

# **BBCC Student Code of Conduct**

(approval pending)

(08/06/15)

**Statement of Student Rights.** WAC 132R-04-010

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 maintain and to respect the general conditions necessary for a free and effective learning environment 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.

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

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-010, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. WSR 90-02-019, § 132R-04-010, filed 12/26/89, effective 1/26/90; Order 69-4, § 132R-04-010, filed 12/5/69.]

**Definitions.** WAC 132R-04-015

For the purposes of this chapter, terms are defined as follows:

(1) "Student conduct officer" is a college administrator responsible for implementing and enforcing the student conduct code. The student conduct officer is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary. The vice-president of instruction and student services will serve as the student conduct officer or may appoint a designee.

(2) "Conduct review officer" is a college administrator responsible for receiving and facilitating appeals from student disciplinary actions and for reviewing initial orders issued in a brief adjudicative proceeding. The conduct review officer shall be designated by the president and shall be authorized to grant appropriate relief upon review. The conduct review officer is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary. The director of student programs will serve as the conduct review officer, unless otherwise designated by the president.

(3) "The president" is the president of the college. The president is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary.

(4) "Disciplinary action" is the process by which discipline is imposed by the student conduct officer against a student for a violation of the student conduct code.

(5) "Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed by the student conduct officer. Disciplinary appeals from a suspension in excess of ten instructional days or an expulsion are heard by the disciplinary committee. Appeals of all other appealable disciplinary action may be reviewed through brief adjudicative proceedings.

(6) "Respondent" is the student against whom disciplinary action is being taken.

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

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

(b) By sending the document by e-mail and by certified mail or first class mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date the document is e-mailed and deposited into the mail.

(8) "Filing" is the process by which a document is officially delivered to a school official responsible for facilitating a discipli-

nary review or a presiding officer. Unless expressly specified otherwise, filing shall be accomplished by:

(a) Hand delivery of the document to the school official or school official's assistant; or

(b) By sending the document by e-mail and first class mail to the recipient's college e-mail and office address.

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

(9) "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.

(10) "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."

(11) "Business day" means a weekday, excluding weekends and college holidays. If a time period is not specifically stated in business days, then calendar days apply.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-015, filed 7/14/03, effective 8/14/03.]

**Statement of Jurisdiction.** *WAC 132R-04-017*

The conduct code adopted herein applies to student conduct that occurs on college premises, at college-sponsored activities, and to off-campus student conduct that adversely affects the well-being of the college community and/or the pursuit of its objectives. Jurisdiction includes, 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, online education, practicums, supervised work experiences or any other college-sanctioned social or club activities. 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. These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending. 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 occurring off campus.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-017, filed 7/14/03, effective 8/14/03.]

**Student Code of Conduct Violations.** *WAC 132R-04-057*

**Student Misconduct.** Misconduct for which the college may impose sanctions includes, but is not limited to, any of the following:

(1) Any act of academic dishonesty including, but not limited to, cheating or plagiarism.

(a) Cheating includes, but is not limited to, using, or attempting to use, any material, assistance, or source which has not been authorized by the instructor to satisfy any expectation or requirement in an instructional course, or obtaining, without authorization, test questions or answers or other academic material that belong to another.



(b) Plagiarism includes, but is not limited to, presenting or submitting another person's ideas, words, or other work in an instructional course without properly crediting that person.

(c) Academic dishonesty includes, but is not limited to, presenting or submitting in an instructional course either information that is known to be false (while concealing that falsity) or work that is substantially the same as that previously submitted in another course (without the current instructor's approval).

(2) 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 of:

(a) Any instruction, research, administration, disciplinary proceeding, or other college activity; or

(b) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

(4) Assault, 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. For purposes of this subsection:

(a) Bullying is physical or verbal abuse, repeated over time, and involving a power imbalance between the aggressor and victim.

(b) Stalking is intentional and repeated harassment or repeated following of another person, which places that person in reasonable fear that the stalker intends to injure the person, another person, or the property of the person or another person, and the stalker either intends to frighten, intimidate, or harass the person, or knows or reasonably should know that the person is frightened, intimidated or harassed, even if the stalker lacks such an intent. The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person. The feeling of fear must be one that a reasonable person in the same situation would experience under all the circumstances.

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

(6) Attempted or actual 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; or

(c) Any other person or organization, or possession of such property or money after it has been stolen.

(7) Failure to comply with the direction of a college officer or employee who is acting in the legitimate performance of his or her du-

ties, including failure to properly identify oneself to such a person when requested to do so.

(8) Participation in any activity which unreasonably disrupts the operations of the college or infringes on the rights of another member of the college community, or leads or incites another person to engage in such an activity.

(9) Weapons: Possession of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device or any other weapon apparently capable of producing bodily harm, unless previously authorized by the vice-president of instruction and student services. See board policy 7800 for additional details.

(10) Hazing. Hazing includes, but is not limited to, any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student.

(11) Tobacco, electronic cigarettes, and related products: The use of tobacco, electronic cigarettes, and related products in any building owned, leased or operated by the college or in any location where such use is prohibited, or in any location other than the parking lots, including twenty-five feet from entrances, exits, windows

that open, and ventilation intakes of any building owned, leased or operated by the college. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.

(12) Alcohol: The use, possession, delivery, sale, or being visibly under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(13) Marijuana: The use, possession, delivery, sale, or being visibly 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.

(14) Being observably under the influence of any legend drug, narcotic drug or controlled substance as defined in chapters 69.41 and 69.50 RCW, or otherwise using, possessing, delivering, or selling any such drug or substance, except in accordance with a lawful prescription for that student by a licensed health care professional.

(15) Obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity.

(16) Conduct which is disorderly, lewd, or obscene.

(17) Breach of the peace.

(18) Discriminatory conduct: Discriminatory conduct which harms or adversely affects any member of the college community because of her or his race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification.

(19) Sexual violence: The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated without clear, knowing, and voluntary consent, such as committing a sexual act against a person's will, exceeding the scope of consent, or where the person is incapable of giving consent, including rape, sexual assault, sexual battery, sexual coercion, sexual exploitation, gender- or sex-based stalking. The term further includes acts of dating or domestic violence and dating violence.

(a) Domestic violence: Includes (i) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (ii) sexual assault of one family or household member by another; or (iii) stalking as defined in RCW 9A.46.110 of one family or household member by

another family or household member. Pursuant to chapter 10.99 RCW, domestic violence also includes, but is not limited to, the following crimes when committed by one family or household member against another: Assault; drive-by shooting; reckless endangerment; coercion; burglary; criminal trespass; malicious mischief; kidnapping; unlawful imprisonment; and violation of a restraining order, no-contact order or protection order.

(b) Dating violence: Violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

(c) Stalking: Intentional and repeatedly harassing or following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated or harassed, even if the perpetrator lacks such intent. In addition to any other form of communication or conduct, the sending of an electronic communication may constitute stalking.

(d) Consent: At the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

(20) Sexual harassment: Conduct includes, but is not limited to, engaging in unwelcome sexual advances, requests for sexual favors, or other sexual conduct, including verbal, nonverbal, electronic or social media communication, or physical touching that would substantially interfere with a reasonable person's work or educational performance, or to create an intimidating, hostile, or offensive educational environment.

(21) Harassment: Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally



protected classification. See supplemental definitions: "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic media.

(22) 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 electronic use policy.

(23) 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.

(24) Abuse or misuse of any of the procedures relating to student complaints or misconduct including, but not limited to:

(a) Failure to obey a subpoena or order to appear at a hearing;

(b) Falsification or misrepresentation of information;

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

(d) Interfering with someone else's proper participation in a proceeding;

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

(f) Attempting to influence the impartiality of, or harassing or intimidating, a student disciplinary committee member; or

(g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code.

(25) Operation of any motor vehicle on college property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person.

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

(27) 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.

(28) Aiding, abetting, inciting, encouraging, or assisting another person to commit any of the foregoing acts of misconduct.

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

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-057, filed 7/14/03, effective 8/14/03.]

**Disciplinary Sanctions.** *WAC 132R-04-063*

**Sanctions.** Disciplinary actions include, but are not limited to, the following sanctions that may be imposed upon students according to the procedure outlined in WAC 132R-04-057.

(1) Warning: A verbal statement to a student that there is a violation and that continued violation may be cause for further disciplinary action.

(2) 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 dis-

missal 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. Other conditions and restrictions may include, but not be limited to, restrictions from being present on certain parts of the campus or in certain college buildings; restriction from attending certain college activities; orders of no contact between the student under probation and other students, college employees, or other persons.

A student who is on disciplinary probation 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.

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

(5) 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.

