discrimination does not recur and that complainant has equal access to the college's programs and activities.
- I. APPEAL - Appeal from disciplinary action
- 1. Except as specified for cases involving allegations of sex discrimination, as set forth in WAC 132-115-080 (12) [Initiation of Disciplinary Action], the respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within twenty-one (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 conduct review 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 code of student conduct shall be stayed pending appeal, unless respondent has been summarily suspended.
7. The student conduct committee shall hear appeals from:
 - a. The imposition of disciplinary suspensions in excess of 10 days;
 - b. Dismissals; and
 - c. Discipline cases referred to the committee by the student conduct officer, the conduct review officer or the president.
8. Student conduct appeals from the imposition of the following disciplinary sanctions shall be reviewed through a brief adjudicative proceeding:
 - a. Suspensions of 10 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.
9. Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary actions are final action and are not subject to appeal.
10. In cases involving allegations of sexual misconduct, the complainant has the right to appeal the following actions by the student conduct officer following the same procedures as set forth above for the respondent:
 - a. The dismissal of a sexual misconduct complaint; or
 - b. Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.
11. If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.
12. Except as otherwise specified in this Section, a complainant who timely appeals a disciplinary decision or who intervenes as a party to a respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.

J. BRIEF ADJUDICATIVE PROCEEDINGS – INITIAL HEARING

1. Brief adjudicative proceedings shall be conducted by a conduct review officer. The conduct review officer shall not participate in any case in which involved as a complainant or witness, or in which there is direct or personal interest, prejudice, or bias, or in which previous actions have been taken in an advisory capacity.
2. The parties to a brief adjudicative proceeding are the respondent, the student conduct officer, and the complainant in cases involving sexual misconduct. Before taking action, the conduct review officer shall conduct an informal hearing and provide each party:
 - a. An opportunity to be informed of the college's view of the matter; and
 - b. An opportunity to explain the party's view of the matter.
3. The conduct review officer shall serve an initial decision upon both the respondent and the student conduct officer within ten (10) calendar days of the completion of the informal hearing. 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 twenty-one (21) calendar days of service of the initial decision, the initial decision shall be deemed the final decision.
4. In cases involving allegations of sexual misconduct, the conduct review officer, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection. The notice will also inform the complainant of their appeal rights. See APPENDIX A - Supplemental Title IX Student Conduct Procedures.
5. If the conduct review officer, upon review, determines that the respondent's conduct may warrant imposition of a disciplinary suspension in excess of ten (10) days, or dismissal, the matter shall be referred to the student conduct committee for a disciplinary hearing.

K. BRIEF ADJUDICATIVE PROCEEDINGS – REVIEW OF INITIAL DECISION

1. An initial decision is subject to review by the president, provided a party files a written request for review with the conduct review officer within twenty-one (21) calendar days of service of the initial decision.
2. The president shall not participate in any case in which involved as a complainant or witness, or in which there is direct or personal interest, prejudice, or bias, or in which previous actions have been taken in an advisory capacity.
3. During the review, the president shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to ascertain whether the sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.
4. The decision on review must be in writing and must include a brief statement of the reason for the decision and must be served on the parties within 20 calendar days of the initial decision or of the request for review, whichever is later. The decision on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the president does not make a disposition of the matter within 20 calendar days after the request is submitted.
5. If the president, upon review, determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than 10 days, or dismissal, the matter shall be referred to the student conduct committee for a disciplinary hearing.

6. In cases involving allegations of sexual misconduct, the president, on the same date as the final decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights.

L. STUDENT CONDUCT COMMITTEE

1. The student conduct committee shall consist of five members appointed by the president or designee:
 - a. Two full-time students appointed by ASWVC/ASWVCO;
 - b. One full-time classified staff member;
 - c. One faculty member; and
 - d. One administrator (other than an administrator serving as a student conduct officer or conduct review officer).
 2. The administrator 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 hearing panel consisting of a quorum of three members of the committee, so long as one member is the chair. Committee action may be taken upon a majority vote of all committee members presiding over 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.
- (5) For cases involving allegations of sex discrimination, including sex-based harassment, members of the student conduct committee must receive training on serving impartially, avoiding prejudgment of facts at issue, conflicts of interest, and bias. The chair must also receive training on the student conduct process for sex discrimination cases, as well as the meaning and application of the term, "relevant," in relations to questions and evidence, and the types of evidence that are impermissible, regardless of relevance in accordance with 34 C.F.R. § 106.45 and § 106.46.
- (6) The College may, in its sole discretion, contract with an administrative law judge or other qualified person to act as the presiding officer, authorized to exercise any or all duties of the student conduct committee and/or committee chair.

M. STUDENT CONDUCT COMMITTEE – APPEAL

1. Proceedings of the student conduct committee shall be governed by the [Administrative Procedure Act, chapter 34.05 RCW](#).
2. The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven calendar days in advance of the hearing date. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown.

3. 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.
4. Upon request, filed at least five days before the hearing by any party or at the direction of the committee chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.
5. The committee chair may provide to the committee members in advance of the hearing copies of (a) the conduct officer's notification of the imposition of discipline, or referral to the committee, and (b) the notice of appeal, or any response to referral, by the respondent. If doing so, however, the chair should remind the members that these pleadings are not evidence of any facts they may allege.
6. The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.
7. The student conduct officer, upon request, shall provide reasonable assistance to the respondent in obtaining relevant and admissible evidence that is within the college's control.
8. Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper ex parte communication shall be placed on the record, as further provided in [RCW 34.05.455](#).
9. Each party may be accompanied at the hearing by a non-attorney assistant of the party's choice. A respondent, or complainant in a case involving allegations of sexual misconduct, may elect to be represented by an attorney at their own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer. The committee will ordinarily be advised by an assistant attorney general. If the respondent or the complainant is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general.

N. STUDENT CONDUCT COMMITTEE HEARINGS – PRESENTATION OF EVIDENCE

1. Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:
 - a. Proceed with the hearing and issuance of its decision; or
 - b. Serve a decision of default in accordance with [RCW 34.05.440](#).
2. The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.
3. The chair shall cause the hearing to be recorded by a method he/she selects, in accordance with [RCW 34.05.449](#). That recording, or a copy, shall be made available to any party upon request. The chair shall assure maintenance of the record of the

proceeding that is required by [RCW 34.05.476](#), which shall also be available upon request for inspection and copying by any party. Other recording shall also be permitted, in accordance with [WAC 10-08-190](#).

