TITLE:	**STUDENT RIGHTS AND RESPONSIBILITIES POLICY (STUDENT CONDUCT CODE)**
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WAC 132U-125-001 AUTHORITY. The board of trustees, acting pursuant 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 student affairs or designee. The student conduct officer shall serve as the principal investigator and administrator for alleged violations of this code.

WAC 132U-125-003 – PURPOSE. Whatcom Community College, as a state supported institution of higher education, has a primary mission to contribute to the vitality of its communities by providing quality education and preparing students for active citizenship in a global society. Students and college personnel share the responsibility of contributing to a learning environment that promotes academic integrity, social justice, civility, and nonviolence within a safe and supportive college community.

Enrollment in Whatcom Community College carries with it the obligation to be a responsible citizen of the college community and to treat others with respect and dignity. Each student is expected to abide by college policies and regulations along with local, state, and federal laws. The student conduct code and disciplinary procedures are implemented to support the college mission and to assist in the protection of the rights and freedoms of all members of the college community.

WAC 132U -125-005 - STATEMENT OF JURISDICTION. The student conduct code shall apply to student conduct that occurs on college premises, to conduct that occurs at or in connection with college sponsored activities, or to off-campus conduct that in the judgment of the college adversely affects the college community or the pursuit of its objectives. Jurisdiction extends to, but is not limited to, locations in which students are engaged in official college activities including, but not limited to, foreign or domestic travel, activities funded by the associated students, athletic events, training internships, cooperative and distance education, on-line education, practicums, supervised work experiences, study abroad, 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 college has sole discretion, on a case by case basis, to determine whether the student conduct code will be applied to conduct that occurs off-campus.

WAC 132U -125-010 – DEFINITIONS. The following definitions shall apply for purpose of this student conduct code:

(1) "Business day" means a week-day, excluding weekends and college holidays.

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

(3) "Conduct review officer" is the vice president of student services or other college administrator designated by the president to be responsible for receiving and for reviewing or referring appeals of student disciplinary actions in accordance with the procedures of this code. The president is authorized to reassign any and all of the conduct review officer's duties or responsibilities as set forth in this Chapter as may be reasonably necessary.

(4) "Disciplinary action" is the process by which the student conduct officer imposes discipline 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 (10) business days or an expulsion are heard by the student conduct appeals board. Appeals of all other appealable disciplinary action shall be reviewed through brief adjudicative proceedings.

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

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

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

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

(7) "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.

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

(9) "Service" is the process by which a document is officially delivered to <u>a person</u>. Unless otherwise provided, service upon a <u>person</u> shall be accomplished by:

a) Hand-delivery of the document to a person; or

b) Sending the document by email, by certified or first class mail to the person's last <u>known</u> address.

Service is deemed complete upon the hand-delivery of the document, or upon the date the

document is emailed or post-marked by the mail service.

(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, non-credit courses, on-line courses, or otherwise. Persons who withdraw after allegedly violating the code, who are not officially enrolled for 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) "Student conduct officer" is a college administrator designated by the president or vice president of student services to be responsible for implementing and enforcing the student conduct code. The president or vice president of student services is authorized to reassign any and all of the student conduct officer's duties or responsibilities as set forth in this Chapter as may be reasonably necessary.

(12) "Summons" is the contact by the college to arrange the disciplinary meeting or hearing. This contact may be by telephone, email, in-person, or by certified mail.

WAC 132U -125-015 STATEMENT OF STUDENT RIGHTS. As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the college community.

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

(1) **Academic freedom.**

a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW 28B.50.090 (3)(b).

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

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

(2) **Due process.**

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

b) No disciplinary sanction may be imposed on any student without notice to the

accused of the nature of the charges.

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

(3) **Student participation in college governance.**

a) Whatcom Community College recognizes the special role that students have in the development and maintenance of student programs.

b) The college provides opportunities for students to participate in college governance, including the formulation of college policies and procedures relevant to students, through representation by the Associated Students of Whatcom Community College (ASWCC).

c) Students are also appointed, according to the ASWCC constitution and bylaws, to serve on a variety of college committees.

WAC 132U-125-020 STUDENT RESPONSIBILITIES AND PROHIBITED CONDUCT.

As members of the Whatcom Community College community, students have an obligation to demonstrate academic and personal honesty and integrity. Students are expected to respect individual rights, recognize their impact on others, and take responsibility for their actions.