(6) 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.

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

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-063, filed 7/14/03, effective 8/14/03.]

**Summary Suspension.** WAC 132R-04-064

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

(2) The vice-president of instruction and student services (or designee) may impose a summary suspension if there is probable cause to believe that the respondent:

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

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

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

(3) Notice. Any respondent who has been summarily suspended shall be served with written notice or oral notice of the summary suspension at the time of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two business days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension Proceedings" and shall include:

(a) The reasons for imposing the summary suspension, including reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the chair of the student disciplinary committee for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the respondent shall be considered trespassing



and subject to arrest for criminal trespass if the respondent enters the college campus other than to meet with the student conduct officer or designee, or to attend a disciplinary hearing.

(5)(a) The conduct review officer or designee shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension. The hearing will be conducted as a brief adjudicative proceeding.

(b) 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.

(c) 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.

(d) If the notice of summary suspension proceedings has been served upon the respondent in accordance with these rules and the student 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.

(e) As soon as practicable following the hearing, the conduct review officer shall issue a written decision, which shall include a brief statement of findings of fact and conclusions of law, the policy reasons justifying imposition of the summary suspension. If summary suspension is upheld and/or other discipline imposed, the order shall inform the respondent of the duration of the summary suspension or the nature of the disciplinary action(s), conditions under which the summary suspension may be terminated or modified, and procedures by which the order may be appealed.

(f) The interim suspension shall not replace the regular discipline process, which shall proceed as quickly as feasible in light of the interim suspension.

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

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-064, filed 7/14/03, effective 8/14/03.]

**Appeal from Disciplinary Action.** WAC 132R-04-067

(1) The respondent may appeal the results of a disciplinary action by filing a written notice of appeal with the conduct review officer within twenty days of service of the discipline order. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's order shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent and the conduct review officer.

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

(5) The Administrative Procedure Act, chapter 34.05 RCW, governs committee proceedings and controls in the event of any conflict with these rules.

(6) The college hereby adopts the Model rules of procedure, chapter 10-08 WAC, by reference. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

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

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

(a) Suspensions in excess of ten instructional days;

(b) Dismissals; and

(c) Discipline cases referred to the committee by the student conduct officer.

(9) Student conduct appeals involving the following disciplinary actions shall be heard as brief adjudicative proceedings:

(a) Suspensions of ten instructional days or less;

(b) Disciplinary probation;

(c) Reprimands; and any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-067, filed 7/14/03, effective 8/14/03.]

**Authority.** *WAC 132R-04-100*

The Big Bend Community College (BCC) board of trustees, acting according to RCW 28B.50.140(14), delegates to the president of the

college the authority to administer disciplinary action. Administration of the disciplinary procedures is the responsibility of the vice-president of instruction and student services. The vice-president of instruction and student services will serve as the student conduct officer, or appoint a designee. The student conduct officer shall serve as the principal investigator and administrator for alleged violations of this code.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-100, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-100, filed 12/5/69.]

**Initiation of Disciplinary Action.** *WAC 132R-04-112*

(1) Disciplinary proceedings will be initiated by the vice-president of instruction and student services or a designee. If that officer is the subject of a complaint initiated by the respondent, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.

(2) A student accused of violating any provision of the conduct code (the respondent) shall be notified of an initial meeting with the vice-president of instruction and student services. The notice shall

briefly describe the factual allegations, the provision(s) of the conduct code the respondent is charged with violating, 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 appear after proper notification, the student conduct officer may take disciplinary action based upon the available information.

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

(4) The vice-president of instruction and student services, acting in the role of student conduct officer, may take any of the following actions:

(a) Terminate the proceeding, exonerating the respondent;

(b) Dismiss the case after providing appropriate counseling and advice to the respondent. Such action is final and is not subject to review on appeal;

(c) Issue a verbal warning to the respondent directly. Such action is final and is not subject to review on appeal;

(d) Impose additional sanctions of reprimand, disciplinary probation, suspension or dismissal. Such actions are subject to review on appeal as provided in this chapter; refer the matter directly to the student disciplinary committee for such action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the disciplinary committee, with a copy served on the respondent.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-112, filed 7/14/03, effective 8/14/03.]

**Brief Adjudicative Proceedings.** *WAC 132R-04-115*

(1) **Brief Adjudicative Proceedings.** This rule is adopted in accordance with RCW 34.05.482 through 34.05.494. Brief adjudicative proceedings shall be used, unless provided otherwise by another rule or

determined otherwise in a particular case by the president, or a designee, in regard to:

(a) Parking violations.

(b) Outstanding debts owed by students or employees.

(c) Use of college facilities.

(d) Residency determinations.

(e) Use of library - Fines.

(f) Challenges to contents of education records.

(g) Loss of eligibility for participation in institution sponsored athletic events.

(h) Student conduct appeals involving the following disciplinary actions:

(i) Suspensions of ten instructional days or less;

(ii) Disciplinary probation;

(iii) Written reprimands; and

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

(i) Appeals of decisions regarding mandatory tuition and fee waivers.



Brief adjudicative proceedings are informal hearings and shall be conducted in a manner which will bring about a prompt fair resolution of the matter.

(2) **Brief Adjudicative Proceedings - Initial Hearing.** The initial hearing (also known as a brief adjudicative proceeding) is an initial and less formal process designed to resolve disputes and address concerns on the part of students, faculty, or other college personnel.

(a) Brief adjudicative proceedings shall be conducted by the appropriate dean or the associate vice-president of student services, acting as the presiding officer. The presiding officer shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(b) Before taking action, the presiding officer shall conduct an informal hearing and provide each party (i) an opportunity to be informed of the college's view of the matter and (ii) an opportunity to explain the party's view of the matter.

(c) The presiding officer shall serve an initial order upon both the parties within ten days of consideration of the initial hearing. The initial order shall contain a brief written statement of the reasons for the decision and information about how to seek administrative

review of the initial order. If no request for review is filed within twenty-one days of service of the initial order, the initial order shall be deemed the final order.

(d) If the conduct review officer upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student disciplinary committee for a disciplinary hearing. The conduct review officer may enter an interim order suspending the student until a hearing can be held by the student disciplinary committee. The interim order shall provide a brief explanation as to facts supporting the interim order of suspension and give the necessary notices that the case has been referred to the student disciplinary committee.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-115, filed 7/14/03, effective 8/14/03.]

**Student Disciplinary Committee.** *WAC 132R-04-117*

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

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

(b) Two faculty members recommended by the faculty association and appointed by the president;

(c) One member of the administration appointed by the president at the beginning of the academic year. The chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

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

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

(4) Members of the student disciplinary committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition for disqualification of a committee member pursuant to RCW 34.05.425(4).

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-117, filed 7/14/03, effective 8/14/03.]

**Student Disciplinary Committee.** *WAC 132R-04-130*

**(1) Student Disciplinary Committee Process.**

(a) The committee chair shall serve all parties with written notice of the hearing not less than seven days in advance of the hearing date, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause.

(b) The committee chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and forms of any discovery, issuance of protective orders, and similar procedural matters.

(c) Upon request filed at least five days before the hearing by either 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 in their respective cases. 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, unless the party can show good cause for such failure.

(d) The committee chair may provide to the committee members in advance of the hearing copies of (i) the conduct officer's notification of imposition of discipline (or referral to the committee) and (ii) 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.

(e) 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.

(f) The vice-president of instruction and student services (or designee) shall provide reasonable assistance to the respondent, upon request, in obtaining relevant and admissible evidence that is within the college's control.

(g) 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 pro-

cess, are generally prohibited without notice and opportunity for all parties to participate; any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(h) Each party may be accompanied at the hearing by a non-attorney assistant of his or her choice. A respondent may elect to be represented by an attorney at his or her own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer. The committee will ordinarily be advised by an assistant attorney general. If the respondent is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general.

**(2) Student Disciplinary Committee Hearings - Presentation of Evidence.**

(a) Upon the failure of any party to attend or participate in a hearing, the committee may either (i) proceed with the hearing and issuance of its order or (ii) serve an order of default in accordance with RCW 34.05.440.

(b) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings

should 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.

(c) The chair shall cause the hearing to be recorded by a method that he or she selects, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to the respondent 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 the respondent. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(d) 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.

(e) The vice-president of instruction and student services or a designee (unless represented by an assistant attorney general) shall present the case for disciplinary action. The facts justifying any such action must be established by a preponderance of the evidence.

(f) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(3) **Supplemental Sexual Misconduct Procedures.** Both the respondent and the complainant in cases involving allegations of sexual mis-

conduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the initial discipline action and to appeal the student conduct officer's disciplinary order.

