

Chapter 172-121 WAC

STUDENT CONDUCT CODE

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

172-121-090	Conduct review proceedings. [Statutory Authority: RCW 28B.35.120(12). WSR 09-12-001, § 172-121-090, filed 5/20/09, effective 6/20/09.] Repealed by WSR 13-24-123, filed 12/4/13, effective 1/4/14. Statutory Authority: RCW 28B.35.120(12).
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WAC 172-121-010 Introduction. Eastern Washington University is an academic community dedicated to providing instruction in higher education, advancing knowledge through scholarship and research, and providing related services to the community.

As a public institution of higher education, the university has a special responsibility to create and maintain an academic environment that promotes freedom of inquiry and expression while protecting the rights, opportunities and welfare of students, faculty, staff and guests. To achieve this, the university establishes rules, regulations, procedures, policies, and standards of conduct.

Through the student conduct code as well as other university policies and directives, the university sets forth specific behavioral and academic expectations for students and student organizations. It is the responsibility of each student to clearly understand and comply with those expectations. The responsibility for enforcement of the student conduct code rests with the university president.

The board of trustees of Eastern Washington University, acting under the authority granted by RCW 28B.35.120, has established the following regulations for student conduct and discipline.

These provisions are not intended to protect any person or class of persons from injury or harm.

[Statutory Authority: RCW 28B.35.120(12). WSR 13-24-123, § 172-121-010, filed 12/4/13, effective 1/4/14; WSR 09-12-001, § 172-121-010, filed 5/20/09, effective 6/20/09.]

WAC 172-121-020 Definitions. For purposes of the student conduct code, chapter 172-121 WAC, the definitions in this section apply.

"Accused" refers to any student or student organization that is accused of violating the student conduct code under this chapter.

"Appeal authority" refers to the conduct review official presiding over an appeal under WAC 172-121-130.

"Appellant" refers to any accused or complainant who appeals the decisions or sanctions of a hearing authority under WAC 172-121-130.

"Business days" refers to the days and hours the university is open for business. Business days are Monday through Friday, from 8:00 a.m. to 5:00 p.m., excluding holidays as set forth in the university holiday schedule.

"Complainant" means any person who files a complaint alleging that a student or student organization violated the standards of conduct for students. Complainant also refers to the university when the university files the complaint.

"Council" or "the council" refers to the student disciplinary council as described in WAC 172-121-070.

"Council hearing" refers to a conduct review hearing before the student disciplinary council.

"Dean of students" refers to the dean of students or a designee of the dean of students.

"Director of SRR" refers to the director of student rights and responsibilities, or designated representative.

"Harassment" encompasses harassment, sexual harassment, gender-based harassment, and stalking for the purposes of WAC 172-121-030 through 172-121-140. These terms are further defined in WAC 172-121-200.

"Hearing authority" refers to the university official or student disciplinary council who holds a conduct review hearing.

"Notify" means to provide notice to a person. A person may be notified in person, by telephone, by sending notice to the person's university e-mail account, by leaving a message on his or her personal telephone, or by sending the notice in the United States mail, properly addressed, postage prepaid, to the person's last known address.

"Off-campus" refers to any location or facility that is not owned, leased, rented, or operated by Eastern Washington University.

"Policies" or "university policy" refers to the written regulations of the university, including the standards of conduct for students, residence life handbook, university policies, and graduate/undergraduate catalogs and handbooks.

"Recognized student organizations" refers to clubs, organizations, societies or similarly organized groups recognized by the university or the associated students of Eastern Washington University (ASEWU).

"Serve" means to post a document in the United States mail, properly addressed, postage prepaid, to a person's last known address, personal service, or electronic service to the person's university e-mail account.

"Session council" refers to the student disciplinary council members selected for a specific hearing or appeal.

"Sexual misconduct" encompasses domestic violence, relationship violence, and acts of sexual violence for the purposes of WAC 172-121-030 through 172-121-140. These terms are further defined in WAC 172-121-200.

"Student" includes all of the following:

(a) Any applicant who becomes enrolled, for violations of the code committed as part of the application process or committed following the applicant's submission of the application until the time of official enrollment;

(b) Any person currently enrolled at the university;

(c) Nonmatriculated, international students attending institutes or foreign study programs through the university; and

(d) Any person who was previously enrolled at the university for violations of the code committed while enrolled. A person who engaged in conduct in violation of the student conduct code while a student remains subject to action under this code even if the person has graduated, withdrawn, or is not currently enrolled for any reason.

"Summary hearing" refers to a conduct review hearing before the conduct review officer.

"University" means Eastern Washington University.

"University official" includes any person employed or contracted by the university, performing assigned administrative or professional responsibilities.

"University premises" means buildings and/or property (including adjacent streets and sidewalks) which are owned, leased, rented or operated by the university, to include all satellite campuses affiliated with the university.

"University president" refers to the university president or a designee of the university president.

"Vice-president for student affairs" refers to the vice-president for student affairs or their designated representative.

[Statutory Authority: RCW 28B.35.120(12). WSR 15-24-050, § 172-121-020, filed 11/23/15, effective 12/24/15; WSR 13-24-123, § 172-121-020, filed 12/4/13, effective 1/4/14; WSR 09-12-001, § 172-121-020, filed 5/20/09, effective 6/20/09.]

WAC 172-121-030 Rights of students. Any student or student organization charged with any violation of the student conduct code and the victim in the case of an allegation of harassment or sexual misconduct, have the following rights:

(1) The right to a fair and impartial conduct review process;

(2) The right to prior written notice to attend a preliminary conference or hearing;

(3) The right to remain silent during any conduct review hearing;

(4) The right to know who filed the complaint against them as described in WAC 172-121-110;

(5) The right to speak on their own behalf in all proceedings;

(6) The right to hear all information and view all material presented against him or her;

(7) The right to call witnesses as described in WAC 172-121-120;

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(8) The right to submit questions to be asked of witnesses as described in WAC 172-121-120;

(9) The right to consult an advisor as described in WAC 172-121-090;

(10) The right to appeal as provided in WAC 172-121-130; and

(11) The right to be subjected to university disciplinary action only one time for the same conduct.

[Statutory Authority: RCW 28B.35.120(12). WSR 13-24-123, § 172-121-030, filed 12/4/13, effective 1/4/14; WSR 09-12-001, § 172-121-030, filed 5/20/09, effective 6/20/09.]

WAC 172-121-040 Jurisdiction. Eastern Washington University shall have jurisdiction over student behavior which occurs on university premises. The university may also exercise jurisdiction over student conduct which occurs at off-campus locations if the behavior adversely affects the university and/or the pursuit of its objectives and the university determines that a significant university interest is affected. The university has sole discretion in determining what conduct adversely impacts the university and/or the pursuit of its objectives.

The student conduct code shall apply to conduct without regard to a student's academic status at the time the conduct took place. This includes all periods from the time of application for admission through the actual awarding of a degree, including times between academic periods or outside of normal business hours.

[Statutory Authority: RCW 28B.35.120(12). WSR 13-24-123, § 172-121-040, filed 12/4/13, effective 1/4/14; WSR 09-12-001, § 172-121-040, filed 5/20/09, effective 6/20/09.]

WAC 172-121-050 External authorities. Many offenses under this code are also violations of federal, state or local laws. A student or student organization may face criminal and civil prosecution as well as university disciplinary action for violation of these laws.