4. The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.
5. The student conduct officer, unless represented by an assistant attorney general, shall present the case for imposing disciplinary sanctions.
6. All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with [RCW 34.05.452](#).
7. 7.
8. In cases involving allegations of sex-based harassment, the complainant and respondent may not directly question one another or other witnesses. In such circumstances, the chair will determine whether questions will be submitted to the chair, who will then ask questions of the parties and witnesses, or allow questions to be asked directly of any party or witnesses by a party's attorney or advisor. The committee chair may revise this process if, in the chair's determination, the questioning by any party, attorney, or advisor, becomes contentious or harassing.
 - a. Prior to any question being posed to a party or witness, the chair must determine whether the question is relevant and not otherwise impermissible; and must explain any decision to exclude a question that is deemed not relevant, or is otherwise impermissible. The chair will retain for the record copies of any written questions provided by any party.
 - b. The chair must not permit questions that are unclear or harassing; but shall give the party an opportunity to clarify or revise such a question.
 - c. The chair shall exclude and the committee shall not consider legally privileged information unless the individual holding the privilege has waived the privilege. Privileged information includes, but is not limited to information protected by the following: (a) spousal/domestic partner privilege; (b) attorney-client communications and attorney work product privilege; (c) clergy privileges; (d) medical or mental health providers and counselor privileges; (e) sexual assault and domestic violence advocate privileges; and (f) other legal privileges set forth in RCW 5.60.060 or federal law.
 - 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. Except in cases involving allegations of sex-based harassment, the chair has the discretion to determine whether a respondent may directly question any witnesses; and if not, to determine whether questions must be submitted to the chair to be asked of witnesses, or to allow questions to be asked by an attorney or advisor for the respondent.

O. 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 30 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 code of student conduct were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.
3. The committee's initial decision 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 condition(s), if any, as authorized in the code of student conduct. If the matter is an appeal by the respondent, the committee may affirm, reverse, or modify the disciplinary sanction(s) and/or condition(s) imposed by the student conduct officer and/or impose additional disciplinary sanction(s) or condition(s) 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.
5. In cases involving allegations of sexual misconduct, the chair of the student conduct committee, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. Complainant may appeal the student conduct committee's initial decision to the president, subject to the same procedures and deadlines applicable to other parties. The notice will also inform the complainant of their appeal rights.

P. STUDENT CONDUCT COMMITTEE – APPEAL FROM STUDENT CONDUCT COMMITTEE INITIAL DECISION

1. A respondent who is aggrieved by the findings or conclusions issued by the student conduct committee may appeal the committee's initial decision to the president by filing a written notice of appeal with the president's office within 10 days of service of the committee's initial decision. Failure to file a timely appeal constitutes a waiver of the right and the initial decision shall be deemed final.
2. The written notice of appeal must identify the specific findings of fact and/or conclusions of law in the initial decision that are challenged and must contain argument why the

appeal should be granted. 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. If necessary to aid review, the president may ask for additional briefing from the parties on issues raised on appeal.

3. The president shall provide a written decision to the respondent and the student conduct officer within 30 calendar days after receipt of the notice of appeal. The president's decision shall be final and shall include a notice of any rights to request reconsideration and/or judicial review.
4. In cases involving allegations of sexual misconduct, the president, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.
5. Per [RCW 34.05.455](#), the president shall not engage in any improper ex parte communication with any of the parties regarding an appeal.

Q. 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 procedure is pending.
2. The student conduct officer may impose a summary suspension if there is probable cause to believe that the respondent:
 - a. Has violated any provision of the code of student conduct; and
 - b. Presents an immediate danger to the health, safety, or welfare of members of the college community or visitors; or
 - c. Poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.
3. Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two (2) calendar days of the oral notice.
4. The written notification shall be entitled Notice of Summary Suspension and shall include:
 - a. The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the code of student conduct 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 college premises or communicate with members of the college community and visitors. If the respondent has been trespassed from the college premises, a notice against trespass shall be included that warns the respondent that his or her 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 premises other than for a scheduled meeting with the student conduct officer or conduct review officer, or to attend a disciplinary hearing.
5. The conduct review officer shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension.
 - a. During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.
 - b. The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.
 - c. If the respondent fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.
 - d. As soon as practicable following the hearing, the conduct review officer shall issue a written decision which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.
 - e. To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices who may be bound or protected by it.
 6. In cases involving allegations of sex discrimination, the complainant shall be notified that a summary suspension has been imposed on the same day that the summary suspension notice is served on the respondent. The college will also provide the complainant with timely notice of any subsequent changes to the summary suspension order.

R. CLASSROOM MISCONDUCT AND AUTHORITY TO SUSPEND FOR NO MORE THAN ONE DAY

1. Faculty members have the authority to take appropriate action to maintain order and proper conduct in their classroom and to maintain the effective cooperation of students in fulfilling the objectives of the course.
2. Bringing any person, thing, or object to a teaching and learning environment that may disrupt the environment or cause a safety or health hazard, without the express approval of the faculty member is prohibited.
3. Faculty members have the right to temporarily suspend any student(s) from a single class or related activity for the remainder of that day if the student's misconduct creates disruption to the point that it is difficult or impossible to maintain the decorum of the class, related activity or the learning and teaching environment. The faculty member shall report this temporary suspension to the student conduct officer or designee on the same day. In consultation with the faculty member, the student conduct officer may set conditions for the student upon return to the class or activity.

S. BRIEF ADJUDICATIVE PROCEEDINGS – COLLEGE RECORD

The college record for brief adjudicative proceedings shall consist of any documents regarding the matter that were considered or prepared by the presiding officer for the brief adjudicative proceeding or by the reviewing officer for any review consistent with [RCW 34.05.476](#). These records shall be maintained as the official record of the proceedings.

APPENDIX A - SUPPLEMENTAL TITLE IX STUDENT CONDUCT PROCEDURES

A. 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. § 106](#). To the extent these supplemental hearing procedures conflict with the Wenatchee Valley College's standard disciplinary procedures, Sections G. Disciplinary Sanctions and H. Hearing Procedures in procedure 1400.110, code of student conduct, these supplemental procedures shall take precedence. The 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.

B. PROHIBITED CONDUCT UNDER TITLE IX

Pursuant to [RCW 28B.50.140 \(13\)](#) and Title IX of the Education Act Amendments of 1972, [20 U.S.C. §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 encompasses the following conduct:

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 that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's educational programs or activities, or employment.
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.** Consensual 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, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the

victim under the domestic or family violence laws of 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 26.50.010](#).

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:
 - a. The length of the relationship;
 - b. The type of relationship; and
 - c. 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.

C. 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 Section C, 1, a-c above, 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 code of code of student conduct.

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.

D. INITIATION OF DISCIPLINE

1. Upon receiving the 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 supplement 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
 - iv. Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

E. PRE-HEARING 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 1400.110 code of student conduct procedure, Section H, Hearing Procedures - initiation of disciplinary action. 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 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.

F. RIGHTS OF PARTIES

1. The college's code of student conduct procedure 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.

G. 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. Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.
2. **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.
3. **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.
4. **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](#).

H. INITIAL ORDER

In addition to complying with 1400.110 code of student conduct procedure, Section J, Brief Adjudicative Proceedings – initial hearing, the Student Conduct Committee will be responsible for conferring and drafting an Initial Order that:

1. Identifies the allegations of sexual harassment;
2. Describes the grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility, including notices to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;
3. Makes findings of fact supporting the determination of responsibility;
4. Reaches conclusions as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX;
5. Contains a statement of, and rationale for, the committee's determination of responsibility for each allegation;
6. Describes any disciplinary sanction or conditions imposed against the respondent, if any;
7. Describes to what extent, if any, complainant is entitled to remedies designed to restore or preserve complainant's equal access to the college's education programs or activities; and

8. Describes the process for appealing the Initial Order to the college president.

The committee chair will serve the Initial Order on the parties simultaneously.