Application of the following procedures is limited to student conduct code proceedings involving allegations of sexual misconduct. In such cases, these procedures shall supplement the student disciplinary procedures. In the event of conflict between the sexual misconduct procedures and the student disciplinary procedures, the sexual misconduct procedures shall prevail.

(4) **Supplemental Definitions.** For purposes of student conduct code proceedings involving sexual misconduct, the following definitions apply:

(a) The "complainant" is the alleged victim of sexual misconduct. Complainant also refers to the college when the college files the complaint.

(b) "Sexual misconduct" is a sexual or gender-based violation of the student conduct code including, but not limited to:

(i) Sexual activity for which clear and voluntary consent has not been given in advance;



(ii) Sexual activity with someone who is incapable of giving valid consent because, for example, she or he is underage, sleeping or otherwise incapacitated due to alcohol or drugs;

(iii) Sexual harassment;

(iv) Sexual violence which includes, but is not limited to, sexual assault, domestic violence, intimate violence, and sexual- or gender-based stalking;

(e) Nonphysical conduct such as sexual- or gender-based digital media stalking, sexual- or gender-based online harassment, sexual- or gender-based cyberbullying, nonconsensual recording of a sexual activity, and nonconsensual distribution of a recording of a sexual activity.

(5) **Supplemental Complaint Process.** The following supplemental procedures shall apply with respect to complaints or other reports of alleged sexual misconduct by a student.

(a) The college's Title IX compliance officer shall investigate complaints or other reports of alleged sexual misconduct by a student. Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(b) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

(c) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done without unreasonably risking the health, safety and welfare of the complainant or other members of the college community or compromising the college's duty to investigate and process sexual harassment and sexual violence complaints.

(d) The student conduct officer, prior to initiating disciplinary action, 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.

(e) The student conduct officer, 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 mis-

conduct 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 his or her appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure prompt notice of the protective disciplinary sanctions and/or conditions.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-130, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-130, filed 12/5/69.]

**Student Disciplinary Committee—Initial order.** *WAC 132R-04-140*

(1) At the conclusion of the hearing, the 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 an order for its consideration.

(2) Within twenty days following the conclusion of the hearing or the committee's receipt of closing arguments (whichever is later), the committee shall issue an initial decision in accordance with RCW

34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(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 determine any disciplinary sanction or conditions authorized herein. If the matter is an appeal by the respondent, the committee may affirm, reverse, or modify the discipline imposed by the student conduct officer and/or impose any other disciplinary sanction or conditions authorized herein.

(4) The committee chair shall provide copies of the initial order to the parties and any legal counsel who have appeared. The committee chair shall also promptly transmit a copy of the order and the record of the committee's proceedings to the college president and the vice-president of instruction and student services.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-140, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-140, filed 12/5/69.]

**Appeal from Student Disciplinary Committee Initial Order.** *WAC 132R-04-150*

**(1) Appeal From Student Disciplinary Committee Initial Order.**

(a) A respondent who is aggrieved by the findings or conclusions issued by the student disciplinary committee may appeal the committee's initial order to the president by filing a notice of appeal with the president's office within twenty days of service of the committee's initial order.

(b) The notice of appeal must assign error to specific findings of fact and/or conclusions of law in the initial order and must contain argument regarding why the appeal should be granted. The president's review on appeal shall be limited to a review of those issues and arguments raised in the notice of appeal. Review shall be restricted to the record created below.

(c) The president shall provide a written order to all parties within forty-five days after receipt of the notice of appeal. The president's decision shall be final.

(d) The president may, at his or her discretion, suspend any disciplinary action pending review of the merits of the findings, conclusions, and disciplinary actions imposed.

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

**(2) Supplemental Appeal Rights.**

(a) The following actions by the student conduct officer may be appealed by the complainant:

(i) The dismissal of a sexual misconduct complaint; or

(ii) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.

(b) A complainant may appeal a disciplinary decision by filing a notice of appeal with the conduct review officer within twenty days of service of the notice of the discipline decision provided for in WAC ~~132-125-110(5)~~132R-04-140. The notice of appeal may include a written statement setting forth the grounds of appeal. Failure to file a timely notice of appeal constitutes a waiver of this right and the disciplinary decision shall be deemed final.

(c) 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.

(d) Except as otherwise specified in this supplemental procedure, a complainant who timely appeals a disciplinary decision or who intervenes as a party to respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.

(e) Respondent and complainant shall have the right to be accompanied by a nonattorney assistant of their choosing during the appeal process. Complainant may choose to be represented at the hearing by an attorney at his or her own expense, but will be deemed to have waived that right unless, at least four business days before the hearing, he or she files a written notice of the attorney's identity and participation with the committee chair, and with copies to the respondent and the student conduct officer.

(f) During the proceedings, complainant and respondent shall not directly question or cross examine one another. All questions shall be directed to the chair, who will act as an intermediary and pose questions on the parties' behalf.

(g) Hearings involving sexual misconduct allegations shall be closed to the public, unless respondent and complainant both waive

this requirement in writing and request that the hearing be open to the public. Complainant, respondent and their respective non-attorney assistants and/or attorneys may attend portions of the hearing where argument, testimony and/or evidence are presented to the student conduct committee.

(h) The student conduct committee will serve complainant a written notice indicating that an initial order has issued on the same date that the initial order is served on respondent. This notice shall inform the complainant whether the sexual misconduct allegations were found to have merit and describe any sanctions and/or conditions imposed upon the respondent for complainant's protection. The notice shall also provide directions on how the complainant can appeal the decision to the president.

(i) Complainant may appeal the student conduct committee's initial order to the president subject to the same procedures and deadlines applicable to other parties.

(j) The president will serve complainant a written notice indicating that the appeal has been resolved on the same date that the final order is served upon the respondent. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any sanctions and/or conditions imposed upon the



respondent for the complainant's protection, including suspension or dismissal of the respondent.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-150, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-150, filed 12/5/69.]

**Brief Adjudication Proceedings—Review of an initial order.** WAC 132R-04-

160

(1) An initial order is subject to review by the president or his or her designee, provided the respondent files a written request for review with the conduct review officer within twenty-one days of service of the initial order.

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

(3) During the review, the president or designee 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 proceedings must be referred to the student disciplinary committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within twenty business days of the initial order or of the request for review, whichever is later. The order 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 reviewing officer does not make a disposition of the matter within twenty days after the request is submitted.

(5) If the president or designee upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student disciplinary committee for a disciplinary hearing. The president or designee may enter an interim order suspending the student until a hearing can be held by the student disciplinary committee. The interim order shall provide a brief explanation as to facts supporting the interim order of suspension and give the necessary notices that the case has been referred to the student disciplinary committee.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-160, filed 7/14/03, effective 8/14/03; Order 69-4, § 132R-04-160, filed 12/5/69.]

**Brief Adjudication Proceedings—Agency Record.** *WAC 132R-04-165*

The agency 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. These records shall be maintained as the official record of the proceedings.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-165, filed 7/14/03, effective 8/14/03.]

**Existing**  
**(BBCC Student Code of**  
**Conduct)**

**WAC with Revisions**

(as presented to the Code Reviser)

**WAC 132R-04-010 Statement of student rights ((and responsibilities))**. ((Admission to the college carries with it the expectation that students will conduct themselves as responsible members of the college community, that they will comply with the rules and regulations of the college, maintain high standards of integrity and honesty, respect the rights, privileges, and property of other members of the college community, and will not interfere with legitimate college affairs.

The rights and responsibilities of students are further defined and listed in the "student rights and responsibilities" policy adopted by the board of trustees of Big Bend Community College. Policies and procedures are fully explained in the student handbook which is on file in the office of the vice president of student services.)) 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 maintain and to respect the general conditions necessary for a free and effective learning environment 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.

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

**WAC 132R-04-015 Definitions.** (~~(1)~~ "ASB" means the representative governing body for students at Big Bend Community College recognized by the board of trustees.

~~(2)~~ "Assembly" means any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons or group of persons.

~~(3)~~ "Board" means the board of trustees of Community College District 18, state of Washington.

~~(4)~~ "College president" or "president" means the duly appointed chief executive officer of Big Bend Community College, Community College District 18, state of Washington, or in his/her absence, the acting chief executive officer.

~~(5)~~ "College" means Big Bend Community College located within Community College District 18, state of Washington.

~~(6)~~ "College facilities" means and includes any or all real and personal property owned or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

~~(7)~~ "College personnel" refers to any person employed by Community College District 18 on a full time or part time basis, except those who are faculty members.