The university reserves the right to take action under this code for any offenses over which it has jurisdiction. Proceedings under this code may be carried out prior to, simultaneously with, or following civil or criminal proceedings in the courts. University proceedings under the student conduct code are not subject to challenge, delay, or dismissal based solely on criminal charges.

[Statutory Authority: RCW 28B.35.120(12). WSR 13-24-123, § 172-121-050, filed 12/4/13, effective 1/4/14; WSR 09-12-001, § 172-121-050, filed 5/20/09, effective 6/20/09.]

WAC 172-121-060 Notification of criminal arrest. A student is responsible for informing the university of any off-campus arrest.

When student rights and responsibilities (SRR) is informed of the arrest of a student, the university may send a letter to the student requiring that he or she make an appointment for an interview with the SRR. During this interview, the director of SRR shall discuss with the student:

(1) The facts involved in the student's arrest;

(2) The student's obligation to keep the university informed of the progress of any criminal charge(s); and

(3) The student's obligation to advise the university of the final disposition of any criminal charge(s).

The university will cooperate with law enforcement and other agencies administering a corrective or rehabilitative program for the student.

[Statutory Authority: RCW 28B.35.120(12), WSR 15-24-050, § 172-121-060, filed 11/23/15, effective 12/24/15; WSR 13-24-123, § 172-121-060, filed 12/4/13, effective 1/4/14; WSR 09-12-001, § 172-121-060, filed 5/20/09, effective 6/20/09.]

WAC 172-121-070 Conduct review officials. (1) The director of SRR shall:

- (a) Serve as the primary point of contact for all matters relating to student conduct code violations and proceedings;
- (b) Manage the proceedings as described in this chapter;
- (c) Maintain all records of conduct review proceedings as described in WAC 172-121-080;
- (d) Ensure complaints of harassment or sexual misconduct involving students are promptly investigated and resolved as required by federal and state laws.

(2) Conduct review officer: The university president shall designate one or more conduct review officers. The director of OSRR may be designated as a conduct review officer. The conduct review officer(s) shall:

(a) Preside over conduct review proceedings under this chapter; and

(b) Review off-campus incidents of alleged misconduct and make determinations as to whether the conduct involved adversely affects the university community and/or the pursuit of its objectives.

(3) Student disciplinary council: The student disciplinary council hears cases of student conduct code violations as described in WAC 172-121-120. The council also serves as an appeal authority under WAC 172-121-130.

(a) Council pool: For each academic year, a pool of council members shall be established. Appointment of council pool members is as follows:

(i) Faculty members shall be selected by the faculty senate for three-year terms;

(ii) Staff members shall be appointed by the university president for three-year terms;

(iii) Students shall be appointed by the president of the ASEWU for one-year terms. Student appointments shall be made with the advice and consent of the associated students' legislature, as described in the constitution of the ASEWU. Students holding a position with any of the associated student courts, or who are in any way affiliated with any judicial, quasi-judicial, or advocacy position with the courts of the ASEWU, may not be appointed to the council pool;

(iv) Community members: One or more members of the local community may be appointed by the university president. Community members serve until either the community member or the university president elects to sever the appointment, up to a maximum appointment period of three years. Community members shall be considered school officials while acting in their capacities as community members on the student disciplinary council and shall sign statements indicating they will comply with the confidentiality requirements of the Family Education Rights and Privacy Act;

(v) Council chair: The director of SRR, or designee, shall serve as chair of council proceedings but will not have the right to vote;

(11/23/15)

(vi) Vacancies: Council pool vacancies shall be filled as needed by the designated appointing authority.

(b) Session council: When a student disciplinary council is needed for a hearing or an appeal, council members shall be selected from the council pool as follows:

(i) Composition: A session council will typically consist of one nonvoting chair, two student members, and two faculty or staff members. The faculty/staff members may be both faculty, both staff, or one faculty and one staff member. The number of council members may vary, so long as quorum requirements are met. A community member may also serve on a session council, at the discretion of the director of SRR;

(ii) Selection: The director of SRR shall select available members from the council pool to serve as the session council;

(iii) Quorum: A quorum consists of three voting members which must include at least one student and one faculty/staff member.

[Statutory Authority: RCW 28B.35.120(12), WSR 15-24-050, § 172-121-070, filed 11/23/15, effective 12/24/15; WSR 13-24-123, § 172-121-070, filed 12/4/13, effective 1/4/14; WSR 09-12-001, § 172-121-070, filed 5/20/09, effective 6/20/09.]

WAC 172-121-075 Conflicts of interest. (1) Individuals who play a role in receiving, investigating, and otherwise processing complaints shall not have any conflict of interest in the process. In the event such a conflict arises in the process, the person shall disclose such interest to the parties. Parties to the complaint who believe a university official involved in the process has a conflict of interest may report such concerns to the director of SRR or the dean of students. The director or dean shall determine whether a conflict of interest exists and take appropriate action.

(2) Challenges to council membership. Members of the student disciplinary council shall not participate in any case in which they are the accused, the complainant, a victim, or a witness; in which they have a personal interest or bias; or in which they have acted previously in an investigatory, advisory, or adjudicatory capacity.

(a) If a member has such a conflict, the person shall recuse themselves from further involvement in the case. In the event such a conflict arises after the council has been selected or during a proceeding, the member shall disclose the conflict to the parties.

(b) A member's eligibility to participate in a case may be challenged by parties to the case or by other council members at any time. When such a challenge is made, the session council shall make a decision on the challenge.

(c) If a member is disqualified or disqualifies themselves from a case, the director of SRR will appoint a replacement.

[Statutory Authority: RCW 28B.35.120(12), WSR 13-24-123, § 172-121-075, filed 12/4/13, effective 1/4/14.]

WAC 172-121-080 Administration and records. (1) Student conduct code.

(a) Interpretation: Any questions regarding the interpretation or application of this student conduct code are referred to the vice-president for student affairs for final determination.

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(b) Review: This student conduct code shall be reviewed every three years under the direction of the vice-president for student affairs.

(2) Records of conduct review proceedings.

(a) Records of conduct review proceedings under this chapter shall be prepared by the conduct review official(s) involved and maintained by the director of SRR. As much as possible, records should include:

(i) A summary of the proceedings during a preliminary conference;

(ii) An audio recording of conduct review hearings;

(iii) All letters, statements, memoranda, decisions, orders, notices, and other documents related to conduct review proceedings; and

(iv) Any images, articles, recordings, or other materials presented as evidence in a conduct review proceeding.

(b) The director of SRR shall keep records of conduct review proceedings for seven years.

(c) Records of conduct review proceedings are the property of the university and are confidential to the extent provided in applicable law.

(d) Prior to the final disposition of a case, the accused may review the records relative to their case. The accused shall request to review the case records by contacting the conduct review officer. The conduct review officer shall make every reasonable effort to support the accused's request.

(3) Student disciplinary records.

(a) Student disciplinary records are confidential and shall be treated consistently with the requirements of the Family Educational Rights and Privacy Act (FERPA) and applicable law. Disciplinary records shall be maintained in accordance with the university's records retention schedule.

(b) Release of student disciplinary records. The university shall not communicate a student's disciplinary record to any person or agency outside the university without the prior written consent of the student, except as required or permitted by law. Exceptions include, but are not limited to:

(i) The student's parents or legal guardians may review these records as permitted by FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).

(ii) Release to another educational institution, upon request, where the student seeks or intends to enroll, as allowed by FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).

(iii) In response to a judicial order or a lawfully issued subpoena.

(iv) The university shall release information related to disciplinary records to complainants, victims, or other persons as required by Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and other state and federal laws.