I. APPEALS

1. The parties shall have the right to appeal from the Initial Order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and timeframes set forth in 1400.110 code of student conduct procedure, Section P, Student Conduct Committee – Appeal from Student Conduct Committee Initial Decision.
2. The president or designee will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) imposed in the Initial Order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).
3. The president's office shall serve the final decision on the parties simultaneously.

This procedure replaces procedure dated 8/18/20. Approved by the president's cabinet: 9/28/21
Last reviewed: 9/28/21

Procedure contact: Student Services

Related policies and procedures

000.190	Expressive Activities Policy
000.240	Tobacco Free Campus Policy
000.270	Weapons on Campus Policy
000.300	Freedom of Inquiry & Expression Policy
000.330	Discrimination and Discriminatory Harassment Policy
000.340	Sexual Harassment/Title IX Policy
400.100	Student Rights and Responsibilities/Code of Student Conduct Policy
400.120	Academic Grievance Policy
500.450	Violence in the Workplace Policy
500.475	Alcohol & Drug-Free Workplace Policy
700.120	Email Distribution List Use Policy
700.125	Acceptable & Ethical Use Policy
1000.240	Tobacco Free Campus Procedure
1000.270	Weapons on Campus Procedure
1000.330	Discrimination & Discriminatory Harassment Procedure
1000.340	Sexual Harassment/Title IX Procedure
1400.120	Academic Grievance Procedure
1400.125	Academic Dishonesty Procedure
1500.450	Violence in the Workplace Procedure
1500.475	Alcohol & Drug-Free Workplace Procedure

1400.110 CODE OF STUDENT CONDUCT PROCEDURE

A. AUTHORITY

The board, acting pursuant to [RCW 28B.50.140 \(14\)](#), delegates to the president of the college the authority to administer 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 chief student services officer or designee. [Except in cases involving allegations of sex discrimination, including sex-based harassment,](#) The student conduct officer, , or delegate, shall serve as the principal investigator and administrator for alleged violations of this code.

B. DEFINITIONS

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

1. **Assembly:** means any overt activity engaged in by one or more persons, the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any person, persons or group of persons.
2. **Board:** means the board of trustees of Wenatchee Valley College.
3. **Calendar day:** means days will be counted by excluding the first day and including the last day of timelines. When the last day falls on a Saturday, Sunday or holiday, the last day will be the next day which is not a Saturday, Sunday or holiday. When the period of time prescribed or allowed is less than seven days, Saturdays, Sundays and holidays are not included in the count.
4. **College:** Wenatchee Valley College and all of its areas, elements, programs and college related activities.
5. **College community:** means students, employees, trustees and volunteers.
6. **College facilities and college facility:** mean and include any and all real and personal property owned, rented, leased, or operated by the board of Wenatchee Valley College, and shall include all buildings and appurtenances attached thereto and all parking lots and other grounds. College facilities extend to distance education classroom environments, and agencies or institutions that have educational agreement with the college.
7. **College official:** includes any person employed by the college performing assigned duties.
8. **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.
9. **Complainant:** [means the following individuals who are alleged to have been subjected to conduct that would constitute sex discrimination: any person who submits a complaint alleging that a student violated the code of student conduct, or in matters of sexual misconduct, a complainant is an alleged victim of sexual misconduct.](#)
 - (a) [a student or employee](#)
 - (b) [a person other than a student or employee who was participating or attempting to participate in the College's education program or activity at the time of the alleged discrimination.](#)

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10. **Conduct review officer:** ~~is a college administrator designated by the president who is responsible for reviewing or referring appeals of student disciplinary actions as specified in this code~~ is the chief student services officer or other college administrator designated by the president to be responsible for receiving and for reviewing or referring appeals of student disciplinary actions in accordance with the procedures of this code.
11. **Controlled substance:** means and includes any drug or substance as defined in [chapter 69.50 RCW](#) as now law or hereafter amended.
- a. **Liquor:** means the definition of liquor as contained within [RCW 66.04.010](#).
- b. **Drugs:** means a narcotic drug as defined in [RCW 69.50.101](#), a controlled substance as defined in [RCW 69.50.201](#) through [RCW 69.50.212](#), or a legend drug as defined in [RCW 69.41.010](#).
12. **Day:** means a weekday, excluding weekends, college holidays, and college closures unless otherwise specified.
13. **Disciplinary action:** is the process by which the student conduct officer imposes discipline against a student for a violation of the code of student conduct. A written or verbal warning is not disciplinary action.
14. **Disciplinary appeal:** is the process by which an aggrieved student party can appeal the discipline imposed or recommended by the student conduct officer. Disciplinary appeals from a suspension in excess of 10 instructional days or a dismissal from the college are heard by the student conduct committee. Appeals of all other disciplinary action shall be reviewed by a conduct review officer through brief adjudicative proceedings. can appeal the discipline imposed by the student conduct officer.
15. **Faculty member and instructor:** are any employee of Wenatchee Valley College who is employed on a full-time or part-time basis as a teacher, instructor, counselor, faculty advisor or librarian.
16. **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 email address and official's office address.
- Paper required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified college official.
17. **Group:** means persons who are associated with each other but who have not complied with college requirements for registration or organization.
18. "Pregnancy or Related Conditions" means: (a) pregnancy, childbirth, termination of pregnancy, or lactation; (b) medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (c) recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
- ~~18~~19. **President:** means the chief executive officer of the college appointed by the board of trustees and is authorized to delegate any and all responsibilities as set forth in the chapter as may be reasonably necessary.

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20. **“Program” or “Programs and Activities”** means all operations of the College.
21. **“Relevant”** means related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.
22. **“Remedies”** means measures provided to a complainant or other person whose equal access to the college’s educational programs and activities has been limited or denied by sex discrimination. These measures are intended to restore or preserve that person’s access to educational programs and activities after a determination that sex discrimination has occurred.
19. **RCW:** means Revised Code of Washington which can be accessed at <https://apps.leg.wa.gov/rcw/>.
20. **Respondent:** is the student [who is alleged to have violated the student conduct code against whom disciplinary action is initiated.](#)
21. **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:
- Hand delivery of the document to the party; or
 - By sending the document by both email and by either 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.
22. **Sexual misconduct:** has the meaning ascribed to this term in APPENDIX A - Supplemental Title IX Student Conduct Procedures.
23. **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.
24. **Student Conduct Committee:** refers to a committee that hears appeals related to sanctions imposed on a student, including a suspension or expulsion, due to inappropriate behavioral conduct or actions. The Academic Regulations Committee hears appeals related to academic/ instructional issues such as plagiarism, cheating or other non-behavioral classroom conduct. The Student Conduct Committee does not typically review these cases unless a sanction of suspension or expulsion is imposed (i.e., repeat academic dishonesty behavior or other egregious cases).
25. **Student conduct officer:** is a college administrator designated by the president or chief student services officer to be responsible for implementing and enforcing the code of student conduct.
26. **“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

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with the college is to receive an education; and whether any alleged student conduct code violation, including but not limited to sex-based harassment, occurred while the individual was performing employment-related work.

27. “Student group” is a student organization, athletic team, or living group including, but not limited to, student clubs and organizations, members of a class or student cohort, student performance groups, and student living groups within student housing.