~~(8)~~ "Disciplinary action" means and includes suspension or any lesser sanction of any student by the vice president of student services, student disciplinary council, college president, or the board of trustees for the violation of any of the provisions of the code of student conduct or any of the provisions of the code of student rights and responsibilities for which such sanctions may be imposed.

~~(9)~~ "District" means Community College 18, state of Washington.

~~(10)~~ "Faculty member(s)" means any employee of Big Bend Community College who is employed on a full time or part time basis as a teacher, counselor, librarian or other position for which the training, experience and responsibility are comparable as determined by the appointing authority, except administrative appointments.

~~(11)~~ "Hazing" means any method of initiation into a student organization, association, or living group or any pastime or amusement engaged in with respect to such an organization 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 any institution of higher education or post secondary institution.

~~(12)~~ "Recognized student organization" means and includes any group or organization composed of students, which is affirmed by the student government of the college.

~~(13)~~ "A sponsored event or activity" means any activity that is scheduled by the college and is supervised and controlled by college faculty members or personnel. Such sponsorship shall continue only as long as the event is supervised and controlled by the college faculty member or personnel. When the sponsored event or activity is of a prolonged nature, and free time periods are permitted to the students participating in the event, any activity taking place during such a free time period outside of the supervision and control of the college faculty member(s) or personnel, shall be deemed to be a nonsponsored activity.

~~(14) "Student" means a person who is enrolled for courses at the college.~~

~~(15) "Working days" means Monday through Friday, excluding holidays.)~~ For the purposes of this chapter, terms are defined as follows:

(1) "Student conduct officer" is a college administrator responsible for implementing and enforcing the student conduct code. The student conduct officer is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary. The vice-president of instruction and student services will serve as the student conduct officer or may appoint a designee.

(2) "Conduct review officer" is a college administrator responsible for receiving and facilitating appeals from student disciplinary actions and for reviewing initial orders issued in a brief adjudicative proceeding. The conduct review officer shall be designated by the president and shall be authorized to grant appropriate relief upon review. The conduct review officer is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary. The director of student programs will serve as the conduct review officer, unless otherwise designated by the president.

(3) "The president" is the president of the college. The president is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary.

(4) "Disciplinary action" is the process by which discipline is imposed by the student conduct officer against a student for a violation of the student conduct code.

(5) "Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed by the student conduct officer. Disciplinary appeals from a suspension in excess of ten instructional days or an expulsion are heard by the disciplinary committee. Appeals of all other appealable disciplinary action may be reviewed through brief adjudicative proceedings.

(6) "Respondent" is the student against whom disciplinary action is being taken.

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

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

(b) By sending the document by e-mail and by certified mail or first class mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date the document is e-mailed and deposited into the mail.

(8) "Filing" is the process by which a document is officially delivered to a school official responsible for facilitating a disciplinary review or a presiding officer. Unless expressly specified otherwise, filing shall be accomplished by:

(a) Hand delivery of the document to the school official or school official's assistant; or

(b) By sending the document by e-mail and first class mail to the recipient's college e-mail and office address.

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

(9) "College premises" shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehi-

cles, equipment, and other property owned, used, or controlled by the college.

(10) "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."

(11) "Business day" means a weekday, excluding weekends and college holidays. If a time period is not specifically stated in business days, then calendar days apply.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

**WAC 132R-04-017 Statement of jurisdiction.** ~~((All rules herein adopted shall apply to every student whenever said student is present upon or in any college facility and whenever said student is present at or engaged in any college sponsored activity or function whether occurring on or off college facilities/premises.))~~ The conduct code adopted herein applies to student conduct that occurs on college premises, at college-sponsored activities, and to off-campus student conduct that adversely affects the well-being of the college community and/or the pursuit of its objectives. Jurisdiction includes, 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, online education, practicums, supervised work experiences or any other college-sanctioned social or club activities. 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. These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending. 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 occurring off campus.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

**WAC 132R-04-057 Student code of conduct violations.** ~~((Any student shall be subject to immediate disciplinary action provided for in code procedures and summary suspension rules who, either as a principal actor or aider or abettor:~~

~~(1) Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college.~~



~~(2) Violates any provisions of the code of student rights and responsibilities.~~

~~(3) Commits any of the following acts which are hereby prohibited:~~

~~(a) All forms of academic misconduct and dishonesty including cheating, plagiarism, knowingly furnishing false information to the college, and forgery, alteration or use of college documents or instruments of identification with intent to defraud.~~

~~(b) Failure to comply with lawful directions of faculty, administrators and other regularly employed personnel acting in performance of their lawful duties.~~

~~(c) Conduct which intentionally and substantially obstructs or disrupts freedom of movement, teaching, disciplinary proceedings or other lawful activities on the college campus. Said conduct may be defined as:~~

~~(i) Behavior that involves an expressed or an implied threat to interfere with an individual's personal safety, academic efforts, employment, or participation in college activities and causes the person to have a reasonable apprehension that such interference is about to occur;~~

~~(ii) Threat to cause bodily harm at present or in the future to any person, or to cause physical damage to another's property, or to maliciously do any act which is intended to substantially harm another person's physical or mental health or safety;~~

~~(iii) Intentional and repeated following or contacting another person in a manner that intimidates, harasses or places another in fear for his or her personal safety or the safety of his or her property.~~

~~(d) Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the physical or mental health and safety of any person on college owned or controlled property or at college sponsored or supervised functions.~~

~~(e) All forms of sexual misconduct which includes sexual harassment, sexual intimidation, sexual coercion, sexual assault, and rape.~~

~~(f) All forms of hazing which endangers, or is likely to endanger, the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of admission into, affiliation with, or as a condition for continued membership in a group or college organization.~~

~~(g) Malicious damage to or malicious misuse of college property, or the property of any person where such property is located on the college campus.~~

~~(h) Refusal to comply with any lawful order to leave the college campus or any portion thereof.~~

~~(i) Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on the college campus, except for authorized college purposes; unless prior written approval has been obtained from the vice president of student services, or any other person designated by the college president.~~

~~(j) Intentionally inciting others to engage immediately in any of the conduct prohibited herein, which incitement leads directly to such conduct. (Inciting is that advocacy which prepares the group addressed for imminent action and steers it to the conduct prohibited herein.)~~

~~(k) Possessing, consuming, being demonstrably under the influence of, or furnishing any form of alcoholic beverages on college owned or controlled property or at college sponsored or supervised functions where prohibited by the college's current alcohol policy.~~

~~(l) Disorderly conduct, including disorderly conduct resulting from drunkenness.~~

~~(m) Engaging in lewd, indecent or obscene behavior on college-owned or controlled property or at college sponsored or supervised functions.~~

~~(n) Using, possessing, furnishing or selling any narcotic or dangerous drug as defined in Washington statutes, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist.~~

~~(o) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm or other device established for the safety of individuals and/or college facilities.~~

~~(p) Theft or conversion of college property or private property.~~

~~(q) Entering any administrative office or any locked or otherwise closed college facility in any manner, at any time, without permission of the college employee or agent in charge thereof.~~

~~(r) Possession, making or causing to be made, any key to operate locks or locking mechanisms on campus without proper authorization or using or giving to another, a key for which there has been no proper authorization.~~

~~(s) Interfering with college computing or communication functions or with the work of another student, faculty member, or college official; gaining unauthorized access, altering data, misusing computing facilities to send harassing messages, or misuse of the campus network and/or computing facilities as defined by the current college technology use policy and procedures.~~

~~(t) Disruptive classroom conduct including abusive language toward a classroom instructor and/or student and other acts of misconduct.~~

~~(4) Single or repeated violation of the above code is relevant in determining an applicant's or a student's membership in the college.))~~  
**Student misconduct.** Misconduct for which the college may impose sanctions includes, but is not limited to, any of the following:

(1) Any act of academic dishonesty including, but not limited to, cheating or plagiarism.

(a) Cheating includes, but is not limited to, using, or attempting to use, any material, assistance, or source which has not been authorized by the instructor to satisfy any expectation or requirement in an instructional course, or obtaining, without authorization, test questions or answers or other academic material that belong to another.

(b) Plagiarism includes, but is not limited to, presenting or submitting another person's ideas, words, or other work in an instructional course without properly crediting that person.

(c) Academic dishonesty includes, but is not limited to, presenting or submitting in an instructional course either information that is known to be false (while concealing that falsity) or work that is substantially the same as that previously submitted in another course (without the current instructor's approval).

(2) 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 of:

(a) Any instruction, research, administration, disciplinary proceeding, or other college activity; or

(b) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

(4) Assault, 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. For purposes of this subsection:

(a) Bullying is physical or verbal abuse, repeated over time, and involving a power imbalance between the aggressor and victim.