(v) Disciplinary records will be made available to hearing councils and university personnel as needed for legitimate educational purposes.

(vi) A student may authorize release of their own disciplinary record to a third party in compliance with FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99) by providing a written consent to student rights and responsibilities.

(vii) Any student may review his/her own disciplinary records by contacting student rights and responsibilities.

(viii) A student may obtain a copy of their disciplinary record by making a written request to student rights and responsibilities. Student rights and responsibilities may charge the student a reasonable amount to cover copying expenses.

(ix) The university may disclose to a student's parents a violation of any federal, state, or local law, or of any university policy or rules regarding use or possession of alcohol or a controlled substance so long as the student is under the age of twenty-one at the time of the disclosure to the parent.

(c) When disciplinary records are released, personally identifiable information may be redacted to protect the privacy of others as permitted by law.

(4) Holds:

(a) Types of holds. Holds placed on a student's academic records may prevent admission, registration, graduation, or other academic activities. Holds may also restrict access to transcripts, grades, or other academic records.

(b) Discretionary holds: The conduct review officer may place a hold on a student's academic records in either of the following situations:

(i) Pending the student's satisfactory completion of any sanctions imposed by a conduct review hearing; or

(ii) If the student fails to respond to any properly delivered notice from the conduct review officer.

(c) Required holds: The conduct review officer shall place a hold on a student's academic record if the student is accused of violating the conduct code and has withdrawn from the university, or if the student withdraws from the university after a complaint is filed against the student. This hold shall remain in place until the allegation or complaint is resolved.

[Statutory Authority: RCW 28B.35.120(12). WSR 13-24-123, § 172-121-080, filed 12/4/13, effective 1/4/14; WSR 09-12-001, § 172-121-080, filed 5/20/09, effective 6/20/09.]

WAC 172-121-100 Complaints. (1) Filing of complaints.

(a) Any person may file a complaint against a student or student organization for violation of the student conduct code.

(b) A person wishing to file a complaint under the student conduct code must submit the complaint, in writing, to one of the following:

(i) Student rights and responsibilities; or

(ii) The office of the dean of students.

(c) Filing a complaint under the student conduct code does not prohibit or limit a person's right to file complaints or charges with other civil and/or criminal authorities for violations of local, county, state, or federal law.

(d) All student conduct code complaints will be forwarded to the director of SRR for further review and action.

(e) In cases where the university is acting as the complainant, the director of SRR shall initiate the complaint.

(2) Complaint review. Upon receipt of a complaint, the director of SRR shall review the complaint to determine whether it includes allegations of harassment, sexual misconduct, and/or criminal conduct that will require special processing under subsection (3) of this section and whether appropriate law enforcement or other authorities should be notified.

(3) Special rules for complaints of harassment and/or sexual misconduct. Except where specifically stated, this section applies to all allegations the university receives of harassment and/or sexual misconduct. This section shall apply regardless of where the alleged acts occurred.

(a) Report to Title IX coordinator. The director of SRR shall report all complaints which may constitute any form of harassment and/or sexual misconduct to the university Title IX coordinator within two business days.

(b) Prompt resolution. The university shall investigate any complaint alleging harassment and/or sexual misconduct when it is legally required to do so to determine if the university will pursue the incident under this student conduct code and/or refer the incident to other departments or agencies for further criminal, civil, or disciplinary action. All allegations of harassment and/or sexual misconduct shall be promptly investigated and resolved. In the absence of extenuating circumstances, the university will seek to have the allegations resolved within sixty days from the date it is notified of the allegation.

(c) Confidentiality. To facilitate the investigative process and protect the privacy of those involved, all information will be maintained in a confidential manner to the fullest extent permissible by law. During an investigation, complaint information will be disseminated on a need-to-know basis. If the complainant or victim wishes to remain anonymous, the university will take all reasonable steps to investigate the allegation without disclosing the name of the complainant to the extent allowed by state and federal law. If the complainant or victim wishes to remain anonymous, the university shall inform them that its ability to investigate and respond to the allegation will be limited. The university cannot ensure confidentiality, as its legal obligations under federal or state law may require investigation of the allegation and possible disclosure of the complainant's name. Reports of crimes to the campus community shall not include the names of the complainants or victims. Files subject to public disclosure will be released to the extent required by law.

(d) Right to file a criminal report. Once the university is notified of an allegation of sexual harassment, gender-based harassment, stalking, or any form of sexual misconduct, it will notify the potential victim of their right to file a criminal complaint with campus or local law enforcement. If the victim in such circumstances wishes to report the conduct to local law enforcement, the university will assist them in doing so. The university will also notify the victim that he or she is not required to file a report with local law enforcement. The university will report allegations of harassment or sexual misconduct to law enforcement or other authorities consistent with federal, state, and local law.

(4) Interim measures. During the complaint review, the director of SRR will evaluate the circumstances and recommend to the dean of students if any interim restriction action against the accused is warranted or if any interim measures to assist or protect the complainant and/or victim during the conduct code process are needed. In cases of alleged harassment and/or sexual misconduct, the director of SRR shall, in conjunction with the dean of students and other appropriate university officials, take immediate steps to protect the complainant and/or victim from further harassment prior to completion of the investigation/resolution of the complaint.

Appropriate steps may include separating the accused harasser and the complainant/victim, providing counseling for the complainant/victim and/or harasser, and/or taking disciplinary action against the accused.

(5) Inform complainant. As part of the complaint review process, the director of SRR will follow up with the complainant as described below.

(a) For cases other than harassment and/or sexual misconduct, the director of SRR will contact the complainant and provide them with the following information:

(i) The complainant's rights under the student conduct code;

(ii) The allegations which the complainant has against the accused;

(iii) The potential conduct code violations related to the allegations; and

(iv) How to report any subsequent problems or retaliation, including intimidation, threats, coercion, or discrimination.

(b) In all cases alleging harassment or sexual misconduct, the director of SRR will provide the complainant with written information that will include, at a minimum:

(i) The student's rights and options, including options to avoid contact with the respondent; a list of available university and community resources for counseling, health, mental health, victim advocacy, legal assistance, student financial aid, and other academic and housing services; and options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures.

(ii) The importance of preserving evidence of the alleged incident and procedures to follow to preserve evidence of the alleged incident;

(iii) Who will receive a report of the allegation;

(iv) Their right to file or not file a criminal complaint as detailed above and the ability to be assisted by campus authorities in notifying law enforcement authorities if the complainant wishes to do so;

(v) A list of resources for obtaining protective, no contact, restraining, or similar orders, if applicable;

(vi) The procedures the university will follow when determining if discipline is appropriate;

(vii) Steps the university will take to ensure confidentiality of complainants and other necessary parties and the limits this may place on the university's ability to investigate and respond, as set forth above; and

(viii) Information regarding the university's policy against retaliation, steps the university will take to prevent and respond to any retaliation, and how the student should report retaliation or new incidents.

(6) Following the complaint review, the director of SRR will either dismiss the matter or arrange a preliminary conference.

(a) Dismiss the matter. If the director of SRR believes that there is insufficient justification or insufficient evidence to pursue conduct review proceedings against the accused, he/she may dismiss the matter. In such cases, the director of SRR will prepare a written record of the dismissal. The director of SRR will also notify the complainant of their decision, if such notification is appropriate and feasible. The dismissal letter, along with the original complaint and any other related

documents, will be maintained as described in WAC 172-121-080. In cases of harassment and/or sexual misconduct, the complainant/victim may request a review of the dismissal by the dean of students.