Students may be subject to disciplinary action for any activity that unreasonably disrupts the operations of the college or infringes on the rights of another member of the college community. Students are prohibited from engaging in any unlawful conduct and may be subject to criminal or civil prosecution. The college may apply disciplinary proceedings for student conduct on or off the college premises that, in the judgment of the college, adversely affects the college community or the pursuit of its objectives. The college may carry out these disciplinary proceedings prior to, simultaneous to, or following civil or criminal proceedings in court.

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

(1) **Academic Dishonesty**. Any act of academic dishonesty, including but not limited to cheating, plagiarism, and fabrication:

a) Cheating includes any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

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

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

(2) **Other Dishonesty**. Such acts include, but are not limited to:

a) Forgery, alteration, submission of falsified documents or misuse of any college document, record, or instrument of identification;
b) Tampering with an election conducted by or for college students; or
c) Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a college officer or employee.

(3) **Obstruction or Disruption**. Obstruction or disruption of (a) any instruction, services, research, administration, disciplinary proceeding, or other college activity, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity; or (b) any activity that is authorized to occur on college property or under college jurisdiction, whether or not actually conducted or sponsored by the college.

(4) **Assault or Intimidation**. 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 paragraph:

a) Bullying is physical or verbal abuse, repeated over time, and involves a power imbalance between the aggressor and victim.
b) Stalking is intentional and repeated following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate or harass that ~~the~~ person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated or harassed, even if the stalker lacks such an intent.

(5) **Cyber-Misconduct.** Cyber-stalking, cyber-bullying or on-line 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 email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's email identity, non-consensual recording of sexual activity, and non-consensual distribution of a recording of sexual activity.

(6) **Property Violation**. 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 Directive**. 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) **Weapons:** Carrying, exhibiting, displaying or drawing any firearm, dagger,

sword, knife or other cutting or stabbing instrument, club, explosive device or any other weapon capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons. No person or group may use or enter onto Whatcom Community College grounds or facilities, owned or leased, while having in their possession firearms or other dangerous weapons, even if licensed to do so. An exception shall be made for commissioned police officers and other law enforcement officers as permitted by law.

(9) **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.

(10) **Alcohol, Drug, and Tobacco Violations.**

a. **Alcohol.** Being observably under the influence of any alcoholic beverage, or otherwise using, possessing, selling or delivering any alcoholic beverage on college premises; with the exception of sanctioned events, approved by the president or designee, and in compliance with state law.

b. **Marijuana:** Being observably under the influence of marijuana or the psychoactive compounds found in marijuana, or otherwise using, possessing, selling or delivering any product containing marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form, on college premises. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

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

d. **Tobacco, electronic cigarettes, and related products**. The use of tobacco, electronic cigarettes, and related products in any building owned, leased or operated by the college or in any location where such use is prohibited, including 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, water pipes, hookahs, chewing tobacco, and snuff.

(11) **Lewd Conduct**. Conduct which is disorderly, lewd, or obscene.

(12) **Discriminatory Conduct.** Discriminatory conduct which harms or adversely affects any member of the college community because of her/his race, color, national origin, disability, age, religion, gender, genetic information, sexual orientation, or any other legally protected classification.

(13) **Sexual Misconduct**. The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence.

a) Sexual Harassment. The term "sexual harassment" means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, electronic communication, social media, or physical conduct of a sexual nature that is sufficiently serious as to deny or limit, and 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.

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

c) Sexual Violence. The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated against a person's will or where the person is incapable of giving consent, including rape, sexual assault, sexual batter, sexual coercion, gender- or sex-based stalking. The term further includes acts of dating or domestic violence. A person may be incapable of giving consent by reason of age, threat or intimidation, lack of opportunity to object, disability, drug or alcohol consumption, or other cause.

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

(15) **Retaliation**. Retaliation against any individual for reporting, providing information, exercising one's rights or responsibilities, or otherwise being involved in the process of responding to, investigating, or addressing allegations or violations of federal, state, or local law, or college policies, including, but not limited to, student conduct code provisions prohibiting discrimination and harassment.

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

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

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

(18) **Abuse or Misuse of College Policies or Procedures**. Abuse or misuse of any of the procedures relating to student complaints or misconduct, including but not limited to:

a) Failure to obey a verbal or written directive from a college official;
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 conduct committee member; or
g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code.