(b) Stalking is intentional and repeated harassment or repeated following of another person, which places that person in reasonable fear that the stalker intends to injure the person, another person, or the property of the person or another person, and the stalker either intends to frighten, intimidate, or harass the person, or knows or reasonably should know that the person is frightened, intimidated or harassed, even if the stalker lacks such an intent. The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person. The feeling of fear must be one that a reasonable person in the same situation would experience under all the circumstances.

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

(6) Attempted or actual 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; or

(c) Any other person or organization, or possession of such property or money after it has been stolen.

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

(8) Participation in any activity which unreasonably disrupts the operations of the college or infringes on the rights of another member of the college community, or leads or incites another person to engage in such an activity.

(9) Weapons: Possession of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device or any other weapon apparently capable of producing bodily harm, unless previously authorized by the vice-president of instruction and student services. See board policy 7800 for additional details.

(10) Hazing. Hazing includes, but is not limited to, any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student.

(11) Tobacco, electronic cigarettes, and related products: The use of tobacco, electronic cigarettes, and related products in any building owned, leased or operated by the college or in any location where such use is prohibited, or in any location other than the parking lots, including twenty-five feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased or operated by the college. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.

(12) Alcohol: The use, possession, delivery, sale, or being visibly under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(13) Marijuana: The use, possession, delivery, sale, or being visibly 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.

(14) Being observably under the influence of any legend drug, narcotic drug or controlled substance as defined in chapters 69.41 and 69.50 RCW, or otherwise using, possessing, delivering, or selling any such drug or substance, except in accordance with a lawful prescription for that student by a licensed health care professional.

(15) Obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity.

(16) Conduct which is disorderly, lewd, or obscene.

(17) Breach of the peace.

(18) Discriminatory conduct: Discriminatory conduct which harms or adversely affects any member of the college community because of her or his race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification.

(19) Sexual violence: The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated without clear, knowing, and voluntary consent, such as committing a sexual act against a person's will, exceeding the scope of consent, or where the person is incapable of giving consent, including rape, sexual assault, sexual battery, sexual coercion, sexual exploitation, gender- or sex-based stalking. The term further includes acts of dating or domestic violence and dating violence.

(a) Domestic violence: Includes (i) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (ii) sexual assault of one family or household member by another; or (iii) stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member. Pursuant to chapter 10.99 RCW, domestic violence also includes, but is not limited to, the following crimes when committed by one family or household member against another: Assault; drive-by shooting; reckless endangerment; coercion; burglary; criminal trespass; malicious mischief; kidnapping; unlawful im-

prisonment; and violation of a restraining order, no-contact order or protection order.

(b) Dating violence: Violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

(c) Stalking: Intentional and repeatedly harassing or following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated or harassed, even if the perpetrator lacks such intent. In addition to any other form of communication or conduct, the sending of an electronic communication may constitute stalking.

(d) Consent: At the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

(20) Sexual harassment: Conduct includes, but is not limited to, engaging in unwelcome sexual advances, requests for sexual favors, or other sexual conduct, including verbal, nonverbal, electronic or social media communication, or physical touching that would substantially interfere with a reasonable person's work or educational performance, or to create an intimidating, hostile, or offensive educational environment.

(21) Harassment: Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See supplemental definitions: "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic media.

(22) 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 electronic use policy.

(23) 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.

(24) Abuse or misuse of any of the procedures relating to student complaints or misconduct including, but not limited to:

(a) Failure to obey a subpoena or order to appear at a hearing;

(b) Falsification or misrepresentation of information;

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

(d) Interfering with someone else's proper participation in a proceeding;

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

(f) Attempting to influence the impartiality of, or harassing or intimidating, a student disciplinary committee member; or

(g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code.

(25) Operation of any motor vehicle on college property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person.

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

(27) 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.

(28) Aiding, abetting, inciting, encouraging, or assisting another person to commit any of the foregoing acts of misconduct.

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

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

**WAC 132R-04-063 Disciplinary sanctions.** (~~If any student is found to have violated any of the offenses enumerated at WAC 132-04-057, one or more of the following sanctions may be imposed against the student or student organization. Failure to comply with any imposed sanctions may result in additional sanctions.~~

~~(1) Minor disciplinary sanction:~~

~~(a) "Disciplinary warning." Formal action censoring a student for unacceptable conduct or violation of college rules or regulations. The student is notified in writing of this action. Warnings imply that~~

further unacceptable conduct or violation of rules will result in one of the more serious actions described below.

(b) "Disciplinary probation." Formal action placing condition on the student's continued attendance for violation of specified regulations. The disciplinary probation shall specify, in writing, the period of probation and the conditions which may include conditions such as limiting the student's participation in college related privileges or extracurricular activities or enforcing a "no contact" order which would prohibit direct or indirect physical and/or verbal contact with specific individuals or groups. Disciplinary probation further shall give the student notice that any further misconduct will automatically raise the question of suspension from the college. Disciplinary probation shall be for a specified period of time.

(c) "Educational activities." Activities designed to foster student development may include, but are not limited to, community service, attendance at educational programs, or written assignments.

(d) "Restitution." Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

(e) "Assessment." Referral for drugs/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.

(2) Major disciplinary sanction:

(a) "Disciplinary suspension." Formal action taken by authorized personnel (the president or anyone authorized to act in the absence of the president) dismissing a student temporarily from the college for unacceptable conduct or violation of college rules or regulations. Suspension may be for a stated or for an indefinite period, but the implication of the action is that the student may eventually return if evidence or other assurance is presented that the unacceptable conduct will not be repeated. The notification suspending the student must state the conditions to be met and whether the action is to be noted permanently on the student's record. The student and vice president of student services are notified in writing of the action taken, the terms of the suspension and any conditions involved, and the dean of enrollment services is requested to enter the action on the student's academic record. No fees will be refunded for the quarter in which the action is taken.

(b) "Disciplinary expulsion." Discretionary action by authorized personnel dismissing a student permanently for flagrantly unacceptable conduct or violation of college rules or regulations. Unlike suspension, no term is involved, the action always becomes effective on notice. Expulsion must have the prior approval of the president. The student is notified in writing of the action taken, and the dean of enrollment services is requested to enter the action permanently on the student's academic record.

(c) "Hold" (administrative). Attachment of a student's record to assure compliance with college rules, procedures, or obligations. The "hold" may be placed on the student's record by the authorized college office responsible for enforcement of the rule, procedure, or obligation involved. The authorized office must request the dean of enrollment services in writing to place a "hold" on the student's record. The student will not be permitted to register for any subsequent quarter nor to obtain a transcript of his/her record except on the written release of the office which placed the "hold."

~~(d) "Registration canceled" (administrative). Privileges of attendance withdrawn, effective immediately on notice.~~

~~(i) By order of the business office for financial delinquencies. (Handled as a withdrawal for recording purposes.)~~

~~(ii) By order of the vice president of student services for failure to comply with rules, regulations or instructions.~~

The order canceling a registration must be addressed to the student involved in writing. The registration office automatically will place a "hold" on the student's record to prevent registration for future quarters and the issuance of transcripts.)) **Sanctions.** Disciplinary actions include, but are not limited to, the following sanctions that may be imposed upon students according to the procedure outlined in WAC 132R-04-057.

(1) Warning: A verbal statement to a student that there is a violation and that continued violation may be cause for further disciplinary action.

(2) 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. Other conditions and restrictions may include, but not be limited to, restrictions from being present on certain parts of the campus or in certain college buildings; restriction from attending certain college activities; orders of no contact between the student under probation and other students, college employees, or other persons.

A student who is on disciplinary probation 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.

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

(5) 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.

(6) Professional evaluation: Referral for drug, alcohol, psychological or medical evaluation by an appropriately certified or li-



censed 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.