(b) Preliminary conference. If the director of OSRR does not dismiss the matter he/she will arrange a preliminary conference as described in WAC 172-121-110.

[Statutory Authority: RCW 28B.35.120(12). WSR 15-24-050, § 172-121-100, filed 11/23/15, effective 12/24/15; WSR 13-24-123, § 172-121-100, filed 12/4/13, effective 1/4/14; WSR 09-12-001, § 172-121-100, filed 5/20/09, effective 6/20/09.]

WAC 172-121-105 Conduct review proceedings. (1)

General provisions:

(a) All conduct review proceedings are brief adjudicative proceedings in accordance with WAC 172-108-010(3) and shall be conducted in an informal manner.

(b) Nonjudicial proceedings: Formal rules of process, procedure, and/or technical rules, such as are applied in criminal or civil courts, do not apply in student conduct code proceedings.

(2) Notification for student organizations: When a charge is directed towards a student organization, the conduct review officer will communicate all matters relative to conduct review proceedings with the president of the organization or their designee.

(3) Advisors: The complainant, victim, and the accused may be assisted by one advisor of their choice, subject to the following provisions:

(a) Any fees or expenses associated with the services of an advisor are the responsibility of the complainant, victim, or the accused that employed the advisor;

(b) The advisor may be an attorney;

(c) The complainant and the accused are responsible for presenting their own case and, therefore, advisors may not speak or participate directly in any conduct review proceeding. The complainant and/or the accused may; however, speak quietly with their advisor during such proceedings; and

(d) If an attorney is used as an advisor, the person using the attorney shall inform the conduct review officer or the council of their intent to do so at least two business days prior to any conduct review proceeding.

(4) Evidence: The accused, and, in cases of harassment and/or sexual misconduct, the complainant/victim may request to view material related to their case prior to a scheduled hearing by contacting the conduct review officer. To facilitate this process, the party should contact the conduct review officer as early as possible prior to the scheduled hearing. The conduct review officer shall make a reasonable effort to support the request to the extent allowable by state and federal law.

[Statutory Authority: RCW 28B.35.120(12). WSR 13-24-123, § 172-121-105, filed 12/4/13, effective 1/4/14.]

WAC 172-121-110 Preliminary conference. (1)

Scheduling. If, after reviewing a complaint, the director of SRR decides to initiate conduct review proceedings, the director shall, within ten business days of receiving the initial complaint, appoint a conduct review officer (CRO) to the case and notify the accused. In cases alleging harassment and/or sexual misconduct, the CRO assigned must have com-

pleted training on issues relating to harassment and sexual misconduct, including Title IX requirements. Notification of the accused must:

(a) Be made in writing;

(b) Include a written list of charges against the accused; and

(c) Include the name of the conduct review officer assigned to the case and the deadline for the accused to contact the CRO in order to schedule a preliminary conference. Whenever possible, the deadline for the accused to contact the CRO will be within five business days of the date the director of SRR sent notification to the accused.

(2) Failure to respond: If the accused fails to comply with the notification requirements, the director of SRR shall schedule the preliminary conference and notify the accused. The notification shall be in writing and shall include a date, time, and location of the preliminary conference.

(3) Follow up with complainant/victim. In all cases alleging harassment and/or sexual misconduct, the CRO shall notify the complainant(s) of the date, time, and location of the preliminary conference and of their right to attend the conference. The CRO shall also follow up with the complainant(s)/victim(s) to determine whether any retaliation or new incidents of harassment have occurred. If the complainant/victim has experienced any type of retaliatory behavior, the university shall take immediate steps to protect the complainant/victim from further harassment or retaliation.

(4) Appearance. Except for cases alleging harassment and/or sexual misconduct, only the accused and the accused's advisor may appear at the preliminary conference. In cases alleging harassment and/or sexual misconduct, the accused and the complainant/victim, along with their advisors, if they choose to have an advisor, may appear at the preliminary conference.

(5) Failure to appear. In cases where proper notice has been given but the accused fails to attend the preliminary conference, the CRO may:

(a) Proceed with a hearing and decide the case based on the information available; or

(b) Place a hold on the accused's academic records as described in WAC 172-121-080.

(6) Proceedings. During the preliminary conference, the conduct review officer will:

(a) Review the written list of charges with the accused;

(b) Inform the accused who is bringing the complaint against them;

(c) Provide the accused with a copy of the student conduct code and any other relevant university policies;

(d) Explain the accused's rights under the student code;

(e) Explain the conduct review procedures;

(f) Explain the accused's and complainant's rights and responsibilities in the conduct review process; and

(g) Explain possible penalties under the student conduct code.

(7) After the preliminary conference, the conduct review officer will take one of the following actions:

(a) Conduct a summary hearing with the accused as described in WAC 172-121-120;

(b) Schedule a summary hearing with the accused as described in WAC 172-121-120; or

(c) Refer the case to the student disciplinary council for a council hearing under WAC 172-121-120.

[Statutory Authority: RCW 28B.35.120(12). WSR 13-24-123, § 172-121-110, filed 12/4/13, effective 1/4/14; WSR 09-12-001, § 172-121-110, filed 5/20/09, effective 6/20/09.]

WAC 172-121-120 Hearings. The provisions of subsections (1) through (8) of this section apply to both summary hearings and to council hearings.

(1) General provisions.

(a) Hearing authority: The hearing authority exercises control over hearing proceedings. All procedural questions are subject to the final decision of the hearing authority.

(b) Closed hearings: All conduct review hearings will be closed. Admission of any person to a conduct review hearing shall be at the discretion of the hearing authority.

(c) Consolidation of hearings: In the event that one or more students are charged with the same misconduct arising from the same occurrence, the hearing authority may conduct separate hearings for each student or consolidate the hearings as practical, as long as consolidation does not impinge on the rights of any student.

(2) Appearance.

(a) Failure to appear: In cases where proper notice has been given but the accused fails to attend a conduct review hearing, the hearing authority shall decide the case based on the information available, without the accused's input.

(b) Complainant's appearance: The complainant will be provided options for reasonable alternative arrangements if they do not wish to be present in the same room as the accused student during the hearing. The complainant may appear at the conduct review hearing in person, through telephone conference, or through any other practical means of communication, so long as the complainant's identity can be reasonably established.

(c) Advisors: The complainant and the accused may be assisted by an advisor during conduct review hearings as described in WAC 172-121-090.

(d) Disruption of proceedings: Any person, including the accused, who disrupts a hearing, may be excluded from the proceedings.

(e) Telephonic appearance. In the interest of fairness and expedience, the hearing authority may permit any person to appear by telephone, audio tape, written statement, or other means, as appropriate.

(3) Evidence.

(a) Evidence: Pertinent records, exhibits and written statements may be accepted as information for consideration by the hearing authority. However, hearing authorities are not bound by the rules of evidence observed by courts. The hearing authority may exclude incompetent, irrelevant, immaterial or unduly repetitious material.

(b) The accused, and, in cases of sexual harassment or sexual misconduct, the complainant and/or victim, have the right to view all material presented during the course of the hearing.

(4) Standard of proof. The hearing authority shall determine whether the accused violated the student conduct code, as charged, based on a preponderance of the evidence. A preponderance means, based on the evidence admitted, whether

it is more probable than not that the accused violated the student conduct code.

(5) Sanctions. In determining what sanctions shall be imposed, the hearing authority may consider the evidence presented at the hearing as well as any information contained in the student's disciplinary and academic records. If a student fails to appear for a hearing, then the hearing authority shall review the evidence provided and may consider information available from the student's disciplinary and academic records in determining what sanction should be imposed.