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28. “Supportive measures” means reasonably available, individualized and appropriate, non-punitive and non-disciplinary measures offered by the college to the complainant or respondent without unreasonably burdening either party, and without fee or charge for purposes of:

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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

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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 sex-based harassment.

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2629. **Student organization:** means any number of students who have met the college's formal requirements of clubs or organizations.

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30. “Title IX Coordinator” is the administrator responsible for processing complaints of sex discrimination, including sex-based harassment, overseeing investigations and informal resolution processes, and coordinating supportive measures, in accordance with college policy.

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2731. **Visitors:** means guests, applicants, contractors, vendors, advisory board members, foundation board members, and members of the public on college premises.

28. **WAC:** means Washington Administrative Code which can be accessed at <https://apps.leg.wa.gov/wac/>.

C. JURISDICTION

1. The code of student conduct shall apply to student conduct by students or student groups that occurs: that occurs

- a. on college premises;
 - b. at or in connection with college sponsored activities; or
 - c. Off college premises, if in the judgment of the college, the conduct has an adverse impact on the college community, the pursuit of its objectives, or the ability of a student or staff to participate in the college's programs and activities, off-campus, when conduct in the judgment of the college, adversely affects the college community or the pursuit of its objectives.
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. Jurisdiction extends to, but is not limited to, locations in which students are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the associated students, athletic events, training internships, cooperative and distance education, on-line education, practicums, supervised work experiences or any other college-sanctioned social or club activities.
 3. Students are responsible for their conduct from notification of acceptance at the college through the actual receipt of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment.
 4. These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending.
 5. The college has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct by students or student groups that occurs off-campus. The student conduct officer has sole discretion, on a case-by-case basis, to determine whether the code of student conduct will be applied to conduct that occurs off-campus.
 6. In addition to initiating disciplinary proceedings for violation of the student conduct code, the college may refer any violations of federal, state or local laws to civil and criminal authorities for disposition. The college reserves the right to pursue student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

D. STUDENTS ABROAD

Students who participate in any college-sponsored or sanctioned international program shall observe the following:

1. The laws of the host country;
2. The academic and disciplinary regulations of the educational institution or residential housing program where the student is placed;
3. Any other agreements related to the student's program in another country; and
4. Wenatchee Valley College's Code of Student Conduct.

E. 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 code of student conduct is entitled, upon request, to procedural due process as set forth in this procedure.
- d. Any student undergoing a conduct hearing process is entitled to receive a written summary of the results and findings of the hearing.

F. PROHIBITED STUDENT CONDUCT

The college may impose disciplinary sanctions against a student 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. **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, and fabrication.
 - a. Cheating includes using or any attempt to use, give or obtain unauthorized assistance relating to the completion of an academic assignment.
 - b. Plagiarism includes taking and using as one's own, without proper attribution, the ideas, writings, or work of another person, or artificial intelligence, in completing an academic assignment. Plagiarism may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

- c. Fabrication includes falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to an instructor concerning the completion of an assignment.
 - d. No student shall be allowed to withdraw from a course or from the college to avoid the consequences of academic dishonesty.
 - e. The decision to bring a student conduct proceeding under this code for academic dishonesty is at the sole discretion of the student conduct officer. Nothing in this code prohibits instructors and/or academic divisions or departments from imposing academic sanctions, 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 sanctions for academic dishonesty can be found in the college's Academic Regulations Committee Procedures, the course syllabus, and any applicable program handbook.
2. **Other dishonesty.** Any other acts of dishonesty, such acts include, but are not limited to:
 - a. Forgery, alteration, submission of falsified documents, or misuse of any college document, record, or instrument of identification;
 - b. Tampering with an election conducted by or for college students; or
 - c. Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a college officer or employee.
3. **Obstruction or disruption.** Obstruction or disruption of:
 - a. Any instruction, research, administration, disciplinary proceeding, or other college activity, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity; or
 - b. Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.
 - c. Any activity which inhibits or interferes with the orderly operation of the college or the ability of students and/or college personnel to perform their functions in an orderly environment or assisting or encouraging another person to engage in such conduct.
4. **Assault, intimidation, harassment.** Unwanted touching, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, stalking, or other conduct, which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. See college policy 500.450 violence in the workplace.
5. **Bullying is severe or pervasive physical or verbal (written or oral) abuse.** For purposes of this code, bullying is defined as repeated or aggressive unwanted behavior, not otherwise protected by law that intentionally humiliates, harms or intimidates the victim.
6. **Cyber misconduct.** Cyberstalking, cyberbullying, or online harassment. Use of electronic communications including, but not limited to, email, instant messaging, online bulletin boards, [applications \(apps\)](#), and social media sites to harass, abuse, bully, or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using

another's email identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

7. 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.

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8. Discriminatory harassment.

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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:

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

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

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

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

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

9. 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.

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10. Property violation. Damage to, or theft or misuse of, real or personal property or money of:

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a. The college or state;

b. Any student or college officer, employee or organization;

c. Any other member of the college community, visitors, or organization; or

d. Possession of such property or money after it has been stolen.

e. Property, which includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

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

912. Weapons. The possession, carrying or discharge of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device or any other weapon capable of producing bodily harm is prohibited on the college campus and during college programming and activities. (including but not limited to shot guns, pistols, air guns, pellet guns, and paint-ball guns), whether loaded or unloaded, is prohibited on Wenatchee Valley College owned or controlled property, unless otherwise authorized in this provision and subject to the following exceptions (see college 000.270 weapons on campus policy and 1000.270 weapons on campus procedure):

- a. A simulated firearm, or weapon may be authorized and permitted for educational purposes in connection with Wenatchee Valley College related research, teaching or theatrical production, (e.g., stage play or film production, or rehearsals). Any person seeking to bring a firearm or other weapon onto campus for purposes directly related to a class or other educational activity must obtain prior written authorization from the president or designee. The president or designee shall review any such request and may establish conditions to the authorization. Any permission shall be in writing and subject to such terms or conditions incorporated into the written permission. Any person may possess a personal protection spray device, as authorized by RCW 9.91.160, while on property owned or controlled by Wenatchee Valley College.

13. 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 not otherwise protected by law.
- b. For purposes of this code, "bullying" is defined as repeated or aggressive unwanted behavior not otherwise protected by law when a reasonable person would feel humiliated, harmed, or intimidated.
- c. For purposes of this code, "intimidation" is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though an explicit threat or display of physical force has not been made. Intimidation is evaluated based on the intensity, frequency, context, and or duration of the comments or actions.

4014. Hazing. Hazing is any act committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a college sponsored student organization, athletic team, or living group, or any pastime or amusement engaged in with respect to such an organization, athletic team, or living group that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student, including causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm, regardless of the person's willingness to participate. "Hazing" does not include customary athletic events or other similar contests or competitions. Consent is not a valid defense against hazing. Hazing includes, but is not limited to, any method of

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initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group, that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm to any student or other person attending Wenatchee Valley College. Consent is no defense to hazing. The term does not include customary athletic events or other similar contests or competitions. Hazing is also a misdemeanor, punishable under state law.