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

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

**WAC 132R-04-064 ((Interim discipline.)) Summary suspension.**

~~((1) Disciplinary actions of the college will be implemented by the president, except as such implementation may be delegated by the president or the board of trustees. Ordinarily, the disciplinary authority of the college will be invoked only after completion of the procedures established for the review of disciplinary cases and after the student, if he/she so wishes, has availed himself/herself of the appeal procedures. However, in situations where there is cause to believe that the student or the student organization poses an immediate threat to himself or herself, to others or to property, or is incapable of continuing as a student for medical or psychological reasons, or where it is believed that the student's continued attendance or presence may cause disorder or substantially interfere with or impede the lawful activities of others or imperil the physical or mental health and safety of members of the college community, interim actions may be taken immediately without prior notice or hearing. These actions, taken by the president or the president's designee, may include:~~

~~(a) Interim restrictions, including, but not limited to, assignment to alternate college housing or removal from college housing, limitation of access to college facilities, or restriction of communication with specific individuals or groups;~~

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

~~(c) Mandatory medical/psychological assessment, including referral to outside, medical professionals and/or to the mental health advisory board for assessment of the student's capability to remain in the college.~~

~~(2) Each instructor is authorized to implement interim suspension when necessary to preserve order and to maintain effective cooperation of the class in fulfilling the objective of the course. An instructor imposing an interim suspension shall report such action, in writing, to the division chair, vice president of student services, and vice president of instruction.~~

~~(3) In all cases of interim discipline, the student or student organization is entitled to personally appeal before the vice presi-~~

~~dent of student services or designee as soon as is reasonably possible. The student disciplinary review request must be submitted in writing no later than ten working days from the date of said disciplinary action.~~

~~(4) The vice president of student services shall conduct a meeting with the student within five working days after receipt of the disciplinary review request. As a result of the meeting between the vice president of student services and the student, the vice president may recommend to the president or the president's designee either continuation or termination of the interim discipline and/or initiate disciplinary procedures in accordance with WAC 132R-04-112 through 132R-04-160.))~~ (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The vice-president of instruction and student services (or designee) may impose a summary suspension if there is probable cause to believe that the respondent:

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

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

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

(3) Notice. Any respondent who has been summarily suspended shall be served with written notice or oral notice of the summary suspension at the time of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two business days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension Proceedings" and shall include:

(a) The reasons for imposing the summary suspension, including reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the chair of the student disciplinary committee for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the respondent shall be considered trespassing and subject to arrest for criminal trespass if the respondent enters the college campus other than to meet with the student conduct officer or designee, or to attend a disciplinary hearing.

(5)(a) The conduct review officer or designee shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension. The hearing will be conducted as a brief adjudicative proceeding.

(b) 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.

(c) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary pro-

ceedings are pending or why the summary suspension should be less restrictive in scope.

(d) If the notice of summary suspension proceedings has been served upon the respondent in accordance with these rules and the student 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.

(e) As soon as practicable following the hearing, the conduct review officer shall issue a written decision, which shall include a brief statement of findings of fact and conclusions of law, the policy reasons justifying imposition of the summary suspension. If summary suspension is upheld and/or other discipline imposed, the order shall inform the respondent of the duration of the summary suspension or the nature of the disciplinary action(s), conditions under which the summary suspension may be terminated or modified, and procedures by which the order may be appealed.

(f) The interim suspension shall not replace the regular discipline process, which shall proceed as quickly as feasible in light of the interim suspension.

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

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

**WAC 132R-04-067 ((~~Readmission after major discipline.~~) Appeal from disciplinary action.** ((~~Any petition for readmission by a student suspended or expelled for disciplinary reasons other than poor scholarship must be addressed to the office of the vice president of student services. Such a petition must be in writing and must state in detail the reasons why the penalty should be reconsidered. Since the president of the college or his/her designee participates in disciplinary decisions suspending/expelling students from the college, decisions on such petitions for readmission must be reviewed and approved by the president before being announced to the petitioner.~~)) (1) The respondent may appeal the results of a disciplinary action by filing a written notice of appeal with the conduct review officer within twenty days of service of the discipline order. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's order shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent and the conduct review officer.

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

(5) The Administrative Procedure Act, chapter 34.05 RCW, governs committee proceedings and controls in the event of any conflict with these rules.

(6) The college hereby adopts the Model rules of procedure, chapter 10-08 WAC, by reference. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

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

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

(a) Suspensions in excess of ten instructional days;

(b) Dismissals; and

(c) Discipline cases referred to the committee by the student conduct officer.

(9) Student conduct appeals involving the following disciplinary actions shall be heard as brief adjudicative proceedings:

(a) Suspensions of ten instructional days or less;

(b) Disciplinary probation;

(c) Reprimands; and any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

**WAC 132R-04-100 ((~~Delegation of disciplinary~~) Authority.** ((~~The board, acting pursuant to RCW 28B.50.140(14), do by written order delegate to the president of the college authority to administer the disciplinary action prescribed in WAC 132R 04 150. All disciplinary actions in which there is a recommendation that a student be suspended or expelled, shall be acted upon by the president or his/her designee as listed in the Big Bend Community College board of trustees policy book, section BP 1004.5.~~) The Big Bend Community College (BBCC) board of trustees, acting according to RCW 28B.50.140(14), delegates to the president of the college the authority to administer disciplinary action. Administration of the disciplinary procedures is the responsibility of the vice-president of instruction and student services. The vice-president of instruction and student services will serve as the student conduct officer, or appoint a designee. The student conduct officer shall serve as the principal investigator and administrator for alleged violations of this code.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

**WAC 132R-04-112 ((~~Discipline statement.~~) Initiation of disciplinary action.** ((~~(1) The vice president of student services is the primary agent for the administration of discipline for unacceptable conduct or infraction of college rules except those which are the responsibility of divisions and instructors as hereafter described.~~

~~(a) The division chair and faculty of each division are responsible for the administration of discipline for infraction of rules and regulations of the college or for unacceptable conduct by students in matters relating to their academic progress.~~

~~(b) The instructor is responsible for the maintenance of order and proper conduct in the classroom. He/she is authorized to impose interim suspension as may be necessary to preserve order and to maintain the effective cooperation of the class in fulfilling the objectives of the course.~~

~~(2) The instructor of each course shall be responsible for the maintenance of order and proper student conduct in a classroom. Each instructor is authorized to impose interim suspension in order to preserve order and to maintain effective cooperation of the class in fulfilling the objective of the course. In the event of disruptive classroom conduct, academic misconduct, and/or dishonesty, the instructor may take any and all reasonable action against any student. A course of action might include, but not be limited to:~~

~~(a) Issuing a failing grade on a particular test, paper, assignment, or course.~~

~~(b) Dismissing the student(s) from class pending a hearing with the vice president of student services.~~

~~(c) Dropping the student from the course.~~

~~(d) Referring the case to local authorities for civil action.~~

~~(3) An instructor taking action against any student for an act of disruptive classroom conduct, academic misconduct, and/or dishonesty, shall report such action in writing to the division chair, appropriate dean, vice president of student services, and vice president of instructional services as soon as possible. Any student subject to action of an instructor for a code of conduct violation may seek review of that action by the vice president of student services. The student disciplinary review request must be submitted in writing to the vice president of student services within ten working days from the date of said disciplinary action.)~~ (1) Disciplinary proceedings will be initiated by the vice-president of instruction and student services or a designee. If that officer is the subject of a complaint initiated by the respondent, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complainant.

(2) A student accused of violating any provision of the conduct code (the respondent) shall be notified of an initial meeting with the vice-president of instruction and student services. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code the respondent is charged with violating, 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 appear after proper notification, the student conduct officer may take disciplinary action based upon the available information.

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

(4) The vice-president of instruction and student services, acting in the role of student conduct officer, may take any of the following actions:

(a) Terminate the proceeding, exonerating the respondent;

(b) Dismiss the case after providing appropriate counseling and advice to the respondent. Such action is final and is not subject to review on appeal;

(c) Issue a verbal warning to the respondent directly. Such action is final and is not subject to review on appeal;

(d) Impose additional sanctions of reprimand, disciplinary probation, suspension or dismissal. Such actions are subject to review on appeal as provided in this chapter; refer the matter directly to the student disciplinary committee for such action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the disciplinary committee, with a copy served on the respondent.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

**WAC 132R-04-115 ((Disciplinary action.)) Brief adjudicative proceedings.** ~~((1) A student charged with unacceptable conduct is entitled to a fair hearing. The procedures set forth below shall be interpreted and administered in such a way as to accomplish this objective. Disciplinary proceedings are not to be construed as judicial trials; care will be taken to comply as fully as possible with the spirit and intent of procedural safeguards relative to the rights of the individual concerned.~~

~~(a) When disciplinary action is initiated by a faculty member for disruptive classroom conduct, academic misconduct, and/or dishonesty, a written report of the occurrence shall be filed with the division chair, appropriate dean, vice president of student services, and vice president of instruction.~~

~~(b) All other instances of misconduct shall be reported to the vice president of student services.~~

~~(c) Any student accused of violating any provisions of the rules of student conduct **shall** be called for an initial conference with the vice president of student services or his/her designated representative, and **shall** be informed of what provision of the rules of student conduct have been violated, and the maximum penalties, if any, which might result from initiation of a disciplinary proceeding.~~

~~(2) After considering the evidence in the case and interviewing the student or students accused of violating the rules of student conduct, the vice president of student services or his/her designated representative may take any of the following actions:~~

~~(a) Terminate the proceedings, exonerating the student or students;~~

~~(b) Dismiss the case after whatever counseling and advice may be appropriate;~~

~~(c) Impose minor sanctions directly (warning or reprimand);~~

~~(d) Refer the case to the disciplinary committee.~~

~~(3) Should a disciplinary committee hearing be necessary, the student shall be notified **in writing** as to the date, time, place of the hearing, and charge(s), including reference to the particular sec-~~

tions of the rules of student conduct involved. He/she shall be permitted to examine the evidence against him/her and where pertinent shall be given the names of those who will be witnesses against him/her. In the hearing he/she may present evidence, testimonial or documentary, in his/her behalf.