(6) Witnesses.

(a) The complainant, victim, accused and hearing authority may present witnesses at council review hearings.

(b) The party who wishes to call a witness is responsible for ensuring that the witness is available and present at the time of the hearing.

(c) The hearing authority may exclude witnesses from the hearing room when they are not testifying. The hearing authority is not required to take the testimony of all witnesses called by the parties if such testimony may be inappropriate, irrelevant, immaterial, or unduly repetitious.

(d) All parties have the right to hear all testimony provided by witnesses during the hearing.

(7) Questioning:

(a) The complainant and the accused may submit questions to be asked of each other or of any witnesses. Questions shall be submitted, in writing, to the hearing authority. The hearing authority may ask such questions, but is not required to do so. The hearing authority may reject any question which it considers inappropriate, irrelevant, immaterial or unduly repetitious. The hearing authority has complete discretion in determining what questions will be asked during the hearing.

(b) During a conduct review hearing, only the hearing authority may pose questions to persons appearing before them.

(c) The hearing authority may ask their own questions of any witness called before them.

(8) The hearing authority may accommodate concerns for personal safety, well-being, or fears of confrontation of any person appearing at the hearing by providing separate facilities, or by permitting participation by telephone, audio tape, written statement, or other means, as determined appropriate.

(9) Summary hearing procedures.

(a) The conduct review officer may hold a summary hearing with the accused only if all of the following conditions are met:

(i) The accused waives his/her right to prior notice about a conduct review hearing;

(ii) The accused requests that the case be heard in a summary hearing with the conduct review officer; and

(iii) The conduct review officer agrees to conduct the summary hearing. The conduct review officer is not obligated to conduct a summary hearing, but may instead refer the case to the student disciplinary council for a council hearing.

(b) Sexual misconduct cases. Allegations of sexual misconduct may not be resolved through a summary hearing but must be referred for a council hearing, unless the case has been otherwise resolved.

(c) Scheduling. A summary hearing may take place immediately following the preliminary conference or it may be scheduled for a later date or time, except that, in cases of harassment, a summary hearing cannot take place without first notifying the complainant/victim of the hearing. If the summary hearing will be held at a later date or time, the conduct review officer shall schedule the hearing and notify the accused and, in the case of harassment, the complainant/victim of the date, time, and place of the hearing. The conduct review officer may coordinate with the parties to facilitate scheduling, but is not required to do so.

(d) If the accused fails to appear at the summary hearing, the conduct review officer may conduct the summary hearing without the accused present or refer the case to the student disciplinary council for a council hearing under WAC 172-121-110. The conduct review officer may also place a hold on the accused's academic records under WAC 172-121-080.

(e) Deliberation. After the hearing, the conduct review officer shall decide whether the accused violated the student conduct code based on a preponderance of the evidence.

(i) If the conduct review officer determines that there is not sufficient information to establish a violation by a preponderance of evidence, the conduct review officer shall dismiss the complaint.

(ii) If the conduct review officer determines that the accused violated the student conduct code, the conduct review officer shall impose any number of sanctions as described in WAC 172-121-210.

(f) Notification. The conduct review officer shall serve the accused with a brief written statement setting forth the outcome of the summary hearing and notice of the right to appeal. In the case of sexual harassment, gender-based harassment, or stalking, the victim shall be provided with written notice of: (i) The university's determination as to whether such harassment occurred; (ii) the victim's right to appeal; (iii) any change to the results that occurs prior to the time that such results become final; and when such results become final (20 U.S.C. 1092(f)). Information regarding the discipline of the accused will not be released unless:

(A) The information contained in the record directly relates to the complainant, such as an order requiring the student harasser to not contact the complainant; or

(B) The misconduct involves a crime of violence or a sexual assault, including rape, relationship violence, domestic violence or stalking as defined in 42 U.S.C. Sec. 13925(a).

(10) Council hearing procedures.

(a) Scheduling and notification. If the conduct review officer has decided to refer the case to the student disciplinary council for a council hearing, the director of SRR shall schedule the hearing and notify the accused with the date, time and location of the hearing. The director of SRR shall also inform the council and notify the complainant/victim of the date, time, and location of the hearing in writing. The council must receive at least seventy-two hours' notice as to the time and place of the hearing. The conduct review officer may coordinate with the parties to facilitate scheduling, but is not required to do so.

(b) Deliberations and sanctions. Following the hearing, the council shall meet in closed session and, within seven days, determine by majority vote whether, by a preponderance of the evidence, the accused violated the student con-

duct code. If the council determines the accused violated the student conduct code, the council shall then decide what sanctions shall be imposed. Sanctions shall be decided by majority vote and in closed session.

(c) Notification. The council chair shall forward the council decision to the director of SRR. The director of SRR shall serve the accused with a brief written statement setting forth the council's decision and notice of the right to appeal. In the case of sexual harassment, gender-based harassment, stalking, or any act of sexual misconduct, the victim shall be provided with written notice of: (i) The university's determination as to whether such harassment/sexual misconduct occurred; (ii) the victim's right to appeal; (iii) any change to the results that occurs prior to the time that such results become final; and when such results become final (20 U.S.C. 1092(f)). Information regarding the discipline of the accused will not be released unless:

(A) The information contained in the record directly relates to the complainant, such as an order requiring the student harasser to not contact the complainant; or

(B) The misconduct involves a crime of violence or a sexual assault, including rape, relationship violence, domestic violence or stalking as defined in 42 U.S.C. Sec. 13925(a).

[Statutory Authority: RCW 28B.35.120(12). WSR 15-24-050, § 172-121-120, filed 11/23/15, effective 12/24/15; WSR 13-24-123, § 172-121-120, filed 12/4/13, effective 1/4/14; WSR 09-12-001, § 172-121-120, filed 5/20/09, effective 6/20/09.]

WAC 172-121-130 Appeals. (1) Basis: Appeals may be filed by the accused or the complainant. In cases of harassment and/or sexual misconduct, the victim may also file an appeal. Appeals may be filed for one or more of the following reasons:

(a) To determine whether the hearing was conducted according to established procedures. A hearing may have deviated from established procedures if:

(i) The hearing was not conducted fairly in light of the charges and information presented;

(ii) The complainant was not given a reasonable opportunity to prepare and to present information as provided by the student conduct code;

(iii) The accused was not given a reasonable opportunity to prepare and to present a response as provided by the student conduct code.

(b) The hearing authority misinterpreted the student conduct code.

(c) To determine whether the decision reached by the hearing authority was based on the information presented and that that information was sufficient to reasonably establish that a violation of the conduct code did or did not occur based on a preponderance of the evidence.

(d) To determine whether the sanction(s) imposed were reasonable and appropriate for the associated conduct code violation(s).

(e) To consider newly discovered, material information which was not known to the appellant and could not reasonably have been discovered and presented by the appellant at the original hearing. It is the party's obligation to present all evidence at the time of the original hearing. The university is not obligated to grant an appeal and conduct a new hearing

when parties do not take reasonable efforts to prepare their cases for the original hearing.

(2) Filing: Appeals may be filed following a conduct review hearing, subject to the following provisions:

(a) The appeal must be submitted to the director of student rights and responsibilities within twenty-one days from service of the council's decision;

(b) The appeal shall be in writing and shall include:

(i) The appellant's name;

(ii) The nature of the decision and sanctions reached by the hearing official;

(iii) The basis, as described in subsection (1) of this section, for the appeal; and

(iv) What remedy the appellant is seeking.