(19) **Safety Violation**. Safety violation includes any non-accidental conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems. A safety violation may include the 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.

(20**)** **Violation Other Laws and Policies.** Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including college traffic and parking rules.

(21) **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.

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.

WAC 132U- 125-025 CLASSROOM CONDUCT. Faculty have the authority to take appropriate action to maintain order and proper conduct in the classroom and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

An instructor has the authority to exclude a student from any single class session during which the student is disruptive to the learning environment. The instructor shall report any such exclusion from the class to the vice president of student services, or designee, who may summarily suspend the student or initiate conduct proceedings as provided in this procedure. The vice president of student services, or designee, may impose a disciplinary probation that restricts the student from the classroom until the student has met with the student conduct officer and the student agrees to comply with the specific conditions outlined by the student conduct officer for behavior in the classroom. The student may appeal the disciplinary sanction according to the disciplinary appeal procedures.

WAC 132U-125-030 TRESPASS. The Vice President or designee(s) shall have the authority and power to prohibit the entry or withdraw the license or privilege of any person or group of persons to enter into or remain in any college property or facility. Such power and authority may be exercised to halt any event which is deemed to be unreasonably disruptive of order or impedes the movement of persons or vehicles or which disrupts or threatens to disrupt the movement of persons from facilities owned and/or operated by the college. Any person who disobeys a lawful order given by the vice president, or designee(s), shall be subject to disciplinary action and/or charges of criminal trespass.

WAC 132U-125-035 – DISCIPLINARY SANCTIONS. A primary objective of the disciplinary process is to promote the personal and social development of those students found responsible for misconduct. Charges are investigated and resolved in a forum of candor, civility, and fairness. Disciplinary actions include, but are not limited to, the following sanctions that may be imposed:

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

(2) Written Reprimand: Notice in writing that the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

(3) Disciplinary Probation: Formal action placing specific conditions and restrictions upon the student's continued attendance depending upon the seriousness of the violation and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction, which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.

(4) Disciplinary suspension: Dismissal from the college and from the student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the action is taken.

(5) Dismissal: The revocation of all rights and privileges of membership in the college community and exclusion from 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.

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

(1) 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.

(2) 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.

(3) Not in Good Standing: 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.

WAC 132U -125-040 - INITIATION OF DISCIPLINARY ACTION.

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

(2) The student conduct officer shall initiate disciplinary action by contacting the respondent by telephone, email, or in-person to schedule a conduct hearing.

(3) If the respondent is unable to be reached by phone, email, or in-person, a written notice will be sent by certified mail to attend a disciplinary meeting. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting.

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

(5) After considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer shall notify the student in writing within ten (10) business days of the 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.

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

a) Exonerate the respondent and terminate the proceedings.

b) Impose a disciplinary sanction(s), as described in WAC 132U- 125 -035

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

(7) If the student fails to appear at the scheduled meeting without prior notification or evidence of extenuating circumstances, the conduct officer may impose a sanction consistent with the existing evidence, as authorized by this code. In addition, a hold may be placed on the student's records restricting the student from further enrollment.

WAC 132U -125-045 - APPEAL FROM DISCIPLINARY ACTION.

(1) The respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within ten (10) business days of hand delivery and/or postmark of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's decision shall be

deemed final.

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

(3) The individuals involved in 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 conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

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

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

(7) Student conduct appeals from the imposition of the following disciplinary sanctions shall be reviewed through a **brief adjudicative proceeding**:

a) suspensions of ten business days or less;
b) disciplinary probation;
c) written reprimands; and
d) any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(8) The student **conduct committee** shall hear appeals from:
a) the imposition of disciplinary suspensions in excess of ten (10) business days;
b) dismissals; and
c) discipline cases referred to the committee by the student conduct officer, the conduct review officer, the president or designee.

(9) Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary actions are final action and are not subject to appeal.

WAC 132U-125-050 - BRIEF ADJUDICATIVE PROCEEDINGS AUTHORIZED. 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:

(1) Parking violations.

(2) Outstanding debts owed by students or employees.

(3) Use of college facilities.

(4) Residency determinations.

(5) Use of library—Fines.

(6) Challenges to contents of education records.

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

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

a) Suspensions of ten (10) business days or less;

b) Disciplinary probation;

c) Written reprimands;

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

f) Appeals by a complainant in student disciplinary proceedings involving allegations of sexual misconduct in which the student conduct officer:

g) Dismisses disciplinary proceedings based upon a finding that the allegations of sexual misconduct have no merit; or

h) Issues a verbal warning to respondent.