(4) The president or vice president of student services shall notify the student in writing of the final determination on any charge of unacceptable conduct. In the case of a student under eighteen years of age who is expelled, suspended or placed on disciplinary probation, the parents or guardian of the student shall also be notified in writing. (This does not apply to emancipated minors.)

(1) **Brief Adjudicative Proceedings.** This rule is adopted in accordance with RCW 34.05.482 through 34.05.494. Brief adjudicative proceedings shall be used, unless provided otherwise by another rule or determined otherwise in a particular case by the president, or a designee, in regard to:

- (a) Parking violations.
- (b) Outstanding debts owed by students or employees.
- (c) Use of college facilities.
- (d) Residency determinations.
- (e) Use of library - Fines.
- (f) Challenges to contents of education records.
- (g) Loss of eligibility for participation in institution sponsored athletic events.

(h) Student conduct appeals involving the following disciplinary actions:

- (i) Suspensions of ten instructional days or less;
- (ii) Disciplinary probation;
- (iii) Written reprimands; and
- (iv) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(i) Appeals of decisions regarding mandatory tuition and fee waivers.

Brief adjudicative proceedings are informal hearings and shall be conducted in a manner which will bring about a prompt fair resolution of the matter.

(2) **Brief Adjudicative Proceedings - Initial Hearing.** The initial hearing (also known as a brief adjudicative proceeding) is an initial and less formal process designed to resolve disputes and address concerns on the part of students, faculty, or other college personnel.

(a) Brief adjudicative proceedings shall be conducted by the appropriate dean or the associate vice-president of student services, acting as the presiding officer. The presiding officer shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(b) Before taking action, the presiding officer shall conduct an informal hearing and provide each party (i) an opportunity to be informed of the college's view of the matter and (ii) an opportunity to explain the party's view of the matter.

(c) The presiding officer shall serve an initial order upon both the parties within ten days of consideration of the initial hearing. The initial order shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial order. If no request for review is filed within twenty-one days of service of the initial order, the initial order shall be deemed the final order.

(d) If the conduct review officer upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student disciplinary committee for a disciplinary hearing. The conduct review officer may enter an interim order suspending the student until a hearing can be held by the student disciplinary committee. The interim order shall provide a brief explanation as to facts supporting the interim order of suspension and give the necessary notices that the case has been referred to the student disciplinary committee.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

**WAC 132R-04-117 Student disciplinary committee.** (~~((1) The committee shall be a standing committee composed of one administrator appointed by the president, two faculty members selected by the college faculty association and two students selected by the student government.~~

~~(2) If any member of the committee is unable to consider a particular disciplinary proceeding for any reason including a conflict of interest, such member shall be temporarily replaced by a student or faculty member as appropriate pursuant to the procedure established in this section.~~

~~(3) The disciplinary committee shall conduct such hearing within twenty working days after disciplinary action has been referred to such committee and shall give the student charged with violation of the rules of student conduct a minimum notice of five working days of said hearing as specified within the following section. With the mutual agreement of the parties, the hearing date may be continued beyond the twenty working day limit.)~~ (1) The student disciplinary committee shall consist of five members:

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

(b) Two faculty members recommended by the faculty association and appointed by the president;

(c) One member of the administration appointed by the president at the beginning of the academic year. The chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

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

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

(4) Members of the student disciplinary committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition for disqualification of a committee member pursuant to RCW 34.05.425(4).



**WAC 132R-04-130 Student disciplinary committee ((procedures)) process.** ((~~(1) The hearing panel will hear, de novo, and make recommendations to the president of the college on all disciplinary cases referred to it by the vice president of student services.~~

~~(2) The student has a right to a fair and impartial hearing before the disciplinary committee on any charge of violating the rules of student conduct. The student's failure to cooperate with the hearing procedures hereinafter outlined, however, shall not preclude the disciplinary committee from making its findings of fact, conclusions and recommendations as provided herein.~~

~~(3) The student shall be given written notice of the time and place of the hearing before the disciplinary committee by personal service or registered mail and be afforded not less than five working days notice thereof. Said notice shall contain:~~

~~(a) A statement of the time, place and nature of the disciplinary proceeding.~~

~~(b) A statement of the charges against him/her including reference to the particular sections of the rules of student conduct involved.~~

~~(4) The student shall be entitled to hear and examine the evidence against him/her and be informed of the identity of its source; he/she shall be entitled to present evidence in his/her own behalf and cross examine witnesses testifying against him as to factual matters.~~

~~(5) The student has the right to be assisted by any (one) advisor he/she may choose, at his/her own expense. The advisor may be an attorney. The student is responsible for presenting his/her own case and, therefore, advisors are not permitted to speak or to participate directly in a hearing. The accused student can, however, speak with his/her advisor during the hearing. If the student utilizes an attorney as an advisor, the student shall give the vice president of student services three days' notice of intent to do so.~~

~~(6) In all disciplinary proceedings, the college may be represented by a designee appointed by the vice president of student services; said designee may then present the college's case against the student accused of violating the rules of student conduct, provided that in those cases in which the student elects to have a licensed attorney act as his/her advisor, the vice president of student services may elect to have the college represented by an assistant attorney general.~~

~~(7) If, at the conclusion of the hearing, the committee finds that the student has committed one or more violations, and that such violations are in fact violations of a rule or rules of student conduct, the committee shall make such a finding and recommend such disciplinary action as they shall deem appropriate against the student. Prior acts of misconduct may be considered in making the recommendation for disciplinary action.~~

~~(8) During the course of the proceeding an adequate summary of all the evidence and facts will be taken. A copy shall be available at the office of the vice president of student services.))~~ **(1) Student Disciplinary Committee Process.**

(a) The committee chair shall serve all parties with written notice of the hearing not less than seven days in advance of the hearing date, as further specified in RCW 34.05.434 and WAC 10-08-040 and

10-08-045. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause.

(b) The committee chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and forms of any discovery, issuance of protective orders, and similar procedural matters.

(c) Upon request filed at least five days before the hearing by either 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 in their respective cases. 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, unless the party can show good cause for such failure.

(d) The committee chair may provide to the committee members in advance of the hearing copies of (i) the conduct officer's notification of imposition of discipline (or referral to the committee) and (ii) 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.

(e) 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.

(f) The vice-president of instruction and student services (or designee) shall provide reasonable assistance to the respondent, upon request, in obtaining relevant and admissible evidence that is within the college's control.

(g) 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; any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(h) Each party may be accompanied at the hearing by a nonattorney assistant of his or her choice. A respondent may elect to be represented by an attorney at his or her own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer. The committee will ordinarily be advised by an assistant attorney general. If the respondent is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general.

## **(2) Student Disciplinary Committee Hearings - Presentation of Evidence.**

(a) Upon the failure of any party to attend or participate in a hearing, the committee may either (i) proceed with the hearing and issuance of its order or (ii) serve an order of default in accordance with RCW 34.05.440.

(b) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings should 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.

(c) The chair shall cause the hearing to be recorded by a method that he or she selects, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to the respondent 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 the respondent. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(d) 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.

(e) The vice-president of instruction and student services or a designee (unless represented by an assistant attorney general) shall present the case for disciplinary action. The facts justifying any such action must be established by a preponderance of the evidence.

(f) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(3) **Supplemental Sexual Misconduct Procedures.** Both the respondent and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the initial discipline action and to appeal the student conduct officer's disciplinary order.

Application of the following procedures is limited to student conduct code proceedings involving allegations of sexual misconduct. In such cases, these procedures shall supplement the student disciplinary procedures. In the event of conflict between the sexual misconduct procedures and the student disciplinary procedures, the sexual misconduct procedures shall prevail.

(4) **Supplemental Definitions.** For purposes of student conduct code proceedings involving sexual misconduct, the following definitions apply:

(a) The "complainant" is the alleged victim of sexual misconduct. Complainant also refers to the college when the college files the complaint.