(3) Appeal authorities:

(a) For summary hearings heard by the conduct review officer, appeals are determined by the student disciplinary council.

(b) For student disciplinary council hearings, appeals are determined by the dean of students.

(4) Forwarding of appeals: The director of SRR shall forward the appeal to the appropriate appeal authority. The submitted appeal will include, at a minimum, the appellant's written appeal and the written report of the case. The director of SRR may also forward any other written records related to the case.

(5) Review of appeals:

(a) Before rendering a decision, the appeal authority may request additional information or explanation from any of the parties to the proceedings.

(b) Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the conduct review hearing and supporting documents.

(c) In making its decision, the appeal authority will only consider the written record before it, the appellant's notice of appeal and other information and/or explanation it has requested from the parties to the proceedings.

(6) Decisions: After reviewing the appeal, the appeal authority may affirm, reverse, or remand the decision(s) of the hearing authority.

(7) Remanded cases: In cases where the appeal authority remands the decision or sanction(s) of the hearing authority, the case will be returned to the hearing authority for reconsideration or other action as specified by the appeal authority. Following such reconsideration, the hearing authority will return the case to the appeal authority for further review/action. The appeal authority will then complete the appeal process or remand the case again. No appeal may, however, be remanded more than two times. After a case has been remanded twice, the appeal authority must affirm or reverse the decision and affirm, reverse, or modify the sanctions.

(8) Sanctions: The appeal authority may affirm, reverse, remand, or modify the sanctions assigned to the accused. When determining sanctions, the appeal authority may consider the complete record of the accused's prior conduct and academic performance in addition to all other information associated with the case.

(9) Notification: Once the appeal authority has made a final decision to affirm or reverse and/or to modify the sanctions assigned, the appeal authority shall forward the decision

to the director of SRR. The director of SRR shall serve the accused, and, in cases of harassment or sexual misconduct, notify the complainant and victim, with a brief written statement setting forth the outcome of the appeal.

(10) Further proceedings. The appeal authority's decision is final and no further appeals may be made under the student conduct code.

(11) Appeals standards:

(a) Appeal authorities must weigh all pertinent information presented to them in determining whether sufficient evidence exists to support reversal or modification of decisions or sanctions.

(b) For appeals based on a deviation from established procedures, such deviations will not be a basis for sustaining an appeal unless the alleged deviation materially changed the outcome of the case or the sanctions imposed.

[Statutory Authority: RCW 28B.35.120(12), WSR 15-24-050, § 172-121-130, filed 11/23/15, effective 12/24/15; WSR 13-24-123, § 172-121-130, filed 12/4/13, effective 1/4/14; WSR 09-12-001, § 172-121-130, filed 5/20/09, effective 6/20/09.]

WAC 172-121-140 Interim restriction. In situations where there is cause to believe that a student or a student organization endangers the health, safety, or welfare of themselves, the university community, or property of the university community, the dean of students may take immediate action(s) against the student or student organization without prior notice or hearing.

Simultaneous with such action(s), the dean of students will refer the charges to the conduct review officer, who will process such charges in accordance with the provisions of this student conduct code.

Interim restriction is subject to the following:

(1) Interim restriction actions may only be imposed in the following situations:

(a) When a student or student organization poses an immediate threat to:

(i) The health, safety or welfare of any part of the university community or public at large;

(ii) The student's own physical safety and well-being; or

(iii) Any property of the university community;

(b) When it is believed that the student's or student organization's continued attendance or presence may cause disorder, substantially interfere with or impede the lawful activities of others, or imperil the physical or mental health and safety of members of the university community; or

(c) When a student is undergoing criminal proceedings for any felony charge.

(2) During the interim restriction period, a student may be restricted by any or all of the following means:

(a) Denial of access, including but not limited to: Assignment to alternate university housing or removal from university housing, limitation of access to university facilities, or restriction of communication with specific individuals or groups;

(b) Interim suspension, including temporary total removal from the university or restriction of access to campus;

(c) Mandatory medical/psychological assessment of the student's capability to remain in the university.

(3) The dean of students will determine what restriction(s) will be placed on a student.

(4) All interim restrictions that involve any type of restriction from any university premises will be accomplished by giving a notice against trespass. The notice against trespass may be given by any manner specified in WAC 172-122-200.

(5) The dean of students will prepare a brief memorandum for record containing the reasons for the interim restriction. The dean of students will serve the memorandum on the restricted student and notify all other persons or offices bound by it. At a minimum, the memorandum will state:

(a) The alleged act(s) or behavior(s) of the student or student organization which prompted the interim restriction;

(b) How those alleged act(s) or behavior(s) constitute a violation of the student conduct code; and

(c) How the circumstances of the case necessitated the interim restriction action(s).

(6) In cases alleging sexual harassment, sexual misconduct, domestic violence, relationship violence, and/or stalking, the complainant will be provided with notice of any interim restrictions that relate directly to the complainant.

(7) Appeals.

(a) In all cases, the student or student organization may appeal the interim restriction to the vice-president for student affairs.

(b) In cases alleging sexual harassment, sexual misconduct, domestic violence, relationship violence, and stalking, if an interim restriction is imposed, the student, the student organization, and the complainant may appeal the interim restriction using the process outlined in this subsection. Also, in such cases, if an appeal is filed, all parties shall be given notice of the appeal and shall be provided the opportunity to participate in the appeal proceeding.

(c) Appeals must be submitted, in writing, within ten business days after the interim restriction action is taken, unless the student requests an extension. Requests for extension will only be granted to review the following issues:

(i) The reliability of the information concerning the student's behavior; and

(ii) Whether the student's continued presence or prior or present behavior warrants interim restriction for the causes listed in subsection (1) of this section.

(d) As a result of the appeal, the vice-president for student affairs will schedule a meeting with the accused. The vice-president for student affairs may have the dean of students or any other person deemed relevant attend the meeting. The accused and the complainant, if he/she has the right to be present under (b) of this subsection, may have an advisor present at the meeting so long as the name of that person is provided to the director of SRR at least two business days prior to the scheduled meeting.

(e) During the appeal meeting, the vice-president for student affairs will review available materials and statements. After the meeting, the vice-president for student affairs may uphold, modify, or terminate the interim restriction action.

(8) The interim restriction does not replace the regular hearing process, which will proceed consistent with this chapter.

(9) Duration. An interim restriction will remain in effect until terminated, in writing, by the student disciplinary council or the vice-president for student affairs.

[Statutory Authority: RCW 28B.35.120(12). WSR 15-24-050, § 172-121-140, filed 11/23/15, effective 12/24/15; WSR 13-24-123, § 172-121-140, filed 12/4/13, effective 1/4/14; WSR 09-12-001, § 172-121-140, filed 5/20/09, effective 6/20/09.]

WAC 172-121-200 Violations. The following are defined as offenses which are subject to disciplinary action by the university.

(1) Acts of academic dishonesty. University policy regarding academic dishonesty is governed by the university academic integrity policy.

(2) Acts of social misconduct.

(a) Abuse. Physical abuse, verbal abuse, and/or other conduct which threatens or endangers the health or safety of any person.

(b) Bullying. Bullying is behavior that is:

(i) Intentional;

(ii) Targeted at an individual or group;

(iii) Repeated;

(iv) Objectively hostile or offensive; and

(v) Creates an intimidating and/or threatening environment which produces a risk of psychological and/or physical harm.

(c) Domestic violence and relationship violence.

