

WAC 495A-121-063 Appeals of disciplinary action. (1) The respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within ten days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal, and the student conduct officer's decision is 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 are the respondent and the conduct review officer.

(4) A respondent who appeals a disciplinary action within the ten days of service or whose case is referred to the student/faculty disciplinary 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 will be delayed pending appeal, unless the respondent has been summarily suspended.

(7) The student/faculty disciplinary committee shall hear appeals from:

(a) The imposition of disciplinary suspensions in excess of ten days;

(b) Dismissals; and

(c) Discipline cases referred to the committee by the student conduct officer, the conduct review officer, or the president.

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

(a) Suspensions of ten days or less;

(b) Disciplinary probation;

(c) Written reprimands; and

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

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

(10) In cases involving allegations of sexual misconduct, the complainant has the right to appeal the following actions by the student conduct officer following the same procedures as set forth above for the respondent:

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

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

(11) If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college will notify the complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.

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

(13) Brief adjudicative proceedings and the initial hearing shall be conducted by a conduct review officer. The conduct review officer will not participate in any case in which:

- (a) The individual is involved as a complainant or witness;
- (b) There is direct or personal interest, prejudice, or bias; or
- (c) The conduct review officer has taken previous actions in an advisory capacity.

(14) The parties to a brief adjudicative proceeding are the respondent, the student conduct officer, and the complainant in cases involving sexual misconduct. Before taking action, the conduct review officer will conduct an informal hearing and provide each party:

- (a) An opportunity to be informed of the college's view of the matter; and
- (b) An opportunity to explain the party's view of the matter.

(15) The conduct review officer will service an initial decision upon both the respondent and the student conduct officer within ten days of the completion of the informal hearing. The initial decision contains 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 days of service of the initial decision, the initial decision is deemed the final decision.

(16) In cases involving allegations of sexual misconduct, the conduct review officer on the same date as the initial decision is served on the respondent will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing the disciplinary sanctions and conditions imposed upon the respondent for the complainant's protection. The notice also will inform the complainant of their appeal rights.

(17) If upon review the conduct review officer determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ten days or dismissal, the matter will be referred to the student/faculty disciplinary committee for a disciplinary hearing.

(18) An initial decision from the brief adjudicative proceeding is subject to review by the president provided a party files a written request for review with the conduct review officer within ten days of service of the initial decision.

(19) The president will not participate in any case in which:

- (a) They were involved as a complainant or witness;
- (b) There is direct or personal interest, prejudice or bias; or
- (c) Previous actions have been taken in an advisory capacity.

(20) During the review, the president will give each party an opportunity to file written responses explaining their view of the matter and will 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.

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

(22) If upon review the president determines that the imposed sanctions are insufficient and that the respondent's conduct may warrant imposition of a heightened disciplinary suspension of more than

ten days or dismissal, the matter will be referred to the student/faculty disciplinary committee for a disciplinary hearing.

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

[Statutory Authority: RCW 34.05.250 and 28B.50.140(13). WSR 19-14-073, § 495A-121-063, filed 6/30/19, effective 7/31/19. Statutory Authority: RCW 28B.50.140(10). WSR 00-11-147, § 495A-121-063, filed 5/24/00, effective 6/24/00.]