4415. Alcohol, drug, and tobacco violations.

- a. **Alcohol.** The use, possession, delivery, sale, or being observably under the influence of any alcoholic beverage, except as permitted by law and applicable college policies or procedures.
- b. **Marijuana.** The use, possession, delivery, sale, or being observably under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.
- c. **Drugs.** The use, possession, [production](#), delivery, sale, or being observably under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in [chapter 69.41 RCW](#), or any other controlled substance under [chapter 69.50 RCW](#), except as prescribed for a student's use by a licensed practitioner.
- d. **Tobacco.** [The use of tobacco, electronic cigarettes, and related products in any building owned, leased or operated by the college or in any location where such use is prohibited, including twenty-five feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased or operated by the college. The use of tobacco, electronic cigarettes, and related products on the college campus is restricted to designated smoking areas. "Related products" include, but are not limited to cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, vaporizers, and snuff. This includes electronic cigarettes, and related products.](#) The college community and visitors will abide by all Washington state laws and college policy as it relates to the use of tobacco, electronic cigarettes, and related products. See college policy 000.240 Tobacco Free Campus Policy.

4216. Lewd conduct. Conduct which is lewd, obscene, or indecent.

4317. Discriminatory conduct. Discriminatory conduct which harms or adversely affects any member of the college community and/or visitors because of race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See college policy 000.330 discrimination & discriminatory harassment.

4418. Sexual misconduct. The term sexual misconduct includes sexual harassment, sexual intimidation, and sexual violence. Sexual harassment prohibited by Title IX is defined in the Supplemental Procedures to this Code. See APPENDIX A - Supplemental Title IX Student Conduct Procedures.

- a. **Sexual harassment.** The term sexual harassment means unwelcome sexual or gender-based conduct, including unwelcome sexual advances, requests for sexual favors, quid pro quo harassment, and other verbal, nonverbal, or physical conduct of a sexual or a gendered nature that is sufficiently severe, persistent, or pervasive as to:

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- i. Deny or limit the ability of a student to participate in or benefit from the college's educational program;
 - ii. Alter the terms or conditions of employment for a college employee(s); and/or
 - iii. Create an intimidating, hostile, or offensive environment for other campus community members.
- b. **Sexual intimidation.** The term sexual intimidation incorporates the definition of sexual harassment and means threatening or emotionally distressing conduct based on sex, including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording.
- c. **Sexual violence.** Sexual violence is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.
- i. **Nonconsensual sexual intercourse.** 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.
 - ii. **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.
 - iii. **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.
 - iv. **Statutory rape.** Consensual intercourse between a person who is 18 years of age or older, and a person who is under the age of 16.
 - v. **Domestic violence.** Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of 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 26.50.010](#).
 - vi. **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:
 - (a). The length of the relationship;
 - (b). The type of relationship; and
 - (c). The frequency of interaction between the persons involved in the relationship.

- vii. **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for their safety or the safety of others; or (b) suffer substantial emotional distress.
- d. For purposes of this code, **consent** means knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact. A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

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19. 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 not otherwise protected by law.
- b. For purposes of this code, "bullying" is defined as repeated or aggressive unwanted behavior not otherwise protected by law when a reasonable person would feel humiliated, harmed, or intimidated.
- c. For purposes of this code, "intimidation" is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though an explicit threat or display of physical force has not been made. Intimidation is evaluated based on the intensity, frequency, context, and or duration of the comments or actions.
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~~Harassment. Unwelcome and offensive conduct including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational, social, or housing programs or that creates an intimidating, hostile, or offensive environment for other college community members and/or visitors. Harassing conduct may include, but is not limited to, physical, verbal, written, social media and electronic communications.~~

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4620. **Protected status** includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See "sexual misconduct" for the definition of "sexual harassment". See also college's discrimination and discriminatory harassment policy 000.330 and sexual harassment/Title IX policy 000.340.

4721. 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.](#)

Any intentional, adverse action taken by an accused individual or allied third party, absent legitimate nondiscriminatory purposes, as reprisal against any individual for reporting, providing information, exercising one's rights or responsibilities, or otherwise being involved in the process of responding to, investigating, or addressing allegations or violations of federal, state or local law, or college policies including, but not limited to, code of student conduct provisions prohibiting discrimination and harassment. Retaliatory actions include, but are not limited to, threats or actual violence against the person or their property, adverse educational or employment consequences, ridicule, intimidation, bullying or ostracism.

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

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

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

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

a. The degree to which the conduct affected the complainant's ability to access the college's education program or activity;

b. The type, frequency, and duration of the conduct;

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- c. The parties' ages, roles within the college's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- d. The location of the conduct and the context in which the conduct occurred; and
- e. Other sex-based harassment in the college's education program or activity.
- iii. **Sexual Violence.** "Sexual violence" includes nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, incest, statutory rape, domestic violence, dating violence, and stalking.
 - a. **Nonconsensual sexual intercourse** is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.
 - b. **Nonconsensual sexual contact (Fondling)** is any actual or attempted intentional sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.
 - c. **Incest** is sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren, and adopted children under the age of eighteen (18).
 - d. **Statutory Rape (Rape of a Child)** is non-forcible sexual intercourse with a person who is under the statutory age of consent.
 - e. **Domestic violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, coercive control, damage or destruction of personal property, or 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 State of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Washington.
 - f. **Dating violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - • The length of the relationship;
 - • The type of relationship; and

- The frequency of interaction between the persons involved in the relationship.
- g. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or to suffer substantial emotional distress.
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23. Title IX Retaliation, means intimidation, threats, coercion, or discrimination against any person by a student, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in a sex discrimination investigation, proceeding, or hearing under this part, including during an informal resolution process, during a Title IX investigation, or during any disciplinary proceeding involving allegations of sex discrimination.

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4824. Theft or 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:

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- a. Unauthorized use of such resources or opening of a file, message or other item;
- b. Unauthorized duplication, transfer, or distribution of a computer program, file, message or other item;
- c. Unauthorized use or distribution of someone else's password or other identification;
- d. Use of such time or resources to interfere with someone else's work;
- e. Use of such time or resources to send, display, or print an obscene or abusive message, text or image;
- f. Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;
- g. Use of such time or resources in violation of applicable copyright or other law;
- h. Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or
- i. Failure to comply with the college's technology acceptable use policy (700.150 acceptable use, authorized user policy).

4925. 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.

2026. Safety violations. Safety violations include any non-accidental conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the college community and/or visitors, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

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

22. **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. These ethics codes must be distributed to students as part of an educational program,

course or sequence of courses and the student must be informed that a violation of such ethics codes may subject the student to disciplinary action by the college.

In addition to initiating discipline proceedings for violation of the code of student conduct, 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.

G. CORRECTIVE ACTION, DISCIPLINARY SANCTIONS, TERMS & CONDITIONS

The following disciplinary sanctions may be imposed upon students found to have violated the code of student conduct. Depending upon the misconduct, more than one sanction may be imposed. Other than college dismissal or revocation or withholding of a degree, disciplinary sanctions are not made part of the student's academic record, but are part of the student's disciplinary record. Violation of any term or condition of any disciplinary sanction constitutes a new violation and may subject the student to additional sanctions.