(i) Domestic violence means:

(A) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members;

(B) Sexual assault of one family or household member by another; or

(C) Stalking of one family or household member by another family or household member.

(ii) Relationship violence is a type of domestic violence, except the acts specified above are committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. In determining whether such a relationship exists, the following factors are considered:

(A) The length of time the relationship has existed;

(B) The nature of the relationship; and

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

(d) Harassment, gender-based harassment, and sexual harassment.

(i) Harassment is conduct by any means that is sufficiently severe, pervasive, or persistent, and objectively offensive so as to threaten an individual or limit the individual's ability to work, study, participate in, or benefit from the university's programs or activities.

(ii) Gender-based harassment includes nonsexual acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on a person's gender or nonconformity with gender stereotypes. Gender-based harassment violates this code and Title IX when it is sufficiently severe, pervasive, or persistent such that it denies or limits another's ability to work, study, participate in, or benefit from the university's programs or activities.

(iii) Sexual harassment is unwelcome conduct of a sexual nature and may include unwelcome sexual advances,

requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment violates this code and Title IX when it is sufficiently severe, pervasive, or persistent such that it denies or limits another's ability to work, study, participate in, or benefit from the university's programs or activities.

In determining whether any of the above-listed types of harassment are severe, pervasive, or persistent, the university shall consider all relevant circumstances from both an objective and subjective perspective, including the type of harassment (verbal or physical); the frequency and severity of the conduct; the age, sex, and relationship of the individuals involved; the degree to which the conduct affected the victim; the setting and context in which the harassment occurred; whether other incidents have occurred at the university; and other relevant factors.

(e) Retaliation. Any actual or threatened retaliation or any act of intimidation intended to prevent or otherwise obstruct the reporting of a violation of this code is prohibited and is a separate violation of this code. Any actual or threatened retaliation or act of intimidation directed towards a person who participates in an investigation or disciplinary process under this code is prohibited and is a separate violation of this code.

(f) Sexual misconduct. Sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion, are types of sexual misconduct. Sexual violence is sexual intercourse or sexual contact with a person without his or her consent or when the person is incapable of giving consent. Consent means actual words or conduct indicating freely given agreement to the sexual act. Consent cannot be inferred from silence, passivity, or lack of active resistance. There is no consent where there is a threat of force or violence or any other form of coercion or intimidation, physical or psychological. Sexual activity is nonconsensual when the victim is incapable of consent by reason of mental incapacity, drug/alcohol use, illness, unconsciousness, or physical condition. Sexual misconduct also includes, but is not limited to, indecent liberties, indecent exposure, sexual exhibitionism, sex-based cyber-harassment, prostitution or the solicitation of a prostitute, peeping or other voyeurism, or going beyond the boundaries of consent, such as by allowing others to view consensual sex or the nonconsensual recording of sexual activity.

(g) Stalking. Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(i) Fear for their health and/or safety or the health/safety of others; or

(ii) Suffer substantial emotional distress.

(h) Unauthorized use of electronic or other devices: Making an audio or video recording of any person while on university premises without the person's prior knowledge or without their effective consent, when such a recording is of a private conversation or of images taken of a person(s) at a time and place where the person would reasonably expect privacy and where such recordings are likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom, but does not include taking pictures of persons in

areas which are considered by the reasonable person to be open to public view.

(3) Property violations. Theft of, damage to, or misuse of another person's or entity's property.

(4) Weapons. Possession, carrying, discharge or other use of any weapon is prohibited on property owned or controlled by Eastern Washington University, except as permitted in (a) through (d) of this subsection. Examples of weapons under this section include, but are not limited to: Explosives, chemical weapons, shotguns, rifles, pistols, air guns, BB guns, pellet guns, longbows, hunting bows, throwing weapons, stun guns, electroshock weapons, and any item that can be used as an object of intimidation and/or threat, such as replica or look-a-like weapons.

(a) Commissioned law enforcement officers may carry weapons, which have been issued by their respective law enforcement agencies, while on campus or other university controlled property, including residence halls. Law enforcement officers must inform the university police of their presence on campus upon arrival.

(b) A person may possess a personal protection spray device, as authorized by RCW 9.91.160, while on property owned or controlled by Eastern Washington University.

(c) A person may bring a weapon onto campus for display or demonstration purposes directly related to a class or other educational activity, provided that they obtain prior authorization from the university police department. The university police department shall review any such request and may establish conditions to the authorization.

(d) Weapons that are owned by the institution for use in organized recreational activities or by special groups, such as EWU ROTC or university-sponsored clubs or teams, must be stored in a location approved by the university police department. These weapons must be checked out by the advisor or coach and are to be used only in organized recreational activities or by legitimate members of the club or team in the normal course of the club or team's related activity.

(5) Failure to comply.

(a) Failure to comply with lawful and/or reasonable directions of university officials or law enforcement officers acting in performance of their duties on campus or affecting conduct on campus;

(b) Failure to identify oneself to university officials in their course of duty, refusal or failure to appear before university officials or disciplinary bodies when directed to do so;

(c) Failure to attend any medical treatment or evaluation program when directed to do so by the dean of students or other authorized university official.

(6) Trespassing/unauthorized use of keys.

(a) Trespass. Entering or remaining on university property without authorization.

(b) Unauthorized use of keys. Unauthorized possession, duplication, or use of university keys or access cards.

(7) Deception, forgery, fraud, unauthorized representation.

(a) Knowingly furnishing false information to the university.

(b) Forgery, alteration, or misuse of university documents, records, or instruments of identification. This includes situations of identity theft where a person knowingly uses or transfers another person's identification for any purpose.

(c) Forgery or issuing a bad check with intent to defraud.

(d) Unauthorized representation. The unauthorized use of the name of the university or the names of members or organizations in the university community.

(8) Safety.

(a) Intentionally activating a false fire alarm.

(b) Making a bomb threat.

(c) Tampering with fire extinguishers, alarms, or safety equipment.

(d) Tampering with elevator controls and/or equipment.

(e) Failure to evacuate during a fire, fire drill, or false alarm.

(9) Alcohol, drugs, and controlled substances.

(a) Alcohol and substance violations. Use, possession, distribution, or sale of alcoholic beverages (except as permitted by university policy and state law) is prohibited. Under no circumstances may individuals under the age of twenty-one use, possess, distribute, manufacture or sell alcoholic beverages. Public intoxication is prohibited.

(b) Drugs and paraphernalia.

(i) Use, possession, distribution, manufacture, or sale of marijuana, drug paraphernalia and/or illegal drugs, narcotics or controlled substances, is prohibited.

(ii) Being under the influence of marijuana or an illegal substance, while on property owned or operated by the university, is prohibited. Being under the influence of a controlled substance, except when legally prescribed by a licensed medical practitioner, is also prohibited while on property owned or operated by the university.

(10) Hazing. Any act which, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization:

(a) Endangers the mental or physical health or safety of any student or other person;

(b) Destroys or removes public or private property; or

(c) Compels an individual to participate in any activity which is illegal or contrary to university rules, regulations or policies.

The express or implied consent of any participant is not a defense. A person who is apathetic or acquiesces in the presence of hazing violates this rule.

(11) Disruptive conduct/obstruction.

(a) Disruptive conduct. Conduct which unreasonably interferes with any person's ability to work or study, or obstructs university operations or campus activities.

(b) Disorderly conduct. Conduct that is disorderly, lewd, indecent or a breach of peace.

(c) Obstruction. Obstruction of the free flow of pedestrian or vehicular traffic on university premises or at university-sponsored or university-supervised events.