(9) 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.

WAC 132U-125-055 - BRIEF ADJUDICATIVE PROCEEDINGS – INITIAL HEARING.

(1) Brief adjudicative proceedings shall be conducted by a conduct review officer or designee. The conduct review officer shall not participate in any case in which the conduct officer is a complainant or witness; has direct or personal interest, prejudice, or bias; or has acted previously in an advisory capacity.

(2) Before taking action, the conduct review officer shall conduct an informal hearing and provide each person (a) an opportunity to be informed of the colleges's view of the matter and (b) an opportunity to explain the person's view of the matter.

(3) The conduct review officer shall serve an initial decision upon both the parties within ten (10) business days of consideration of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within ten (10) business days of service of the initial decision, the initial decision shall be deemed the final decision.

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

WAC 132U-125-060 - BRIEF ADJUDICATIVE PROCEEDINGS - REVIEW OF AN INITIAL DECISION.

(1) An initial decision is subject to review by the president or designee, provided the respondent files a written request for review with the conduct review officer within ten (10) business days of service of the initial decision.

(2) The president or designee shall not participate in any case in which the president or designee, is a complainant or witness; has direct or personal interest, prejudice, or bias; or 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 sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within twenty (20) business days of the initial decision or of the request for review, whichever is later. A request for review may be deemed to have been denied if the president or designee does not make a disposition of the matter within twenty (20) business 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 (10) business days or expulsion, the matter shall be referred to the student conduct committee for a disciplinary hearing.

WAC 132U-125-065 - BRIEF ADJUDICATIVE PROCEEDINGS - COLLEGE RECORD.

The college record for brief adjudicative proceedings shall consist of any documents regarding the matter that were considered or prepared by the presiding officer for the brief adjudicative proceeding or by the reviewing officer for any review. These records shall be maintained as the official record of the proceeding.

WAC 132U-125-070 - STUDENT CONDUCT COMMITTEE.

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

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

b) Two faculty members appointed by the president or designee;

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

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

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

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

WAC 132U-125-075 - APPEAL - STUDENT CONDUCT COMMITTEE.

(1) Proceedings of the student conduct committee shall be governed by the Administrative Procedures Act, Chapter 34.05 RCW, and by the Model Rules of Procedure, Chapter 10-08 WAC. To the extent there is a conflict between these rules and Chapter 10-08 WAC, these rules shall control.

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

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

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

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

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

(7) The student conduct officer, upon request, shall provide reasonable assistance to the respondent in obtaining relevant and admissible evidence that is within the college's control.

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

(9) Each party may be accompanied at the hearing by a non-attorney assistant of their

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 (4) 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.

WAC 132U-125-080 - STUDENT CONDUCT COMMITTEE HEARINGS — PRESENTATIONS OF EVIDENCE.

(1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either (a) proceed with the hearing and issuance of its decision or (b) serve a decision of default in accordance with RCW 34.05.440.

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

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

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

(5) The student conduct officer (unless represented by an assistant attorney general) shall present the case for imposing disciplinary sanctions.

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

WAC 132U-125-085 - STUDENT CONDUCT COMMITTEE—INITIAL DECISION.

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

(2) Within twenty business days following the later of the conclusion of the hearing or the committee's receipt of closing arguments, the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based

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

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

(4) The committee chair shall cause copies of the initial decision to be served on the parties and their legal counsel of record. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president or designee.

WAC 132U-125-090 - APPEAL FROM STUDENT CONDUCT COMMITTEE INITIAL DECISION.

(1) A respondent who is aggrieved by the findings or conclusions issued by the student conduct committee may appeal the committee's initial decision to the president or designee by filing a notice of appeal with the president's office within ten (10) business days of service of the committee's initial decision. Failure to file a timely appeal constitutes a waiver of the right and the initial decision shall be deemed final.

(2) The notice of appeal must identify the specific findings of fact and/or conclusions of law in the initial decision that are challenged and must contain argument why the appeal should be granted. The president or designee's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the notice of appeal.

(3) The president or designee shall provide a written decision to all parties within forty-five (45) business days after receipt of the notice of appeal. The president's decision shall be final.

(4) The president or designee may suspend any disciplinary action pending review of the merits of the findings, conclusions, and disciplinary actions imposed.