1. **Disciplinary warning.** A verbal statement to a student that there is a violation and that continued violations may be cause for further disciplinary action. [Warnings are corrective actions, not disciplinary, and may not be appealed.](#)
2. **Written reprimand.** Notice in writing that the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.
3. **Disciplinary probation.** Formal action placing specific conditions and restrictions upon the student's continued attendance depending upon the seriousness of the violation and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction, which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.
4. **Disciplinary suspension.** Dismissal from the college and from the student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the action is taken.
5. **Dismissal.** The revocation of all rights and privileges of membership in the college community and exclusion from all college campuses 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 action is taken.

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:

6. **Educational sanction.** The college may require the student to complete an educational activity or experience directly related to the violation committed, at the student's expense.
7. **Professional evaluation.** Referral for drug, alcohol, psychological, or medical evaluation by an appropriately certified or licensed professional may be required. The student may choose the professional within the scope of practice and with the professional credentials as defined by the college. The student will sign all necessary releases to allow the college access to any such evaluation. The student's return to

college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

8. **Not in good standing.** A student may be deemed not in good standing with the college. If so, the student shall be subject to the following restrictions:
 - a. Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.
 - b. 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.
9. **Restitution or monetary fine.** Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, monetary fine or other compensation.
10. **Hold on transcript or registration.** This is a temporary measure restricting release of a student's transcript or access to registration. Upon satisfactory completion of the conditions of the sanction, the hold will be released.
11. **Revocation of admission or degree.** Admission to or a degree awarded from the college may be revoked for fraud, misrepresentation, or other violation of standards of conduct for students in obtaining the degree, or for other serious violations committed by a student prior to graduation.
12. **Withholding degree.** The college may withhold awarding a degree otherwise earned until the completion of the process set forth in this Section, including the completion of all sanctions imposed.
13. **No trespass order.** A student may be restricted from college property and/or college-sponsored activities based on the violation, based on misconduct. *Residence Hall Suspension or Termination. Removal from a residence hall for a specified period or permanently. Conditions may be imposed before a student is permitted to return to a residence hall.*
14. **No contact order directive.** An order directing a student to have no contact with a specified member of the college community, visitor or a particular college facility.

H. HAZING SANCTIONS

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

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

(3) Any student group that knowingly permits hazing to be conducted by its members or by others subject to its direction or control shall be deprived of any official recognition or approval granted by the college.

(4) Any student group found responsible for violating the code of student conduct, college 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.

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HJ. HEARING PROCEDURES - Initiation of disciplinary action

1. All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint initiated by the respondent, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complaint.
2. The student conduct officer, or designee, shall initiate disciplinary action by serving the respondent with written notice directing the student to attend a disciplinary meeting. The notice shall briefly describe the factual allegations, the provision(s) of the code of student conduct the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting. 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.

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

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3. The student conduct officer, prior to taking disciplinary action in a case involving sexual misconduct, will make a reasonable effort to contact the complainant to discuss the results of the investigation and possible disciplinary sanctions and/or conditions, if any, that may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.
4. Within 10 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 the decision, the specific code of student conduct 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.
5. 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) as described in Section G, Disciplinary Sanctions.

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- 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.

6. In cases involving allegations of sexual misconduct, the student conduct officer shall review the investigation report provided by the Title IX Coordinator, and determine whether, by a preponderance of the evidence, there was a violation of the student conduct code; and if so, what disciplinary sanction(s) and/or remedies will be recommended. The student conduct officer shall, within five (5) business days of receiving the investigation report, serve respondent, complainant, and the Title IX Coordinator with a written recommendation, setting forth the facts and conclusions supporting their recommendation. The time for serving a written recommendation may be extended by the student conduct officer for good cause. , on the same date that a disciplinary decision is served on the respondent, will serve a written notice informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including disciplinary suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant and ensure prompt notice of the protective disciplinary sanctions and/or conditions. See APPENDIX A—Supplemental Title IX Student Conduct Procedures.

- a. The complainant and respondent may either accept the student conduct officer's recommended disciplinary sanction(s) or request a hearing before a student conduct committee.
- b. The complainant and respondent shall have 21 calendar days from the date of the written recommendation to request a hearing before a student conduct committee.
- c. The request for a hearing may be verbal or written, but must be clearly communicated to the student conduct officer.
- d. The student conduct officer shall promptly notify the other party of the request.
- e. In cases involving sex discrimination, the student conduct officer may recommend dismissal of the complaint if:
 - i. The college is unable to identify respondent after taking reasonable steps to do so;
 - ii. Respondent is not participating in the college's educational programs or activities;
 - iii. The complainant has voluntarily withdrawn any or all of the allegations in the complaint, and the Title IX Coordinator has declined to initiate their own complaint;
 - iv. The college determines that, even if proven, the conduct alleged by the complainant would not constitute sex discrimination; or
 - v. The conduct alleged by the complainant falls outside the college's disciplinary jurisdiction.

- f. In cases involving allegations of sex-based harassment, the college must obtain the complainant's voluntary withdrawal in writing before the matter can be dismissed.
- g. If no request for a full hearing is provided to the student conduct officer, the student conduct officer's written recommendation shall be final and implemented immediately following the expiration of twenty-one (21) calendar days from the date of the written recommendation.
- h. Upon receipt of the student conduct officer's written recommendation, the Title IX Coordinator or their designee shall review all supportive measures and, within five (5) business days, provide written direction to the complainant and respondent as to any supportive measures that will be implemented, continued, modified, or terminated. If either party is dissatisfied with the supportive measures, the party may seek review in accordance with the college's Title IX investigation procedure.
- a. The complainant and respondent will have three (3) business days to notify the Title IX Coordinator, in writing, of any objection to the continuation, modification, or termination of any supportive measures. Any objection will be reviewed within three (3) business days by a neutral impartial employee, who will review the investigation report, student conduct officer's recommendation, confer with the Title IX Coordinator or their designee, complainant and respondent, as appropriate, and determine whether to continue, modify, or terminate the supportive measures.
- i. If the respondent is found responsible for engaging in sex discrimination, it is determined that a violation of the student conduct code occurred, the Title IX Coordinator shall also take prompt steps to coordinate and implement any necessary remedies to ensure that sex discrimination does not recur and that complainant has equal access to the college's programs and activities.
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1. APPEAL - Appeal from disciplinary action

1. Except as specified for cases involving allegations of sex discrimination, as set forth in WAC 132 - 115 - 080 (12) [Initiation of Disciplinary Action], the respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within twenty-one (21) calendar ~~40~~ 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 conduct review 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 code of student conduct shall be stayed pending appeal, unless respondent has been summarily suspended.

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7. The student conduct committee shall hear appeals from:
 - a. The imposition of disciplinary suspensions in excess of 10 days;
 - b. Dismissals; and
 - c. Discipline cases referred to the committee by the student conduct officer, the conduct review officer or the president.
8. Student conduct appeals from the imposition of the following disciplinary sanctions shall be reviewed through a brief adjudicative proceeding:
 - a. Suspensions of 10 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.
9. Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary actions are final action and are not subject to appeal.
10. In cases involving allegations of sexual misconduct, the complainant has the right to appeal the following actions by the student conduct officer following the same procedures as set forth above for the respondent:
 - a. The dismissal of a sexual misconduct complaint; or
 - b. Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.
11. If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.
12. Except as otherwise specified in this Section, a complainant who timely appeals a disciplinary decision or who intervenes as a party to a respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.