(d) Demonstration. Participation in a campus demonstration which violates university regulations.

(12) Violations of other laws, regulations and policies.

(a) Violation of a local, county, state, or federal law.

(b) Violation of other university policies, regulations, or handbook provisions.

(13) Assisting/attempts. Soliciting, aiding, abetting, concealing, or attempting conduct in violation of this code.

(14) Acts against the administration of this code.

(a) Initiation of a complaint or charge knowing that the charge was false or with reckless disregard of its truth.

(b) Interference with or attempt to interfere with the enforcement of this code, including but not limited to, intimidation or bribery of hearing participants, acceptance of bribes, dishonesty, or disruption of proceedings and hearings held under this code.

(c) Knowing violation of the terms of any disciplinary sanction or attached conditions imposed in accordance with this code.

(15) Other responsibilities:

(a) Guests. A student, student group or student organization is responsible for the conduct of guests on or in university property and at functions sponsored by the university or sponsored by any recognized university organization.

(b) Students studying abroad. Students who participate in any university sponsored or sanctioned foreign country study program shall observe the following rules and regulations:

(i) The laws of the host country;

(ii) The academic and disciplinary regulations of the educational institution or residential housing program where the student is studying;

(iii) Any other agreements related to the student's study program in the foreign country; and

(iv) The student conduct code.

(16) Student organization and/or group offenses. Clubs, organizations, societies or similarly organized groups in or recognized by the university and/or ASEWU are subject to the same standards as are individuals in the university community. The commission of any of the offenses in this section by such groups or the knowing failure of any organized group to exercise preventive measures relative to violations of the code by their members shall constitute a group offense.

[Statutory Authority: RCW 28B.35.120(12). WSR 15-24-050, § 172-121-200, filed 11/23/15, effective 12/24/15; WSR 15-14-078, § 172-121-200, filed 6/29/15, effective 7/30/15; WSR 14-24-039, § 172-121-200, filed 11/24/14, effective 12/25/14; WSR 13-24-123, § 172-121-200, filed 12/4/13, effective 1/4/14; WSR 09-12-001, § 172-121-200, filed 5/20/09, effective 6/20/09.]

WAC 172-121-210 Sanctions. If any student or student organization is found to have committed any of the offenses described in WAC 172-121-200, one or more of the sanctions described in this section may be imposed against the student or student organization. Imposed sanctions are effective as of the date the council issues its decision unless the decision specifically identifies an alternative date. Failure to comply with any imposed sanction may result in additional sanctions.

(1) Individual student sanctions:

(a) Admonition: An oral statement to a student that he/she has violated university rules and regulations.

(b) Warning: A notice to the student or student organization that they have violated the standards for student conduct and that any repeated or continuing violation of the same standard, within a specified period of time, may result in more severe disciplinary action. A warning may be verbal or written.

(c) Censure: A written reprimand for violation of specified regulations. A censure will also state that more severe disciplinary sanctions may be imposed if the student or student organization is found in violation of any regulation within a stated period of time

(d) Disciplinary probation: A formal action which places one or more conditions, for a specified period of time, on the student's continued attendance. Disciplinary probation sanctions will be executed in writing and will specify the probationary conditions and the period of the probation. A disciplinary probation notice will also inform the student that any further misconduct will automatically involve consideration of suspension. Probationary conditions may include, but are not limited to:

- (i) Restricting the student's university-related privileges;
- (ii) Limiting the student's participation in extra-curricular activities; and/or
- (iii) Enforcing a "no contact" order which would prohibit direct or indirect physical and/or verbal contact with specific individuals or groups.

(e) Restitution: Reimbursement to the university or others for damage, destruction, or other loss of property suffered as a result of theft or negligence. Restitution also includes reimbursement for medical expenses incurred due to conduct code violations. Restitution may take the form of appropriate service or other compensation. Failure to fulfill restitution requirements will result in cancellation of the student's registration and will prevent the student from future registration until restitution conditions are satisfied.

(f) Fines: The university conduct review officer and the student disciplinary council may assess monetary fines up to a maximum of four hundred dollars against individual students for violation of university rules or regulations or for failure to comply with university standards of conduct. Failure to promptly pay such fines will prevent the student from future registration. Failure to pay may also result in additional sanctions.

(g) Discretionary sanctions: Work assignments, service to the university community or other related discretionary assignments for a specified period of time as directed by the hearing authority.

(h) Loss of financial aid: In accordance with RCW 28B.30.125, a person who participates in the hazing of another forfeits entitlement to state-funded grants, scholarships or awards for a specified period of time.

(i) Assessment: Referral for drug/alcohol or psychological assessment may be required. Results of the assessment may lead to the determination that conditions of treatment and further assessment apply to either continued attendance or return after a period of suspension.

(j) Suspension: Exclusion from classes and other privileges or activities for a specified period of time. Suspensions will be executed through a written order of suspension and will state all restrictions imposed by the suspension, as well as the suspension period and what conditions of readmission, if any, are ordered. Suspension is subject to the processes outlined in this chapter except any suspension must also be approved by the dean of students and the vice-president for student affairs before such sanction is imposed.

(k) Expulsion: Permanent separation of the student from the university with no promise (implied or otherwise) that the student may return at any future time. The student will also be barred from university premises. Expulsion actions will be accomplished by issuing both an order of expulsion and a notice against trespass. The notice against trespass may be given by any manner specified in chapter 9A.52 RCW.

Expulsion is subject to the processes outlined in this chapter except any expulsion must also be approved by the dean of students and the vice-president of student affairs before such sanction is imposed.

(l) Loss of institutional, financial aid funds: Formal withholding of all or a part of institutional funds currently being received by the student or promised for future disbursement to the student for a specified period of time.

(m) Revocation of degree: A degree awarded by the university may be revoked for fraud, misrepresentation, or other violation of law or university standards. Revocation of a degree is subject to processes outlined in this chapter except that revocation of a degree must also be approved by the university president.

(2) Student organizations and/or group sanctions: Any of the above sanctions may be imposed in addition to those listed below:

(a) Probation: Formal action placing conditions on the group's continued recognition by or permission to function at the university. The probationary conditions will apply for a specified period of time. Violation of the conditions of probation or additional violations while under probation may result in more severe sanctions;

(b) Social probation: Prohibition of the group from sponsoring any organized social activity, party or function, or from obtaining a permission for the use of alcoholic beverages at social functions for a specified period of time;

(c) Restriction: The temporary withdrawal of university or ASEWU recognition for a group, club, society or other organization. Restriction is subject to the processes outlined in this chapter except any restriction must also be approved by the dean of students and the vice-president of student affairs before such sanction is imposed;

(d) Revocation: The permanent withdrawal of university or ASEWU recognition for a group, club, society or other organization. Revocation is subject to the processes outlined in this chapter except any revocation must also be approved by the dean of students and the vice-president of student affairs before such sanction is imposed;

(e) Additional sanctions: In addition to or separately from the above, any one or a combination of the following may be concurrently imposed on the group:

- (i) Exclusion from intramural competition as a group;
- (ii) Denial of use of university facilities for meetings, events, etc.;
- (iii) Restitution; and/or
- (iv) Fines.

[Statutory Authority: RCW 28B.35.120(12), WSR 15-24-050, § 172-121-210, filed 11/23/15, effective 12/24/15; WSR 13-24-123, § 172-121-210, filed 12/4/13, effective 1/4/14; WSR 09-12-001, § 172-121-210, filed 5/20/09, effective 6/20/09.]