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

WAC 132U-125-095 - SUMMARY SUSPENSION.

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

(2) The student conduct officer 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 substantial disruption of, or interference with, the operations of the college.

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

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

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

b) The date, time, and location when the respondent must appear before the conduct review officer for a hearing on the summary suspension; and

c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included that warns the student that the student's 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 conduct review officer, or to attend a disciplinary hearing.

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

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

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

c) If the 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.

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

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

DISCIPLINE PROCEDURES FOR CASES INVOLVING ALLEGATIONS OF SEXUAL MISCONDUCT

WAC 132U-125-100 - 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 disciplinary decision-making process and to appeal any disciplinary decision.

Application of the following procedures is limited to student conduct code proceedings involving allegations of sexual misconduct by a student. In such cases, these procedures shall supplement the student disciplinary procedures in WAC 132U-125-005 through -095. In the event of conflict between the sexual misconduct procedures and the student disciplinary procedures, the sexual misconduct procedures shall prevail.

WAC 132U-125-105 - SUPPLEMENTAL DEFINITIONS. The following supplemental definitions shall apply for purposes of student conduct code proceedings involving allegations of sexual misconduct by a student:

(1) A "complainant" is an alleged victim of sexual misconduct, as defined in subsection (2) of this section.

(2) "Sexual misconduct" is prohibited sexual or gender-based conduct by a student, including, but not limited to:

a) sexual activity for which clear and voluntary consent has not been given in advance;

b) sexual activity with someone who is incapable of giving valid consent because, for example, they are underage, sleeping or otherwise incapacitated due to alcohol or drugs;

c) sexual harassment;

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

e) non-physical conduct such as sexual or gender-based digital media stalking, sexual or gender based on-line harassment, sexual or gender-based cyber-bullying, nonconsensual recording of a sexual activity, and nonconsensual distribution of a recording of a sexual activity.

WAC 132U-125-110 - SUPPLEMENTAL COMPLAINT PROCESS. The following supplemental procedures shall apply with respect to complaints or other reports of alleged sexual misconduct by a student.

1) 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.

2) 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.

3) 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.

4) 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.

5) 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 the complainant's 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 that prompt notice of the protective disciplinary sanctions and/or conditions.

WAC 132U-125-115 - SUPPLEMENTAL APPEAL RIGHTS.

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

a) the dismissal of a sexual misconduct complaint; or

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

2) A complainant may appeal a disciplinary decision by filing a notice of appeal with the conduct review officer within ten (10) business days of service of the notice of the discipline decision provided for in WAC 132U-125-110(5). 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.

3) 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.

4) 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.

5) An appeal by a complainant from the following disciplinary actions involving allegations of sexual misconduct against a student shall be handled as a brief adjudicative proceeding:

a) exoneration and dismissal of the proceedings;

b) a disciplinary warning;

c) a written reprimand;

d) disciplinary probation;

e) suspensions of ten (10) business days or less; and/or

f) any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

6) An appeal by a complainant from disciplinary action imposing a suspension in excess of ten (10) business days or an expulsion shall be reviewed by the student conduct board.

7) In proceedings before the student conduct committee, respondent and complainant shall have the right to be accompanied by a non-attorney assistant of their choosing during the appeal process. Complainant may choose to be represented at the hearing by an attorney at the complainant's own expense, but will be deemed to have waived that right unless, at least four (4) business days before the hearing, they file 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.

8) In proceedings before the student conduct committee, complainant and respondent shall not directly question or cross examine one another. All questions shall be directed to the committee chair, who will act as an intermediary and pose questions on the parties' behalf.

9) Student conduct 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.

10) The chair of the student conduct committee, on the same date as the initial decision is served on the respondent, will serve a written notice upon complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The notice will also inform the complainant of the complainant's appeal rights.

11) Complainant may appeal the student conduct committee's initial decision to the president or designee, subject to the same procedures and deadlines applicable to other parties.

12) The president or designee, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respondent for

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

STUDENT COMPLAINT PROCEDURE

WAC 132U-125-130 Purpose. Whatcom Community College is committed to providing quality service to students, including providing accessible services, accurate information, and equitable and fair application of policies and procedures, including evaluation of class performance, grading, and rules and regulations for student participation in college activities and student conduct. The college procedures pertaining to student complaints are delineated in the Whatcom Community College policy and procedure manual and published on the college website.