(b) "Sexual misconduct" is a sexual or gender-based violation of the student conduct code including, but not limited to:

(i) Sexual activity for which clear and voluntary consent has not been given in advance;

(ii) Sexual activity with someone who is incapable of giving valid consent because, for example, she or he is underage, sleeping or otherwise incapacitated due to alcohol or drugs;

(iii) Sexual harassment;

(iv) Sexual violence which includes, but is not limited to, sexual assault, domestic violence, intimate violence, and sexual- or gender-based stalking;

(v) Nonphysical conduct such as sexual- or gender-based digital media stalking, sexual- or gender-based online harassment, sexual- or gender-based cyberbullying, nonconsensual recording of a sexual activity, and nonconsensual distribution of a recording of a sexual activity.

(5) **Supplemental Complaint Process.** The following supplemental procedures shall apply with respect to complaints or other reports of alleged sexual misconduct by a student.

(a) The college's Title IX compliance officer shall investigate complaints or other reports of alleged sexual misconduct by a student. Investigations will be completed in a timely manner and the results of

the investigation shall be referred to the student conduct officer for disciplinary action.

(b) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

(c) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done without unreasonably risking the health, safety and welfare of the complainant or other members of the college community or compromising the college's duty to investigate and process sexual harassment and sexual violence complaints.

(d) The student conduct officer, prior to initiating disciplinary action, 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.

(e) The student conduct officer, 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 his or her appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure prompt notice of the protective disciplinary sanctions and/or conditions.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

**WAC 132R-04-140 Student disciplinary committee ((~~decision~~))—Initial order.** ((~~Upon conclusion of the disciplinary hearing, the disciplinary committee shall consider all the evidence therein presented and decide by majority vote as to the specific findings and conclusions required pursuant to WAC 132R-04-130, and whether to recommend to the president any of the following actions:~~

~~(1) That the college terminate the proceedings and exonerate the student or students;~~

~~(2) That the president or his/her designee impose any of the disciplinary action as provided in WAC 132R-04-150.))~~ (1) At the conclusion of the hearing, the 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 an order for its consideration.

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

ings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(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 determine any disciplinary sanction or conditions authorized herein. If the matter is an appeal by the respondent, the committee may affirm, reverse, or modify the discipline imposed by the student conduct officer and/or impose any other disciplinary sanction or conditions authorized herein.

(4) The committee chair shall provide copies of the initial order to the parties and any legal counsel who have appeared. The committee chair shall also promptly transmit a copy of the order and the record of the committee's proceedings to the college president and the vice-president of instruction and student services.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

**WAC 132R-04-150 ((Imposition of discipline.)) Appeal from student disciplinary committee initial order.** ~~((1) The college president or his/her designee shall review all hearings for which the disciplinary committee has recommended disciplinary action and determine whether or not disciplinary action shall be imposed against the said student. With the exception of interim discipline as authorized by WAC 132R-04-064, the college president or his/her designee shall have no authority to impose any disciplinary action on a student unless disciplinary action has been recommended by the disciplinary committee against such student or unless such student has waived his/her right to a hearing before such disciplinary committee.~~

~~(2) In determining whether or not to impose disciplinary action against a student, the president shall review the summary of the evidence and facts presented to the disciplinary committee and the recommendation of the disciplinary committee, the college president shall then determine whether or not to impose disciplinary action in any form. Prior acts of misconduct may be considered in making a decision.~~

~~(3) Discipline may be imposed by the college president or his/her designee for violations of the rules of conduct, not only in those instances where the disciplinary committee has made recommendations after a hearing, but also in cases where the student has waived his/her right to such a hearing. Sanctions available to the president are described in WAC 132R-04-056 and 132R-04-063.)~~ **(1) Appeal From Student Disciplinary Committee Initial Order.**

(a) A respondent who is aggrieved by the findings or conclusions issued by the student disciplinary committee may appeal the committee's initial order to the president by filing a notice of appeal with the president's office within twenty days of service of the committee's initial order.

(b) The notice of appeal must assign error to specific findings of fact and/or conclusions of law in the initial order and must contain argument regarding why the appeal should be granted. The presi-

dent's review on appeal shall be limited to a review of those issues and arguments raised in the notice of appeal. Review shall be restricted to the record created below.

(c) The president shall provide a written order to all parties within forty-five days after receipt of the notice of appeal. The president's decision shall be final.

(d) The president may, at his or her discretion, suspend any disciplinary action pending review of the merits of the findings, conclusions, and disciplinary actions imposed.

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

(2) **Supplemental Appeal Rights.**

(a) The following actions by the student conduct officer may be appealed by the complainant:

(i) The dismissal of a sexual misconduct complaint; or

(ii) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.

(b) A complainant may appeal a disciplinary decision by filing a notice of appeal with the conduct review officer within twenty days of service of the notice of the discipline decision provided for in WAC 132R-04-140. The notice of appeal may include a written statement setting forth the grounds of appeal. Failure to file a timely notice of appeal constitutes a waiver of this right and the disciplinary decision shall be deemed final.

(c) 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.

(d) Except as otherwise specified in this supplemental procedure, a complainant who timely appeals a disciplinary decision or who intervenes as a party to respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.

(e) Respondent and complainant shall have the right to be accompanied by a nonattorney assistant of their choosing during the appeal process. Complainant may choose to be represented at the hearing by an attorney at his or her own expense, but will be deemed to have waived that right unless, at least four business days before the hearing, he or she files a written notice of the attorney's identity and participation with the committee chair, and with copies to the respondent and the student conduct officer.

(f) During the proceedings, complainant and respondent shall not directly question or cross examine one another. All questions shall be directed to the chair, who will act as an intermediary and pose questions on the parties' behalf.

(g) Hearings involving sexual misconduct allegations shall be closed to the public, unless respondent and complainant both waive this requirement in writing and request that the hearing be open to the public. Complainant, respondent and their respective nonattorney assistants and/or attorneys may attend portions of the hearing where argument, testimony and/or evidence are presented to the student conduct committee.

(h) The student conduct committee will serve complainant a written notice indicating that an initial order has issued on the same date that the initial order is served on respondent. This notice shall inform the complainant whether the sexual misconduct allegations were

found to have merit and describe any sanctions and/or conditions imposed upon the respondent for complainant's protection. The notice shall also provide directions on how the complainant can appeal the decision to the president.

(i) Complainant may appeal the student conduct committee's initial order to the president subject to the same procedures and deadlines applicable to other parties.

(j) The president will serve complainant a written notice indicating that the appeal has been resolved on the same date that the final order is served upon the respondent. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

**WAC 132R-04-160 ((~~Student appeal.~~) Brief adjudication proceedings—Review of an initial order.** ((~~Any student feeling aggrieved by the recommendations of the disciplinary committee or the order of the college president or his/her designee imposing disciplinary action may appeal the same in writing by directing an appeal to the college president or his/her designee within fifteen days following receipt of the order of the president or his/her designee imposing disciplinary action. The college president or his/her designee may, at his/her discretion, suspend any disciplinary action pending determination of the merits of the findings, conclusions and disciplinary action imposed.~~))

(1) An initial order is subject to review by the president or his or her designee, provided the respondent files a written request for review with the conduct review officer within twenty-one days of service of the initial order.

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

(3) During the review, the president or designee 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 proceedings must be referred to the student disciplinary committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within twenty business days of the initial order or of the request for review, whichever is later. The order 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 reviewing officer does not make a disposition of the matter within twenty days after the request is submitted.

(5) If the president or designee upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten instructional days or expulsion, the matter shall be referred to the student disciplinary committee for a disci-

plinary hearing. The president or designee may enter an interim order suspending the student until a hearing can be held by the student disciplinary committee. The interim order shall provide a brief explanation as to facts supporting the interim order of suspension and give the necessary notices that the case has been referred to the student disciplinary committee.

AMENDATORY SECTION (Amending WSR 03-15-063, filed 7/14/03, effective 8/14/03)

**WAC 132R-04-165** ~~((Maintenance of disciplinary records.))~~ **Brief adjudication proceedings—Agency record.** ~~((1) The vice president of student services shall keep records of all disciplinary cases. The division chair shall report to the vice president of student services and appropriate dean, in writing, all cases in which disciplinary action is taken.~~

~~(2) The vice president of student services shall notify the chair and the dean of the division in which the student is enrolled and the dean of enrollment services of any disciplinary action taken, which is to be recorded on the student's official record, and shall keep accurate records of all disciplinary cases handled by, or reported to, his/her office.~~

~~(3) The vice president of student services shall receive and maintain certain records of all disciplinary action taken by any college employee. These records should be consulted by disciplinary authorities for records of previous misconduct before taking disciplinary action in any case.)~~ **The agency 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. These records shall be maintained as the official record of the proceedings.**