J. BRIEF ADJUDICATIVE PROCEEDINGS – INITIAL HEARING

1. Brief adjudicative proceedings shall be conducted by a conduct review officer. The conduct review officer shall not participate in any case in which involved as a complainant or witness, or in which there is direct or personal interest, prejudice, or bias, or in which previous actions have been taken in an advisory capacity.
2. The parties to a brief adjudicative proceeding are the respondent, the student conduct officer, and the complainant in cases involving sexual misconduct. Before taking action, the conduct review officer shall conduct an informal hearing and provide each party:
 - a. An opportunity to be informed of the college's view of the matter; and
 - b. An opportunity to explain the party's view of the matter.
3. The conduct review officer shall serve an initial decision upon both the respondent and the student conduct officer within ~~40~~ **ten (10) calendar** days of the completion of the informal hearing. 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 twenty-one (21) calendar~~40~~ days of service of the initial decision, the initial decision shall be deemed the final decision.

4. In cases involving allegations of sexual misconduct, the conduct review officer, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection. The notice will also inform the complainant of their appeal rights. See APPENDIX A - Supplemental Title IX Student Conduct Procedures.
5. If the conduct review officer, upon review, determines that the respondent's conduct may warrant imposition of a disciplinary suspension in excess of more than ten (10) days, or dismissal, the matter shall be referred to the student conduct committee for a disciplinary hearing.

K. BRIEF ADJUDICATIVE PROCEEDINGS – REVIEW OF INITIAL DECISION

1. An initial decision is subject to review by the president, provided a party files a written request for review with the conduct review officer within twenty-one (21) calendar ~~40~~ days of service of the initial decision.
2. The president shall not participate in any case in which involved as a complainant or witness, or in which there is direct or personal interest, prejudice, or bias, or in which previous actions have been taken in an advisory capacity.
3. During the review, the president shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to ascertain whether the sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.
4. The decision on review must be in writing and must include a brief statement of the reason for the decision and must be served on the parties within 20 calendar days of the initial decision or of the request for review, whichever is later. The decision on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the president does not make a disposition of the matter within 20 calendar days after the request is submitted.
5. If the president, upon review, determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than 10 days, or dismissal, the matter shall be referred to the student conduct committee for a disciplinary hearing.
6. In cases involving allegations of sexual misconduct, the president, on the same date as the final decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights.

L. STUDENT CONDUCT COMMITTEE

1. The student conduct committee shall consist of five members appointed by the president or designee:
 - a. Two full-time students appointed by ASWVC/ASWVCO;
 - b. One full-time classified staff member;

- c. One faculty member; and
 - d. One administrator (other than an administrator serving as a student conduct officer or conduct review officer).
2. The administrator 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 hearing panel consisting of a quorum of three members of the committee, so long as one member is the chair. Committee action may be taken upon a majority vote of all committee members presiding over 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.

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

(6) The College may, in its sole discretion, contract with an administrative law judge or other qualified person to act as the presiding officer, authorized to exercise any or all duties of the student conduct committee and/or committee chair.

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M. STUDENT CONDUCT COMMITTEE – APPEAL

1. Proceedings of the student conduct committee shall be governed by the [Administrative Procedure Act, chapter 34.05 RCW](#).
2. The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven calendar days in advance of the hearing date. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown.
3. 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.
4. Upon request, filed at least five days before the hearing by any party or at the direction of the committee chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.
5. The committee chair may provide to the committee members in advance of the hearing copies of (a) the conduct officer's notification of the imposition of discipline, or referral to the committee, and (b) the notice of appeal, or any response to referral, by the respondent. If doing so, however, the chair should remind the members that these pleadings are not evidence of any facts they may allege.

6. The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.
7. The student conduct officer, upon request, shall provide reasonable assistance to the respondent in obtaining relevant and admissible evidence that is within the college's control.
8. Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper ex parte communication shall be placed on the record, as further provided in [RCW 34.05.455](#).
9. Each party may be accompanied at the hearing by a non-attorney assistant of the party's choice. A respondent, or complainant in a case involving allegations of sexual misconduct, may elect to be represented by an attorney at their own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer. The committee will ordinarily be advised by an assistant attorney general. If the respondent or the complainant is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general.

N. STUDENT CONDUCT COMMITTEE HEARINGS – PRESENTATION OF EVIDENCE

1. Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:
 - a. Proceed with the hearing and issuance of its decision; or
 - b. Serve a decision of default in accordance with [RCW 34.05.440](#).
2. The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.
3. The chair shall cause the hearing to be recorded by a method he/she selects, in accordance with [RCW 34.05.449](#). That recording, or a copy, shall be made available to any party upon request. The chair shall assure maintenance of the record of the proceeding that is required by [RCW 34.05.476](#), which shall also be available upon request for inspection and copying by any party. Other recording shall also be permitted, in accordance with [WAC 10-08-190](#).
4. The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.
5. The student conduct officer, unless represented by an assistant attorney general, shall present the case for imposing disciplinary sanctions.
6. All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with [RCW 34.05.452](#).
7. 7.
8. [In cases involving allegations of sex-based harassment, the complainant and respondent may not directly question one another or other witnesses. In such circumstances, the chair will determine whether questions will be submitted to the chair.](#)

who will then ask questions of the parties and witnesses, or allow questions to be asked directly of any party or witnesses by a party's attorney or advisor. The committee chair may revise this process if, in the chair's determination, the questioning by any party, attorney, or advisor, becomes contentious or harassing.

~~In cases involving allegations of sexual misconduct, neither party shall directly question or cross-examine one another. Attorneys for the parties are also prohibited from questioning the opposing party absent express permission from the committee chair. Subject to this exception, all cross-examination questions shall be directed to the committee chair, who in their discretion shall pose the questions on the party's behalf.~~

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: (a) spousal/domestic partner privilege; (b) attorney-client communications and attorney work product privilege; (c) clergy privileges; (d) medical or mental health providers and counselor privileges; (e) sexual assault and domestic violence advocate privileges; and (f) other legal privileges set forth in RCW 5.60.060 or federal law.

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. Except in cases involving allegations of sex-based harassment, the chair has the discretion to determine whether a respondent may directly question any witnesses; and if not, to determine whether questions must be submitted to the chair to be asked of witnesses, or to allow questions to be asked by an attorney or advisor for the respondent.

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O. 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

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also may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

2. Within 30 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 code of student conduct were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.
3. The committee's initial decision 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 condition(s), if any, as authorized in the code of student conduct. If the matter is an appeal by the respondent, the committee may affirm, reverse, or modify the disciplinary sanction(s) and/or condition(s) imposed by the student conduct officer and/or impose additional disciplinary sanction(s) or condition(s) 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.
5. In cases involving allegations of sexual misconduct, the chair of the student conduct committee, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. Complainant may appeal the student conduct committee's initial decision to the president, subject to the same procedures and deadlines applicable to other parties. The notice will also inform the complainant of their appeal rights.

P. STUDENT CONDUCT COMMITTEE – APPEAL FROM STUDENT CONDUCT COMMITTEE INITIAL DECISION

1. A respondent who is aggrieved by the findings or conclusions issued by the student conduct committee may appeal the committee's initial decision to the president by filing a written notice of appeal with the president's office within 10 days of service of the committee's initial decision. Failure to file a timely appeal constitutes a waiver of the right and the initial decision shall be deemed final.
2. The written notice of appeal must identify the specific findings of fact and/or conclusions of law in the initial decision that are challenged and must contain argument why the appeal should be granted. 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. If necessary to aid review, the president may ask for additional briefing from the parties on issues raised on appeal.
3. The president shall provide a written decision to the respondent and the student conduct officer within 30 calendar days after receipt of the notice of appeal. The president's decision shall be final and shall include a notice of any rights to request reconsideration and/or judicial review.

4. In cases involving allegations of sexual misconduct, the president, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.
5. Per [RCW 34.05.455](#), the president shall not engage in any improper ex parte communication with any of the parties regarding an appeal.

Q. 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 procedure is pending.
2. The student conduct officer may impose a summary suspension if there is probable cause to believe that the respondent:
 - a. Has violated any provision of the code of student conduct; and
 - b. Presents an immediate danger to the health, safety, or welfare of members of the college community or visitors; or
 - c. Poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.
3. Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two [\(2\) calendar](#) days of the oral notice.
4. The written notification shall be entitled Notice of Summary Suspension and shall include:
 - a. The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the code of student conduct 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 college premises or communicate with members of the college community and visitors. If the respondent has been trespassed from the college premises, a notice against trespass shall be included that warns the respondent that his or her 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 premises other than for a scheduled meeting with the student conduct officer or conduct review officer, or to attend a disciplinary hearing.
5. The conduct review officer shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension.
 - a. During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

- b. The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.
 - c. If the respondent fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.
 - d. As soon as practicable following the hearing, the conduct review officer shall issue a written decision which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.
 - e. To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices who may be bound or protected by it.
6. In cases involving allegations of ~~sex discrimination~~[sexual misconduct](#), the complainant shall be notified that a summary suspension has been imposed on the same day that the summary suspension notice is served on the respondent. The college will also provide the complainant with timely notice of any subsequent changes to the summary suspension order.

R. CLASSROOM MISCONDUCT AND AUTHORITY TO SUSPEND FOR NO MORE THAN ONE DAY

1. Faculty members have the authority to take appropriate action to maintain order and proper conduct in their classroom and to maintain the effective cooperation of students in fulfilling the objectives of the course.
2. Bringing any person, thing, or object to a teaching and learning environment that may disrupt the environment or cause a safety or health hazard, without the express approval of the faculty member is prohibited.
3. Faculty members have the right to temporarily suspend any student(s) from a single class or related activity for the remainder of that day if the student's misconduct creates disruption to the point that it is difficult or impossible to maintain the decorum of the class, related activity or the learning and teaching environment. The faculty member shall report this temporary suspension to the student conduct officer or designee on the same day. In consultation with the faculty member, the student conduct officer may set conditions for the student upon return to the class or activity.

S. BRIEF ADJUDICATIVE PROCEEDINGS – COLLEGE RECORD

The college record for brief adjudicative proceedings shall consist of any documents regarding the matter that were considered or prepared by the presiding officer for the brief adjudicative proceeding or by the reviewing officer for any review consistent with [RCW 34.05.476](#). These records shall be maintained as the official record of the proceedings.

APPENDIX A - SUPPLEMENTAL TITLE IX STUDENT CONDUCT PROCEDURES

A. 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. § 106](#). To the extent these supplemental hearing procedures conflict with the Wenatchee Valley College's standard disciplinary procedures, Sections G. Disciplinary Sanctions and H. Hearing Procedures in procedure 1400.110, code of student conduct, these supplemental procedures shall take precedence. The 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.

B. PROHIBITED CONDUCT UNDER TITLE IX

Pursuant to [RCW 28B.50.140 \(13\)](#) and Title IX of the Education Act Amendments of 1972, [20 U.S.C. §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 encompasses the following conduct:

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 that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's educational programs or activities, or employment.
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.** Consensual 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, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the

victim under the domestic or family violence laws of 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 26.50.010](#).

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:
 - a. The length of the relationship;
 - b. The type of relationship; and
 - c. 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.

C. 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 Section C, 1, a-c above, 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 code of code of student conduct.

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.

D. INITIATION OF DISCIPLINE

1. Upon receiving the 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 supplement 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
 - iv. Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

E. PRE-HEARING 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 1400.110 code of student conduct procedure, Section H, Hearing Procedures - initiation of disciplinary action. 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 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.

F. RIGHTS OF PARTIES

1. The college's code of student conduct procedure 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.

G. 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. Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.
2. **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.
3. **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.
4. **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](#).

H. INITIAL ORDER

In addition to complying with 1400.110 code of student conduct procedure, Section J, Brief Adjudicative Proceedings – initial hearing, the Student Conduct Committee will be responsible for conferring and drafting an Initial Order that:

1. Identifies the allegations of sexual harassment;
2. Describes the grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility, including notices to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;
3. Makes findings of fact supporting the determination of responsibility;
4. Reaches conclusions as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX;
5. Contains a statement of, and rationale for, the committee's determination of responsibility for each allegation;
6. Describes any disciplinary sanction or conditions imposed against the respondent, if any;
7. Describes to what extent, if any, complainant is entitled to remedies designed to restore or preserve complainant's equal access to the college's education programs or activities; and

8. Describes the process for appealing the Initial Order to the college president.
The committee chair will serve the Initial Order on the parties simultaneously.

I. APPEALS

1. The parties shall have the right to appeal from the Initial Order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and timeframes set forth in 1400.110 code of student conduct procedure, Section P, Student Conduct Committee – Appeal from Student Conduct Committee Initial Decision.
2. The president or designee will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) imposed in the Initial Order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).
3. The president's office shall serve the final decision on the parties simultaneously.

This procedure replaces procedure dated 8/18/20. Approved by the president's cabinet: 9/28/21
Last reviewed: 9/28/21

Procedure contact: Student Services

Related policies and procedures

- 000.190 [Expressive Activities Policy](#)
- 000.240 [Tobacco Free Campus Policy](#)
- 000.270 [Weapons on Campus Policy](#)
- 000.300 [Freedom of Inquiry & Expression Policy](#)
- 000.330 [Discrimination and Discriminatory Harassment Policy](#)
- 000.340 [Sexual Harassment/Title IX Policy](#)
- 400.100 [Student Rights and Responsibilities/Code of Student Conduct Policy](#)
- 400.120 [Academic Grievance Policy](#)
- 500.450 [Violence in the Workplace Policy](#)
- 500.475 [Alcohol & Drug-Free Workplace Policy](#)
- 700.120 [Email Distribution List Use Policy](#)
- 700.125 [Acceptable & Ethical Use Policy](#)
- 1000.240 [Tobacco Free Campus Procedure](#)
- 1000.270 [Weapons on Campus Procedure](#)
- 1000.330 [Discrimination & Discriminatory Harassment Procedure](#)
- 1000.340 [Sexual Harassment/Title IX Procedure](#)
- 1400.120 [Academic Grievance Procedure](#)
- 1400.125 [Academic Dishonesty Procedure](#)
- 1500.450 [Violence in the Workplace Procedure](#)
- 1500.475 [Alcohol & Drug-Free Workplace Procedure](#)